



Maximizing the Value of Your Car Accident Case

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Introduction: Why Did I Write a Book About Maximizing the Value of Your Car Accident Case?

I wrote this book to help you maximize the value of your car accident case. If you or a loved one has been injured, or a loved one has been killed, in a car accident the outcome of your case can have a significant impact on the quality of your life and the lives of your family members.

My first memory is of standing in front of our house and seeing crisscrossing fire trucks hoses, the flashing lights, and watching our house burn to the ground in a five alarm fire. Ten days later my 35 year old father was dead from a heart attack.

My brother was only three years old and I was only two. The insurance company refused to pay us a dime for the house fire and, more importantly, refused to pay on my father's life insurance policy. The insurance company said they had not deposited the life insurance premium my father had paid into the bank at the time they received news of his death. So they said we are sorry for your loss, but we are not going to pay you a dime.

But the insurance company did have an offer for my mother. They told my mother she could go on a TV show that was running back in the early 1960's called "Queen for a Day." The format of "Queen for a Day" was that three woman went on the show and told the audience about something bad that had happened in their lives and, in effect, begged for prizes. If they won they were "Queen for a Day" and would win some prizes. The insurance company tried to convince my mother that if she went on TV and told her story about her 35 year old husband's death and losing everything in a house fire and being left with a two year old and three year old she had a good chance to maybe win something like a washing machine. Well, my mother refused to go on TV and beg for charity!

After my father's death my mother was gripped by fear. When my father died she did not have a job, a house, or any money. I remember watching her cry at the kitchen table wondering how she was going to pay the bills and take care of my brother and me on her own. And so I learned a powerful lesson – it matters whether an insurance company lives up to its promises. If it does not pay the money due on a life insurance policy or the amount due from a car crash, it matters. It can determine if there is food on the table, a decent home to live in or if there are cloths on your back. Most importantly it can determine whether your life is filled with the pain that fear can bring and whether you can support your family.

I know firsthand the devastating impact an insurance company's lies and tactics can have on the lives of each member of a family. I don't want that to happen to you or your family. I have spent my life practicing and refining my skills to fight for others against insurance company lies, greed and abuse. Helping you maximizing the value of your car accident case can help you avoid the problems caused by sudden, unexpected economic losses.

Who the Heck Wrote This Book and

“What Does He Know Anyway?”

I want to first thank you for requesting this book. I think that the information I give you here will help you in your quest to obtain compensation for your injury case.

I have written this book so that consumers could have good, solid information about how to maximize the value of their car accident case. As I point out later, not every case needs a lawyer! I truly believe, however, that you should have this valuable information right now, for free, before you are pressured by an insurance adjuster to answer their questions or settle your case.

My name is Chris Dysart and I started my legal career in 1987. My first experience came as a Law Clerk for the Honorable Charles B. Blackmar, a Justice with the Missouri Supreme Court and former professor at St. Louis University School of Law. I went on to practice as a trial attorney for the Commercial Litigation Branch of the United States Department of Justice in Washington, D.C. Following this position, I served as a Federal Prosecutor with an emphasis on prosecuting white collar crime, including bank fraud.

After leaving the government, I practiced law at Armstrong, Teasdale, Schlafly & Davis, the third largest law firm in the State of Missouri, where I focused on the areas of commercial litigation, personal injury defense, and white collar criminal defense. I opened my own law firm in 1988.

I attended St. Louis University School of Law, where I was the Editor in Chief of the St. Louis University Public Law Review and received the American Jurisprudence Award. I attended college at the University of Missouri St. Louis, where I graduated *magna cum laude* and received the Stuart and Evelyn Symington Scholarship Award (former U.S. Senator Stuart Symington).

Experience and Proven Case Results

For over 20 years, I have been a practicing trial attorney. I have litigated and tried cases on behalf of NASA, the United States Air Force, the Mine Safety and Health Administration, the Motion Picture Association of America, and Fortune 500 companies. Most importantly, I have represented individuals just like you against some of the largest corporations in the world.

In 2003, I was recognized by the *National Law Journal* as National Litigator of the Month for obtaining an \$18 million jury verdict involving the death of a child. The *Missouri Lawyers Weekly* has listed me in the Top 10 jury verdicts in the State of Missouri. In 2011, The Dysart Law Firm, P.C. settled a case for \$39.5 million.

We Only Accept a Limited Number of Cases

We limit the number of cases we take. We want to be able to give our full attention to our clients—people we agree to represent deserve the best possible representation!

We are not a high volume, settlement mill type law firm. We are a law firm that will fight and do whatever it takes to get full value for your case.

Each year, we accept a limited number of serious injury, car, truck and pedestrian accident cases from people who ask us to represent them. Paralegals and assistants do not negotiate our cases with the insurance company. Fewer cases means more time for you and, we believe, better results overall.

For over 25 years I have been practicing and refining my skills as a trial attorney. I have litigated and tried cases on behalf of NASA, the United States Air Force, the Mine Safety and Health Administration, the Motion Picture Association of America, and Fortune 500 companies. Most importantly, I have represented individuals just like you against some of the largest corporations in the world.

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Sometimes the best advice you can get when you are thinking about a lawsuit is that you do not have a claim that can be won. If that is true, we will tell you. We'll also tell you when we think you are better off handling a claim yourself – without an attorney. But if you do have a case we can help you with, we will become a powerful ally to you in times of trouble. We will be a friend that knows the system and how to get things done. We will help you maximize the value of your case.

What Does it *Really* Take to Maximize the Value of Your Case

To maximize the value of your case you must take quick, decisive action. After a car wreck, the clock starts ticking. What do I mean by that statement? Crucial evidence necessary to prove who is at fault can be lost if quick action is not taken. Eye witnesses need to be identified and interviewed before the memories fade. You, as the accident victim, want to talk to these witnesses before the insurance company for the other driver can adversely influence their testimony.

Some car crashes are caused by unsafe road conditions like malfunctioning traffic lights, the lack of proper signage on highway construction projects and other road conditions that are temporary in nature. Document the conditions before they are altered can be critical in maximizing the value of your case.

All your injuries, or the injury of a loved one, may have been caused by an auto manufacturing defect like a seatbelt failure, defective tires, or a faulty design that led to injuries in a rollover collision. If your vehicle is not properly secured in a weatherproof facility, the weather may cause the condition of the vehicle to change to the extent you can no longer hold the car manufacturer responsible for your injuries, a significant blow to your ability to maximize your damages.

In many instances, if your vehicle is not secured, the insurance company may sell it for scraps and the vehicle will still literally disappear.

If your car accident involved a commercial truck, federal regulations only require the trucking company to keep critical evidence like driver log books for as short as six months.

Maximize the value of your case also includes fully documenting and being able to persuadably prove your injuries and losses. This includes physical injuries, disability, disfigurement, current and future medical costs, current and future lost wages and the psychological impact the collision and injury and losses have had on you and your family.

To maximize the value of your case you also need to hire an experienced car accident lawyer. The lawyer should have extensive experience handling car crash cases so they are familiar with how to gather the evidence necessary to maximize the value of your case. Finally you need to hire an attorney that is an experienced trial lawyer. To truly maximize the value of your case, you must hire an attorney with a track record of trying and winning significant jury verdicts. Many cases only reach their maximum value on the evidence of trial or evidence at the trial itself. You do not want to have a lawyer or law firm that is afraid or unwilling to put your case to trial to maximize its value. A lawyer or law firm may have many cases, but you only have one!

My Personal Guarantee to you

If we agree to represent you, you can rest assured that you will receive my personal attention. I will aggressively represent you, keep you up-to-date on what is happening in your case and give you my advice as to whether you should settle your case or whether we should go to trial.

We will fully explain all fees and costs to you before we start working on your case. Together, as a team, we will decide on the best tactics to maximize the value of your case.

Chris Dysart

I Am Not Allowed To Give Legal Advice In This Book!

I know the arguments the insurance company will make – and so should you – even before you file your claim. When you are injured in a car crash, truck wreck or pedestrian accident you enter a strange, hostile world. The insurance industry has spent hundreds of millions of dollars to inflame the public against you and me. We will be in this together.

