7 Biggest Mistakes That Will Destroy Your Car Wreck Case

...and how to avoid them

JOSHUA P. MYERS
Attorney At Law
THE ULTIMATE GUIDE TO CAR ACCIDENT CASES IN MISSOURI, ILLINOIS & ARKANSAS

BIGGEST MISTAKES THAT WILL DESTROY YOUR CAR WRECK CASE

...AND HOW TO AVOID THEM

THIRD EDITION

JOSHUA P. MYERS
FOUNDING PARTNER - SCHULTZ & MYERS, LLC
PROUDLY SERVING ALL OF MISSOURI, ILLINOIS & ARKANSAS

WWW.SCHULTZMYERS.COM
JOSH@SCHULTZMYERS.COM
314-444-4444
WHY DID I WRITE THIS BOOK?

As a husband, father, attorney and small business owner I have been asked countless times: why am I investing my time in writing this book? The answer is simple: POWER!!! Knowledge is power! I want to take it out of the hands of the goliath-like insurance companies and give it to you.

On August 28, 2005, the Missouri Legislature enacted sweeping reforms of Missouri’s tort system¹ (injury system). Not one of these reforms was advantageous to the injury victim. The sad fact is, the current Missouri system is more pro-insurance than ever before. And do you know who the major advocate of these sweeping reforms was? You guessed it - THE INSURANCE COMPANIES, a ‘Goliath’ if there ever was one.

I remember all the propaganda and advertisements. New slogans would spring up every day to try and sway the public’s perception and earn support for this tort reform. In reality, their propaganda was nothing more than lies and mistruths.

¹ Wow, what a day. I, along with hundreds of other lawyers, flocked to the courthouse to file every case I could before the new system took effect. Afterwards, we invited other lawyers back to our office to share some beers and commiserate over the dawn of a new era.
The result of those reforms was that the insurance companies won an advantage in the fight for fair personal injury compensation. They have more power and more leverage today than ever before. Combine this lop-sided distribution of power with sweeping changes to their everyday business practices, (I’ll discuss those later,) and the result is that the injury victim is getting screwed over like never before.2

That brings us back to the purpose of this book: Power. The most damaging weapon the insurance companies have is the consumer’s ignorance. They do not want you to know how the insurance system works. They do not want you to know how much you’re truly entitled to under the terms of the applicable policies, and they do not want you to know your rights to recovery!

My hope is that this book will give you the knowledge you need to swing the balance of power away from the insurance companies and back to you.

I sincerely wish I had infinite resources to bring every complaint presented to me to a positive resolution. Regretfully, I cannot represent everyone who calls my office for help. In fact, I can only accept a small fraction of the cases I'm offered.

2 Pardon the language. I'm just not one to mince my words.
I can help you, though. I want you to know your rights. Whether this book helps you to represent yourself or if convinces you to consult with an injury lawyer, it will nevertheless teach you about the system. It will give you knowledge. And knowledge is POWER!!!

**LIKE IT OR NOT, THIS IS WAR.**

I often tell my young daughter, "Save the drama for your mama." It’s possible that my Emma takes after me a little. The title of this section may seem overly dramatic. I only wish that was the case. The truth is, if you are seeking financial recovery from an insurance company, you have entered into a warzone.

Many of my clients have come to me after trying and failing to resolve their injury claim with the insurance companies on their own. At the onset, it seemed simple enough. They kept in constant contact with the adjuster, they obliged the insurance companies with unrestricted medical authorizations and recorded statements.

They did all of this because they thought if they were reasonable and fair, the insurance company would be reasonable and fair in return.

There was no greed involved on my clients’ part. They simply wanted reimbursement for their
medical bills and lost wages, and reasonable compensation for the pain and disruption to their lives.

They didn’t anticipate any problems. After all, the adjuster was very nice at first and told them that getting lawyers involved would only slow the process. They offered a speedy settlement. They offered to take care of everything. If only they would just give the adjuster the information requested... Then things suddenly change.

As soon as it comes time to talk numbers, the adjuster turns from Dr. Jekyll to Mr. Hyde. Over and over this ugly scenario unfolds: phone calls aren’t answered, messages are not returned, adjusters become rude, and worst of all, they ultimately offer settlements way below the cost of the medical bills.

Pushed to the limit and with their backs against the wall, my clients finally relent and call me for help. Imagine the disheartening news I have to break to them: the whole time that they were dutifully cooperating with the insurance company, the adjuster was harvesting information with the sole intention of sabotaging their case.

Giving the insurance adjuster unrestricted medical authorizations and consenting to recorded statements causes irreparable damage to your case. If that wasn’t bad enough, insurance adjusters will even go so far as to suggest you get your medical treatment with providers that can significantly
devalue your case! More than once I have been contacted by people who told me they were advised to skip treatment with a specialist such as an orthopedist or a neurologist even though they were experiencing clear cut symptoms that only a specialist could diagnose.

If you learn only one thing from this book it should be this:

```
INSURANCE COMPANIES ARE EXPERTS IN INSURANCE!!! THEY ARE NOT DOCTORS AND SHOULD NEVER INFLUENCE THE COURSE OF YOUR MEDICAL TREATMENT!!!
```

The insurance industry makes **BILLIONS** of dollars every year - and that's **PROFIT!!** Do you think they make all that money by awarding big insurance claim settlements? Of course not!

Several years ago, a number of the big insurance companies changed the way they handled injury claims. They hired McKinsey & Company, one of the nation’s largest consulting companies to examine their claims handling practices.

In response to those changes, CNN performed their own 18-month investigation. The piece was ultimately aired by Anderson Cooper in CNN’s "Keeping Them Honest" series. Want to know what they found? Here's a quote:
"In an 18-month investigation conducted across the country, CNN found that if you are injured in a "minor" accident, chances are high the two companies [State Farm & Allstate] would challenge your medical claim, offering you barely a fraction of your expenses."

"Documents examined by CNN indicate the motive was profit. And Allstate has gone to great lengths to keep those documents secret. In two states where Allstate has been sued, the company has defied Judge's orders to make the documents public. The new get tough strategy is adding up to billions in profit for the insurance companies and little if anything for the public."

-CNN Investigation

I’m not sharing this to make you feel hopeless. Rather, I want to make you aware of what you are up against. The insurance companies spend a lot of time and money in training their adjusters to gain your confidence and befriend you. Some are extremely good at it. If you get sucked into their ploy, you will be chewed up and spit out.

That CNN piece concluded by saying that 80%-90% of injury victims do not fight for what they are truly entitled. They just take what the insurance company offers. It is no wonder that the insurance companies have learned to offer less and
less and will go to more and more extremes to wage war on anyone who challenges them.

Some of you will come to realize that to balance the scales, you need a specialized injury attorney who is packing his or her own arsenal to fight the battles for you. For others, this book will offer you the inside information to settle your injury claim on your own.

Whichever path you choose, you must accept that you have crossed into a warzone. Nothing you can do or say will stop the enemy from putting their crosshairs on you. All you can do is gear up, and bring the fight to their doorstep.

The insurance industry is an extremely powerful opponent. But have hope. With the information in this book, you can fight back! You will have the knowledge! And knowledge is power!
PART 1

THE 7 BIGGEST MISTAKES THAT WILL DESTROY YOUR CAR WRECK CASE
THE 7 BIGGEST MISTAKES

In my years of practicing personal injury law, I have learned more than I could ever include in this book. I present to you the most important, the biggest, most valuable things I can share. Let's get to it!

Mistake 1

WAITING TO SEEK MEDICAL ATTENTION OR TREATMENT

YOU MUST SEEK MEDICAL ATTENTION AS SOON AS POSSIBLE

When you are involved in a car wreck, you will experience a rush of adrenaline. A car wreck is an intense experience. Adrenaline helps to focus your mind and body for a fight or flight response. It masks your pain and helps you to think clearly so you can get help or move to a safe place. That delay in the onset of pain is necessary so you can do what you need to do to function during the moments immediately after the wreck. The downside is that you are no longer able to objectively assess the urgency with which you need to seek medical attention. Nothing is falling off, therefore you determine that you're ‘ok.’ You just want to get home.

Barring obviously broken bones or deep lacerations, you decline an ambulance. Not many
people want to invest the hours it might take to make an emergency room visit. You think you can tough it out, wait and see, and save the money and inconvenience involved.

    It takes between 24 and 72 hours after an accident for the adrenaline and shock fully wear off. It’s no coincidence that this is also the span of time when you start to realize just how much pain you are in.

    Waiting to go to the emergency room until the day after an accident is commonplace and generally won’t impact your claim negatively. A lot of people do it. However, issues will arise if you continue to delay your treatment.

    There are a several reasons that cause injury victims to postpone treatment, for example; work and family obligations, lack of health insurance, and so on. I understand that there are legitimate reasons and it does takes valuable time out of your already hectic life. But here is the problem:

    **If you do not seek treatment immediately, the insurance company (and a jury of your peers) will significantly undervalue your claim.**

    We can make several compelling arguments to justify the delay, but none of those excuses will matter to an insurance company. The amount of time between the crash and the beginning of your medical treatment is one of the most important
variables that the insurance companies use to calculate your maximum settlement allowance.

Their computers do not care about your reasons. Sure, if it should come to it, we can explain the exact circumstances to a jury. They may even be sympathetic, but there is no getting past the fact that you waited for treatment and even the most liberal jury will view you with a suspicious eye.

Moreover, the defense attorney will argue that if you were truly hurt in the wreck, you would have needed and sought out treatment immediately. They will say there are only two possibilities for the delay. Either:

1. You are exaggerating your injuries. You were not severely hurt from the wreck and all the treatment you waited to get was solely for the purpose of trying to hoodwink the insurance company.

   Or...

2. Your legitimate injuries were caused by some other accident that must have happened after the wreck and now you are committing fraud in trying to make their insurance company pay.

