

AUTO ACCIDENT & PERSONAL INJURY CLAIMS

A Guide For Consumers To Protect Their Rights

This book is designed to help people who have suffered a personal injury understand their rights and the steps to take to be sure they get the compensation they deserve. The book covers the most common types of personal injury cases, including those resulting from car or truck accidents. It explains in easy to understand terms what you should do when you have suffered a personal injury and – what you shouldn't do!



Joseph "J.P." Pendergast, III

The book gives you tips and guidelines on topics such as, "What You Should Know about Working with Insurance Companies"; "How to Choose a Personal Injury Attorney"; and "How to Handle Your Medical Needs during the Claims Process." It also covers "The Biggest Mistakes You Can Make to Ruin Your Personal Injury Claim," plus a tear-out "Accident Checklist" of what to do when you are involved in an auto or truck accident.

Author Joseph "J.P." Pendergast is the Owner and Managing Attorney of Hardwick & Pendergast, P.S., one of the premier Washington state personal injury law firms in the Northwest. J.P. has successfully handled thousands of personal injury cases, resulting in millions of dollars in compensation for his clients.



YOU HEAL WHILE WE RECOVER

phone: 888.228.3860 website: www.hardwickpendergast.com

AUTO ACCIDENT

& Personal Injury

CLAIMS

**A Guide For
Consumers To
Protect Their Rights**

Joseph E. Pendergast, III
Attorney at Law

Auto Accident & Personal Injury Claims

**A Guide For
Consumers To
Protect Their
Rights**



**Joseph E. Pendergast, III
Attorney at Law**



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Printed in the United States of America

ISBN:

Library of Congress Control Number:

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Introduction

Helping People in Personal Injury Cases Get the Compensation They Deserve

If you or a loved one has ever been injured in an accident, you know what a difficult and trying time this can be. You need to deal with the trauma and stress of your injuries, focus on healing, and be sure your rights are protected. How do you deal with the mountains of insurance paperwork? How do you pay your bills? Should you hire an attorney? And if yes, when and how?

I wrote this book because I have dedicated my legal practice to helping people like you, both legally and personally. I wrote this book to help people understand their rights as well as the key things they can do to protect those rights and get the compensation they deserve.

What You'll Find in This consumer Guide

This book is designed to give you a basic overview of the types of personal injury claims that you should be compensated for in addition to providing general guidelines about what to do when you or a loved one has been injured.

The consumer guide is designed to help you make the right decisions at the right time –



Joseph "J.P." Pendergast, III

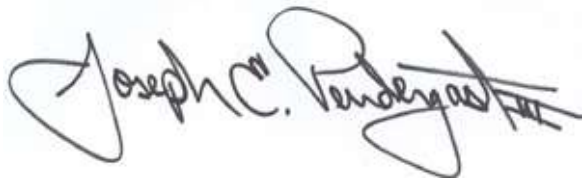
As a personal injury attorney and managing partner of Hardwick & Pendergast, J.P. has successfully handled thousands of personal injury cases, resulting in millions of dollars in compensation for his clients.

INTRODUCTION

from the scene of the accident to dealing with the insurance companies and understanding what the claims process looks like. If you should choose to handle your own claim, then this book will help you navigate the difficult waters of dealing with insurance adjusters.

The book will also help you decide whether or not to hire a personal injury attorney. There is detailed information on what you should look for in choosing a personal injury lawyer and what you should expect from him or her. Understand that this book is not intended to offer you legal advice or substitute for legal counsel about your specific case. I am prohibited from giving legal advice unless I am hired to work on your behalf.

Please enjoy this book. If you should have any further questions, you can contact me for a free, no-obligation consultation about your case. My contact information is listed in the back of the book.

A handwritten signature in black ink that reads "Joseph E. Pendergast, III". The signature is written in a cursive style with a large initial "J" and a stylized "E".

Joseph E. Pendergast, III

What You Should Know about Personal Injury Claims

If you suffer a personal injury in an accident, you deserve to be adequately compensated.

When you are involved in an accident or incident of personal injury, you probably aren't fully aware of your rights, what benefits you can claim, how to choose healthcare providers, and what loss of income and other expenses you deserve to have repaid. You will probably also find dealing directly with claims adjusters at insurance companies difficult. Insurance adjusters are skilled negotiators trained to settle accident claims as quickly and cheaply as possible; a daunting task to deal with, even at the best of times.



Are your personal injuries covered?

There are a wide range of personal injuries that you can claim if you have been harmed by the negligence, recklessness, or inaction of others. Any victim can file a personal injury claim for physical injury, emotional injury, and, in some cases, property damage. In wrongful death cases, the family of the deceased victims can file suit on behalf of their loved ones.

Personal Injury: Being harmed by the negligence, recklessness or inaction of others.

When you file a personal injury claim, you ask



for damages in the form of payment for your medical bills, loss of income, pain and suffering, emotional distress, permanent disability, and other expenses resulting from your injury.

By hiring a skilled personal injury attorney who knows how to evaluate and document your claim, you can be sure that you will be paid what you deserve. A personal injury lawyer can best determine all available insurance benefits, communicate with your healthcare providers, and review all information presented to the insurance company. You heal while your personal injury attorney handles all the required paperwork and investigation.

*“When I was injured, everything fell apart. I couldn’t support my family, figure out the insurance forms, much less recover. Luckily, my friend had me talk to a personal injury attorney before I settled. They put it all together, coordinating my care, helping my family, even handling the insurance company.”
Michael M.*

What types of personal injury damages can I recover?

When you are injured, you can normally expect to file a claim for the following damages:

- **Medical Expenses.** This includes all medical expenses to treat your injury, such as doctor visits, hospital and emergency room expenses, fees for chiropractic care, massage therapy, physical therapy, and any types of medical devices that you need during your recovery.

- **Future Medical Expenses.** You can also receive a payment to cover continued medical

care you may need as a result of the accident. Working with your attorney, this amount will be determined by your doctors or other medical providers.