I am not allowed, however, to give legal advice in this book. I can offer suggestions and identify insurance company tricks and traps, but please do not construe anything in this book to be legal advice until you have agreed to hire me AND I have agreed, in writing, to accept your case.

Chapter 1: What Should I Do If I Have Been In a Car Accident

Car accidents are no laughing matter. Whether a car was “totaled” or a fender was bent, insurance can play a role in resolving the inevitable problems arising from injuries to persons and property, and potential litigation. Following the steps below can help to alleviate some of the paperwork drudgery, reduce anxiety, and maximize your chances of a satisfactory outcome when filing a claim with your own insurance company or the insurance company of another driver.

Step One: Check for Injuries and Call for Emergency Services If Necessary.

If you are involved in an accident and there are injuries, call for an ambulance or the paramedics immediately.

Step Two: Call the Police.

Always call the police if someone has been hurt. Even if nobody seems injured, it is a good idea to call the police, as most state laws require notifying the police when the damage to the vehicle exceeds some fixed amount like \$300.

By law, the police must file a formal report. Therefore, you may be legally obligated to report even small fender-benders, if the cost of repairs is over the state’s dollar limit. Unless the accident occurs on a state highway, the city or county police department usually has jurisdiction over these matters.

For insurance purposes, it is always a good idea to have a police report filed, as it will assist in the handling of your claim. In fact, you hurt your chances of getting your claim paid if there is no police report. Depending on the seriousness and the location of the accident, the police may not come to the scene, but you should always make the attempt, except for very minor incidents. Even if the police will not respond, they will usually document your attempt to report the accident, which could prove helpful later on in the claims process.

Step Three: Gather Necessary Information from Other People. This Includes Identifying Information of Drivers, Passengers, and Especially Witnesses. Exchange Insurance Information with other Drivers as well.

First, exchange names, addresses, telephone numbers, and license numbers with all other drivers involved. Also get license plate and vehicle registration numbers, along with the year and make, of the cars involved. Check to see if the name and other information on the registration correspond to those on the license. Ask questions and make notes if they do not. Perhaps the car is owned by someone other than the actual driver – this is good to know. Most importantly, exchange the name, address, and telephone numbers of your insurance companies, as well as policy numbers. If the owner of a damaged car cannot be found (for example, if you have hit a parked car), leave a note with the identifying information of all the drivers and owners involved.

Make sure to get the name, address, and number of other passengers and any possible witnesses. According to one claims manager, forgetting to do this is the biggest mistake people make in filing auto insurance claims. Insurance companies need to substantiate your claim, and a police report is not always sufficient. Therefore, you should actively seek out witnesses instead of waiting for them to come to you. Witnesses who can verify that the other driver was at fault (for example, if the other driver ran a stop sign) may be critical to you. Get their name, address, and phone number, and encourage them to make a statement to the police officer investigating the accident. If you are a witness to an accident, your assistance will be highly appreciated. Many people are afraid to “get involved” by giving their name if they are witness to an accident, but claims representatives point out that witnesses usually help to resolve a case immediately; it is mostly accidents without witnesses in which disputes arise.

Step Four: Gather Evidence Describing the Accident.

Details are important for insurance claims. Unless a serious traffic hazard might result, you should leave all involved cars in their final position after the collision. Establishing the stopping place of the cars can be important in determining the facts of the accident. If you have a camera, take photographs of the positions of all cars involved and any damage sustained by the vehicles. If you don't have a camera, drawing a simple diagram can also be useful, especially in cases where the police are delayed or will not respond.

Skid marks can be a valuable bit of evidence as well. Inspect the direction and length of such marks and mark them on your diagram. Skid marks can often indicate the speed of the car at the time of the accident and are therefore more useful in establishing fault. Also note the impact marks on the roadway, dividers, and other vehicles. The police should make a more detailed diagram of the accident, but it certainly wouldn't hurt to make one for you if the circumstances warrant this effort.

Step Five: Secure Your Vehicle

In a serious car accident or truck accident, it's critical to secure an accident vehicle as soon as possible following an accident. To secure your vehicle you need to keep track of its location and act quickly to either hire a lawyer or write a letter to the opposing driver's insurance company asking them to store the vehicle in a weatherproof facility. A product defect may have caused or contributed to the injuries suffered. These defects can include tire defects, seat belt defects, or other parts of a vehicle. The vehicle must be secured so that important evidence is not destroyed which could seriously damage the value of your case.

What Steps Should be Taken if Vehicle Product Defects Are Suspected?

If a defective vehicle product is suspected, the car or truck should be secured and stored in an indoor, weatherproof storage facility. To make sure that this occurs, if you have been injured or a loved one has been killed, please call my office or the office of another car accident lawyer so the vehicle is properly secured. The clock is ticking in a car crash case and you must act quickly to protect your rights. Act NOW!

It's important that this process take place as soon as possible after the accident, as insurance company actions may include salvaging or scraping an automobile they insure when it has been involved in an accident.

Moreover, some vehicle and component part manufacturers have "first response" teams employing investigators to gather evidence of incidents reported on television, the radio, or in the newspaper. For a number of reasons, tires, tire treads, air bags, black box evidence, seat belts, and the vehicles themselves have been known to disappear from storage or tow lots before an auto accident attorney can gain control of the vehicle.

Step Six: Do Not Sign any Statements or Documents Other Than the Police Report.

Don't sign or make statements indicating that you are at fault, that you will pay for damages, or that you are willing to forget about the accident. Nor should you sign any sort of promise releasing other parties from further responsibility. If you do, an insurance company may refuse to pay for damage to your car or you could be hurting your chances of collecting on an injury claim. It is best to let the responsibilities of the parties be determined later or when all the evidence has been gathered. Foolish or inaccurate statements can come back to haunt you.

Step Seven: Notify Your Insurance Company Immediately.

As a policyholder, it is *your* responsibility to do so. Delays in notifying your insurer could affect the way your claim is handled. Once your filing is a matter of record, someone from the claims department should contact you within a short period – usually one to three days. If you do not hear from anyone within this time, call your insurance company for assistance.

Step Eight: Delay Repairs Until an Insurance Adjuster's Inspection is Completed.

An adjuster or appraiser will usually be sent to inspect your vehicle if it has been badly damaged. Provide him or her with any necessary information. Your insurance company may request that you obtain several written estimates from repair shops before authorizing that the work be done. Some companies may direct you to their own repair shop. You have the right to make sure that – whatever repair shop is selected – you are satisfied with the quality of their work and the extent of repairs that have been approved.

If you are unhappy about the repair work done, notify your insurance company and insist that corrections be made, until you are satisfied.

Step Nine: Obtain Estimates on the Value of Your Claim.

Consumer-education efforts have now impressed on drivers the importance of obtaining pictures and estimates of damage to automobiles. As with any documentation, however, you should not send originals of a photograph without keeping a copy for yourself. The same thing holds for repair estimates, service-station receipts, towing-service charges, and bills for repairs already made. Disputes over the value of a car involved in an accident are fairly common. Service receipts, a repair history,

maintenance history, and mileage are all invaluable when you are trying to establish the condition of your car after it has been lost or destroyed. In addition to the particular condition of your own car, there are general guidelines for the value of each make and model. If your insurance company makes an estimate of repair costs based on evaluations by a repair shop that you think does shoddy work, challenge their estimate by getting a few of your own from shops of your choice.

Make sure you are getting fair value for your car if the company wants to write it off or “total” it. Most insurance companies will offer you the actual cash value (ACV) of your car before the accident. This is a price that a buyer would have paid for your car had it not been destroyed, factoring in the year, make, mileage, and previous damage. To estimate the ACV of your car, your company may survey used car dealers or other sellers, use value guide books or employ computerized market analysis.