   You may think this sounds ridiculous. People don’t really think this way, do they? Yes. They DO. And these are very persuasive arguments with which juries frequently agree.
CHOOSING THE RIGHT KIND OF DOCTOR

Going to see a doctor immediately is only half the battle. Just as important as getting medical treatment in a timely manner, is determining what type of doctor need to see. When choosing a doctor for treatment after a car wreck, the most important thing you can do is this:

MAKE ALL OF YOUR APPOINTMENTS WITH A BOARD-CERTIFIED SPECIALIST!!

All back and neck injuries should be treated by a board-certified orthopedist. If you have been diagnosed with any type of nerve injury or brain injury, then you also need to treat with a board-certified neurologist.

Letting a specialist direct your care is critical for two reasons. If you will ever need surgery, your orthopedist or neurologist will already have all of the important documentation of your injury and treatment at his or her fingertips. And if your injury can be treated by a physical therapist or a chiropractor, an orthopedist would be the absolute best authority to make that decision.

If you didn’t require a trip to the emergency room or an urgent care facility, some health insurance companies will require that you see your general practitioner first to obtain a referral. Do this as soon as possible. DO NOT WAIT. At your
appointment, ASK for the referral. Do not assume that your general practitioner will refer you automatically. The sooner you can get to a board certified specialist, the better.

**SHOULD MY LAWYER RECOMMEND A SPECIALIST?**

I know some lawyers who shudder at the thought of suggesting doctors for their clients to see. I think of it this way: medical treatment is one of the most important aspects of an injury case. I consider it a disservice to my clients to force them to fend for themselves in this arena.

Several years ago, I represented a woman who was severely injured in a car wreck. She spent four days in the hospital, followed by nearly a year of consistent treatment. Before the wreck, she had never had any neck or back pain. Even still, the insurance company, AAA, would never offer her a reasonable settlement. In fact, their offers were downright pitiful, (as most AAA offers are.)

No problem, I would take the case to a trial by jury, and I would shove those pitiful offers down the insurance company's throat - or so I thought. By the time my client had hired me, she had already completed her treatment, so the first time I spoke with her doctor was to prepare for his deposition.

I thought it would be a straightforward and simple testimony. I expected he would describe her
injuries and testify they were caused by the wreck. Unfortunately, that was not the case.

From the minute I sat down with him, he was cold, unfriendly and ultimately refused to relate her injuries to her accident. He said he would not do so because he did not know her before the wreck. In reality, *no* doctor knew her before the wreck - because she never had any injuries that necessitated treatment!

It was completely ridiculous on his part. I couldn’t understand his stubborn logic. When I returned to my office, I ran a query on this doctor and discovered that he had been sued several times in the past year for medical malpractice. Obviously, he was angry and jaded. He was out to sabotage any legal case.

Unfortunately, he isn’t the only doctor like this out there. These guys are toxic to your case. If your treating doctor is not willing to explain to the jury the full extent of your injuries and how they were caused by the wreck, then your case is dead in the water.

One of the first things I do with a new client who has already chosen their doctors is to investigate those doctors’ reputations. I meet with them and take the time to get to know them and how they will do in a trial setting. It is critical to establish a lawyer-doctor team and set the goal of
having a physically recovered patient and a financially recovered client.

If a client contacts me soon after their wreck, I will do everything I can to make sure they get to a premier doctor who will take care of their injuries and also be willing to go to battle for them in the litigation process.
FAILING TO SUBMIT YOUR MEDICAL BILLS TO YOUR HEALTH INSURANCE

IF YOU HAVE HEALTH INSURANCE, USE IT!

This rule is simple. Make sure all of your bills are being submitted to your health insurance. If you have bills from the emergency room or an ambulance that were not sent directly to your health insurance, call the billing offices NOW and request that they are submitted to your carrier. Give them all of your health insurance information to make it fast and easy.

It may be tempting and even make sense in a way, but under any circumstances:

DO NOT GIVE ANY MEDICAL PROVIDER THE DEFENDANT'S CAR INSURANCE INFORMATION!!

It just doesn’t work like that. Car insurance is very different from health insurance. Car insurance will not just pay any bill submitted by your hospital or doctor. You may think it is only fair for the defendant’s car insurance to pay your medical bills—after all your injuries are the fault of their insured!

But you know by now: assuming that an insurance company will be fair to you is simply WRONG!

18
Car insurance companies are not set up to pay bills to doctor's offices. Health insurance companies are. They have contracts with doctors and hospitals where they agree to pay a negotiated reduction of your bill. There is no system like that in place for the car insurance companies.

In addition to that, car insurance is liability insurance. That means it will reimburse the injured party only after it has been proven that their insured is the liable party.

Another thing to remember is that most health insurance policies will not pay a bill unless it is submitted within 90 days of the treatment. So, if you have not given the hospital or doctor's office your health insurance information, do not wait. If your bill does not get paid by health insurance, you are going to have to pay for it out of your settlement.

Ideally, you want all of your medical bills to be paid by your own health insurance. We total up those medical bills and submit them to the other driver's car insurance as part of the settlement offer. By doing so, in addition recovering your lost wages and pain & suffering, you can also recover most if not all of the amount of your medical bills - even if they have already been paid!

Yes, it is legal. In personal injury cases, there is a rule called the "collateral source rule." It means that the defendant’s car insurance company does
not get to negotiate your settlement down based on the fact that your bills have already been paid through a ‘collateral source’ such your health insurance.

When I explain this scenario to most people, they often want to know if they will have to pay back their health insurance out of the settlement. This is a very good question.

Almost every health insurance policy has a clause in it that says an injured person is obligated to reimburse the health insurance company if they received an injury settlement based on the bills that were paid by that health insurance policy. Basically, your health insurance company wants to be paid back. But in Missouri, in most situations, these clauses are invalid and therefore you are under no obligation to repay your health insurance.

On the other hand, in Illinois, and Arkansas those clauses are honored. Additionally, there are some types of health insurance plans (ERISA & FEHBA) that are governed by federal law and may preempt the state rule. One of the first things I do as your attorney is find out what type of health insurance plan you have and determine if you will have to pay anything back.

If you are insured by Medicaid, you are obligated to repay any medical bills they paid on your behalf, with one exception. A judge has the
authority to issue an order exempting a plaintiff from that obligation.

To work around repaying Medicaid, there is a strategy I frequently employ. I will negotiate a settlement with the defendant’s insurance company that is contingent upon a judge ruling that my client does not have to pay back Medicaid. It becomes a very persuasive proposition: "Your Honor, we can end this case today and get it off your docket if you rule that we do not have to pay back Medicaid, if you don’t, we cannot settle this case must proceed on."³

The bottom line is, many times in Missouri you do not have to repay your health insurance. But even if you do, health insurance will always pay the doctor less than the amount billed.

If your particular circumstances do in fact obligate you to repay your health insurance, what usually ends up happening is this: you accept an offer based on the total amount billed, but only repay an amount that reflects the insurance

³ One factor that plays into how judges are evaluated is the length of time cases remain on their docket. The less time cases are on the docket, the higher the judge’s rating. If the judge rules that we don’t have to pay back Medicare, the case is removed faster and they benefit. If we can’t settle based on the Medicare repayment, then the case remains on the docket and the judge’s rating eventually becomes negatively impacted.
company’s negotiated reductions. We make sure you always come out ahead.

**WHAT IF YOU DON’T HAVE HEALTH INSURANCE?**

This is a common problem for many of my clients and the solution is simple. There are doctors out there who will give you all the treatment you need on a lien. This means they agree to wait to be paid until the end of your case. Their fee will eventually come directly out of your settlement. You will not have to pay them anything out of pocket.

Unfortunately, many people think that because they do not have health insurance, they cannot afford to get the treatment they desperately need. If you have been in a bad car wreck, do not make it doubly worse by denying yourself medical treatment simply because you do not have insurance. Many top-notch lawyers have established relationships with doctor's offices and can direct you towards the care givers you need.

The doctors that I have built relationships with know me very well and they know my reputation. They have total confidence in my ability to recover for my clients. In fact, it is not uncommon for me to have doctors waiting to be paid amounts in excess of $100,000.00 in medical bills for treatment of my clients. They know I will protect
their interests and they are happy and willing to work with my clients and provide them with some of the best medical treatment in the country.
BELIEVING THE INSURANCE COMPANY WILL REIMBURSE YOU FOR ALL OF YOUR TREATMENT

INSURANCE COMPANIES ARE MAKING BILLIONS IN PROFITS BECAUSE THEY ARE EXPERTS AT KEEPING SETTLEMENTS AS LOW AS POSSIBLE

You have got to remember: the insurance industry is raking in billions of dollars in profits every year. They do not make that kind of money by paying out big claims. For them to be pulling in that much money can only mean one thing. Someone is getting screwed along the way.

Insurance companies go to great lengths to train their adjusters to gain your trust and build rapport. They will be sweet and personable on the phone. Maybe they will ask you about your children or empathize with your situation. They tell you that they understand the terrible impact that your injuries must be having on your family.

IT IS ALL A PLOY!

Somewhere along the line, they will break out their old standards: “Ya know, a lawyer will just take all of your money;” 4 “Shoot, I can tell you what

4 This is total bull, by the way. I’ll explain later in this book how our fees work.

24
I need from you so we can just settle the claim on our own;” and this one: “As soon as we're done, I'll get the check right in the mail." Usually this is all said with a sweet-as-pecan-pie southern accent.

Don’t get me wrong, I am not saying that every injury from every accident will require the expertise of an attorney. Heck, after reading this book, you will be well armed to file many types of claims fully informed and on your own. But you should always recognize that the adjuster is an agent for the insurance company.

They do not work for you. They are not your friend and more importantly, they are not on your side. They are the front line defense of the insurance company vault and their sole purpose is to settle claims for as little as possible. In fact, I believe that many of those adjusters earn bonuses based on how little they pay out to claimants. There are incentives for minimizing claims payouts. Essentially adjusters are rewarded for settling your claims for pennies on the dollar year after year.

When you hire me, I take over all of the communication with the insurance company. You will not have to field any more manipulative questions. You are protected from their games, no matter what.

