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QUESTIONS AND ANSWERS ABOUT YOUR PERSONAL INJURY CASE

The purpose of this information booklet is to generally inform you about personal injury law and to explain how your case will be handled by our law firm. Hopefully, many of the questions that you may have about your case will be answered in this booklet. Please read this booklet because this information will be very important to you. A thorough understanding of the details of your personal injury case can help promote a fair, adequate settlement.

If you have further questions after reading this booklet, write them down or note them in the booklet itself, and we will be glad to discuss them with you.

You the Client

1. What is the most important thing for me to do after my injury?

The most important thing for you to do, quite simply, is to recover from your injury. The law requires that people injured due to personal injury "mitigate their damages." In other words, the law requires you to do that which is reasonably necessary to improve your physical condition as a result of your personal injury or work injury and recover from your injury. For you this may mean some, or all, of the following steps:

a. Do not miss appointments with your doctor.

Stay in touch with your doctor and be certain to keep all your appointments for treatment of your personal injury or work injury. If you have to cancel, notify the doctor, or physical therapist with as much notice as possible. The words "no show" on a doctor's or physical therapist record sheet can be used against you at the time of settlement or trial.

b. Attend physical therapy sessions as prescribed.

Your doctor may prescribe physical therapy to facilitate recovery from your injury. Such therapy is often helpful in many types of personal injuries including strains, sprains and other so-called "soft tissue" injuries. If physical therapy is prescribed, be sure to keep your appointments and participate actively in the process. Again, if you have to cancel an appointment, be sure to call, but try to avoid canceling as much as possible.

c. Do what your doctor tells you to do.

If your physician prescribes certain medications, therapy exercises, or limitations on activities, due to your personal injury or work injury, be sure to follow your doctors orders. Failure to follow your doctor's advice can be used against you when it comes time to settle your case, or can be used against you in court if your claim proceeds to litigation.

d. Follow your doctor's advice with respect to work and leisure activities.

If your physician advises you to rest, stay home from work, or avoid certain activities, it is important that you follow such advice. If you resist your doctor's advice and do activities

that have been limited, it will not only prevent a speedy recovery from your personal injury or work injury, but could also affect the legal aspects of your case. The defense will sometimes hire a detective to follow claimants and videotape them. If you look like you are doing some activity that your doctor has advised against, the defense attorney will argue that you misled your doctor regarding the extent of your injuries.

2. **How do I pay my medical bills?**

Your medical bills may be paid by one or more of the following methods:

- a. Your own health insurance from your employment benefits package.
- b. Your own health insurance that you may have paid for personally.
- c. Health insurance obtained by your spouse for your benefit or by your parents if you are young and living with your parents.
- d. Medical payments insurance coverage from your own automobile policy if you were an occupant in your automobile and involved in an automobile collision.
- e. Medical payments insurance coverage from the person you were riding with if you were a passenger in an automobile that has automobile insurance coverage.
- f. Your own personal funds if you were not insured and are able to pay medical bills as they are incurred.
- g. Other possible sources.

Depending on the nature of your personal injury case, your medical bills may be covered by any of the above possibilities. If there is no health insurance coverage, and no medical payments coverage, your bills will be saved and will be paid out of the settlement proceeds from the liability insurance carrier when and if your case settles. The liability insurance carrier insures the person at fault for injuring you. Unfortunately, the liability insurance carrier will not pay your bills as they come due on a personal injury case. The law does not require them to pay medical bills in advance of a settlement or jury verdict on a personal injury case, so they do not voluntarily pay them.

3. **Will the doctors, hospitals and other medical facilities wait for payment if I am unable to pay my bills as they are incurred?**

In most cases where there is no immediate method to pay medical bills as they are incurred, many doctors, hospitals, and other medical facilities will wait to be paid for their services when the personal injury case is finally resolved by way of settlement or verdict in court. It is important to let medical providers know early in the process if you have no insurance or financial means to pay medical bills as they are incurred.