- **Pain and Suffering.** These damages include physical suffering resulting from your injury. The damages are based on both the severity of your injuries and how long you will likely be in pain.

Personal injury claims may involve payments for medical expenses, lost present and future wages, property damage, pain and suffering, and other expenses.

- **Mental Anguish.** Any type of mental or emotional distress you suffer as a result of an accident can also be claimed. These could include apprehension, fright, anxiety, grief, shock, and/or loss of dignity.

- **Lost Wages.** It is possible to recover damages for the amount of money you would have earned between the time of your injury and the settlement or judgment. If you were unemployed at the time of the accident, you can still recover lost wages if you can show what you could have earned during that time.



- **Loss of Earning Capacity.** You can recover damages for lost earning capacity if you can show that your ability to earn money in the future has been affected.

- **Loss of Consortium.** This refers to the loss of the benefits of married life experienced by your spouse which have resulted from your injury.
- **Property Damage.** This compensates you for the value of your property that was damaged as a result of your accident.

Protect your rights carefully.

When a personal injury strikes, there are a number of things you should – and should not – do to protect your rights. You want to be sure you are covered, and ultimately compensated, for all the damages, both personal and emotional, that you have suffered. Most important, when you suffer any personal injury, you should follow these five key rules:

Knowing what you should – and should not – do to protect your rights is key to winning your personal injury case.



1. Be careful what you say to insurance companies.

Do not answer any questions from the other side’s insurance company or attorney without approval from your own attorney. The other insurance company will want a statement from you after the accident. However, understand that information on your past medical records for care or treatment before this accident

may be used against you later and payment for certain treatments may then be denied.

2. Tell your doctor or healthcare provider about all your symptoms.

An insurance company evaluates your claim based in great measure on your doctor's records and reports. Be thorough in describing your symptoms, including any pain you may be suffering. Follow through with all medical treatments.

Your claim could be damaged by missed appointments or not cooperating with your doctor.



3. Know that you may be investigated.

An insurance company, even your own, may hire a private investigator to monitor your physical activities. This could include videotaping you or interviewing your neighbors.

Once you sign a release, you will be unable to make any additional claims.

4. Don't settle without consulting with your doctor.

Some insurance companies may pressure you to settle your claim prematurely while you are still being treated by your healthcare provider. Only settle when you and your doctor can reliably predict your future healthcare needs and expenses.



5. Don't sign a release without consulting your attorney.

A release ends your claims with the insurance company, and you cannot file additional expenses or claims once you have signed it.

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What You Should Know about Injuries in an Auto Accident

What to do if you are injured in an auto accident.

Car accidents are one of the most common causes of personal injury. Some involve only minor injuries while others can result in severe injury, permanent disability, and even death. If you've been injured in an auto accident, you will most likely experience pain and suffering, emotional distress, lost wages, medical expenses, and property damage. For all of these, you should be compensated financially.



Won't my insurance cover my injuries?

Many people think their personal insurance will cover expenses following a car accident. However, this depends on the policy you have purchased. Most likely, you have insurance that covers both you and your property, as well as insurance that covers other people's property and/or injuries who are involved in car accidents where you are at fault. Because there are many different types of coverages, each with its own benefits and limitations, you should consider consulting with an attorney before you sign anything or agree to a settlement.

*"The accident happened so fast. One minute we were out for a drive and the next, our family was fighting for its life. Thank goodness I was able to talk to a skilled personal injury law firm. They stepped in to make sure we were cared for. Then they dealt with the insurance company and we made a full recovery on all fronts."
Connie J.*

What you should do at the accident scene.

It is difficult to keep calm after an auto accident, but, if you are able, you should obtain as much of the following information as possible:

- **Driver Information.** Exchange information with all drivers, including their names, license numbers, license plate numbers, insurance company names, and policy numbers.
- **The Accident Location.** Record the street address and city where the accident occurred.
- **Accident Diagram.** As best you can, draw a simple diagram of how the accident happened, describing the road conditions, the weather, and the location of other vehicles.
- **Damage.** Describe where your vehicle is damaged and the extent of the damage. Also record the damage to other vehicles involved in the accident.

It's a good idea to keep the tear-out Accident Checklist (tear-out on Page 65) in your car, to use if you're involved in an accident.



- **Photographs.** Photos of your injuries, the damage to vehicles involved, and the scene of the accident can be a great help in building and documenting your case.

• **Police Report.** Get a copy of the incident report if the police responded, as well as the names of the officers who were on scene or participated in the investigation.

• **Witnesses.** Keep a record of the names, addresses, phone numbers, and email addresses of all witnesses.



What you should do after the accident.

There are three important things you should do immediately after the accident:

1. Contact your insurance company to report the accident. If you don't report the accident promptly, the insurance company may try to deny you coverage.

2. File a police report. You should file a police report if you are injured or if damages to either your vehicle or the other party's vehicle exceed \$200.

3. Get follow-up medical care. Be sure you continue to be treated for all your injuries and all medical conditions.

After the accident, it is also a good idea to consult with an auto accident and personal

"After my car accident where I received multiple fractures, I was put in a nursing home and was unable to get legal help until I contacted a personal injury attorney. They actually came to the nursing home, took over all the coordination of my case and simply took all the stress off of me. They visited me regularly to keep me informed and make sure my needs were being met."

John W.

injury attorney who can advise you of your possible claims, analyze your coverages, and guide you through the next steps.



What you need to do during the claims process.

Once you choose a personal injury attorney, you will need to gather information that will support your claim during the next few months, including:

- **Medical Expenses.** Document all office visits, prescriptions, over-the-counter medications, laboratory services, physical therapy, hospital visits, treatments, medical documents, and x-rays. Make note of the dates, providers, amounts charged, and reasons for your visits.

- **Lost Work Time.** Keep track of all time taken off from work as a result of the accident, including time off for medical treatments and/or the inability to function properly at work because of your injuries. You may also want to get a letter from your employer verifying pay and lost work time.