If you do not agree with your insurer’s assessment of the ACV, make your own investigation. You too can survey car dealers or private sellers. Another way to determine a fair cash value is to check the amount against the value listed in *The Kelley Blue Book* (commonly called “The Blue Book”). This book is used throughout the auto industry to establish the value of used cars. It is published by the Kelley Blue Book Company, 5 Oldfield, Irvine, CA 92718, (714) 770-7704; anyone can purchase one. It is also widely available through libraries. This book provides a wealth of information concerning the value of your car. Since these are the values that are generally accepted in the auto industry, it may be unfair for an insurance company to offer you anything less.

A word of caution: remember that the value of your car may be *higher* than the value indicated in *The Kelley Blue Book* or other car guides if your car has low mileage or if you have records of recent improvements to your car, such as a new paint job. You may add the cost of such improvements to the value in the guide. Your insurance company could give you a lowball estimate if you do not provide them with such relevant information. Insurance companies must consider all information you present them. So if you can demonstrate convincingly that your higher valuation more accurately reflects the ACV of your car, they should be willing to negotiate. If they ignore such pertinent information, you have good reason to challenge them.

Chapter 2: When Should I hire a lawyer for my car accident case?

One of the first decisions to make after you are involved in a car accident is whether to hire an attorney or attempt to settle the case with the insurance company on your own. In some cases you may think you do not need to hire an attorney and you can settle the case on your own. In other situations, an insurance company may tell you that you don't need a lawyer and that the insurance company will take care of you. So how do you know what to do?

You may not need a lawyer after an accident when:

- You were not hurt but were taken to the emergency room to be checked out and never received any further medical treatment.
- You were sore after the accident but the soreness quickly went away.
- There was little or no property damage and little or no injury to you.
- You are no longer suffering any pain and the insurance company is offering to pay you what you think is a fair settlement.

These situations most likely do not call for attorney.

When You SHOULD STRONGLY Consider Hiring a Lawyer:

There are circumstances where it would be very hard for you to obtain fair compensation from an insurance company or trucking company after a car accident.

Examples where you should strongly consider hiring a lawyer:

- If you had Significant Injuries that require surgery after being admitted to the hospital.
- Injuries that include fractures or scarring.
- Medical Bills over \$10,000.
- Injuries caused by a drunk driver where you will need a lawyer to obtain punitive damages.
- Injuries caused by a tractor trailer accident.
- Accidents where you were seriously injured and the insurance company is denying fault or trying to limit their insured's fault.

Other Reasons for Hiring a Car Accident Lawyer

- The insurance company has one goal, to pay you as little money as possible. They may tell you they will treat you fairly, but their interests are the opposite of yours.

- Insurance Companies have trained adjusters that negotiate claims all day long and know what tactics to use to pay you as little as possible.
- Insurance companies have attorneys that are experienced and knowledgeable about the law and insurance claims. They know how to find ways not to pay claims or pay as little as possible. You need someone who is also experienced and knowledgeable on your side to give your case the best chance of success.
- An experienced car accident attorney will also know how to address the following issues:
 - What will a jury likely compensate you at trial?
 - What medical liens are there and what bills or liens must be paid back?
 - What deadlines must be met to keep you case from being barred by any applicable statute of limitations;

Chapter 3: Why It's Important to Hire an Experienced Car Accident Lawyer

Like other professions, many attorneys choose to concentrate their practice in certain areas, such as criminal law, corporate matters, or estate planning. For instance, in my law firm we practice personal injury law, and a large part of our practice concerns representing those injured in car and truck accidents, and pedestrians that have been hit by vehicles. It's important to hire a car accident lawyer so that you get the experience that comes with working extensively in representing those injured in auto accidents.

Proving Your Case

If you or a loved one has been injured in a car accident, you will need to prove who is responsible for your injuries. To prove fault, it is important to thoroughly investigate accident scenes, interview witnesses, and, in some cases hire accident investigators and accident reconstructionists. Through this process, a determination can be made concerning the final resting position of the vehicles, the location of tire marks, gouge marks, and the location of accident debris, as all of these aspects may be important in proving who is responsible for the accident. The condition of your vehicle may also be critical in proving fault.

The second aspect of proving your case concerns damages. If you are able to prove that another driver caused injury to you or your loved ones, your recovery will be based upon the damages that you can prove that you or your loved ones sustained. You are not automatically entitled to a monetary judgment, even if it is clear that another driver is at fault for causing injury.

Types of Damages

There are many types of damages that are recoverable from a car or truck accident. Some types of damages include those for medical costs, pain and suffering, loss of companionship, mental suffering, and economic damages related to employment (such as if a person is injured and can no longer work). If a person is killed in a wrongful death accident, the loved one left behind may be entitled to economic damages from the wrongful death, as well as damages for emotional loss and other non-economic damages.

In some cases, an injured victim may be entitled to what are called "punitive" damages. Punitive damages are damages that may be assessed in some limited circumstances against a company responsible for causing an accident. Punitive damages are not provided based upon the actual damages that are incurred, but are special damages designed to punish a wrongdoer so that the wrongdoer will have an incentive not to engage in whatever activity that may have caused an accident.

The Role of the Police in Determining Fault for Car and Truck Accidents

In some cases, a car or truck accident victim may assume that because another driver received a ticket, that other driver is automatically liable (or “guilty”) for causing the accident. In other instances, the victim may be upset that even though the other driver caused the accident, the other driver did not even receive a ticket.

It’s important to understand that the scope of many law enforcement investigations is limited to determining whether a violation of the law occurred and whether a prosecution will be initiated. In many cases, the actions of a driver at fault may not be a violation of the law, or the police officer may not have enough evidence to charge the person with a violation of the law.

As an example, in a car crash involving two cars that crashed in the middle of an intersection, if there are no witnesses to the accident, it may be difficult or impossible to determine which of the cars may have ran the red light. In this instance, the investigating officer may not give either driver a ticket.

In all cases, it is not the role of law enforcement to assess the damages that may have been caused. Thus while an accident report may be important in helping to establish fault, the report itself is not going to “prove” liability. Liability is only proven in court when a jury determines who is liable.

Chapter 4: The Importance of Preserving Evidence

To maximize your recovery in a car accident and recover the full amount of damages for your injuries and losses you must act quickly to preserve evidence. You must also prove what caused the accident, credibly and comprehensively prove your damages, and identify and prove liability against all of the responsible parties who caused injury to you or a loved one.

Preserving the evidence includes securing evidence from the scene (including securing accident vehicles and their component parts), securing witness statements, photographing key elements of the case, and documenting any road design and maintenance defects that may exist at the accident scene.

In many cases, the outcome of a trial concerning a car or truck accident is dependent upon the evidence that is presented at the trial. Often this evidence consists of products that may have failed, such as seatbelt failure or tire failure. For this reason, it is critical to secure the key pieces of evidence as soon as possible so that the evidence is not lost, or the evidence does not deteriorate between the time of the accident and the time of trial.

How Evidence is Often Handled By Insurance Companies and Auto Manufacturers

Insurance companies rarely do anything to preserve the evidence left behind at an accident scene unless it is helpful to them. Moreover, potential defendants like trucking companies and auto manufacturers have put together first response teams that are experts at turning evidence to their advantage. Weather and the elements also work against the discovery of evidence that may be crucial to proving fault in your car or truck accident case.

As a result potential defendants will either not preserve evidence or only preserve evidence that is helpful to them.

How We Work To Preserve Evidence to Help Your Case

As a car accident law firm, we work to secure these key pieces of evidence. In some cases, if the evidence is larger, such as a car that has been totaled, adequate provision must be made for storage. At trial, it is important that evidence be in the same condition, to the extent possible, as it was at the time of the accident. Further, it is important to secure evidence from an accident scene so that no claim can be made that evidence was altered after an accident.

Evidence Gathered by Law Enforcement Agencies at an Accident Scene

While they may not preserve cars, trucks, or other vehicles involved in an accident, investigating law enforcement agencies like the police or Highway Patrol usually take some steps to record the evidence at the scene of the accident at the time of their arrival. In documenting a major car accident, for example, police officers will sometimes photograph the scene, briefly inspect the subject vehicles, interview eyewitnesses to the incident, and measure and document all evidence they believe to be associated with the accident.