4. **Why won't the insurance company for the person or company who caused my injuries automatically pay my medical bills as they occur?**

Most insurance companies for the tortfeasor (the person, persons, or company who caused your personal injuries) will not automatically pay medical bills as they occur. There are many reasons for this. Insurance companies want to conclude or settle the personal injury claim with one lump sum of money. This is all they are required to do by law. Therefore, the liability insurance companies will wait for our settlement brochure, our demand to resolve your personal injury claim, and then try to conclude the case all at once with one payment. This also puts pressure on some injury victims, especially if there is no health plan or medical payments to cover the medical bills.

5. **How do I keep track of all my bills?**

One of the most important things for you to do is to keep an accurate record of your medical bills. This is how you do it:

a. **Ask for a medical bill each time you see a doctor or facility.**

Maintain a record of your visits and make sure that you obtain a medical bill for each visit to your doctor, hospital, physical therapist or medical facility for your injury medical care.

b. **Save all prescription bills.**

Be sure to save copies of your prescriptions and drugstore charges for medicine that you purchase as a result of your personal injury.

c. **Save all receipts for other expenses related to your accident.**

Be sure to save copies of receipts for things such as medical devices including leg braces, foot supports, crutches, TENS Unit, etc that you buy for treatment of your personal injury.

d. **Keep track of dates of medical treatment, amounts of medical bills, and purchases of medication or medical devices.**

Maintain a record of the dates of medical services, and purchases of medications or devices used to treat your personal injury.

e. **Be sure that your lawyer receives a copy of each medical bill, prescription bill, or other bill related to your injury.**

It is important for our office to receive copies of all itemized medical bills when your injury case is ready for settlement. Even though our office may receive copies of bills directly from the medical facilities, a double-check process will assure that your claim settles for the maximum value. If our office does not have a record of all your medical bills, your personal injury case could be inadvertently resolved for much less than its reasonable value.

f. Keep a record of medical bills even if they are processed through a health insurance carrier.

Even if your medical bills are paid by a health insurance company, you must still maintain copies for yourself and be sure to get copies to your lawyer.

6. Should I do anything special if I am covered under a health insurance plan which has preferred providers?

Preferred provider health plans send a booklet to the insured listing all of the doctors, hospital, and health facilities that plan considers preferred providers. Most of these plans pay medical bills incurred at different rates and/or percentages when a preferred provider is used. It is always best to seek treatment with doctors, hospitals and health facilities listed in your plan as preferred, even on a personal injury case. That way, for example, your plan might pay 80% of the bill versus only paying 50% if you use a non-preferred provider. This is significant in that what your health plan doesn't pay is what you owe. Out of any settlement, the medical bills you still owe must be paid first before you receive your portion. Consequently, using preferred providers is a way to increase the net settlement check you will receive on your personal injury case.

7. What if my health plan is an HMO (Health Maintenance Organization)?

If it becomes necessary for you to see a doctor who is not your primary HMO doctor, be sure to get a referral. Your HMO doctor acts as a gatekeeper and you have to obtain his permission to see a different doctor. Without the appropriate referral, your HMO may not pay for the treatment you obtained. This procedure includes personal injury cases.

8. What health insurance information should I give to my health care provider if I have both health insurance and medical payments coverage?

Always give them your regular health insurance information. Try to avoid giving them information regarding any medical payments coverage from your car insurance. They will treat you with your regular health insurer information.

Medical payments coverage is an option through your automobile insurance carrier and you pay additional premiums to have this type of coverage. The law entitles you to receive payments for your bills under medical payments coverage even if the bill has already been paid by your regular health insurer. This may seem like double dipping, but it is perfectly legal. Remember that you paid an additional premium for this coverage, and on top of that your health insurer may be entitled to be reimbursed for what they paid out when your case settles. Providing both health insurance information and medical payments coverage to your health care providers can create problems with the coordination of your health benefits.

Coordinating all your health insurance coverage can be confusing and difficult. To help you, Robert S. Halas, P.C. will process your medical payments claims and you will know what funds we have collected your behalf. We will use these funds to pay any outstanding medical bills, co-pays or deductibles, and you get the rest to you.