- **Lost School Time.** If you are in school or taking work-related courses, record all lost

Many people don't fully understand the number and types of things they should be compensated for when they have been injured.

school time and/or your inability to continue schoolwork as you did before the accident.

- **Photographs.** Continue to take photographs of your injuries at different times after the accident. Write the date on the back of each photo to show when it was taken.

- **Emotional Distress.** Keep in mind what you are going through as a result of the accident and how the injuries have interfered with your daily life.

- **Car Repair Estimates and Bills.** Keep copies of all repair bills and/or estimates, as well as rental car and taxi receipts.

- **Out-of-Pocket Expenses.** Keep receipts for everything that you've paid for out-of-pocket relating to or as a result of injuries suffered in the accident.

Every year there are more than 6 million auto accidents in the United States, injuring nearly 3 million people.



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Safe Driving Tips for Every Member of Your Family

Six important ways to avoid accidents and personal injury.

1. Make sure you– and your passengers – always buckle up.

Seat belts save lives. In the overwhelming majority of car crashes, you have a greater chance of surviving if you're wearing a seat belt – it is also the law.

Worn properly, seat belts prevent you from being thrown around the inside of a crashing vehicle or, worse, thrown through the windshield or out of the vehicle. Studies show that more than half of all accident fatalities were people who weren't using seat belts. Even a low-speed crash can send you careening into the dashboard or side window, resulting in severe head injuries or broken bones. The results can be worse for young drivers and passengers.



A staggering 70 percent of fatal crash victims between the ages of 13 and 15 weren't wearing seat belts.

2. Use child safety seats.

The back seat is generally the safest place in a car and, although air bags are useful and save many lives, they're powerful and can injure or kill children. If your vehicle has a front passenger airbag, it's essential for children 12 and under to ride in the back of your car.

80% of all child car seats are not installed correctly. Make sure you follow the manufacturer's instructions carefully and consult your car owner's manual or your car dealer on proper placement.

Infants should ride in the back seat facing backward in a car safety seat until age one and at least 20-22 pounds. Children over 20 pounds can ride facing forward in a car safety seat.

Keep your child in a safety seat with a full harness as long as possible, or at least until your child weighs 40 pounds and is at least 4-years-old. The adult lap and shoulder belt system alone will not fit most children until they are at least 4 feet 9 inches tall. Once the child is too big for a car safety seat, get a good booster seat to adjust to your child's height.



3. Put down rules for teen drivers.

A good drivers education course is essential for teen drivers. To help your teen driver develop safe driving habits, set rules and have your teen sign a contract that he or she will do the following:

- Always buckle up. If ticketed for not wearing a seat belt, they lose their right to drive.
- Never speed, tailgate, play loud music, or talk or text on cell phones.
- As always, never drink and drive.

4. Avoid distractions.

Many states in the U.S. have passed laws that

restrict the use of cell phones while driving. In Washington State, for example, driving while talking on a cell phone is a primary offense. The reason is the growing number of accidents and deaths attributed to this seemingly harmless activity. If you think that talking and texting while driving isn't a big deal, consider this: using a cell phone behind the wheel can delay reaction times by as much as 20 percent.



5. Keep your vehicle safe.

Regular tune-ups will keep you and your car safe out on the road. One of the most common maintenance problems that can lead to a crash is improper tire pressure. Uneven tire pressure, or pressure that is too high or too low, can impact performance or lead to a blowout – especially in high-performance cars or heavy vehicles like SUVs. You can buy an inexpensive pressure gauge at any auto parts store and check the pressure against the recommendation in your owner's manual. While you're at it, you might want to rotate your tires to promote even wear and consistent performance.

At 40 miles per hour, if you take 5 seconds to look down at a text, your car will have traveled 293 feet, or almost the length of an average city block. A lot can happen in the length of a block.

Another key area is the car's brakes. If you notice some "softness" in the brake pedal, or

feel a vibration when the brakes are applied, get them checked out by a professional mechanic. The brakes could be wearing out or you could have a problem with the car's hydraulic system.

6. Don't drive drunk.

More than 30 percent of all auto accident fatalities in the United States involve drivers impaired by alcohol. Most of those deaths could have been avoided if the drivers had simply chosen not to drink and drive.

3 in 10 Americans will be involved in an alcohol-related traffic accident at some time in their lives.

Even at low blood-alcohol levels, intoxication reduces reaction time and coordination, and lowers inhibitions, which can cause drivers to make foolish choices. At higher levels, alcohol causes blurred or double vision and even loss of consciousness. Drunk driving isn't just a terrible idea – it's a crime. It destroys families, friendships and lives. Choose to be safe.

If you've been drinking, ask a sober friend for a ride or call a cab. If you're planning to drink, make sure you have a designated driver. The mild inconvenience of taking a cab home is nothing compared to the disastrous consequences of driving drunk.



What You Should Know about Whiplash

What to do if you suffer whiplash or soft tissue injuries.

Whiplash is a unique injury that happens most often to drivers or passengers during rear-end automobile accidents. When the force from an impact causes the head to snap violently back and forward, injury often occurs.

You don't need to be involved in a high speed crash to suffer whiplash. Even at low speeds, the unexpected impact can cause injury to your vertebrae, muscles, and neck.



Whiplash injuries can also occur in any situation where a sudden back and forth “whipping” movement occurs, including slips, falls, and blows to the head from an assault.

How do I know if it is whiplash?

Whiplash injuries are not always immediately recognized. If you are involved in an accident, your natural responses and the adrenalin rush may not allow you to relax. But over the course

Many whiplash symptoms do not appear until weeks or even months after an accident. And, 75% of whiplash patients still suffer symptoms six months after the original injury.

of the next few days, you might experience the following:

- Tightness in the neck and/or serious neck pain that is dull and aching
- Dizziness
- Headaches
- Problems with balance and equilibrium
- Back pain
- Memory problems and difficulty concentrating

Whiplash injuries can be hard to recognize, so be sure to have your injuries evaluated by a specialist and document the treatment.