It is important to remember, however, the role of police officers in an accident is to investigate the accident scene with an eye toward possible criminal violations, not toward a civil lawsuit. Also, law enforcement officials are limited in their training and in the resources available to complete a thorough evaluation of a car accident site. Thus, when you or a loved one has been involved in a car accident, it is important to contact an experienced accident attorney who can visit the accident site before critical evidence is lost or altered.

Securing Accident Debris Evidence

Many times accident debris evidence - like tire treads, glass deposits, side mirrors, luggage racks, tail lamp covers, and even items thrown from inside a vehicle - may be present for only a short period of time after an accident. Knowledge of the exact location of this type of evidence can be a tremendous aid to an accident reconstructionist in recreating how an accident took place.

Insurance companies rarely do anything to preserve the evidence left behind at the scene of an accident. Similarly, "first response" teams funded by the automakers and component part manufacturers understand the importance of car accident scene evidence. So do others interested in defending against your potential car accident case. Further, weather and elements work against the discovery of evidence that may be crucial to the reconstruction of an incident.

Regardless of the reason, evidence from an accident scene can disappear from roadways before a thorough evaluation can occur. Thus, an immediate at-scene investigation process initiated by an attorney acting on your behalf is critical.

Accident Scene Investigation - The "At-Scene" Process

Accident scene investigation is sometimes also referred to as the "at-scene" process. The "at-scene" process can include evidence that is gathered by law enforcement, other first responders such as fire or ambulance personnel, and even "first response" teams hired by trucking companies or insurance carriers.

The at-scene process typically includes photographing the roadway, the vehicles, and all of the physical evidence. Law enforcement photos are usually the first images of the scene in an unaltered state, so their value cannot be overstated. Other sources of contemporary photographs may include fire departments, wrecker / towing services, local media, and the involved parties themselves.

Trucking Company Accident Kits

Many trucking companies issue an accident kit, including a camera, to their drivers. Cell phones may be a source for photos or video. The car accident reconstructionist will also generate photographs of the scene, evidence, and vehicles. These are taken with the intent of recording the physical evidence for analysis, as well as for demonstrative purposes while explaining the car accident to potential jurors.

Photographs alone rarely give the accident reconstructionist a full understanding of the accident site. A personal site inspection by your attorney is really the best way to get a proper appreciation for the terrain, traffic patterns, and the "feel" of the area. This information can include time of day variations in

the traffic pattern or traffic control devices, seasonal changes in traffic, and weather-related issues with the roadway.

Vehicle Evaluation and Video Taken

An at-scene investigation will also include a preliminary evaluation of the condition of the vehicles involved in the car accident. This preliminary evaluation may include tires, lamps, steering system, brakes, and occupant safety systems. A law enforcement officer has a distinct advantage at this point, as he or she can conduct the examination before any vehicle occupants are moved or the towing and recovery process further damages the vehicles.

The use of in-car video cameras as a police interview recording media is growing in popularity. We therefore seek to obtain copies of the in-car video from any officer who was at an accident scene. Although this video may not have been taken for the specific purpose of your case by the police, in many instances this video can be helpful in recording statements of witnesses, documenting weather conditions, and showing vehicle placement.

Why It's Critical to Secure an Accident Vehicle

In a serious car accident or truck accident, it's critical to secure an accident vehicle as soon as possible following an accident. A product defect may have caused or contributed to the injuries suffered. These defects can include tire defects, seat belt defects, or other parts of a vehicle. The vehicle must be secured so that important evidence is not destroyed.

What Steps Should be Taken if Vehicle Product Defects Are Suspected?

If a defective vehicle product is suspected, the car or truck should be secured and stored in an indoor, weatherproof storage facility. To make sure that this occurs, if you have been injured or a loved one has been killed, please call my office or another car accident attorney right away to make sure so the vehicle is properly secured.

It's important that this process take place as soon as possible after the accident, as insurance company actions may include salvaging or scraping an automobile they insure when it has been involved in an accident.

Moreover, some vehicle and component part manufacturers have "first response" teams employing investigators to gather evidence of incidents reported on television, the radio, or in the newspaper. For a number of reasons, tires, tire treads, air bags, black box evidence, seat belts, and the vehicles themselves have been known to disappear from storage or tow lots before an auto accident attorney can gain control of the vehicle.

What Does an Insurance Company Do With A Vehicle Following an Accident?

The most likely scenario following an automobile accident is that the insurance company will take possession of the vehicle and place it in a storage lot. This does not mean the evidence is protected. In most instances, the insurance company transports the vehicle to a large unsecured lot where the vehicle is exposed to the weather. This may result in rust and corrosion of a vehicle's component parts which

could prevent an expert hired on your behalf from being able to determine and testify that a manufacturing defect caused or contributed to your injuries or the death of a loved one.

What We Do to Preserve Vehicles and Evidence

As an experienced car accident law firm, we will take whatever steps are necessary to preserve the vehicle. The process begins by sending the insurance company and any storage lot a "preservation" letter from our firm.

The letter will state that the subject vehicle and its component parts, including such things as the tires, seat belts, air bags, black box, seats, and the windshield, are crucial evidence in a potential auto manufacturer defect case, and that no part of the vehicle should be altered, removed, or destroyed. The letter will also state that the vehicle and its component parts should be moved to an indoor weatherproof storage facility.

In many cases, insurance company adjustors are interested in a potential subrogation claim against a third party automaker and will fully co-operate with our firm in storing and preserving the vehicle. In these cases, we are often able to reach a specific agreement from the insurance company to preserve the vehicle. If the insurance company is unwilling to agree to preserve a vehicle, we will seek a temporary restraining order to safeguard the condition of the vehicle for evidentiary purposes.

Temporary Restraining Orders for Accident Vehicles

The condition of a vehicle involved in an accident can have tremendous evidentiary value for proving the case of someone injured or the family of a loved one who has been killed. This can be especially true if there is a possible defect that caused or contributed to injuries, such as a malfunctioning seat belt or tire. However, if the vehicle is not secured in a secure, climate-controlled environment, the condition of the vehicle (and any components that may have been defective), may deteriorate to such a condition as they are no longer helpful for evidentiary purposes.

Following an accident, an insurance company or other entity may seek to take control of a damaged vehicle. As a St. Louis car accident lawyer, I may seek a temporary restraining order for accident vehicles from a court of law that will preclude any potential person or party that might foreseeably seek possession or access to the subject vehicle from doing so. This legal action will include any parties currently in possession, custody, or control of the vehicle involved in the collision.

The restraining order may also specify how the vehicles are to be stored, the limited access that would be given to the vehicles, and a prohibition for all parties in taking any actions that would alter the vehicle. The temporary restraining order would not only apply to the owners of the vehicles and their insurance companies, but also to automakers, product manufacturers, and police departments or other investigative agencies, if necessary.

Why Temporary Restraining Orders Are Sometimes Necessary

While it is important to prevent anyone from selling, disposing of, or altering the vehicle and all component parts, it is also important for the order to specify that I (or any investigators or experts hired by me or our firm) have the right to inspect the vehicle and to purchase and relocate the vehicle to an

appropriate storage site that is secure, with limited access, and climate control. In auto accidents involving two or more vehicles, we may decide to secure and preserve all other vehicles that were involved in the collision in a similar manner, if possible.

Black Box Data

The term "black box" generally refers to an electronic device that monitors and stores information about vehicle operation, including the operation before, during, and after a collision. The black box resides in the vehicle's Electronic Control Unit (ECU), which controls the air bags. Black boxes are formally referred to as "crash data recorders" (CDRs) or "event data recorders" (EDRs).

Most vehicles are now equipped with EDRs, which record and provide a variety of information. The specific information recorded depends upon the vehicle manufacturer, but often includes information concerning speed, brake use, seat belt use, and the time of air bag deployment. In addition to being used in cars and trucks, EDR usage in planes and trains has been longstanding.

Several manufacturers now use these black boxes voluntarily. Generally, if a vehicle is equipped with an air bag, important crash information likely is recorded.