Your Lawyer

1. How will my lawyer handle my case?

After initial meetings with you, your lawyer will investigate your personal injury claim. This usually requires a review of some or all of the following:

- a. Witness statements.
- b. Police reports.
- c. A possible visit to the scene of the accident.
- d. A review of appropriate statutory law (laws enacted by your legislature).
- e. A review of appropriate case law (laws made by judges who interpret statutory law).
- f. A review of medical records.
- g. A review of medical bills.
- h. The possible hiring of an expert witness to evaluate an important issue in your case.

Our law firm will contact the insurance company for the person, persons, or company who caused your personal injuries. After the initial investigation and contact with the insurance company, our office will maintain contact with you to make sure of the following:

- a. That you are following the advice of your physicians and other medical practitioners.
- b. That you are doing your best to improve from your injury.
- c. That you are providing your lawyer the complete name, address and telephone number of each physician and other medical care provider you are treating with.
- d. That you are providing your lawyer with copies of all medical bills and other expenses related to the incident.
- e. That you are providing records of loss of income from your job.
- f. That you are keeping track of potential witnesses in your case.

We will be contacting you for such things as depositions, answer to interrogatories, to see how you are recovering, and settlement proposals. If you have any specific questions in regard to your case, please feel free to call or write us.

Medical records will be obtained through the use of authorization forms as discussed below. Your lawyer will review those medical records concerning your personal injury as they come in from your doctor and will keep abreast of the applicable law relating to your case.

2. **How can I help my lawyer with my case?**

The most important thing for you to do is to convey and provide information to your lawyer, including documentation of your medical bills, expenses and loss of income from your employment and other paperwork concerning your personal injury. The following is a list of things that will also help your lawyer with your claim.

- a. Return all phone calls promptly to your lawyer.
- b. Read all correspondence from your lawyer.
- c. Keep all appointments with medical facilities.
- d. Maintain a file and record of medical bills, lost wages, and other expenses associated with the injury.
- e. Keep a list of witnesses who have seen you both before and after your accident. Tell us about the ones who can describe good examples of how your injuries have changed some aspect of your life.
- f. Do not have your automobile repaired until you are sure that we have obtained pictures of it. After pictures are taken by this office or by you, have your collision insurance carrier repair your car.
- g. If your injury requires a cast, brace, traction or other appliance, save it for evidence and trial.
- h. Notify your attorney immediately of any change of address, telephone numbers, marital status, change of employment or drastic change in your physical condition.
- i. Answer all questions posed by your attorney truthfully and candidly.

3. **Why do I have to sign so many forms?**

Doctors, hospitals, employers, and other establishments will not release personal information about you without signed written authorizations. It is against the law, in most instances, for a doctor or hospital to release information about a person, to anyone, including your lawyer on a personal injury case, without formal authorization signed by you. Therefore, your lawyer will ask you to sign such authorization forms which will allow him or her to retrieve important information about you.

4. **How will my lawyer be paid and what is a contingent fee agreement?**

In almost all personal injury cases, your attorney will be paid by keeping a percentage or portion of the final settlement or court award resulting from your personal injury. The percentage will be discussed with you and will be the subject of what is called a contingent fee agreement. The law requires, for your protection and that of your lawyer, a written contract which specifies the fee he or she will charge so there will be no misunderstandings. Our contingent fee agreements provide that you do not have to pay us for our services unless, and until, the case is settled or is resolved by a court verdict in your favor. The agreement provides that our law firm will work diligently on your case in exchange for the percentage or portion outlined in the agreement.

5. **What other costs will there be in addition to the attorney's fees?**

The fee for our law firm is based upon his or her work, time, effort and expertise. There are also additional out-of-pocket expenses which are incurred by us specifically as a result of your personal injury case. We pay these expenses, and recover them at the end of your case, but only if we recover on your behalf. Some of these expenses we advance include the following:

- a. **Fees charged by doctors and hospitals charge for medical records.** The costs of obtaining copies of your medical records varies greatly depending upon how many pages you have at a particular health care provider and the amount of the per page rate that they will charge us.
- b. **Costs of photographs.** Photographs are extremely important in personal injury cases to show the extent of the impact which occurred in the collision or any visible injuries you received.
- c. **Reports or interviews of experts.** Reports or interview of experts (usually your doctor) may be required in your case. These experts usually charge anywhere from \$100 per hour to \$500 per hour.
- d. **Litigation costs.** If your case has to proceed to suit or litigation, there will be costs incurred such as filing fees, depositions, and fees for expert witnesses.