If you do decide to pursue your claim on your own, please be aware of their tricks. One of the most important pieces of advice I can give you in
Dealing with the insurance company on your own is this:

**DO NOT SIGN ANY UNRESTRICTED MEDICAL AUTHORIZATIONS!**

If you do, you are allowing them access to all of your medical records. Got that? ALL of your medical records. In my practice, we don’t give them any medical authorizations. Instead, I collect the records myself and only allow the insurance company to see what is relevant to the injury you sustained in the accident with their defendant. You would be disgusted to know how many times I have seen them try to say that your injuries are not from the wreck. They try to argue that they must be from that old high school football injury they discovered while taking advantage of unrestricted authorizations.

Although not as common, they are willing to resort to far dirtier tricks if necessary. They are not above hiring spies to obtain video and photographs of you. They only need a snippet of condemning footage. Then they edit the pictures and videotapes to illustrate your health, strength, and flexibility.

I handled a case in which my client was spied on and videotaped prior to hiring me. The insurance company showed him their footage and insisted that because of it, a lawyer wouldn’t help him. They made him a nominal offer to settle and further told him that if he did hire someone, they
would certainly take the lion’s share of any settlement he won. To his credit, he followed his gut and sought my help. We eventually settled for 20,000%\(^5\) more than their initial offer.

Don’t get me wrong. It wasn’t easy. Admittedly, the few minutes of footage that they initially showed to my client were devastating. But we knew better and subpoenaed the private investigator. We forced him to testify under oath that the footage they presented to my client consisted of only a few minutes cut and spliced from over three hours of tape. They were caught red-handed manipulating the facts. Naturally, the insurance company did not bother to show my client any of the footage they took of him limping from his front door to his mailbox.

Insurance companies will not be fair unless their hand is forced. As an injured party, they are your worst enemy. Whether you realize it or not, while they’re sweet talking you and earning your trust, they are waging a war on you—act accordingly.

\(^5\) NOT A TYPO!
HIDING THINGS FROM YOUR ATTORNEY

IT IS IMPERATIVE THAT YOU ARE HONEST WITH YOUR ATTORNEY

There are no exceptions to this rule. You must be completely open and honest with your lawyer. Hide nothing. In serious injury cases, the defense attorneys and insurance companies will dig and dig and dig into your background. I always do the same with respect to the defendant. But I do not have the time or resources to be conducting detailed investigations into my own client's background.

I expect that I should not have to! You must to be completely upfront and forthcoming with your lawyer about everything.

This is especially critical with regards to past medical treatment. Most people will make the connection on their own that if they have treated with a doctor for prior back pain, it will to be damaging to their current case. But people incorrectly assume that if they never tell their lawyer, it will never come out and it will not be an issue. What you don’t know is that the insurance companies have essentially limitless resources.
They easily maintain a database of all claims made all across the whole insurance industry.

If you have *ever* had prior claims for any type of injury, they will find out about it. They are thorough and relentless. In a couple of instances, I thought I had a great case up until we got to trial. I was blindsided by the defense attorney who presented evidence of prior wrecks that I knew nothing about. There is absolutely no way to respond to those kinds of attacks when we never saw them coming. Failing to disclose important details about your past medical treatment will destroy your case. If you are upfront with your lawyer about all your previous accidents and injuries, we can gather those records and create a plan to defeat any type of offensive argument relating to prior treatment.

Preexisting medical conditions and prior injuries are just one area in which you may be tempted to be less than candid with your lawyer. But do not limit your disclosures to only prior treatment. Hold nothing back. A great trial lawyer will know exactly how to deal with any challenging information and will present it in a light that is ultimately favorable to your case. You are doing yourself a disservice and harming your case by trying to hide things. If you feel embarrassed to bring up something particular with your lawyer, stop right now! Trust me, we have heard and seen it all. We are hired to help you without judgment.
RUSHING TO SETTLE YOUR CLAIM QUICKLY

YOUR ATTORNEY NEEDS TIME TO INVESTIGATE EVERY POTENTIAL SOURCE OF RECOVERY

My concern in writing on this issue is that you will read it and think I lack an understanding of what you are going through. I assure you, I am not out of touch with reality. Every day, I work with severely injured people, most of whom have been unable to work for months. I see their struggles on a daily basis. Their paychecks have stopped coming in, but the bills take no vacations. The complicated and inflated medical bills are the worst.

When your financial obligations seem insurmountable, the absolute worst thing that you can do is to accept the adjuster's pennies-on-the-dollar offer. Insurance adjusters count on your desperation. They prey on it. They will wave a few thousand dollars under your nose to settle the claim quickly. It sounds good. Their offer makes a nice dent in the mountain of bills forming at your feet. But the relief you feel will be short lived after you realize you are hurt more seriously than you originally thought.

Remember, if there is any lesson I want you to take away from this book, it is this:
THE INSURANCE COMPANIES WILL DO EVERYTHING THEY CAN TO PAY YOU AS LITTLE AS POSSIBLE.

If you are tempted to settle your case for less than its true value because you need money for your medical bills, please hold off. At least consult with a lawyer to determine what your options are. We can often work out arrangements with health care providers. We agree to protect their interests and pay them at the end of the case from your settlement. In return, they agree to wait for payment and will refrain from reporting your outstanding bills to a collection agency.

Additionally, we often make arrangements for continued treatment as well, even if you have no money or insurance to pay for it upfront. The worst situation you can get into is to settle for low amount to pay your current medical bills but fail to secure payment for future treatment. You may be ok right now, but depending on your injuries, you may have no way to pay for future treatment. In that scenario, you will be left with deteriorating health which then prevents you from working in the future.

As an **absolute** last option, we can help you secure a loan that would be paid back out of the settlement. This would provide you with some money to pay essential bills. Now, with that being said, please note: **this should only be an option of last resort.**
Why? These loans are considered high risk and the loan companies know you are in a very tight position. The cost of these settlement loans is a ridiculously high interest rate; and I mean ridiculous.

If you absolutely must have a loan to keep the house, we can guide you to the loan companies with the most competitive rates. The best settlement loan companies only advertise to the legal industry. You will not see them on TV or find them on the internet.
NOT HAVING ACCURATE TAX RETURNS

ACCURATE TAX RETURNS ARE CRITICAL IN CALCULATING LOST WAGES

In almost every case, the plaintiff, or injured person, will have missed work, and consequently will have lost income because of the wreck. You are entitled to recover that money. But, successful lost wage claims can only happen if your past tax returns are accurate. Why? Because the insurance company is allowed to investigate the ‘reasonableness’ of the amount you claim. The only way to measure ‘reasonableness’ is to see how your wage loss claim compares to your past income.

In order to verify your lost wages, the insurance companies will typically want to see what you made annually for five years prior to your wreck. For example, if you are claiming you lost $60,000 for six months of lost work, but you only made $40,000 per year for the past five years, the insurance company will naturally fight the claim. We would then prepare a report with a detailed explanation of any major life changes that would account for the discrepancy.

If you think there may be mistakes on your tax returns, or if you have unreported wages, tell
your attorney. If you have any reason to believe that your returns need to be reviewed, tell your attorney! Remember Mistake 4? Don’t make it! Being completely forthcoming with your attorney is paramount, because we can work through any problem, tax related or otherwise; but only if we know about it.

Complicated or inaccurate tax returns are a common issue for professionals who are entitled to make large amounts of valid income tax write offs. Over the road truck drivers are one example. When you write off of basic living expenses as a business expense, like a truck driver might, your tax returns will not reflect your true income. If it looks like you only made $10,000 per year because of write offs, but in reality you earned $100,000, your large wage loss claim becomes a red flag to the insurance company.

I am experienced in dealing with this complication, and other similar issues, but you must be able to present your lawyer with your tax returns, typically for the past 5 years, and have a general understanding of the circumstances that factor into any potential issues.
NOT CONSULTING WITH AN ATTORNEY

TAKE ADVANTAGE OF A FREE CONSULTATION TO GAIN KNOWLEDGE AND POWER IN YOUR CASE

One thing I know to be true, after years of navigating countless personal injury cases, is that you are sure to recover more money from the defendant’s insurance company with a lawyer’s help than without. And here’s the kicker: even the insurance industry knows this! If you’re not convinced, try this: call the defendant's insurance adjuster and ask them if they recommend that you hire a lawyer. If they think hiring an attorney would save them money, don't you think they would tell you, "Sure, go get a lawyer!"

In nearly all cases, you do not pay an injury lawyer up front. Instead, a personal injury attorney takes a percentage of what they recover on your behalf. So the real economic question is this: will a lawyer recover enough in excess of the insurance company’s first (paltry) offer to make it worth hiring one?

Well, who better to go to for the answer than the insurance industry themselves? In 1999, the Insurance Research Council published the results of
a study entitled "Paying for Auto Injuries". They concluded the following:

- Individuals who spoke with a lawyer, but did not hire one, received a 40% larger settlement because of the knowledge they were able to leverage with the insurance company.

- Individuals who hired a lawyer, received on average a 350% larger settlement.

Consider that the average injury lawyer's fee is about 33%-40% of your settlement. If your settlement is on average 350% larger after hiring an attorney, well the math says it all.

The disparity can be explained with the following points: Injury lawyers negotiate every day. It's our profession and we will negotiate any adjuster under the table. We also know this business better than anyone else. We know how to argue the law, present the facts, and apply verdicts from past juries who listened to similar cases.

**Our willingness and our ability to take a case to trial translates into strong leverage.** Without it, you are inherently weaker than your opponent and they will out-negotiate you every time. The average person hasn’t the knowledge or resources to take a personal injury case to court and the insurance company knows it.

**Injury lawyers know what types of experts to hire to strengthen your case and**
maximize your recovery. We hire vocational rehabilitation specialists to explain why you will be unable to compete for future jobs, economists to explain how much money you have truly lost, biomechanical specialists to explain why and how you sustained your injury.

Injury lawyers have the financial resources to put the case together. Taking a case to trial is expensive! I routinely spend $50,000 to get your case ready for presentation to a jury. That preparation is vital and is often enough to convince the insurance company to settle faster and for more money.