If you are suffering from any of these symptoms, you should see a medical specialist, such as a back and neck expert, chiropractor, orthopedic specialist, or neurologist. Whiplash injuries may seem minor at first, but if left undiagnosed and untreated, they can lead to chronic pain and make you more susceptible to future back and neck injuries.

What about soft tissue injury?

Soft tissue injury refers to damage to your muscles, ligaments, tendons, or nerves, usually caused by direct or indirect trauma. Direct trauma can happen in an accident, from being struck by an object, or by falling. Indirect trauma happens when you overuse certain muscles or other tissue through repetitive movements you do as part of your everyday life.



Some examples of soft tissue injuries include sprained ankles, pulled tendons, and repetitive stress injuries such as carpal tunnel syndrome.

What to do if you have whiplash or soft tissue injury.

Whether or not you hire a personal injury attorney, you will need to gather information that will support your claim during the next few months, including the following:



- **Medical Expenses.** Document all office visits, prescriptions, over-the-counter medications, laboratory services, physical therapy, hospital visits, treatments, medical documents, and x-rays, including the dates, providers, amounts charged, and reasons for your visits.

Whiplash victims lose on average 8 weeks of work due to their injury.

- **Lost Work or School Time.** Keep track of all time taken off from work or school as a result of the whiplash injury, including time off for medical treatments and/or the inability to function properly because of your injuries.

- **Emotional Distress and Personal Inconvenience.** Keep in mind what you are going through as a result of your injuries and how the injuries have interfered with your daily life.

- **Out-of-Pocket Expenses.** Keep receipts for everything that you've paid for out-of-pocket relating to or as a result of injuries suffered in the accident.

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What You Should Know about Wrongful Death Claims

What to do if you experience the wrongful death of a loved one.

If your loved one is killed in an accident or dies as a result of injuries, you may have cause for a “wrongful death” claim. A wrongful death claim arises when an individual is killed due to the negligence or misconduct of another person, company, or entity.



You can file wrongful death lawsuits on your loved one’s behalf to recover damages for the loss of the deceased person’s love, affection, companionship, and emotional support as well as financial and economic support, services, medical bills, funeral costs, and other expenses.

Who can file a wrongful death claim?

A claim for wrongful death needs to be brought by the personal representative of the deceased person’s estate. This claim is made on behalf of the beneficiaries, which commonly include surviving spouses, children, and other immediate family members, including parents. Minors, children under the age of 18, will need an adult guardian to take a wrongful death lawsuit to court.

“Mom was devastated when Dad was killed in a car accident. She lost him, she could have lost everything – their home, even the business they built together. I’m grateful we talked with an attorney that handled every detail of his wrongful death claim with such care and concern. I don’t know what we would have done without their wonderful help.”

Margaret K.

Wrongful death claims arise when a person is killed as a result of another's negligence or misconduct. Claims are made on behalf of family members and generally must be filed within one to three years of death.

You should know that every wrongful death lawsuit is subject to a statute of limitations. Generally, family members are allowed between one and three years from the time of death to file a claim before their claims may be barred forever. However, there are exceptions. For example, if the death was originally deemed an accident rather than the result of someone else's negligence or malice, the statute of limitations will be adjusted so that it takes effect when the true cause was discovered, rather than at the time of death.

What are some typical wrongful death claims?

A wrongful death case could include a negligent or careless act, such as speeding or drunk driving; an accident caused by a defective vehicle; a company's negligence in the enforcement of safety regulations; or the use of faulty vehicles.

Can I file both a personal injury and a wrongful death claim?

In addition to damages for wrongful death, you may be able to recover damages for personal injury to the victim. These claims are called "survival actions." The survival action is for the deceased person's conscious pain and suffering,



apprehension, and duration of the pain and suffering before death. Damages for a survival action belong to the deceased person's estate.

What damages can be recovered in a wrongful death claim?

In a wrongful death case, you may be able to recover the immediate expenses associated with the death, including medical and funeral costs; loss of victim's wages and anticipated earnings; loss of benefits, including pension or retirement plans, medical coverage, and other savings; and loss of love, affection, companionship, and emotional support.



A wrongful death occurs every 45 minutes in the United States.

How do I file a wrongful death or personal injury claim?

You should contact a personal injury lawyer and gather the following information:

- **Medical Expenses.** Document all medical costs related to the injury that caused your loved one's death, including all hospital and medical expenses.
- **Funeral Expenses.** Document all funeral and related expenses.

- **Lost Wages and Anticipated Earnings.** You will need to demonstrate the deceased's established earnings history and anticipated future earnings potential.
- **Lost Benefits.** Provide documentation of pension plans, medical coverages, and the like.
- **Pain and Suffering.** Detail how the loss of your loved one has led to loss of support and companionship for you and your family.

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What You Should Know about Working with Insurance Companies

How to work with the insurance company after you suffer a personal injury.

When you or a loved one suffers a personal injury as the result of an accident, there are a number of things that you should, and should not, do to be sure you are covered and ultimately compensated for all the personal and emotional damages that you have suffered. One of the most critical, yet often overlooked, issues is how to deal with insurance companies – your company and the defendant’s company. First of all, understand that insurance companies are for-profit corporations. They make money by taking in premiums for their policies and then paying out as little as possible in claims under those policies.



Studies show that insurance companies pay higher settlements to injured people who use an attorney than those who do not.

Here are six key things to remember:

1. **Insurance companies are primarily interested in paying out as little as possible.** The insurance company representatives are not your friends. Their job is to gather information

about your claim that can be used to build a case against you. Most insurance companies devote vast resources to minimizing claims, using lawyers and investigators to help them avoid paying on claims.