6. **Is my responsibility for the expenses advanced by my attorney also contingent on my getting a settlement?**

Yes, it is at Robert S. Halas, P.C. While some law firms hold their clients responsible for the out of pocket expenses incurred by the firm even if they get no money for the client, Robert S. Halas, P.C. recognizes the hardship that typically occurs financially when you are injured. Accordingly, it is our firm's policy in the typical case to absorb the expenses we have advanced in the event that we do not obtain any recovery for you. You will owe us nothing.

When our office advances expenses on your personal injury case you are always welcome to inquire as to how much we have advanced at any time. We will of course give a full accounting at the end of your personal injury case.

7. Can I fire my attorney and then settle my case directly with the insurance company without having to pay any attorney fees?

No. The law gives attorneys a lien on the proceeds even if the attorney has been fired. The insurance company will be violating the law if they did not put the attorney's name on the insurance check along with your name, or make other arrangements to protect the attorney.

If you find another attorney to take your case, your former attorney's lien runs with your case along with your new attorney's lien. If, and when any money is recovered for you, the attorneys will be paid in proportion to the amount of time and effort each expended on your case or as determined by the Judge.

8. Can I borrow money from my attorney for medical bills or living expenses?

No. The Rules of Professional Conduct state that it is unethical for lawyers to provide personal financial assistance to their clients. The only money a lawyer can provide on your personal injury case is for expenses directly related to the case such as court costs, litigation expenses, discovery expenses, expert witness fees and other expenses that advance your personal injury claim.

The Insurance Companies

1. What will the insurance company for the person, persons, or company who caused my injury do about my claim?

After the insurance company has been notified about the claim, a file is established on your injury case. An insurance claims adjuster is assigned to your file by a claims manager or claims supervisor. The supervisor may assign different adjusters to your case as it progresses.

The insurance claims adjuster responsible for your file will maintain contact with your lawyer. The adjuster will also perform an investigation of your claim to ascertain the following:

- a. Who is at fault in your case.
- b. Whether or not you bear any fault for your own injuries. This is also referred to as comparative negligence or contributory negligence.
- c. Potential witnesses in the case.
- d. The location of the scene of the accident.
- e. The contents of police reports, Department of Motor Vehicle reports, and any other investigative reports that have been filed in the case.

After the initial investigation, we will provide the claims adjuster with medical records dealing with your injuries, and your general health before the accident happened. The adjuster will also review documents about your time lost from work. Also very important are accurate records of your medical bills, prescription bills, hospital bills, therapy bills, and any other actual expenses incurred as a result of your injury. That is why it is very important for you to maintain an accurate

account of your medical bills, lost wages, and other expenses which result from your personal injury.

Our office gathers all of the pertinent information and documentation noted above, usually after all your treatment is completed, and submits it to the tortfeasor's insurance company in a package known as a "Settlement Brochure." At that time, the demand letter is sent stating the starting demand figure which you and your attorney will discuss prior to this package being sent.

2. How does the insurance company put a value on my case?

The answer to this question is quite complicated. First, the claims supervisor or claims manager will provide that a certain amount be "set aside" as a potential value of your case. This figure is usually called "reserves." Such reserves are the outside value that the company has established on your claim. The reserves may change as the case progresses. In serious cases, such reserves may equal what are called policy limits. Policy limits are the outside limit amounts of liability established in the insurance policy of the person or persons who caused the injury.

During the preparation stages of your personal injury case, we will provide the insurance company with documentation of your medical bills, lost wages, and medical records documenting your injury. The company will also take into consideration the quality of evidence against their insured, the quality of our witnesses and their witnesses, extent of liability, if any, on your part, and other important considerations such as previous injuries.

If you had a previous injury in the same area of your body, the insurance carrier will want to see medical records pertaining to that injury. During the course of your claim, your attorney will be notified by the insurance company about the important factors that are being considered in your particular case.