Now, you do not need a lawyer in every case. Sometimes, you really are better off without one. Occasionally, the cost to hire an attorney can’t be justified by the increase to your settlement. But don’t let that possibility stop you from getting a free consultation from an experienced personal injury attorney. Unlike other professionals, there is almost never a fee to talk with an injury lawyer about your case. In fact, if an injury lawyer wants to charge you for an initial consultation, run!

Any personal injury attorney worth his salt will tell you up front when you are better off handling the case on your own. It might be hard to believe. I know that some attorneys have motives that foster a general misconception about the rest of us.
But consider it from my perspective. Every new case contains the same minimum amount of work. I meet with the client, investigate the claim, and gather police reports, statements, and medical records. Then, I review all the medical records, analyze them, and write a settlement demand letter to the insurance adjuster. Whether your damages are worth $3,000.00 or $300,000.00, it requires this same basic process. On top of that, if the insurance company can’t be reasoned with, we then proceed with a lawsuit.

If my involvement won’t add value to your case, aside from it being a bad deal for you, it’s also a bad deal for me! From a small business owner’s perspective, the time it takes away from my other cases costs me more than I would earn. In cases like these, with margins that small, you will most likely come out with more money in your pocket on your own. If you have ever hesitated to consult with a personal injury attorney because you fear he or she won’t have your best interest in mind, put that fear to bed.

I handle cases in Missouri, Illinois and Arkansas. If you call me for a free consultation, I will tell you whether you are better off WITH or WITHOUT representation. It’s my promise to you.
HOW TO FIND A GREAT LAWYER

I am often contacted by potential clients who have already hired counsel and found out the hard way that their lawyer is less than great. Sometimes, I can take the case over and straighten things out, and sometimes the case has been irreparably damaged. I have seen the frustration and anger in clients who did all the right things only to discover that the lawyer they hired did not.

So how do you avoid this situation and find a great lawyer for your personal injury case? The first rule of thumb is, stay away from general practice attorneys. If you are considering a lawyer whose advertisement says they handle criminal cases, traffic tickets, DUI's, wills, divorces, and personal injury, you'd better keep looking. The law of personal injury (known as "torts") has become so complex that if the lawyer is not completely immersed in it every day, they are far behind the pack.

Next, your lawyer had better be ready and willing to go to trial when needed. When done properly, preparing for trial is a TON of work for your lawyer. Not surprisingly, there are a lot of attorneys out there who will roll over and settle your case prematurely because they do not have the time, resources or tenacity to do all the work.

The best way to find out if your attorney is willing to go to trial is to ask a simple question. No,
the question is not, ‘Will you go to trial if needed?’ Instead you should ask, ‘Do you enjoy trial?’ You want to hire the lawyer who loves trying cases and speaks about it with passion.

Call me and ask if I enjoy trial; the culmination of all that preparation and research with the final strategic battle played out in front of the jury. I promise you will hear the passion in my voice.

Finally, find out if your lawyer has been honored by experts or peers. If respected organizations or individuals have recognized your attorney’s trial skills, it is a good sign that you have found a great trial lawyer.

Keep in mind, hiring a great trial attorney doesn’t guarantee your case will go to trial. In fact, good trial attorneys tend to get your case SETTLED out of court for MORE money in LESS time! Defense lawyers do their homework and they know when they are up against a great lawyer. They do not hesitate to tell the insurance companies how tough a plaintiff’s attorney is.

When a defense attorney endorses your attorney’s trial skills, it is a clear message to the insurance company that they’re better off settling than fighting. And if your case has to be tried, you want to be confident you have your own trial warrior.
If you do not know which lawyer to consult regarding your accident or any legal matter, please contact me at 314-444-4444 or at josh@schultzmyers.com. I specialize in car wreck cases and represent clients all throughout Missouri, Illinois and Arkansas.

Never let distance limit your choice of attorney. If you would like to meet, but cannot travel, I will drive or fly to you.
PART 2

WHAT EVERY CAR INJURY VICTIM SHOULD KNOW ABOUT THE LAW
WHAT CAN YOU GET IN AN INJURY CASE?

Personal injury cases are classified as civil cases. In civil cases, no one goes to jail or has their license suspended. Rather, the only recourse we have is to recover money to repay for your damages. "Damages" include your medical bills, lost wages, pain and suffering and so on. The damages are paid from the defendant’s car insurance policy.

If you thought we collected damages from a person savings account or took their possessions, you’re not alone. The insurance companies have campaigned far and wide to convince you of exactly that. They are guilty of spreading misinformation and downright lies to the public. What are their motives? What is the motive of any billion dollar industry? TO MAKE MORE MONEY. Take for example, a commercial by Allstate from a year or two ago.

Picture a clean cut, innocent-looking teenager sitting in the defendant’s chair in an ominous courtroom. The judge reads the verdict against him. He is guilty. Everyone is distraught. Then, a slimy looking lawyer interjects, they will find the money somewhere – savings, stocks, money from the teenager’s college fund.

Terrifying, isn’t it? Good thing it is NOTHING BUT INSURANCE INDUSTRY PROPAGANDA!
We never go after the defendant's personal assets, (unless the defendant happens to be a large, unscrupulous corporation). We fight insurance companies. We recover your settlement from the coverage that the defendant buys when they pay their car insurance premium every month.

We understand that it can be misleading. When we file suit, we must file it against the person who is responsible for your wreck. But, as an insurance policy holder, that person is entitled to a defense at the expense of the insurance company. The insurance company then hires and pays the lawyers and they are the ones making all of the settlement decisions. Finally, when it comes time to pay, they are the ones signing the check.

Generally speaking, with the exception of a couple interviews, the actual defendant hardly ever knows what's going on. I have shown up for trials where the defense attorney was introducing himself to his client for the first time just before they started trial.

It is peculiar to imagine. For the past year and a half I have talked to my client weekly about their case. We've laughed about it, we've argued about it, we've prayed about it - we were a team throughout the past 18 months! And here is the defense attorney introducing himself to his "client" for the first time just before trial.
That is just the way it works. If you are worried that by pursuing a claim against an at-fault driver you might be ruining that person's life, rest assured. We will not touch a dime of their personal money. And if you are looking to take money directly from another individual's bank account, do not call me.

I use my skills to fight insurance companies and win money for my clients from insurance policies. I never seek out to ruin other people's lives, relationships or welfare.

**WHAT MUST WE PROVE TO WIN A CASE?**

Many of my new clients come to me thinking, "Clearly, the other person hit me, so what could there be to fight over?" But there are two things we must establish in every case:

1. Liability. Is the other driver fully responsible?

2. Damages. How much does the other driver’s insurance company have to pay?

Sometimes, even if the liability is clear, the fight will be over damages. In fact, I have seen other attorneys go to trial where the jury found that the defendant was in fact negligent, but awarded the
Plaintiff nothing because they did not believe he/she was truly hurt.

Many times we respectfully decline cases with very high damages, because despite some serious injuries, a police officer or independent witness placed the fault of the accident on the person who contacted me for help. It’s an unfortunate situation, and it does happen occasionally. Without facts and evidence, there is no way to prove fault and consequently there is no case to pursue.

**LIABILITY**

When we talk about liability, we are talking about responsibility; *who* is responsible for the wreck. The liability portion of a pursuing a claim requires that we prove the defendant was negligent, or failed to take the highest degree of care. Now, despite what it sounds like, it is not as simple as, ‘they hit you, therefore they were negligent.’ Rather, the law defines the terms ‘negligence’ and ‘highest degree of care’ in motor vehicle cases in the following way:

---

**NEGLIGENCE**

The failure to use the highest degree of care.

**HIGHEST DEGREE OF CARE**

That degree of care that a very careful person would use under the same or similar circumstances.
As an attorney, my job is to convince the jury that the Defendant failed to exercise the highest degree of care while driving their car, and as a result, they injured you.

One of the arguments defense lawyers will often make is that yes, the defendant caused the wreck, but their actions did not follow the definition of negligence. They argue that the wreck was just an unavoidable accident.

In my years of experience, I have never found that argument to be true. When someone is operating a 4,000 pound vehicle, it is imperative that they are extremely careful. No exceptions.

Accidents do not spontaneously happen. They happen because of careless drivers. Careless drivers may be good people. They may feel terrible about the damage they have caused. Regardless, they are careless. And careless drivers are a danger to our communities.

Sometimes the defense actually wins with the argument that it was ‘just an unavoidable accident.’ This seems to happen a lot more in some areas than others. In fact, we see it most commonly in rural communities. Why? Think of the juries. Some communities have been hit harder by the insurance industry's propaganda. Some communities buy into the misconception that only greedy fakers and their sleazy trial lawyers bring
lawsuits. Of course this is total B.S. That idea was placed there by attack ads and propaganda.

So how do you beat this? Easy! You hire a great trial lawyer! In the numerous seminars and continuing education courses I attend each year, one thing we continuously work on, is how to identify and ultimately eliminate these biased jurors during the jury selection process.

To keep poisoned jurors from ruining your case, I weed them out before the trial even starts. In the rare situation when one slips through, we present the case using tested strategies that neutralize the jurors tainted by propaganda. If you want to know my secret, ask the last defense lawyer who opposed me!  

**COMPARATIVE FAULT**

In most cases, it is not particularly difficult to prove liability. Experienced lawyers have a good idea of which cases will prevail and which ones will not. In some cases, the fault can be divided up. Not only must juries consider the fault of the defendant,

---

6 Common sense rules that I can’t outline my entire strategy for my opponents to read! They’ll discover my strategy and tactics soon enough; during trial!
but they are also allowed to consider if any percentage of fault lies with the plaintiff.\footnote{7}{The "plaintiff" is the person bringing the lawsuit for their injuries.}

In Missouri, the system is one of “pure comparative fault.” This means that they can attribute some of the blame to the plaintiff as well as the defendant. Whatever the jury decides is a fair amount of damages, is then reduced by the damaged party’s degree of fault. For example if the jury awards damages of $100,000, but finds the comparative fault as 75% to the defendant and 25% to the plaintiff, it will reduce the award by the plaintiff’s 25% and make the award $75,000.