2. Anything you say can be used against you to deny your claim. Be careful what you say to insurance companies. Do not answer any questions without approval from your attorney – even the most casual thing you say to an insurance adjuster can reduce your compensation. They may want a recorded statement from you. It is important to understand that information on your past medical records for care or treatment before this accident may be used against you later.

Many insurance adjusters use delay tactics to try to encourage you to take their offer.

3. Tell your doctor or healthcare provider about all your symptoms. An insurance company evaluates your claim in great measure based on your doctor's records and reports. So be thorough in reporting your symptoms, including any pain you may be experiencing. And be diligent about following through with medical treatments; your claim could be damaged by missed appointments with your doctor. You should also

consult with your doctor to predict your future healthcare needs and expenses before finalizing your case.

4. Know that you may be investigated. An insurance company may hire a private investigator to monitor your physical activities. This could include videotaping you or interviewing your neighbors.

5. Negotiate on your own – at your own risk. If the insurance company has a qualified attorney on their side, it is smart for you to do the same. A personal injury lawyer in your area will know how to work with insurance companies and help you put together the evidence you need to prove negligence and get the compensation you deserve. Personal injury attorneys deal with insurance companies every day. And they have the negotiating skills and expertise to get you the compensation you deserve.

6. Don't sign anything without consulting your attorney. If you sign a release, that ends your claim with the insurance company, and you cannot file additional expenses or claims once you have signed it.



People who used a personal injury attorney received on average 3 1/2 times more money in settlement than those individuals who settled on their own.

Source: International Research Council

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What a Personal Injury Attorney Can Mean to Your Case

Do you really need a personal injury attorney?

When you are involved in an accident or personal injury situation, you probably aren't fully aware of your rights, what benefits you can claim, how to choose healthcare providers, and what loss of income and other expenses you deserve to have repaid. You will probably also find dealing directly with claims adjusters at insurance companies, who are skilled negotiators trained to settle accident claims as quickly and cheaply as possible, a daunting task, even at the best of times.



When should I hire a personal injury attorney?

There are no specific rules for when you need to hire an attorney. You probably do not need one for cases involving little or no property damage and where the treatment and/or injuries are very minor. However, there are cases where consulting an attorney is particularly critical:

- There are extenuating circumstances that make your claim more valuable.
- The insurance company has denied your claim and will not reconsider.
- You have significant medical bills, with or without residual disability.

You only have a certain amount of time to settle your claim or file a lawsuit. In Washington State, this is typically three years from the date of the accident.

- You are moderately injured with residual disability and will incur future medical bills.
- The injured party is a minor with more than slight injuries.
- It has been over a year since your accident and you have not settled.
- The circumstances around the accident are complex and require investigation.
- The other party to the accident has served you with a lawsuit.

Be sure you are compensated fully for your personal injury.



By hiring a skilled personal injury attorney who knows how to evaluate and document your claim, you can be sure that you will recover what you deserve. An accident and personal injury attorney can best determine all available insurance benefits, communicate with your healthcare providers, and review all information presented to the insurance company. You heal while your personal injury attorney handles all the required paperwork and investigation.

The truth is that the final value of your personal injury claim depends on the following:

- The facts of your case.

- The nature and extent of your injuries.
- The quality of your evidence.
- The expertise and commitment of your personal injury attorney.

Why is the skill of the personal injury attorney so important?

Choosing a qualified and committed personal injury lawyer is critical to your success. Just having the facts and evidence on your side isn't enough – you have to prove them and present them persuasively.

To do that, your personal injury lawyer will have to gather evidence, interview witnesses, negotiate with the insurance company, communicate with healthcare providers, calculate your damages, and build your case. A personal injury lawyer who understands the intricacies of personal injury litigation and how the insurance companies will act and react is in the best position to represent you and get you the results you deserve.

Remember, your personal injury lawyer has to prove that another party was responsible for your injury, prove your damages, and convince the insurance company's attorney that if your case went to trial, you would be able to prove



A personal injury attorney usually has a better understanding of what a claim is worth and is familiar with dealing with insurance adjusters and settling or litigating injury cases.

it to a judge or jury. Without that expertise and commitment, even the most positive facts and evidence won't mean that you get the compensation you should for your injury. That's why it is so critical that you find the right personal injury attorney, one you can trust to build a strong case.

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CHAPTER EIGHT

How to Choose a Personal Injury Attorney

How do I choose a personal injury attorney?

When you have a personal injury claim, you will be depending on the financial damages that you recover to pay for your medical treatments, pain and suffering, and lost income. Without qualified, experienced personal injury legal expertise, you reduce your chances of receiving fair compensation.

That's why it is important that you hire an attorney who has years of experience in personal injury law. Your attorney should be able to assess the merits of your case, determine appropriate damages and compensation, and develop a strategy to get you the results you deserve. In selecting a personal injury attorney, look for these qualifications:

- **Skilled in Personal Injury Law.** Your attorney should only focus on personal injury law and have a proven track record for getting strong results for clients. Find out how they are rated by their peers for their legal abilities and ethical standards.

- **Experience in dealing with insurance**



Be careful of attorneys who contact you just after you or a loved one has been in an accident. Most state bar associations have very stringent rules against attorney solicitation.

companies. Since most personal injury cases involve insurance companies, choose an attorney with a proven record for successfully negotiating insurance claims.



It's a good idea to ask for references for an attorney from past clients and medical providers who have worked with them in the recent past.

- **Extensive trial experience.**

Although most personal injury claims are settled out of court, if your case does go to trial, you will want to know that your attorney is adept in trial situations and has significant experience in court. This will also work to your advantage at the settlement stage, as defendants are more willing to settle knowing that they not only face the expense of a trial, but will be competing against a successful trial lawyer.

- **A stellar reputation for client service and care.** You want an attorney who will listen to your questions and concerns, treat you with dignity and respect, and understand that you are the client. Always ask for references from past clients, medical providers, and community leaders with whom the attorney has worked.

What should I expect when I meet with a personal injury attorney?