3. Should I talk about my injuries with the insurance company for the person who caused my injuries?

Absolutely not! Under no circumstances should you contact the insurance company once you have retained an attorney. If you contact the other or other person's insurance company, for any reason, you could jeopardize your entire case with the wrong question or statement.

After you are represented by a lawyer, the insurance company, in most states, is absolutely prohibited from having any personal contact with you for any reason, unless your lawyer is present or consents to the contact.

4. Should I talk about the damage to my car with the insurance company for the person who caused the accident?

Sometimes. Property damage to your car is the only exception to the rule of not speaking with the adjuster without your lawyer. Usually our office will let you try to work out an acceptable property damage settlement directly with the adjuster as long as you understand you are not to discuss your conduct during the accident, or your injuries. Evaluating property damage is much simpler than evaluating personal injuries. Also, the law prohibits an adjuster from delaying a property damage settlement. Often an insurance adjuster will make an offer on the vehicle property damage within days of the accident. Having your vehicle repaired, or replaced, quickly is usually the best way to resolve property damage, even if you feel you are being underpaid a few hundred

dollars. We can frequently get that few hundred dollars back on the personal injury portion of your case.

To settle your property damage claim, you should get repair estimates from a couple of body shops and give them to the adjuster. (By the way, send us a copy of the estimates you obtain). If your car is totaled by the adjuster you are entitled to its fair market value of the vehicle just before the collision. Fair market value is the price for which you would have likely sold the car had it been for sale before the accident. The law does not allow you any additional compensation because your car was special to you, or because you cannot find a replacement that runs as well, etc.

5. Can I contact my own insurance company?

If you have health insurance, medical payments insurance, automobile insurance or underinsurance coverage, there may be occasions when it is appropriate for you to contact your own company. However, you should always ask your lawyer whether or not such contact is appropriate. *Never* contact an insurance company without first speaking with your attorney.

6. Will the insurance company for the person who caused my injuries dispute my claim?

If liability and responsibility are well-established in your case, if fault clearly rests with the insurance company's insured (the person or persons who caused your injury), they will usually try to work with our office to settle your claim. Insurance companies usually dispute the following types of claims:

- a. Claims in which the fault rests with someone other than their insured. This could mean you or someone else involved in the incident who may have caused your injuries rather than the person who is insured by the insurance company.
- b. Claims in which the insurance company and its representatives do not believe that you are injured, or that you were injured as badly as you claim. For this reason, documentation of medical bills, lost wages, and other expenses are extremely important to establish credibility and the existence of your injury.
- c. Cases in which you or your witnesses have lied, exaggerated, or fabricated the nature and extent of your injury or how the incident occurred.

7. What can I do to convince the insurance company that my claim is valid?

As stated above, the most important thing you can do is to recover as quickly as possible from your injury. Insurance company personnel tend to believe those people who actively try to recover from their injuries. That is why you must cooperate with your doctor, physical therapist and other personnel who are trying to help you improve from your injury.

Secondly insurance companies believe those people who can document their injuries through medical bills, credible medical reports and accurate lost wage information that is neither exaggerated nor subject to dispute and interpretation.

Thirdly, insurance companies usually settle cases easier with those clients who have been in active contact and cooperation with their attorney.

In summary, it is important for you to try to get better, keep an accurate record of your expenses, and cooperate with your lawyer and his or her staff.

The Person, Persons or Company Who Caused Your Injuries

1. What happens to the person, persons, or company who caused my injury?

After the incident which caused your personal injury, the person, persons or company that you claim may be responsible for your injury was contacted by the insurance company. Either the person who caused your injury or a representative of the company who caused your injury gave statements and reports to the appropriate insurance claims adjuster. Such statements and reports were probably recorded and there are most likely written reports or transcripts of such statements.

After the insurance company's initial investigation, there is usually little or no contact between the tortfeasors (the person, persons, or company who caused your injury) and the insurance company. In other words, the insurance company representative usually does not keep the insured advised about day to day progress in the case. An exception may be medical malpractice cases. Therefore, the person, persons or company who caused your injury is probably going on with their daily lives, with little or no further involvement on their part.