Illinois and Arkansas have a similar system with one big difference: if the jury finds the plaintiff more than 50% at fault, then there is no recovery at all.

\section*{DAMAGES}

When you see the word ‘damages’ in relation to a personal injury case, it basically means ‘money.’ More times than not, this is what the real fight is about. Liability and comparative fault are fairly easy to establish. The real question is, how much in damages should you be awarded, or in other terms, how much money will fairly compensate you?
When cases are resolved, either through settlement or verdict, you will receive one lump sum. There are a number of things that go into deciding the amount of that lump sum. Essentially, we add together all of your financial losses.

**MEDICAL BILLS**

Your medical bills are the first place we start. They carry the most weight for an insurance company or jury. If you have a small amount of medical bills, the chances are very slim that you will get a big verdict. This is another reason why medical treatment is so important. Not only does it heal your injuries and restore your health, but it substantiates your injuries, brings more validity to your claim and ultimately drives up the amount you can recover from the defendant’s insurance policy.

You should also know that in Missouri, Illinois and Arkansas, you are generally allowed to present as damages the total dollar amount billed by your hospital and doctors. One caveat though – this has been modified in the past several years in Missouri. We can still tell a jury the total amount billed by the doctor, but the defendants get to tell the jury about the amount the doctor accepted from

---

8 Occasionally a plaintiff will agree to a structured settlement as opposed to a lump sum. You would receive smaller guaranteed payments over a specified period of time.
your health insurance (generally a much lower amount).

**LOST WAGES**

The next factor in calculating your damages is lost wages. Lost wages refers to money you should have, but did not earn from your employer while recovering from your injury. It can be very simple to prove. For example, if you missed 80 hours of work and make $20.00 an hour, we simply multiply your hours missed by your hourly wage. We obtain written verification that both figures are accurate from your employer.

However, sometimes it is harder to calculate lost wages. For clients who are paid on commission, for example, it becomes quite a challenge to calculate an exact figure. This is why accurate tax returns are critical. What we rely on in this circumstance is a comparison of your past annual earnings to your earnings during the year you were injured. This will illustrate to the jurors and insurance adjustors what you would have made, had you not been injured. If that scenario is not a viable option, there are even more tactics we use, but they are beyond the scope of this book.

**PAIN AND SUFFERING**

The third category of loss that will factor into your total damages is the intangible loss described as "pain and suffering." It’s a term with
negative connotations for me as it has become synonymous with frivolous lawsuits. But speaking objectively, these intangible losses for my clients are by far the hardest to cope with and ultimately have the most impact on their cases.

They include the entire impact that they wreck has had on your life. It goes far beyond medical bills and lost wages. It covers the chronic pain you are in, soreness, and stiffness. It monetizes your loss of sleep, your depression, and anxiety. It includes your loss of ability to do simple things, your mood and personality changes and the emotional impact that the stress of your accident has inflicted on your family.

When I said earlier that the real fight in these cases focuses around the amount of money that it will take to resolve the case, it is due to damages for pain and suffering. There is no simple calculation as with medical bills or lost wages. Moreover, the insurance companies will always try to say you are not hurt as badly as you claim.

You have read it in this book before and you will read it again before you’re finished. When you consult with or hire an attorney to help you pursue your personal injury claim, it is critical that you find a great trial lawyer who specializes solely in personal injury law!

An average lawyer will be able to show that the other person was at fault and be able to
accurately present the amount of your medical bills and lost wages. But presenting these intangible losses to gain maximum compensation is where the real artistry of trial advocacy shines through.

Here is a secret that many lawyers have yet to figure out: In order to effectively and persuasively present the full spectrum of your damages, it must be done through storytelling. However, it’s not as simple as getting up on the stand relating the events and asking for compensation. As the injured party attempting to recover a sum of money, you are the least credible witness! It is much more effective to present the impact of your injuries through the observations of family, friends and co-workers.

If your case goes to trial, we put these people on the stand and they tell your story to a jury. Many times we are able to settle out of court by recording a detailed interview of your close family and friends and producing a video settlement package. It can be presented to the insurance company before mediation. We have found it to be not only extremely persuasive, but it is also very different from the way other law firms argue damages. It makes us stand above the crowd and my unique approach is what brings my clients’ cases to a favorable resolution for more money and faster.
WHAT TYPES OF INSURANCE COVERAGE ARE THERE?

Another reason you need to consult an attorney who specializes solely in personal injury law is that insurance coverage is becoming increasingly complex. There are different types of coverage and different types of policies. My job is to know every one of them. On average, I spend about a third of my time on a case determining how much coverage there is and what type of insurance coverage to go after. With policies becoming customized and tailored to individual consumers, it is easier said than done!

For instance, after hours of relentless investigation, we may find that we are able structure our claims to recover damages from both a person's automobile liability coverage and their homeowner's liability coverage. Or in other cases, after we've done our homework, we may argue that because there are multiple cars on a policy, we are entitled "stack" the coverage. This means we can multiply the policy limits by the amount of cars insured. Essentially, it comes down to increasing the amount of available coverage and maximizing your settlement by researching every possible insurance policy, its source and specifics.
LIABILITY COVERAGE

Every driver is required by law to have liability coverage. As the name implies, an at-fault driver’s liability coverage will compensate an injured party if the at-fault driver is found to be liable, or responsible for the accident. The minimum liability limit in Missouri is $25,000, Illinois requires only $20,000 and in Arkansas, the minimum liability limit is $25,000.

Unfortunately, in many cases, the emergency room bills alone are more than these minimum liability policy limits. For this reason it is critical to determine how much and what kind of coverage the defendant has straight from the get go. If the at-fault driver has only the minimal required amounts, we must be extremely conservative in the matter of case expenses.

If the amount of your recovery is strictly limited, the idea of spending more money to add value to your case simply does not apply. The last thing we want is to eat up your settlement with case expenses. In some cases, hiring experts and producing impact statements is a good investment with a very high return. On the other hand, if yours is a claim where the policy limits are minimal, it’s imprudent.

I make it my rule to always know exactly what coverage is available so that I can create a plan to proceed in my clients’ best financial interest.
UNDERINSURED MOTORIST COVERAGE (UIM)

So what happens if you have $100,000 in medical bills but the person responsible for your injury only has the minimum $25,000 liability coverage? The first step is to pursue and win the $25,000 policy limits from the defendant’s insurance policy. The next step will depend on whether or not you are a smart insurance shopper. Have you purchased underinsured motorist (UIM) coverage? If you have not already, please consider purchasing this very valuable additional coverage.

Not everyone understands the importance of this type of insurance. I have made it a priority to educate my friends and family on the issue of UIM coverage and I will tell you right now: It’s my expert legal opinion that you add it as soon as you are able.

Underinsured motorist coverage is an optional policy that you can buy in conjunction with your regular car insurance. It becomes a source from which you can recover damages if you are hit by someone who does not have enough insurance to fully compensate for injuries; hence the term, ‘underinsured.’ After you claim the other driver’s minimum policy coverage limits, then you make a claim against your own underinsured coverage to make up the difference.
In most cases, making a claim against your underinsured motorist coverage (UIM) does not affect your insurance rates because the wreck was not your fault. In this type of case, we make a claim against your insurance company directly. This is a great advantage to you, because if it goes to trial, the defendant is a big giant insurance company, as opposed to the minimally insured at fault driver, (usually a cute little old lady.) Juries are notoriously biased against insurance companies, but seem to have a soft spot grandmas.

UNINSURED MOTORIST COVERAGE (UM)

Uninsured motorist coverage is a policy endorsement that you purchase to protect yourself if the person who hits you cannot be identified, such as in the case of a hit and run, or likewise if the driver who hit you has failed to maintain liability coverage as is mandated by law. Again, uninsured motorist coverage is something that you personally carry on your car insurance and it is required by state law, so as long as you have car insurance, you automatically have UM.

The amount of UM coverage can vary. It all depends on how much coverage that you and your insurance agent agree upon and you pay for. Like UIM cases, suits for uninsured motorist coverage are brought directly against the insurance company. The main thing to remember is that if
your wreck was caused by someone without insurance or you do not know the identity of the person who caused the wreck, all is not lost.

We will make a claim against your uninsured motorist carrier and if they balk, they have the burden of explaining to a jury why they do not want to pay you after you have faithfully paid your insurance premiums year after year.
PART 3

HOW TO MAXIMIZE YOUR SETTLEMENT

SQUEEZING BLOOD FROM A TURNIP
You now know that Missouri drivers are only required to carry liability insurance of $25,000—Illinois drivers are required to carry $20,000 and Arkansas drivers’ minimum liability policy limits are $25,000. Drivers may choose to purchase liability insurance for any amount above those limits. Often the cases I handle involve serious injury. The medical bills alone are far in excess of the defendant's insurance policy, no matter how much the coverage is available.

As I discussed earlier, we turn to underinsured (UIM) motorist coverage when it is available. But even beyond that, there is another tactic we can use that can virtually eliminate the defendant’s liability policy limits. This situation sometimes occurs when we file what is called a bad faith lawsuit.

The term ‘bad faith’ refers to the legal cause of action of a defendant driver against his or her own insurance company for failure to settle the case within the policy limits. The argument behind these bad faith lawsuits is that every insurance company owes their insured a duty to protect them from a judgment in excess of their liability policy limits.
In every liability car insurance policy, there is a stipulation that the defendant’s insurance company that has the right to control all settlement negotiations. This affords the insurance company the opportunity to pay out as little as possible to settle your claim.

But in doing so, if they are unable to negotiate a satisfactory settlement, they risk their insured’s good name and credit. That stipulation gives control of the negotiations to the insurance company, but they must conduct the negotiations in ‘good faith.’ If there is a reasonable possibility that a jury would return a verdict in excess of the policy limits, the insurance company has a duty to act in ‘good faith’ and make every effort to settle the claim within policy limits prior to trial.