During your first meeting, your lawyer will

HOW TO CHOOSE A PERSONAL INJURY ATTORNEY

want to know the facts about your accident, others involved in the accident, your injuries, treatment, and more. You may be asked to sign a form authorizing the release of your medical information from healthcare providers, so the firm can obtain your medical records on your behalf.

You will need to provide information about all your insurance coverages. You will be asked if you have talked to any insurance adjusters and if so, what you have said and whether you provided a recorded or written statement about the accident or injury.

The attorney will ask if anyone else has interviewed you about the accident or your injuries, and if so, with whom you spoke and the details of what was discussed.

You will be advised to see your doctor if you have any lingering physical problems or complaints. Understand that if you don't see your doctor and later decide to pursue a legal claim for your injuries, the insurance company may argue that you aren't seriously hurt, on the theory that no doctor visits indicates no medical problems.

When you first meet your personal injury lawyer, he or she will need to evaluate your case. Expect questions about what happened, whom you've talked to, and your medical condition. You should find out what the next steps are, and possibly receive a fee agreement to look over. If the attorney takes your case, he or she will take over the investigation, deal with the insurance companies, coordinate your benefits, help with property damage claims, handle all paperwork, and more.



Can I afford to hire a personal injury attorney?

For a personal injury claim, most qualified personal injury law firms work only on a contingent fee arrangement. That means that they earn a percentage of the amount that is recovered from the insurance companies. In this way, you obtain the best possible legal services at the time of your injury without having to pay money out of your pocket for legal services. **No recovery means no attorney fee.**

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What the Claims Process Looks Like

What is the personal injury claims process like?

Once an accident and personal injury attorney takes your case, he or she will collect evidence and evaluate your medical bills, possible future medical needs, any lost wage information, and property damage related to your claim.

Your attorney will contact the responsible insurance company or companies and make sure all future communication comes directly to the attorney. The other insurance company is prohibited from contacting you directly and you won't need to respond to or send any correspondence.



You will need to gather information that will support your claim during the next few months, including the following:

- **Medical Expenses.** Document all office visits, prescriptions, over-the-counter medications, laboratory services, physical therapy, hospital visits, treatments, medical documents, and x-rays, including the dates, providers, amounts charged, and reasons for your visits.

Your personal injury case will proceed based on the nature and extent of your injuries as well as the evidence available.

You should never settle a case without consideration of your medical condition and without your doctor's consent.

- **Lost Work Time.** Keep track of all time taken off from work as a result of the accident, including time off for medical treatments and/or the inability to function properly at work because of your injuries. You may also want to get a letter from your employer verifying pay and lost work time.



- **Lost School Time.** If you are in school or taking work-related courses, document all lost school time and/or your inability to continue schoolwork as you did before the accident.

- **Photographs.** Continue to take photographs of your injuries at different times after the accident.

Write the date on the back of each photo to show when it was taken.

- **Emotional Distress and Personal Inconvenience.** Keep in mind what you are going through as a result of the accident and how the injuries have interfered with your daily life.

- **Car Repair Estimates and Bills.** Keep copies of all repair bills and/or estimates, as well as rental car and taxi receipts.

- **Out-of-Pocket Expenses.** Keep receipts for everything that you've paid for out-of-pocket relating to or as a result of injuries suffered in the accident.

What is a settlement?

The majority of claims related to accidents or injuries never reach a court trial. Most are resolved before this through a negotiated settlement with your personal injury attorney and the other parties. In some circumstances, however, your attorney will have to file a lawsuit detailing your proposed damages before the insurance company is willing to talk seriously about a reasonable settlement.



Your lawyer should never settle a case or file a lawsuit without your understanding or consent.

What are the key issues in deciding to settle my case?

Your attorney will do a thorough assessment of your case, taking the following into consideration:

- The amount your accident attorney thinks the case is worth, often in a range of dollar amounts.
- Verdicts and settlements in similar cases.
- The chances of winning at trial.
- The amount of personal information that

could be revealed at trial or through further discovery that could hurt – or help – your case.

- Any weaknesses in your evidence or weaknesses in your opponent's evidence.
- The amount of insurance coverage that the defendant has.
- The defendant's own monetary resources.
- Your defendant's lawyer and how experienced he or she is.

Your claim may be worth thousands more than you think, especially when you add the costs for medical care, vehicle repair, lost wages, and more.

What happens if I settle and how long will it take?

When you settle, you agree to give up your right to pursue any further legal action in connection with the accident or injury in exchange for the payment of the agreed-upon sum of money from the defendant or the insurance company. Most claims are settled within a couple of months after compiling all your records and submitting a demand to the insurance company.

What if my claim doesn't settle?

Sometimes, for any number of reasons, a claim cannot be settled through negotiation. Understand that your personal injury lawyer works for you and should never settle a claim or file a lawsuit without your understanding or consent.



How to Handle Your Medical Needs During the Claims Process

How do I handle my medical needs following a personal injury?

When you have been injured in an accident, it is important to get proper medical care and treatment, no matter the extent of your injuries. Remember, the full extent of your injuries may not be obvious immediately after an accident. In fact, many people who thought their injuries were minor discover weeks or months later that a minor injury has worsened and requires additional medical treatment.



Why is seeing a doctor so important?

You should always see a doctor for a full evaluation of your medical condition after an accident. Depending on your injuries, you may need to consult with a specialist. And if you are hospitalized, you may need follow-up care for the first few weeks or months after you leave the hospital. In extreme cases, you may even need long-term or lifelong medical care.

Even if you did not suffer a serious injury, you should consult a doctor to be sure future treatment won't be necessary.

Be sure to tell your doctors about all of your symptoms, so they can document the full extent

of your injuries. This is important, since having a record of your injuries and treatment from a medical professional will be a key part of your legal claim.

Everything you do - or don't do - during your treatment will be scrutinized during the claims process, so be sure to follow through on all your treatment.