2. What happens to the person who caused my injury if the case does not settle?

If the case does not settle between you, your lawyer and the insurance company and proceeds to litigation (lawsuit), the insurance carrier will again contact the insured. An attorney hired by the insurance company will be assigned to defend and represent the tortfeasor, whether the tortfeasor is a person, persons or company. The insured will be required to participate in the litigation process and will be required to cooperate with the attorney assigned.

It is important to remember that if a lawsuit becomes necessary, it has to be brought against the tortfeasor and not against the insurance carrier, even though the insurance carrier will be the one to pay the settlement or verdict.

3. What if the tortfeasor was untruthful or not accurate about how the incident happened?

Unfortunately, in some cases, the person or persons responsible for the incident may not tell the complete truth about the incident. It is human nature for many people to deny liability, fault or blame even in cases where negligence or wrong-doing was obvious. In some cases, the insurance carrier will believe their insured or the insured's witnesses and will deny your claim. In such cases a lawsuit becomes necessary and the case will proceed to litigation and sometimes all the way to trial.

In most cases, however, the truth eventually surfaces and the claim will get settled one way or the other. Your lawyer will investigate your injury claim in the hope of obtaining witnesses, evidence, facts and law that support the truth of how the incident happened.

4. Can I contact the person or persons who are responsible for my injuries?

Again, absolutely not! If you contact the person or persons responsible, you could jeopardize your case. Remember that any statement you make, even an innocent comment, could be used against you or misinterpreted. It is not appropriate for you to contact the tortfeasor even if

the tortfeasor has not told the truth about how the incident occurred.

Settlement

1. When will my case settle?

It is impossible in the early stages of a personal injury claim to predict when a particular claim will actually settle. Some cases settle in a matter of months after the injury while others can take years to get to settlement or trial. We will usually wait until your treatment has been completed, or at least is close to being completed before trying to settle your case. It is important to know the following before your case is settled:

- a. What is the total of all medical bills?
- b. Will any further medical treatment be necessary?
- c. If further medical treatment is necessary, what is the prediction of its cost?
- d. Are any of your injuries permanent?
- e. If any of the injuries are permanent, how do such permanent injuries affect your earning capacity?
- f. What was your total loss of income and what other employment benefits were lost because of the injury?
- g. Is it likely that you will lose any further income as a result of your injury?
There are other factors that must be taken into consideration before settlement. As the case progresses, your lawyer will have some idea as to the approximate time that the case may be appropriate for settlement.

2. How much is my case worth?

This question is one of the most frequently asked questions and is also very difficult to answer in the early stages. It is virtually impossible to predict the value of a case until all of the information has been collected and you have recovered or almost recovered from your injury. There are many factors that determine the value of a case. They include:

- a. The actual amount of all of your medical bills.
- b. How such medical bills were incurred; that is, from diagnostic tests, treatments, physical therapy, hospital stays, prescription medication, over-the-counter medication, chiropractic care and other treatment.
- c. How much income and other employment benefits were lost as a result of your injury? This would include lost pay, sick leave used, vacation time used, loss of insurance benefits and other losses resulting from your injury.
- d. The actual extent of your injury and how such injury affected your daily life. This would include limitations of household activities, sports and leisure activities, and social life.

- e. Whether or not any aspect of your injuries are permanent. This would also include permanent disfigurement such as scars, blemishes and other disfiguring characteristics.
- f. Whether any of your injuries required hospitalization.
- g. The extent of liability on the part of the potential defendant.
- h. Whether there is any evidence that you were partly at fault for your own injuries.
- i. The status of the law as it relates to your case.
- j. The quality of your witnesses, including those who will testify about the incident, your injuries, and your medical treatment.
- k. Other factors such as pain, suffering, inconvenience and loss of consortium (how the injury affected your marital relationship).
- l. How much insurance coverage is available in your case?

The above are just a few of the factors that must be taken into consideration in determining a settlement value. Some factors are more important than others and because insurance companies require specific documentation, it is your responsibility and that of your lawyer to provide the insurance company with as much clear information as possible to support your claim.

3. **Who determines the settlement value of my case?**

Your lawyer, and the firm in which your lawyer is a member, have a great deal of experience in the area of personal injury law. After evaluating all of the factors enumerated in question 2 above, your lawyer will discuss the case with you to arrive at a possible settlement range.