If they refuse, and a jury returns a verdict in excess of the policy limits, they consequently make their insured, the defendant, personally liable and put their personal assets at risk. Now, in my years of practice, I have never met any lawyer who would ever destroy an individual’s financial stability by trying to garnish their wages or take their home to satisfy a judgment. That threat, however can be a powerful bargaining chip. I have no qualms about holding the insurance company's feet to the fire. It’s highly motivating.

Let me give you an example. Let's say the defendant driver has $100,000.00 in liability
coverage, but your bills are $120,000.00. My job would be to gather up all the bills and send a short demand to the insurance company claiming that the case is obviously worth well over the policy limits and they have thirty days to pay the policy limits in full. If the insurance company does not do that, we will then proceed to trial and hopefully win a huge verdict.

With a huge verdict and a limited amount to satisfy it, we attempt to enter into an agreement directly with the defendant. In exchange for our promise to not go after their personal assets to satisfy the judgment, they agree to sue their insurance company for acting in ‘bad faith’ and failing to settle the case within the policy limits prior to trial.

This becomes a whole separate lawsuit and a separate jury must decide if the insurance company was acting in bad faith.\(^9\) When we win a bad faith claim, we can obtain the rest of the verdict amount. In addition to that, we can also ask for punitive damages against the insurance company. This way we can work past the policy limits and recover more than the original verdict because of the insurance company’s bad faith actions.

\(^9\) By putting their own financial interest ahead of their insured's.
Now, if the insurance company does agree to pay their policy limit within that thirty days, as we requested at the onset, then the case is fully settled. We’d have no opportunity to recover more than the policy limits. But the upside, is that our clients can collect their settlement in a much shorter amount of time. Rest assured though, when they do act in bad faith, we take them to the cleaners.

My goal for every client is to settle their case for the most money in the shortest amount of time. I work at this from the moment I sign up my client. I begin preparing a case for a potential trial and work to set up a potential bad faith claim from very first day. In severe injury cases, the threat of a lawsuit and ultimately a bad faith lawsuit is very significant leverage in negotiating a settlement.

The leverage is so powerful in fact that if insurance company is worried that I have put them in a bad faith situation, we can often settle the case in excess of the policy limits before we even have to take the primary injury claim before a jury. Hiring a tenacious trial attorney with a reputation for successfully trying cases in bad faith law is the best way to insure that you are getting every penny you are entitled to as the accident victim.
PART 4

THE LITIGATION PROCESS
THE PROCESS OF A LAWSUIT

By now, you know that I always try to settle every case without having to file suit. For most of my clients, I am able to accomplish this. One thing I count on as an absolute given is that in every claim, I will have to deal with a hard-nosed insurance adjuster whose sole job it is to settle cases for as little as possible.

If you think about it, paying out pennies on the dollar is their measure of a job well done. They face performance reviews, as we all do, and there are no employee recognitions or accolades for awarding excessive or even fair values on claims.

Because of this fact, we occasionally must resort to filing a lawsuit. I would estimate about nine of ten lawsuits are settled before they go to trial. It’s common that even the threat of trial is enough to get the adjuster to come around. That being said, if lawsuits and trials are intimidating to even the surliest of insurance adjusters, it is no shock that they would be even more so to the average driver. In this section, I want to try to pull back the curtains on a very misunderstood process.

FILING THE PETITION

The lawsuit is initiated by the plaintiff’s lawyer filing a ‘petition.’ The petition is the first
legal document that I draft on your behalf. It lists all of the facts surrounding the incident, the injuries you sustained, and the damages incurred. This includes your medical expenses, lost wages and pain & suffering.

It also includes the ‘prayer for relief’ where we indicate how much money in damages you are seeking. This amount is never a specific dollar amount. Rather, we indicate that we are seeking an amount over the jurisdictional limit; that being, the minimum amount of damages to get your case into court. For example, in Missouri, we state we are seeking “an amount in excess of $25,000 to be determined by a jury.”

One very important aspect of the petition is that it must set forth all of the legal theories under which we believe we are entitled to recover damages for you. If this is not done properly, the judge may bar you from raising these issues at trial. This is yet another reason why you must hire a trial-experienced injury attorney.

After the petition is drafted and signed, it is filed with the court. A copy is given to the local sheriff who will serve it to the defendant. A defendant has no obligation to respond to the lawsuit until they are served. Once that happens, they have a limited amount of time to have their lawyer file a response in court. Generally, they notify their insurance company of the lawsuit and
then the insurance company will hire a lawyer to file the response on their behalf.

THE DISCOVERY PHASE

The general rule of thumb is that it takes twelve to eighteen months to get from petition to trial. The bulk of this time is spent in the discovery phase. ‘Discovery’ is a broad term that encompasses a number of different procedures that both sides use to prepare the case for trial.

Interrogatories and Request for Production

The first thing that the parties do in discovery is to issue Interrogatories and Requests for Production of Documents. Simply put, Interrogatories are a list of questions sent from one side to the other. For example, my Interrogatories to the defendant will often include questions such as;

1) From where did your trip originate and what was your intended destination at the time of the wreck?

2) Were you on work duty at the time of the wreck?

3) What are the policy limits of your insurance?
Likewise, the insurance company’s attorney will want to know similar facts, as well as the names and addresses of all your doctors, or whether you had taken any drugs, prescription medicines or alcohol within twenty-four hours before the incident, etc.

The Request for Production of Documents is essentially a list of pertinent documents of which each attorney would like to have a copy. I might request any statements that the defendant made regarding the accident. The defense attorney might request a copy of the work order to repair your car or photos that you took at the scene of the accident.

**Independent Medical Examination**

Often, the next step of the discovery phase is the defense’s medical examination. It is typically referred to as an Independent Medical Examination (IME). In every car accident case in which you claim injury, the defense has the right to have you examined by a doctor of their choosing. In theory, that doctor is supposed to be objective and impartial. In reality, they are notorious for minimizing your injury and attempting to damage your case.

While defense lawyers have the right to request an IME, they do not always request one. However, if you have suffered serious injuries with very high medical bills, you can count on one. It should raise no concern for you, though. It is my job
to prepare you fully for whatever manipulating questions the IME doctor will invariably ask. I’ve done my homework and made it my business to know these doctors’ reputations and their M.O.

**Depositions**

The next portion of discovery includes depositions. A deposition is a question and answer session under oath. It’s recorded by a court reporter and occasionally videotaped. Both the defense and plaintiff’s attorneys have the opportunity to ask the deponent questions. The deposition serves the same purpose as testifying in court, but it takes place in a more informal setting such as an attorney’s office or conference room.

In Missouri and Arkansas, under certain circumstances, depositions can be read at trial in lieu of having that witness appear in person. In Illinois and federal courts, parties can generally only use depositions for discovery purposes, in other words, to establish what that witness will say at the actual trial.

A judge would use her discretion in allowing a deposition to be read at trial. One reason might be that the witness’s proximity to the trial would create a financial burden to him or her or perhaps his or her health would prevent them from travelling.
Any person with a relevant connection to your case can be deposed as a witness. As the injured party, you will be deposed by the defendant's attorney. I will depose the defendant. Both sides might call to testify people who were present at the time of your accident. I will depose any treating doctors, as well as any doctor who might have performed an IME.

It is extremely rare for a doctor to appear at trial, so their depositions are extremely important. Deposing your doctor is also a cost effective way to have your treatment documented under oath. Depositions typically take less time and can be performed at your doctor's office. Doctors simply do not have the time to appear in court and when it is absolutely required, they charge $10,000-$20,000 for each day they must appear.

If the situation allows, the doctor’s testimony, will be played via videotape for a jury. It is critical that your treating doctor can speak authoritatively and succinctly. Not every doctor has the ability to convey complex ideas in layman’s terms—doctors who can’t, will ultimately hurt your case. Your case will benefit from someone who has a great bedside manner and who can speak definitively on your injuries and how the car accident caused them.

We have spent a great deal of time and effort establishing good relationships with excellent
doctors who also happen to be fantastic communicators. In the weeks prior to a doctor's depositions we devote a good deal of time in preparation with them. Yes, it does cost money to have these meetings, but the benefits to your case of a doctor's expert testimony are immeasurable. I see so many attorneys who schedule the treating doctor's deposition and never meet with them until the moments before the deposition. In my opinion, this is just too risky.

**Motions**

One more notable occurrence during the discovery period is the filing of written motions. The subjects and purposes of these motions are too numerous to list here, but they often involve the insurance company's lawyer attempting to dismiss certain parts of the lawsuit or limit specific evidence.

In my experience, they are rarely granted by a judge, but are effective in achieving their secondary goal. The insurance companies' attorneys continuously file these baseless motions because they get paid by the hour. The more work they bill, the more they get paid. Don’t misunderstand me, this revelation does not mean your lawyer should turn a blind eye to these motions. Yes, they can often be defeated with a little time and research, but they can trip up your case if
your lawyer takes them too lightly and does not prepare appropriate responses.

After discovery is complete, the parties then exchange final motions in which they ask the court to rule on certain issues. For example, often the defendant’s attorney will file a motion asking the court to strike certain allegations that we have made against the defendant and prevent us from talking about it at trial. We do the same with the defenses that the defendant has pled.

Quite frankly, litigation is an intensive process and a rather exhausting one at that. If your lawyer does not love being in trial, he will not do everything he can to adequately prepare the case. Again, if you take anything away from this book on how to properly select a lawyer for your case, I urge you to find the lawyer who loves being in trial.

**TRIAL**

Just as every attorney has a particular style in presenting a case, every judge has their own style in presiding over them. Their procedure will vary depending on what works best for them. Judges tend to take advantage of as much latitude as they are entitled to by our judicial system. Despite these nuances, the broad strokes of trial are generally the same.
Motions in Limine

The first thing the attorneys do before the trial begins is to present the judge with Motions in Limine. These are the parties' pretrial motions in which they ask the judge to allow or prohibit specific evidence being introduced at trial. Depending on the complexity of the case, this can take thirty minutes to a whole day.