During the claims process, you need to follow through with all the treatment your doctor orders and be sure to let him or her know if you notice any change in your condition or new symptoms you may experience.

Your lawyer will also need to know about changes in your condition and how they affect your quality of life. That way, your personal injury lawyer will be able to explain the full extent of your injuries and damages to the insurance company and be sure you receive a fair settlement of your claim.

Your lawyer will also work with your doctor and any specialists to document how the injuries will affect you in the future. In some instances, your lawyer may want you to consult with a separate specialist who can review your records and give opinions about your injuries if a trial proves to be necessary.



How do I pay for my medical needs during the personal injury claims process?

Once a personal injury attorney takes your case, he or she will contact the insurance companies and determine what sources of benefits are available to you. In addition to your insurance company, this may also involve working with Medicare, L&I, DSHS, and other agencies to be sure that you continue to receive appropriate payments.



Your personal injury attorney will determine all the insurance benefits you are entitled to, and coordinate your compensation to be sure you receive the appropriate payments.

Once all available insurance coverages and other benefits have been determined, your attorney will then communicate with your healthcare providers and coordinate all benefits during the claims process.

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CHAPTER ELEVEN

Will There Be a Lawsuit?

What can I expect if there is a lawsuit?

The likelihood is that your personal injury claim will reach a negotiated settlement after a demand has been submitted to the insurance company and before a lawsuit is ever filed. In fact, the vast majority of personal injury claims are resolved without a lawsuit.

When your claim cannot be resolved to your satisfaction, however, you will have the option of filing a lawsuit and your attorney will work with you to explain the steps in the legal process.

Typically this is what happens when you decide to file a lawsuit:

- Your personal injury attorney will file a *Complaint*. This is a legal document that lays out your personal injury claims and the defendant or defendants in the case.
- The *Defendant* will have to file an *Answer* that



If your personal injury claim cannot be resolved, you have the option of filing a lawsuit. Your attorney will work with you to prepare the legal documents for your case and will guide you through the process.

says what portions of the complaint, if any, the defendant admits to, what the defendant contests, what defenses the defendant may have, and whether the defendant has claims against you or any other party.

If the defendant doesn't answer the complaint, the court may enter a default judgment against the defendant.

What happens next?

Your attorney will then exchange documents and other information about the issues relevant to the lawsuit, in a process called *Discovery*.

Discovery can take three forms:

- Written questions which must be answered under oath.
- Document production, which is a request for additional records.
- Depositions, which are formally transcribed and sworn statements taken in front of a court reporter or

other court officer.



Sometimes, it is at this point that the case can be resolved in a pre-trial settlement. In this situation, the settlement agreement resolves all issues and the court is either not involved or is involved only informally. If the parties do not reach an agreement, the case will go to trial.



If your case does not settle before trial, your attorney will present your arguments and evidence to a judge or jury.

What happens at trial?

At trial, the attorneys for each side present evidence and arguments and the judge or jury decides the unresolved issues. Once the judge or jury has reached a decision, the judge will order that a *Judgment* be entered for the side who wins.

No matter which side wins, either side can appeal a decision to a higher court. But remember that settlements usually cannot be appealed if both sides agree to the terms.

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The Biggest Mistakes You Can Make to Ruin Your Personal Injury Claim

What not to do when involved in a personal injury claim.

Most people who are involved in an accident or suffer a personal injury don't have any idea what they should do. Even more important, however, is that they don't know what they should *not* do. Here are the five biggest mistakes you can make when you have a personal injury claim:

As you go through the claims process, keeping notes of your injuries and symptoms will help your lawyer be sure you are compensated adequately.

1. You fail to fully document your accident and your injuries.

Having notes to remind you of what happened and the injuries you suffered is easier and more reliable than counting on memory. As soon as you can, you should write down every detail you can remember about the accident: how it happened; what you were doing; and what you saw, heard, and felt.



Also include anything you remember hearing said by others involved or by witnesses. Then keep notes on your pain and discomfort immediately following the accident and throughout your treatment, including discomfort, anxiety, or other problems which

are not as visible as some other injuries, but for which you should still be compensated.

2. You don't bother to photograph or preserve physical evidence.

Who was at fault in a personal injury often depends on physical evidence, such as a poorly maintained piece of equipment, a dent in your car showing where it was hit, or warning signs that were incorrect or missing. Physical evidence will also help prove the extent of your injuries: your car's damage can help demonstrate the severity of the collision, photos of a broken or cracked step can show what caused your fall, and a faulty piece of equipment can explain how your injury occurred.



Photos of the physical evidence which support your claim can greatly help your chances of settling your case or winning at trial.

3. Quickly sign a settlement with an insurance company.

Insurance companies are often most interested in settling your claim quickly, for as little as possible. You should never agree to an immediate settlement, particularly if you are injured. The smart thing is to get sound advice from an experienced attorney who can help you determine the proper damages. Once you sign a

release, it ends your claim.

4. Misrepresent your accident or injuries to your doctor. While you should always mention all your symptoms, be aware that most doctors document how you describe an accident and your injuries. And, the insurance companies are very knowledgeable about the types and severity of injuries from specific types of accidents. If you exaggerate, it will cast doubt on your truthfulness and your entire case.

Always be honest about your injuries and your medical and personal injury history.

5. Hide past accidents or other injuries from your attorney. If you have been in previous accidents, your lawyer needs to know in order to determine whether it is a valid problem in your case. Similarly, if you had prior injuries for which you saw a doctor or other healthcare providers, it is important for your attorney to have complete information. If you lie about past accidents or injuries and the insurance company finds out, your case could become very difficult to settle.



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What have we learned about auto accident and personal injury claims?

Here's a summary of what we have learned about auto accident and personal injury claims in this book.

What types of personal injury damages can you recover?

- Medical Expenses
- Future Medical Expenses
- Pain and Suffering
- Mental Anguish
- Lost Wages
- Loss of Earning Capacity
- Loss of Consortium
- Property Damage



How do you protect your rights after a personal injury accident?