Once you have agreed upon a general settlement range, your attorney will present a demand to the insurance company in the hope and expectation that the insurance company will pay a settlement within the range determined.

It is important to know that you have the ultimate decision to make, but, because of your lawyer's experience in this area of law you should seriously and carefully consider any recommendation he or she makes as to the ultimate value of your case.

4. **What steps will be taken to settle my case?**

After all the investigation and research has been completed, we will keep in touch with the progress of your recovery. Hopefully, your injury will not be a serious one and eventually it will be appropriate to attempt settlement. After a settlement range has been decided upon, we will send what is called a "Settlement Brochure" to the insurance company.

The Settlement Brochure summarizes the important factors of your claim and is a formal request to initiate settlement discussions. After the insurance carrier's claims adjuster receives it, he

or she will meet with appropriate supervisors to obtain settlement authority. Once the adjuster has his final authority figure, he will respond and negotiations between your lawyer and the insurance adjuster will take place.

Some cases can be concluded with a series of phone conferences, office conferences, and correspondence. The period of time required to complete negotiations usually depends upon a number of factors including the nature of the insurance company, how busy the insurance adjuster is, and other factors.

5. Will the insurance carrier pay the demand figure in my attorney's request for settlement?

No. In almost every case, the final demand figure issued by your attorney in the first letter requesting settlement is substantially higher than the actual settlement range. This is common negotiation tactic for personal injury cases.

Because of your attorney's experience in this area of law, a request for settlement will usually be made in an amount that gives both parties a fair amount of room to negotiate. Therefore, do not consider the demand figure to be the actual settlement range of your case.

6. How long does it take to complete settlement after the first letter of demand?

In most cases the amount of time it takes from sending the Settlement Brochure to reaching a final settlement can be several weeks to a few months, or sometimes longer. In smaller, clear-cut liability cases where the injuries are fairly minimal, the process can be achieved in a month or two usually. Every case is different, however, and your lawyer will advise you about his opinion on the amount of time it will probably take to settle your case. There are many factors which affect the response time and the adjuster's final offer. They include:

- a. How many files the insurance adjuster is handling.
- b. How well documented the claim has been during the preparation period.
- c. Whether or not liability is clear on the part of the insurance company's client.
- d. Whether or not there is any comparative negligence on your part.
- e. Whether or not there are any other parties that may be responsible for your injuries.
- f. The internal claims process of the particular insurance company including the number of supervisors required to approve the adjuster's settlement offer.
- g. How reasonable our initial settlement offer is.
- h. What jury verdicts in similar cases have recently been in our metropolitan area.
- i. Other possible factors.

7. Because the insurance company will undercut my attorney's request for settlement, why not request a very large sum to begin with?

Many people believe that because the carrier will come back with a lower figure than the demand, the attorney for the injured person should request a very high figure to begin with. Such a process hardly ever works. If the first demand figure is way out of line, most insurance companies will not even respond to the request for settlement.

Asking for a for settlement amount that is unreasonably high will often delay the process and sometimes will make the insurance company refuse to make any offer at all. Therefore, it is important that the first demand be reasonable at least. Because your lawyer is experienced in this area of law, he will have the best idea as to the amount for the first demand figure.

8. After the insurance company and my attorney agree upon settlement, how long will it take to get my money?

After an agreement has been reached between the insurance company and you through your lawyer, it usually takes between two and six weeks to complete the settlement process. There may be exceptions to this range, but the average time to sign all the documents, receive the insurance check, process the insurance check through the law firm's trust account, and then distribute the exact proceeds to everyone usually requires at least a couple of weeks. You will receive a printout showing you where every dollar of your settlement is going.

9. What has to be done before I get the money that is due me from the settlement?

First, the insurance company will require that you, and perhaps your spouse sign a release. This is a document that settles your claim. In the release, you will read language stating that you are forever giving up your right to sue the person, persons, or company who was responsible for your injuries. In exchange for giving up your claim, you will receive a certain sum of money when the insurance company receives the release.