Black Box Information

Black boxes do not provide written information as to exactly what was occurring at the time of an accident. Instead, their information is stored in binary code (as sequences of zeroes and ones). As a result, it's important that a technician be hired in order to understand the black box data. Experienced technicians can also be valuable for providing information concerning the validity of black box data, as often events can occur or other matters that may exist that affect the accuracy of the data. This experience is crucial when defendants try to exclude black box evidence at trial.

Preserving Black Box Information

If you've been injured in a car accident, please call our firm immediately so that we can act promptly to preserve the vehicle's black box and the information it contains, particularly as black box ownership issues often can play a part in litigation. It is critical to prevent black box data from being destroyed, and to ensure that evidence is properly collected during the black box download process.

Defendants have been known to download the data quickly and without the car accident victim's consent. To avoid this from occurring, we will file a motion for a temporary restraining order for black box data if necessary to preserve this evidence. As your attorney, I can then ask the defendant's lawyer for a joint inspection of the vehicle, with an expert hired on your behalf present. This is an effective way to preserve the data and to prevent the potential destruction of key evidence.

We can also direct opposing counsel and all parties that may have custody of the vehicle (the towing company, insurance company, auto repair shop, and the like) not to move or repair the vehicle, remove its black boxes, or retrieve or attempt to retrieve the black box data. This ensures an unbroken chain of

custody for the automobile data recorder and the data it contains. Your case may suffer if this data is compromised or destroyed.

The Use of Black Boxes – Planes, Trains, and Automobiles

The phrase "black box" became commonly known in connection with airline disasters. The term "black box" was the street term for an airplane's Digital Flight Data Recorder (DFDR). These devices record very specific information about a plane's operation for a period of time prior to the crash, including the conversations of the plane's crew. The information retrieved from a plane's black box almost always plays a significant part in determining the cause of a plane's crash.

Over time, the black box concept was applied to other forms of transportation. For instance, the federal government instituted laws which require all trains traveling over 30 miles per hour to have an event recorder. This device records the operational functions of the train, including the train's speed, the time of day, distance traveled, horn activation, and the use of the train's braking system.

Event Data Recorders

Since the early 1970s, the National Highway Transportation and Safety Administration (NHTSA) has been working to collect "real world" accident data through "event data recorders." Similarly, auto manufacturers began developing sensor and recording technology as part of air bag development.

By 1996, NHTSA's Special Crash Investigation program was able to use data from black boxes in reconstructing fatalities. In 1977, the National Transportation Safety Board (NTSB) issued a safety recommendation to NHTSA requiring school buses and motor coaches manufactured after 2003 to be equipped with onboard recording systems capable of preserving data in the event of a vehicle crash or an electrical power loss mounted to the bus body, not the chassis, to ensure that the data necessary for defining bus body motion is recorded.

Recent versions of black boxes in General Motors vehicles record up to 5 seconds of vehicle speed, engine RPM, throttle position, and brake application (off or on) information prior to the event or impact that causes an air bag to deploy. Ford vehicles do not have this information but do record lateral (side) impact crash severity information and passenger seat belt use

EDRs and ECMs can be an independent "witness" to accident conditions. The information provided by these digital witnesses provides a foundation for the accident reconstructionist and can help establish fault in ordinary driver negligence actions and in products liability cases against vehicle manufacturers.

Witness Statements

As time fades, so do memories.

The best time to conduct an accident investigation is immediately following an accident, or as soon thereafter as possible. For a car and truck accident law firm such as ours, we want to be able to investigate an accident scene as soon as possible after the collision. We also want to be able to interview witnesses to the accident.

In the case of law enforcement, some officers who investigate traffic incidents do so at the rate of up to 25 incidents per week. Tow truck drivers and EMTs may have similar involvement. As a result, it may be hard for even these professionals to remember specific details about an accident. And, like others, their memory is likely to fade as time passes. This is the case even in accidents involving quadriplegia and death.

Law Enforcement Investigation Reports

In many instances, officers are not required to perform a standard “accident investigation” unless a fatality is involved. Even more surprising is the fact that in many of the “busier” jurisdictions, even when a fatality is involved, department policy does not require an in-depth “investigation,” much less a formal “reconstruction.”

As a result, officers, eyewitnesses, EMTs, and other potential key witnesses should be interviewed, and in some instances, asked to sign affidavits. This should be done while a case is being evaluated so that a record is made while facts are still fresh in the witnesses’ minds.

These witnesses can also become harder to find as time goes passes. They may also carry with them key evidence concerning accident reconstruction, as well as irreplaceable damage evidence, such as evidence of the conscious pain and suffering of a decedent.

Chapter 5: Proving Accident Causation

Proving what caused the accident may include proving your case through the use of experts such as accident reconstruction, accident and biomechanical expert witnesses, the effective use of demonstrative exhibits, videotaped accident recreation, and experimental tests designed to show the jury key elements at issue in the case, along with computer simulation and computer animation. Each particular case is different and some, all, or none of these experts may be needed in any individual case.

Accident Reconstruction and Winning Your Case

Accident reconstruction is the process of collecting accident data, investigating the specific facts and circumstances surrounding an accident, and applying this information to physics and mathematical equations to determine how an accident occurred.

The purpose of accident reconstruction is to determine the involved vehicles' velocity, change in velocity, direction of travel, point of impact, and overall trajectory during the collision sequence, including the vehicles' first rest position.

Accident reconstruction is primarily analytical, requiring a degree of problem-solving. Inferences are made from the data available to attempt to describe events of the accident that are otherwise not adequately known.

The validity of the accident reconstruction performed is heavily dependent upon the underlying accident investigation and data collection, including documenting the scene, securing the vehicles and their component parts, securing black box data, securing witness statements, photographing key elements of the case, documenting road design and maintenance defects, and obtaining medical and death records.

Under many state laws, experienced police officers and accident reconstructionists are allowed to testify as to the speeds of vehicles involved in highway collisions when based upon the evidence observed at the scene of the accident, including direction of travel, skid marks, damage to the vehicles, and the location in which the vehicles came to rest. It is also appropriate for an accident reconstructionist to testify about stopping distances and turning radius.

The effect of skidding is also admissible, as is the location and meaning of scuff marks made by tires, the skid marks, gouge marks, and that the gouge marks were located where an eyewitness testified was the place of the accident. It may not be appropriate, however, for a police officer or accident reconstructionist to testify as to which party was at fault in an accident or which action of the parties contributed to the accident.

Many state courts do not allow an accident reconstructionist to testify as to the point of impact of a collision. This testimony may only be proper from parties involved in litigation and any lay witnesses may testify concerning the point of impact of a collision.

Accident Reconstructionist and Witness Testimony

An expert accident reconstructionist can rely on such lay witness testimony concerning the point of impact in making calculations of speed and distance. Accident reconstruction experts can also testify concerning the presence of gouge marks being in the exact location where a lay witness testified the point of impact occurred. An accident reconstructionist can use an aerial photograph of the place where the accident occurred to show where they located evidence, such as gouge marks and skid marks and to use it to indicate to the jury the gouge marks were found where a lay witness testified the point of impact occurred.

Proving Your Case Through Accident Reconstruction

Accident reconstruction can be very powerful method of helping to prove your case. As a result, in the course of our investigation and consultation with experts, we seek to collect sufficient evidence if possible so that we can introduce at trial our view of how we believe that an accident occurred.

Chapter 6 : Proving Your Damages: What Damages Can You Recover?

Proving Your Damages

Credibly and comprehensively proving your damages involves the use of damages experts, like treating physicians, independent medical experts who testify about past and future medical bills, economists, vocational rehabilitation experts, life care planners, and psychologists who can testify regarding an auto accident victim's injuries, lost earnings and earning capacity, ability to perform household services, psychological well-being, ability to enjoy life, and pain and suffering. Again, each individual case is different and the use of all of these experts may not be necessary or appropriate.

If you or a loved one has been injured in an automobile accident, you are legally entitled to be compensated **for all losses directly sustained by reason of your injury**. As noted below, these damages include those for economic damages (such as medical expenses and lost time from work), pain and suffering (including emotional damages), and future damages that are reasonably certain to be sustained (such as loss in earning capacity due to the accident, future medical treatment, and future pain and suffering).