Voir Dire

After the judge has ruled on all pending Motions in Limine, the plaintiff’s and defendant’s attorneys next move into the process of jury selection. This is called Voir Dire. Voir Dire begins by seating a panel of approximately thirty to fifty potential jurors in the courtroom. In state court, each lawyer has their turn to ask the jurors questions about any given topic. As a trial lawyer, it is my firm belief that this is the most important aspect of trial.

As the famous war-monger Sun Tzu once said, "Every battle is won before it’s ever fought." By the time we get to trial, both sides know all the evidence that is going to be presented. What we do not know is the composition of the jury that will be interpreting that evidence. Every person has their own unique life experiences. This impacts the how and why they interpret case fact certain ways.
At our firm, we devote a huge amount of time refining not only our trial techniques, but also our jury selection strategies. We have to get to the core of each potential juror's psyche and understand their potential biases and how they process information - and we have to do it all in an extremely short time frame.

**Opening Statements**

After the jury has been chosen, the parties then give opening statements. Technically, the opening statements portion of trial is the lawyers' time to address the jury. The attorney gives the juries a synopsis of the case and runs down a list of the evidence that will be introduced. At this time, the lawyers are not allowed to argue their positions.

After jury selection, the opening statement is the next most important aspect of the case. My objectives during the opening statements are these three things:

1) Teach the jury that there are certain rules everyone must follow to keep the community safe;

2) Prove the defendant broke those rules; and

3) Establish my credibility and the credibility of my client with the jury.

Very recent jury research has dispelled many traditional beliefs held by older trial lawyers.
What we know today is that jurors no longer care about the plaintiff or the plaintiff's injuries. Rather, jurors need to feel that they are personally threatened in order to rule against the liable party. This mindset is the culmination of the insurance industry's propaganda and smear campaign over the last three decades. In fact, it was the entire purpose of so-called tort-reform.

To counter this pro-defendant mentality, we use an extremely simple but surprisingly cutting edge juror psychology. We illustrate the accident, but place the juror in the plaintiff's driver seat. We show how the defendant driver's carelessness and violation of safety rules would have injured the juror, or worse their children in the same situation. When a juror starts to picture herself as a potential victim, we are on the road to success.

Unfortunately, tort-reform has also ravaged the general credibility of the plaintiff and their lawyer. Of everyone in the courtroom, we have the least credibility. Jurors automatically assume that you are just another person out looking to play the "lawsuit lottery." I have perfected my own tried and true techniques to establish credibility with the jury during opening statements and throughout the remainder of the trial.10

---

10 Again, these are trade secrets and I can't make that information available to potential adversaries until I meet them in the courtroom!
Case-In-Chief

After both lawyers have given their opening statement, the plaintiff's side then begins its ‘case-in-chief.’ This is when we call all our experts to the stand and admit exhibits into evidence. This is the "meat" of the trial. After we have finished questioning each witness, the defense attorney then has an opportunity to cross-examine them.

The case-in-chief is a skillful balancing act. We must present testimony that is both easy to understand and makes a big impression. We do this a couple of ways. First, we rely on testimony from down to earth witnesses who will explain in layman's terms their knowledge of the case. This might be a person who was present at the time of the accident or a friend or family member who can speak to how the wreck has affected you.

In contrast, when examining expert witnesses, jurors have come to expect the CSI approach. They want fast-paced presentations that include dramatic animations of the injuries and accidents. Over the years, we have worked with a number of vendors and now exclusively work with one in particular who can create amazing computer simulations which are second to none. These visual representations are highly effective.
In a strategic move, we also call the defense attorney's IME doctor. These mercenaries are going to say everything possible to discredit you and your injuries. Not to worry, we do our homework on these "experts" and they usually go down in flames during our examination. Fortunately, jurors are not keen on medical doctors who make thousands of dollars every year, not by treating the ill, but by performing IMEs and making court appearances. How credible can a doctor be if his best customers are defense attorneys?

After our side has presented all of our evidence, it is the defense's turn to put on their case-in-chief. Many times, the only witnesses they have left is their client, the negligent driver.

After the defense rests, it is time for each side to present their closing argument. This is the time for the lawyers to "argue" their position. Attorneys who fail to stay on top of ever evolving juror trends and biases and also those who are just plain inexperienced make the mistake of using this is the time to try and "convince" the jurors.

We know through recent juror research that no juror is ever “convinced.” In fact, they resent the implication that some lawyer is going to come in

11 IME doctors are there to talk about one of two things: either you are not hurt as bad as you say you are; or if you are hurt, it is because of something other than the car wreck.
and tell them what to believe. The approach we use, and the one employed by all leading trial attorneys is to use this time to educate.

In this education, the most valuable piece of information we impart has nothing to do with your case. We teach jurors how to deliberate. We tailor this information to the jurors we see as supportive of a positive verdict for you. We give them the strategies they will need to go to battle for us. Educating jurors on how to successfully argue their points and persuade more difficult jurors is the surest way to win the jury from the inside.

Strategic jury selection through Voir Dire is imperative. We must select jurors who are receptive to personal injury cases and who will listen to the case with an open mind. If we fail, we have no one to go to bat for us in the jury room. Case closed.
PART 5

COMMONLY USED EXPERT WITNESSES
The Value of Expert Witnesses

Plaintiffs’ expert witnesses might as well be dubbed case value multipliers. Expert witnesses with impeccable credentials apply their professional experience and offer the ultimate opinions as to why the crash occurred, who was at fault, or what caused the injuries to happen. In contrast, lay witnesses can only testify to what they observed, not as to any of their opinions, and unlike an expert witness, they have no authority to speculate.

Because of their importance, we spend a hefty amount of time on expert opinions. We are concerned not only with preparation of our own experts, and also in researching the defense's experts so that we can discredit them. Due to the extremely specialized nature of these professionals, naturally, they are scarce. You’d be right to assume that expert testimony is very expensive.

For this reason, not all attorneys have the resources to hire premier experts. I attribute a significate portion of our success to the fact that my firm has the capital necessary to seek out and retain any expert we want. If it adds an extra million dollars to the value of the case, we won’t hesitate to front the $50,000 - $100,000 in case expenses. It sounds excessive, but keep in mind, you are fighting
against an industry that has billions in assets. An insurance company will have no problem spending as much, if not more money to kill your case with their own expert’s testimony.

Unfortunately, expert witness won’t work for you on a lien. Depending on which attorney you ultimately hire to handle your injury claim, you might be required to pay the expert fees up front and out of your own pocket. Hopefully you will do your research and hire an attorney who can afford to front those costs for you. I've seen several good cases go downhill because neither the client, nor the attorney had the money to hire the experts they needed.

When you are interviewing an attorney to represent you in your injury case, make sure you talk with him or her about the role of experts in your case. Whether or not that lawyer has the financial resources to put money into the case will make a huge difference in maximizing your settlement. The old saying is true, "It takes money to make money."

**TYPES OF EXPERTS**

There are two types of experts, non-retained and retained. Non-retained experts are the ones who can offer their opinions in the case because they have been personally involved. These are most commonly your treating doctors. I love non-retained experts because they are perceived as
unbiased in your case. They are far less vulnerable to an attack from the defense team. Their testimony is relevant because they have been working with you to recover your health. Being unbiased is a huge asset, but it also means they may be a less polished witness and can unintentionally harm your case.

The other type, retained experts, are experts who were not involved in the case until a lawyer hired them. There are many advantages to hiring a retained expert, one being that they are experienced in front of a judge and can communicate effectively with a jury. One challenge that must be overcome, however is the stigma that comes with what amount to being a paid witness. Motivation and credibility can be an issue.

**Treating Physicians**

Treating physicians are on the frontline of any serious injury case. They testify about the extent of your injuries, your treatment, and what kind of future care you will need. The most important thing they do is to relate all of those injuries and your treatment to your wreck. It sounds simple enough, but in fact it is often the biggest problem for treating physicians.

For as many unique reasons as there are doctors, some treating physicians just don’t want to be involved with the litigation process. And some simply have an axe to grind against plaintiffs and
their lawyers. It’s very common in cases involving disc bulges/herniation. The doctor will say that he’s completely sure that you have a herniated disc but he will not say that it was caused by the car wreck. Why? Because he never knew anything about you before the wreck. Of course he didn’t. Your symptoms started at the time of the wreck. You wouldn’t have seen a doctor for a back injury prior to being injured!

Frankly, that argument is false logic and undermines the doctor’s overall professionalism. Unfortunately, it happens all the time. If you bring an attorney into the ring, right from the beginning of the healing process, we have the opportunity to do our homework and make predictions about the level of your doctor’s cooperation with your personal injury claim. This is such a crucial issue that I will not even take a case if the treating doctor is not on board. As I said, treating physicians are the front line of your case. Without their support, pursuing a fair claim is futile. I don’t have the time to battle the insurance company and your doctor.

**Life Care Planners**

If your injury is severe, you may need to make substantial adjustments to your way of life. These might include a regular visiting nurse, the construction and future maintenance of a wheelchair ramp, modifications to your current or future vehicles and so on. A life care planner is a
retained expert that can estimate the cost of all those things. We hire life care planners only in extreme cases when our clients are left permanently disabled or impaired.

This expert reviews all of your medical records, interviews you, your family and your doctors, and examines your home. Based on all of this information they develop a life care plan that details all of the future treatment, medications, and modifications, etc., which you will need for the rest of your life. A car wreck can affect an injured party in a profound way and only a retained life care planner can estimate your future needs and their ultimate cost throughout the span of your life.

**Vocational Rehabilitation Specialist**

A vocational rehabilitation specialist is a retained expert who is hired for cases in which we need to prove that your employment opportunities have been permanently limited. In some cases you might be completely unemployable due to the impact of your injuries. These experts evaluate the doctor’s recommendations as far as permanent work restrictions and then determine whether you can reasonably perform full or part-time duties in an industry to which you are suited.