- Be careful what you say to insurance companies.
- Tell your doctor or healthcare provider about all your symptoms.
- Know that you may be investigated.
- Don't settle without consulting your doctor.
- Consider consulting with a personal injury attorney before signing a release.

What should you do at the scene of an auto accident?

- Contact your insurance company to report the accident.
- File a police report.
- Get follow-up medical care.

What do you need to keep track of during the claims process?

- Medical Expenses
- Lost Work Time
- Lost School Time
- Emotional Distress
- Car Repair Estimates and Bills
- Out-of-Pocket Expenses

What are six things to remember to avoid accidents and personal injury?

1. Make sure you – and your passengers – always buckle up.
2. Use child safety seats.
3. Put down rules for teen drivers.
4. Avoid distractions.
5. Keep your vehicle safe.
6. Don't drink and drive.



What are six things to remember when working with insurance companies?

1. Insurance companies are primarily interested in paying out as little as possible.
2. Anything you say can be used against you to deny your claim.
3. Tell your doctor or healthcare provider about all your symptoms.
4. Know that you may be investigated.
5. Negotiate on your own – at your own risk.
6. Consider consulting with a personal injury attorney before signing anything.



What should you look for when hiring a personal injury attorney?

- Skilled attorney who focuses only on personal injury law.
- Experience in dealing with insurance companies.
- Significant trial experience.
- A stellar reputation for client service and care.



What are the biggest mistakes you can make to ruin your personal injury claim?

1. Fail to fully document your accident and injuries.
2. Don't bother to photograph or preserve physical evidence.
3. Quickly sign a settlement release with an insurance company.
4. Misrepresent your accident or your injuries to your doctor.
5. Hide past accidents or other injuries from your attorney.

About the Author

Joseph “J.P.” Pendergast, III, is the Owner and Managing Attorney of Hardwick & Pendergast, P.S., one of the premier Washington state personal injury law firms in the Northwest.

J.P. has successfully handled thousands of personal injury cases, resulting in millions of dollars in compensation for his clients. As a former King County Deputy Prosecuting Attorney, he has extensive trial and appellate court experience. He has received the highest Avvo rating as a “Superb Attorney.”

“While working in the Prosecuting Attorney’s Office with King County Prosecutor Norm Maleng, I saw firsthand how people’s lives were turned upside down as a result of an accident,” explains J.P. “That’s what led me to devote my practice to helping injured people. I’m very proud of the fact that everyone in our firm truly cares about helping people and that we focus on making strong connections with our clients and always treating them with the utmost respect and dignity.”



Joseph “J.P.” Pendergast, III

Helping personal injury victims recover.

For several decades, Hardwick & Pendergast personal injury law firm has handled thousands of personal injury cases for clients throughout Washington state, helping them get the compensation they deserve.

ABOUT THE AUTHOR

A native of Seattle, he graduated from the University of Washington and received his law degree from the University of Oregon in 1993. Active in the community, J.P. has worked on a variety of local and legal initiatives that help people every day. He has also been very active coaching local youth sports including boys football, basketball, little league baseball, as well as girls soccer.

J.P. is a member of the Washington State Bar Association, the Washington State Association for Justice, and the American Association for Justice. He has been rated very highly by his fellow lawyers and judges for his legal ability and adherence to professional standards of conduct and ethics.



Here's what to do at the accident scene:

- Try to remain calm and take steps to prevent further accidents by pulling off the road if possible and turning on your emergency flashers.
- Dial 911 to contact the police or ask someone to call for you. If you are injured or other people are hurt, ask for an ambulance.
- Discuss the specifics of the accident only with the police.
- Give the other driver(s) your name, insurance company phone number, the vehicle license plate number, and your operator's license plate number. (Use the Important Contact Information section to record.)
- Obtain the same information from all other parties involved in the accident using the Accident Checklist on the other side.
- Find witnesses if you can and collect their information.
- Diagram the accident scene on the back of this page.
- Record the damage to your vehicle and to other vehicles involved in the accident inside this Checklist.



If you have a camera, take photos of the accident scene and vehicles if safety allows. (Or use the camera in your cell phone.) Take photos of:

- Damage
- License Plates
- Accident Evidence

Record all your critical information below – before you are in an accident – and keep this form safely in your vehicle.

IMPORTANT CONTACT INFORMATION

My Name: _____
Insurance Company: _____
Phone: () _____ - _____ Policy #: _____
Insurance Company
24-Hour Hotline #: _____
Insurance Agent: _____ Phone: () _____ - _____
Doctor: _____ Phone: () _____ - _____
Emergency
Contact: _____ Phone: () _____ - _____
My Car Make: _____ Model: _____ Year: _____
My License Plate Number: _____
My Car Registration Number: _____
My Operator's License Number: _____



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Accident Checklist

1. THE INFORMATION

About the Other Driver (use Driver's License as reference)

License # _____ State _____
Name _____
Date of Birth _____
Street Address _____
City/State/Zip _____
Home Phone # _____
Cell Phone # _____

About the Other Driver's Insurance

Insurance Co. _____ Phone # _____
Policy Holder _____ Policy # _____

About the Other Vehicle (use the Vehicle Registration)

Make/Model _____ Year _____
Color _____ VIN # _____
License Plate # _____ State _____
Registered Owner's Name _____
Street Address _____
City/State/Zip _____



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2. THE INVESTIGATION

About the Police Department

Officer Name/Badge # _____
Agency _____ Report # _____
Citation _____

About the Witnesses

Witness # 1 Name _____
Home Phone # _____
Cell Phone # _____
Witness # 2 Name _____
Home Phone # _____
Cell Phone # _____

About the Injuries

Driver of your vehicle _____ Yes _____ No _____
Passenger(s) in your vehicle _____ Yes _____ No _____
Driver of other vehicle _____ Yes _____ No _____
Passenger(s) in other vehicle _____ Yes _____ No _____

Notes