The **purpose** of awarding compensation to victims of car, truck, or other accidents is to make them whole again, or as whole as possible.

Calculating damages for an injury may require the use of an economist. In many instances, calculating these damages requires making certain assumptions, such as future earning capacity and the number of years that a person would have continued to work if the person did not suffer a debilitating car or truck accident injury. Economists and other financial experts can provide evidence to support a claim for these damages through settlement or at trial.

The Types of Damages - Examples

Damages for the injuries resulting from an automobile, truck, or pedestrian accident can encompass a number of categories, including, but not limited to, the following:

- Medical expenses already incurred
- Future medical expenses
- Prescription medication
- Physical therapy
- Health aids / orthopedic devices
- Artificial limbs
- Disfigurement and the cost of plastic surgery
- Necessary household help
- Wages lost to the date of trial or settlement
- Impairment of future earning capacity

- Pain and suffering
- Lost enjoyment of life
- Mental and emotional distress
- Necessary travel expenses
- Costs of vocational rehabilitation
- Loss of affection to the non-injured spouse

Future Disability and Medical Problems

Injuries suffered in an automobile accident, a truck crash, or a pedestrian accident may lead to medical problems including impairment damages and medical complications, particularly as a person ages. For example, a person with an injured knee may be unable to walk properly after the accident, and thus may be said to be “impaired” or “disabled.” That person may also develop arthritis in their knee as they age, which would be a “medical complication” resulting from the accident.

Medical complications from injuries suffered in an automobile accident can cause complications to seemingly unrelated parts of the body. Consider the same knee injury that can lead to arthritis as you age. Due to the injury, an individual may begin to limp when walking. The change in the way the person walks, or limps, then causes the person to put extra weight on the uninjured foot, knee, and hip. This then causes injury to the good leg because of the extra stress and strain placed on this side of the body.

At trial, it is important to present details and specific evidence regarding necessary future medical, psychological, or psychiatric treatment. Such evidence should include, but not be limited to, the projected length of such treatment, estimated expense of the treatment, and details of what the treatment will entail.

Determining Damages for Future Medical Treatment

Evidence of the approximate future cost and type of medical treatment can be based, at least in part, upon past expense and treatment. Where there is a pattern or history of medical treatment continuing to the present, and there is testimony that the same sort of treatment is likely to continue into the future, juries may conclude that similar costs will continue into the future, and award damages based upon these expected costs.

Damages for Impairment and Disability

An individual’s injuries from a car, truck, or pedestrian accident may result in damages for impairment and disability. The loss of function of a part of the body, like an arm, leg, the eyes, or ears, is known as impairment. When the victim of an automobile accident suffers from an impairment caused by an accident, this may result in a disability.

A disability may be thought of as a condition that interferes with a person’s regular day-to-day activities. The following is a list of a number of physical injuries that can result in impairment and disability. As this list shows, “disabilities” are not always the result of obvious physical limitations; mental disabilities can also be an impairment.

- Amputation
 - loss of limb or body part
 - inability to engage in basic daily life tasks and work
- Brain injury
 - epilepsy and seizures limiting driving and other activities
 - general confusion as to orientation
 - inability to solve problems and/or make decisions
 - lack of concentration
 - loss of muscle control
 - memory loss
 - poor judgment
- Hearing or vision loss
 - affects ability to fully communicate with others
 - limits perception required to engage in some physical activities such as driving, athletics, and other such conduct
 - restricts ability to enjoy and appreciate surroundings
- Heart disease
 - inability to deal with stressful situations
 - possible heart attack
 - restrictions on exercise and/or exertion of energy
- Hypertension
 - dietary restrictions
 - limitations on physical exercise and exertion
 - possible stroke
- Injuries to the joints and/or arthritis
 - inability to use force or lift weight
 - limits range of motion
- Lung injury
 - breathing difficulties restrict air travel, visiting/or living at high altitudes
 - limits physical exertion due to possibility of heart attack or other pulmonary complications
- Medication dependence and its side effects
 - confusion
 - diarrhea
 - disorientation
 - dizziness
 - drowsiness
 - insomnia
 - lethargy
 - loss of sex drive
 - nausea
 - regularly scheduled doses required, with no deviation from schedule
- Muscle injury
 - contracture causes functional limitation of muscle
- Peripheral nerve injury
 - muscle weakness or loss of sensation
- Reproductive organ injury
 - loss of fertility, ability to procreate and/or give birth

- Ulcerative colitis
 - dietary restrictions
 - lack of tolerance for stress

Medical Complications

Injuries resulting from a car, truck, pedestrian or other accident do not necessarily appear immediately. In some cases, the injuries do not develop for many years after the accident. The injuries themselves are often referred to as “medical complications” or “complications,” and include a variety of injuries that would not have occurred except for the accident.

Complications can even result in damages to parts of the body that were not injured in the accident. A knee injury, for example, could cause hip damage over time if the person was forced to walk for many years with a limp.

Other complications to other parts of the body from the initial injury include, but are not limited to, the following:

- **Brain injury**, even if considered minor, can cause changes in personality and behavior, sensitivity to certain medications and other disorders such as seizures and epilepsy.
- **Injuries to eyes**, which can lead to other optic disorders such as cataracts, detached retina, glaucoma, other inflammations, and, in extreme cases, partial or total blindness
- **Injuries to joints**, which can result in arthritis, as well as other weaknesses that tend to make the joint vulnerable to dislocation and future injury.
- **Injuries to lungs**, which can have an adverse effect on the lung’s capacity to have normal maintenance of oxygen in the blood, with the eventual possibility of heart attack, stroke, and/or brain injury.
- **Injuries to muscles**, which can result in long-term pain and weakness to the muscle, as well as subsequent contracting, or shortening, of the muscle restricting use and function.
- **Injuries to reproductive organs**, in both men and women, can lead to difficulty and/or inability to get pregnant or impregnate, and in serious cases, may cause actual sterility.
- **Injuries to the urinary tract**, which, if severe, can affect the kidneys to the point where if the patient takes certain medications, they will experience toxic effects from normal doses of drugs.
- **Injuries to the urinary tract**, which can lead to hypertension.
- **Injuries to vital organs**, that can make that specific body part more vulnerable to stress in the future, sometimes to the point of consequential failure, particularly in the case of a major organ such as the heart, lungs, liver, or kidneys.
- **Interference with blood flow and blood supply**, especially where there is extreme swelling, can cause gangrene, which may lead to the necessity of amputation.

- **Paralysis**, that often results in permanent medical conditions, such as urinary tract disorders, susceptibility to blood clots, vulnerability to embolisms, development of bed sores, and onset or exacerbation of osteoporosis.
- **Physical problems with muscles or bones**, that can eventually lead to arthritis in those same body parts as well as seemingly unrelated areas.
- **Scar tissue**, especially when it is extensive, will often be the cause of infection in various parts of the body that have sustained a primary injury.
- **Shortened life expectancy**, which can occur due to the fact that injured body parts are subsequently unable to tolerate normal stress and function after undergoing an injury from which total recovery is impossible.
- **Infection**, which can result from stresses in the body's metabolism due to illness or injury which, in turn, can create interference with the normal functioning of other body parts.

Lost Earnings and Earning Capacity

In some car accidents or truck accident injury cases, the person injured may have suffered from lost earnings and earning capacity as a result of the accident. Sometimes these lost earnings are easy to calculate, such as if a person is off work for a certain period of time.

In other cases, the injured person may suffer significant future lost earnings as a direct result of his or her accident. In extreme cases, the person may never be able to work again in any capacity. In less extreme cases, the person may no longer be able to work in the same capacity in which they were employed or trained prior to their injuries. As an example, if a person worked in a job such as construction, or one which required heavy lifting, and they sustained a significant back injury, they may have to look for other work which may provide much lower lifetime wages.

The Baseline Assumptions for Lost Wages

As a starting point, it's necessary to introduce evidence concerning the earning capacity of a person in their profession immediately prior to the accident. How long would they have continued to work? What would a likely progression be in terms of wages? Typically an economist or financial expert is needed to provide statistical information to answer these and related questions.