At first blush, most people do not understand that being unemployable is not the same as being disabled. You might be able walk for only 15 minutes without experiencing fatigue.
Perhaps sitting for longer than 30 minutes aggravates your back. Maybe your doctor gave you a five – ten pound weight restriction. At times you feel ok, but after a while you are exhausted. You’re not necessarily ‘disabled’ but you will have an extremely hard time finding gainful employment.

In cases where these experts feel that you might be able to return to work with some additional training, they will help secure the details of the training needed as well as the cost to obtain it.

**Economist**

The economist is the one who puts all the numbers together into one lump sum that we present to the jury. Essentially they put together the numbers from the life care plan, past and future lost wages, and the past and future necessary medical treatment. However, it is not simple addition. Rather, they have to reduce the future cost of these items down to a present value number. This is not a science but rather an art in itself. Securing the right economist in a case can make a six-figure difference in the present day value.

**Accident Reconstruction Specialist**

The accident reconstruction specialist is strictly limited to liability issues. He or she reviews all the physical evidence of how the accident happened and attempts to recreate it so we can
pinpoint exactly who was at fault. This will often involve looking at skid marks on the road, yaw marks in the gravel, and pictures of the vehicles involved. They will then interpret this data and use mathematical equations applying things such as friction coefficients to determine exact speeds at the time of impact, perception reaction time, and delta-v's (the force of impact). I know this all sounds pretty complex, and it is. Basically, they help prove that the defendant caused the accident.

These are just a few examples of the common experts that we use in cases. However, it is certainly not exhaustive. Of course, the experts we use depend on the facts of every case and can also include mechanical engineers, biomechanical experts, and epidemiologists.

I hope this reinforces the idea that to maximize the value of your case; your attorney has to have the resources and the experience to secure the right experts. It is better to spend an extra $50,000 on a case if it helps add an extra $500,000 to settlement.
PART 6

DECIDING TO RETAIN A LAWYER
HOW MUCH WILL A LAWYER COST?

When hiring a personal injury lawyer, you should not have to pay any money up front. Most personal injury lawyers, my firm included, work solely on a contingency fee. This means that you do not pay attorney's fees until we receive the insurance check from your claim. Furthermore, if I do not recover money for your case, you owe me nothing. How would you love to find a doctor who would not charge you unless he was able to cure you?

Generally speaking, the cost of hiring a great personal injury attorney ranges from one-third to forty percent of the amount recovered. A successful firm will have the resources to front your case expenses with reimbursement coming out of the settlement at the end of your case. As I have discussed in previous chapters, pursuing a claim can be quite costly and expenses can exceed six figures in catastrophic cases. Keep in mind, neither the attorney’s fees nor case expenses come out of your pocket. They are deducted from your settlement.

Some firms require that you repay the case expenses even if they lose the case. MAKE SURE YOU KNOW THEIR POLICIES. Schultz & Myers does not bill for case expenses in the event we do not
recover a settlement for you. It’s just bad business. We never have and never will. If we don’t recover for you, you owe us nothing, period.

The way our firm practices law, we very much "put our money where our mouth is." Because of this, we are constantly re-evaluating our cases to make sure that we are not spending our time and money on something that is likely a futile effort.

We do, however, understand that every case has its own inherent risks. Every trial is a gamble. We take into account that there will be cases for which we have to write off case expenses and ultimately take a loss. It is just a part of the way we do business. For us, it makes what we do that much more exciting.

WHAT IF I DON’T HIRE A LAWYER?

Certainly in any case, you can contact the defendant's insurance company and tell them you want to talk about a settlement. But without an attorney, you have no leverage to fight them on their offer. Keep in mind, if it is a small case and you would rather have a smaller settlement fast, pursuing the claim on your own is the way to go. Understand though, in a case with very high medical bills, or involving a commercial motor vehicle, you are going to get screwed every time.
I recently represented a man who was severely injured in 2006 when his car was rammed from behind by a commercial bus. He has not worked since and he may never work again.

Because of the wreck, he underwent two spinal surgeries as well as surgery on his brachial plexus (the bundle of nerves coming out of his neck into his shoulder). Within a couple weeks of the wreck, the bus company's adjusters contacted him and told him not to worry about a thing; they promised to take care of everything so long as he agreed not to hire a lawyer. They also told him they would continue to pay the wages that he would miss out on while he was out of work recovering. On paper, it sounded like a great deal and he felt that he was being treated fairly. They had earned his trust and talked him into signing over completely unrestricted medical authorizations. They obtained all of his medical records, no matter how unrelated. Then, after several months, they lowered the boom.

They quit paying his medical bills and offered him $100,000.00 to settle. That’s when he called me. Immediately after hiring our firm, they raised the offer to $500,000.00. (We considered this for a few seconds.) During mediation, they came up to $900,000.00 and we walked out. When all was said and done, we lowered our own boom and settled the case for $2,000,000.00.
There are two lessons I want to impress upon you with this short story—first, with a lawyer’s help you are almost guaranteed to make more money in a serious injury case. I believe this whole-heartedly and with complete confidence. In fact, I can cite the insurance industry’s own studies which back this up. And I'm not talking just about gross settlement dollars; I'm talking about net dollars, in your pocket after all fees and expenses.

And second, the more time you delay in talking to a lawyer, the more time that the insurance company has to manipulate and lie to you, all the while conducting a complete and unrestricted investigation into your past health, relevant or not. They're sole intention is to ruin your case.

Had this gentleman hired us from the get go, the insurance company would never have obtained so many irrelevant records and would have had no argument for pre-existing conditions. As it played out, they hired some retained experts to poke holes in our case. Despite the huge settlement we were able to win, I still believe that we could have recovered more for our client had the records been protected from the start.

Bottom line, if you were hurt in a car accident, at least talk to a personal injury lawyer. A consultation should always be free and if it is not, find a new lawyer.
PART 7

HOW MUCH WILL YOU RECOVER?
**HOW MUCH IS MY INJURY WORTH?**

It’s the $64,000 question, isn’t it? How much is my injury worth? Unfortunately, there is no way to answer it with any degree certainty until you have signed the release of liability. If any attorney you consult with claims to be able to put a dollar amount on your injuries, walk away.

No experienced trial lawyer can answer that question for you at the initial consultation. Every injury case has multiple variables and without months of research, and attorney can’t begin to uncover all of them. Every case is inherently different. Think of it as a play. Maybe the story behind your injury is the same as someone else's. Maybe you were in a car wreck that led to a herniated disc and you are on the verge of surgery. The plot is where the similarities end. The cast of characters (plaintiff, witnesses, and doctors) is different. The audience (jurors or the insurance adjuster) is different. The setting is different. Imagine watching your favorite movie but acted out by your neighbors. See my point?

That being said, yes, an experienced lawyer, myself included, can lay out several different possibilities and yes, we can narrow in on a range of a fair settlement value. As your treatment progresses and as more evidence comes to light,
that number can be adjusted. But until the release is signed, there is no way to know what your injury is worth.

I would encourage everyone to research several attorneys, but I implore you: base your final decision on the attorney’s trial experience and past results. If you hire the one who promises you the most money at the initial consultation you will be in for a rude awakening. You will recover less than you were promised and not nearly as much as a good attorney would have gotten you. The attorneys with the gall to value your injuries without the proper research, are the same who neglect the extra steps it takes to maximize your recovery throughout the entire process.

It’s my opinion, that if a lawyer is floating some big numbers in front of you in the very beginning, odds are great that it’s a desperate bid to get you in the door, just to keep the lights on. If flashy promises of seven figure settlements are what you’re looking for, I wish you nothing but the best of luck. You’re going to need it.
PART 8

ABOUT MY FIRM
This book should your worries about consulting with a lawyer. You should also understand why choosing the right lawyer is more important than anything else you do in this process.

You know that my firm focuses solely on personal injury cases. Call me directly at 314-444-4444, for a quick evaluation of your case. I routinely take telephone calls from car wreck victims to answer questions and further discuss whether they have a case that my firm would accept.

Please also understand, I keep my practice focused on some very specific types of cases. This allows me to perform excellent work for every client to whom I commit my time and attention. Unfortunately, due to these parameters I decline more cases than I could ever take.

But don’t let that discourage you from calling. It’s important to me to do my best to help everyone who calls my office. Should happen to fall outside of my focus, I have invested a lot of time in building up an incredible network of other attorneys who specialize in almost every type of law. If you want access to my little black book of the best attorneys in the region, you know what to do.

Call my office any time, day or night at 314-444-4444, or email me at Josh@SchultzMyers.com. We will gather some initial information about your situation and put you in touch with the absolute best lawyers we know.
My firm, Schultz & Myers is headquartered in St. Louis, Missouri, with satellite offices in Chicago and Bentonville. We handle car accident cases throughout all of Missouri, Illinois and Arkansas. No matter what distance you are from our locations, please give us a call. You won’t be required to make long treks in to see me. A convenient phone call from the comfort of your home is all it takes to determine whether yours is a case I can help with or can refer to a colleague. When it comes time to meet, don’t worry, I will come to you.

There is one last note I want to end with regarding my firm. In addition to the valuable industry secrets I have shared with you, I also want you get a feel for my personality. I tell it like it is. I pride myself on it.

There are only a handful of elite injury law firms throughout Missouri, Illinois and Arkansas. Mine is one of them. My profession is complicated and meticulous. No, it’s not brain surgery - but it is highly specialized and very hard work. It requires intense focus, a fiercely competitive attitude, a genuine concern for helping others, a lot of money, and the guts to put it all on the line. If your lawyer lacks any of those, you will not get outstanding results. You may get good results... but I want you to call us when you want better than good. When you are ready for excellence, let’s talk.
I wrote this book because I was tired of seeing the insurance companies constantly abuse car accident victims. They count on you being unfamiliar with the system. It makes it easier for them to take advantage of you. They will doubt you, not listen to you, and ultimately underpay you. While my firm can’t represent every accident victim, we can help educate you. And if your case does pass our strict criteria, we will be ready to fight the insurance company with every ounce of our strength (and we’re pretty strong!).

— Josh Myers