Once assumptions are made for these variables, the future wages that the person would have been received can be reduced to a present value dollar amount.

Changing Occupations

If a person has to change occupations because of their injury, such change could significantly reduce their earnings over the course of their lifetime. If this is the case, the person may be entitled to the damages in the amount of the "lost" earnings to the extent that they can prove these damages at trial. In order to prove these damages, doctors and medical and economic experts may be necessary. For instance, a doctor or medical expert is typically needed who can explain to the jury the new physical limitations that the injured person may be under. An economic expert may be needed who can

calculate the lost earnings over the course over the person's lifetime in a new occupation which a person has the capacity to perform.

The earnings capacity for the person in this new occupation can then be determined, and reduced to a present value dollar amount. Once this information is known, the person's economic damages from lost wages can be determined by subtracting the present value of the earning capacity for the new occupation from the present value of the earnings capacity from the occupation that the person was in prior to their accident.

Burden of Proving Lost Earning Capacity

The burden of proving lost earning capacity is on the plaintiff (the person who has been injured), and it must be shown with reasonable certainty. Proof of impairment of earning capacity does not require the same specificity or detail as does proof of loss of future wages. The plaintiff must prove that as a result of the injuries caused by the defendant's conduct, an impairment of earning capacity is reasonably certain to occur.

Chapter 7: Identification of All the Responsible Parties

Identification of All the Responsible Parties

In a car accident, there are sometimes multiple parties responsible. These parties can include another driver, a municipality responsible for road conditions, a manufacturer of a defective seat belt or tire, or a construction company that may have been performing road maintenance. In addition, a bar that supplied alcohol to an intoxicated driver may also be liable. It is important in each case to identify all of the responsible parties to maximize the compensation you receive for your injuries.

Unsafe Road Conditions and Accident Liability

In some car and truck accidents, those responsible for road design or road maintenance may also be at fault. To determine whether unsafe road conditions have contributed to an accident, we often investigate the condition of the roadway, including the placement and operation of any signs, guardrails, road drop-offs, and other road conditions.

It's important to examine these aspects as soon after an accident as possible, as these conditions may change with even a short passage of time. This evidence needs to be documented and preserved in a timely manner in order to further your case.

If the Road is Unsafe, Who is At Fault?

Safe road conditions may be the responsibility of different municipalities or governmental entities, such as a city, state, or the federal government. In each case, the responsible municipality or entity must ensure that the road is safe, which includes aspects such as maintaining signage and properly functioning traffic control devices, and keeping the road free of dangerous potholes or other conditions. Additionally, it is important that vegetation along a roadway does not obscure signage.

Road Design Defects

In some cases, the physical condition of the road itself may be safe, but the road may be unreasonably dangerous due to a road design defect. For instance, the posted speed on a road may be too fast for the actual road conditions. Additionally, a side street may cross a busy road in an area where drivers may have limited visibility, such as after the crest of a hill, which may result in drivers being unable to see each other until it is too late.

In some road design cases, there is a past history of many accidents at a single location. This history may indicate that traffic control devices - such as stop signs, intersection warning signs, or traffic signals - should be implemented. Unfortunately, these past accidents are often overlooked until a fatality occurs.

When it appears that an accident was caused in whole or in part by unsafe road conditions, a road design defect, or construction crews performing road work, we will bring a lawsuit against those responsible for such road conditions in addition to any other drivers who we believe to be at fault.

Investigation of Bartenders and Others in Drunk Driving Cases

As a drunk driving lawyer in St. Louis, I and our firm work hard to prove liability and damages in drunk driving cases. The first aspect to winning a drunk driving case is to prove that the other driver was in fact drunk when he or she caused your accident. In addition to police reports covering blood alcohol content, key evidence in drunk driving cases also usually includes direct evidence, such as a bar's service of alcohol to an intoxicated customer.

Evidence from Bartenders, Waiters, and Waitresses

Bartenders, waiters, and waitresses will rarely admit when first questioned to having served a patron who was visibly intoxicated. However, when confronted under oath (such as in a deposition or at trial), they may be more truthful. This is especially the case when they are confronted with receipts detailing the amount of drinks they served to the drunk driver or to a particular group of people which included the drunk driver. They may also be more forthcoming when they learn of statements made by witnesses who saw them serving drinks to the drunk driver.

Statements by the Drunk Driver

Other sources of proof may be found such as the drunk driver's own admissions (perhaps obtained in the course of a criminal proceeding). If the drunk driver is out with friends prior to the accident, these people can also be questioned under oath to learn whether the drunk driver made any statements about being intoxicated or to the effect that they should not be driving. These friends can also be questioned about the amount of alcohol that the drunk driver consumed, and their impressions of whether the person was in fact intoxicated.

In addition to the people who may have also been drinking with the drunk driver, other bar or restaurant patrons can be questioned to see if they observed the drunk driver, and whether the driver was in fact intoxicated. These people may also have other valuable information concerning whether the bartender, waiter, or waitress appeared to have realized that the person was inebriated, but nonetheless continued to serve alcohol to the drunk driver.

With the help of a private investigator, we are often able to uncover substantial evidence that likely will help prove the case for our clients.

Experts and Toxicologists

Additionally, experts and toxicologists are often also used in a drunk driving accident case. Experts and toxicologists can testify concerning the degree of intoxication that the driver was likely experiencing at the time of the accident based upon blood alcohol tests and other evidence concerning the amount of alcohol that was likely consumed.

Auto Manufacturer Responsibility

In an auto manufacturer defects case, it is important to know the seating position of occupants present in the vehicle involved. This information is helpful in determining the movement of the occupants in the vehicle at the time of the collision and how the injuries were caused.

Loading of the vehicle is another issue that needs to be documented by witness statements, especially in rollover cases. While these vehicles are often advertised and marketed as cargo vehicles, increased weight on top of the vehicle like the luggage rack raises the vehicle's center of gravity. In a roll-over case, the defense lawyers may use this fact is showing that it was the driver who caused the vehicle to become unsafe.

Likewise, it is important to document seat belt use to determine if there is a potential seat belt case against the manufacturer or to avoid a defense that a seat belt was not used. Other auto manufacturer defects, including tire defects, breaks, handling, power-steering failure, air bags, childcare seats, and other product failure, are heavily dependent on witness testimony.

Chapter 8: Wrongful Death - For Families Who Have Lost a Loved One

The saddest cases are those in which a loved one has been killed suddenly by the negligent or reckless actions of someone else. The victims in these cases come from all aspects of life -- mothers, fathers, and sadly even children.

The sudden loss for those left behind can be staggering. The emotional losses are devastating. In a case involving the death of the family breadwinner, a family can be plunged into a sudden, and potentially long lasting, financial crisis.

In a case involving a parent suddenly taken, there may be minor children with living expenses and future college tuition to pay. In all cases, the families left behind deserve to know how and why their loved one was killed, and to have a thorough investigation conducted to determine all those responsible for their loved one's death.

In many cases, there are many parties responsible for contributing to the accident, not just a single driver. For example, in addition to another driver, those responsible for a vehicle accident involving a commercial truck might include truck driver's company, those responsible for roadway design or maintenance, and the makers of the vehicle in which the family member was killed if there are products like defective seat belts or air bags. It is our duty to our clients and their families to hold all of those who have contributed to the death accountable their share of the liability.

Who Is Entitled to Recover In a Wrongful Death Case?

When a loved one is killed due to the negligence of another person, such as in a vehicle accident, the family members left behind have been tragically damaged by the wrongful death of their loved one. Many family members may have relied on the loved one for both emotional and financial support, particularly the minor children of a parent who has been killed. After a wrongful death has occurred, family members are naturally interested in finding out who is entitled to recover for the wrongful death of their loved one.

In Missouri, Illinois, and in most other states, the legislatures have adopted statutes that govern who is entitled to recover in the case of the wrongful death. In both Missouri and Illinois, children are entitled to cover for the wrongful death of their parent, and parents are entitled to recover for the wrongful death of their children.

Similarly, a spouse is entitled to recover for the wrongful death of her husband or his wife.

Chapter 9: Frequently Asked Questions

Is it possible to settle my car accident case without filing a lawsuit?

Answer:

Sometimes car wreck cases can be settled without filing a lawsuit. When we accept your case, we will certainly analyze the facts of the case to determine whether it's in your best interests to try to settle it without filing a lawsuit. If it looks like there is a reasonable chance this can be done, we will discuss this with you and, if you approve, attempt to settle your case without filing a lawsuit. In other words, if a lawsuit is not required to force the defendant to pay you the compensation you deserve, we won't file one. This way, you should be able to receive your compensation sooner rather than later.

On the other hand, if, in our opinion, it does not appear possible to get you the compensation your case calls for without filing a lawsuit, then we will discuss this opinion with you and get your approval before filing a lawsuit. Unfortunately, insurance companies, trucking companies and other defendants are often unwilling to pay full compensation for a case without a lawsuit filed. But don't worry, even if a lawsuit is filed, the great majority of cases settle without a trial.

The difference between these two ways to get your case settled is time. Obviously, it takes longer to resolve your claim if a lawsuit is filed. But don't be disappointed just because your injury claim has to be filed, because if this is the case, it's a sign that you are entitled to a fairly large sum of compensation. This is because most cases that end up in lawsuits are bigger cases involving more serious injuries.

If my car accident case is filed as a lawsuit, what will I have to do?

Answer:

As your law firm, we do the great majority of the work on your car accident lawsuit. There will, however, be something's you will have to do, such as:

Provide us with information. From time to time we need information from you. Most of this information can be relayed by telephone or email. If necessary, we will schedule personal meetings with you, however this is not necessary for most communications. If you live out of town and we need to meet personally with you, we will either come to where you live, or we will arrange for your travel and accommodations to meet with us in person. We pay all of the up-front costs for this.

Do your best to tell us everything. Nothing will hurt your car accident case more than not being totally truthful and upfront with us. There will be some pieces of information that will not be beneficial to your case. If you tell us about it, we can take appropriate action to protect your case and limit or, if possible, prevent the information from hurting your case. It is the information that we do not know, but the defendant or insurance company finds out, (and believe me they have their ways to find out) that will hurt your case.

Attend your deposition. In most cases, the other side has the right to take your deposition and ask you questions on the record. Usually it happens in our offices but it can also take place at the defendant's lawyer's offices. We will prepare you for your deposition, and Mr. Dysart will personally sit next to you during your entire deposition. We will be there with you and fully involved in the entire deposition process.

Make decisions based on our recommendations. The main decision you will need to make at the end of your case is whether to accept the other side's final settlement offer. Once we know that number, we will give you our recommendation on whether you should accept it. And we will tell you everything that forms the basis for our recommendation. This way, you will have the information you need in order to make an informed decision. And remember, the final decision is 100% your decision.

What Do We Do For You In A Personal Injury Case?

Here is a more or less complete list of the tasks we may be called to do in your case. Remember that each case is different, and that not all of these tasks will be required in every case. They are:

- Conduct an initial interview with you.
- Educate you about personal injury claims.
- Keep you fully informed and seek your input on your case.
- Gather documentary evidence including police accident reports, medical records and bills.
- Analyze your insurance policy to see whether there is any coverage which you have that may pay all or a portion of the medical bills while the claim is pending.
- Analyze your insurance coverage and make suggestions as to what coverage should be purchased for future protection.
- Interview known witnesses.
- Collect other evidence, such as photographs, of the accident scene.
- Analyze the legal issues, such as comparative negligence and assumption of the risk.
- Talk to your physicians or obtain written reports from them to fully understand your injuries and condition.
- Analyze your health insurance policy or welfare benefit plan to ascertain whether any money they spent to pay your bills must be repaid.
- Analyze the validity of any liens on the case. Doctors, insurance companies, welfare benefit plans and employers may assert that they are entitled to all or part of your recovery.
- Contact the insurance company to put them on notice of the claim, if this has not already been done.
- Decide whether an attempt will be made to negotiate the case with the insurance company or whether suit shall be filed.
- If suit is filed, prepare you, any witnesses and healthcare providers for depositions.

Otherwise prepare your case for trial and maximize its settlement value.

Chapter 10: Our Cases and Verdicts

Here is a sampling of cases that we have handled. Remember that each case is different and that the results in your case are dependent upon its facts. We have won case we probably should have lost and we have lost cases that we expected to win. Once a case is in the hands of the jury, it is out of our control. We do believe, however, that significant trial experience in big cases is one factor that people may use to choose one attorney over another. Many of our clients have told us that this is true. With these disclaimers in mind, here are some of our results:

\$39.5 million total recovery in 2011 in Hartford, Illinois Environmental Contamination Case. The Dysart Law Firm, P.C. represented the residents of Hartford, Illinois whose properties were contaminated by nearby refineries owned by BP, Shell Oil Company, Premcor, Apex Oil Company and Sinclair Oil Company. The total recovery in this case was \$39.5 million.

\$18 million verdict in 2003 for family of child killed in window fall. The Dysart Law Firm, P.C. represented the family of a 4-year old boy who fell to his death out of an 11th floor apartment in a public housing project where the owner of the complex had failed to install child guard windows requested by the child's mother.

\$5 million mid-trial settlement for man injured in elevator accident. The Dysart Law Firm, P.C. represented a man injured while repairing an elevator that malfunctioned and started moving, dragging him several stories up the elevator shaft.

\$1.1 million settlement for woman injured in slip and fall accident. The Dysart Law Firm, P.C. represented a woman that slipped and fell on the steps leading to the entry of her apartment building, injuring her neck and requiring several neck surgeries.

\$900,000 settlement for two individuals injured in drunken driving accident. The Dysart Law Firm, P.C. represented a man and woman rear-ended by a drunk driver, resulting in back and facial injuries.

\$500,000 settlement for man involved in truck accident. The Dysart Law Firm, P.C. represented a man who suffered soft tissue injuries as a result of being injured in a car hit by a truck.

Motion Picture Association of America Copyright Infringement Cases

Mr. Dysart has successfully pursued many cases on behalf of the Motion Picture Association of America against movie distributors selling illegally copied motion pictures.

Criminal Defense Physician Medicaid Fraud

The Dysart Law Firm, P.C. successfully represented the first physician prosecuted for Medicaid fraud by the Missouri Attorney General over alleged Medicaid fraud where, after a jury trial, the defendant was acquitted.

Federal Prosecution of Organized Crime Gambling and Money Laundering Case

While serving as a federal prosecutor, Mr. Dysart prosecuted and convicted, after a jury trial, numerous individuals for money laundering the proceeds of illegal gambling through merchant bank accounts in the State of Illinois.

NASA Langley Research Center Government Contractor Case

While serving as a trial attorney with the Commercial Litigation Branch of the United States Department of Justice in Washington, D.C., Mr. Dysart successfully litigated a case with a government contractor shown to be overbilling the government for repair work on wind tunnels at the NASA Langley Research Center.

Take Action NOW!

You must act before crucial evidence to prove your case is lost or an insurance company adjuster tricks you into damaging your case!

And, in every case, there are time limits to bring your claim. You can lose the right to bring your case if you do not act quickly.

So it is URGENT that you take action now!

TAKE ACTION! Call me on my toll free number at 888-586-7041 for a confidential, free consultation NOW!

Contact Chris Now at 888-586-7041

For Over 20 Years I Have Been A Practicing Trial Attorney. I Have Litigated And Tried Cases On Behalf Of NASA And The Motion Picture Association of America. Most Importantly, I Have Represented Individuals Just Like You Against Powerful Corporations And Won.

In 2003, I was recognized by the National Law Journal as National Litigator of the Month for obtaining an \$18 million dollar jury verdict involving the death of a child. The Missouri Lawyers Weekly has listed me in the Top 10 jury verdicts in the State of Missouri. In 2011, The Dysart Law Firm, P.C. settled a case for \$39.5 Million.

You do not have to deal with the insurance companies alone when you want to stand up for your rights after a car crash. To set up a private consultation, contact me today, toll free, at (888) 586-7041.

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