Second, our office will have to pay any medical bills that have not been paid and may be required to reimburse any insurance company that has expended money for medical bills such as your health insurance carrier, automobile insurance carrier or some other party who paid for your medical bills resulting from your injury.

Third, our office will deduct attorney's fees, actual out-of-pocket expenses, and other possible costs associated with the claim. After all deductions have been made for medical bills, possible liens, attorney's fees, and costs, you will receive the balance in a check processed from the Trust Account of Robert S. Halas, P.C.

10. Can I change my mind after I have given verbal authority to settle to my attorney, but before I sign the insurance company's release?

Rarely. Once you have given your attorney your consent to settle, you can only withdraw it if you contact your attorney before he contacts the insurance company. Your attorney acts as your agent and once he communicates your acceptance of a particular settlement amount, you can not change your mind. If you refuse to sign the release the insurance company sends, they can seek judicial enforcement of the settlement. Your attorney may very well be called as a witness and, of

course, would have to tell the truth about having your consent to settle at the moment in time when he reached a verbal or written agreement with the other side. If you lose this hearing, you will be ordered to accept the previously agreed settlement amount and could be assessed with the attorney fees the insurance company incurred in bringing and winning the hearing. This assessment would probably be at least several hundred dollars and will be very easy for them to collect since they will issue a new check to you with the amount of the assessment automatically deducted.

11. After attorney's fees, medical bills, liens, and costs, will there be anything left for me?

In most cases there should be a fair sum of money left for you to compensate you for pain, suffering, and some loss of income. There are many factors influencing settlements. Such factors include the amount of your medical bills, whether these medical bills have to be paid from the settlement, whether you actually lost income from your job or used sick leave, etc. If you have to pay all of your medical bills from your settlement or reimburse a health or medical payments carrier, this will substantially affect the final amount.

You must remember that the law allows you to be compensated for your injury-to give you compensation for lost wages, medical bills, and a reasonable amount for pain and suffering. The law does not provide that injured parties "get rich" from insurance claims, especially in smaller cases. However, you can rest assured that we here at Robert S. Halas have every incentive to obtain the most money we can for you, without leading you on a wild goose chase. Remember, since we work on a percentage basis, the more money we get for you, the more we get for ourselves.

Litigation

1. What happens if the insurance company does not meet our settlement range and the case does not settle?

If the insurance company and we cannot agree upon a reasonable settlement value for your personal injury case, it may be necessary to begin a lawsuit. This is also referred to as litigation. The lawsuit will usually be brought against the person, persons, or company who caused your injuries and not against the insurance company unless you were injured by an uninsured or underinsured motorist case.

In some cases, an alternative dispute resolution procedure (ADR) might be utilized to help settle your case. This can only happen, however, if all parties are willing to participate, or it is ordered by the Judge. ADRs can take the form of binding arbitration, non-binding arbitration, or mediation. An ADR procedure can put additional pressure on the insurance company to offer their top dollar and for all parties to compromise. In cases where fault is a disputed issue or where the parties are significantly far apart with respect to the value of a claim, litigation is usually necessary.

2. What factors would cause my case to go to litigation?

There are usually several reasons why a case does not settle including the following:

- a. The insurance company believes that you and your lawyer have asked for more money than they are willing to pay voluntarily for the claim.

- b. Liability, that is, "fault" is either being denied by the insurance company or the insurance company believes that you and/or some other party bear some responsibility for your own injuries.
- c. The insurance company, because of internal reasons or company policy, resists payment of your claim and is forcing claimants to go through the trouble of a lawsuit.
- d. The insurance company does not believe that you were injured, or that you were injured as badly as you claim. Therefore, the company is requiring that you pursue a lawsuit to prove your injuries.

3. **How does a lawsuit affect me?**

If a lawsuit becomes necessary, your attorney will explain in detail what you will have to do. Usually the process takes the following steps:

- a. After final investigation and preparation, your lawyer will file a claim in court by preparing what is known as a Petition for Damages.
- b. The Petition is served upon the person, persons, or company who caused your injuries, and the responsible party is referred to as the defendant. You will be called the plaintiff.
- c. After the defendant is served with the petition, the insurance company will hire a lawyer to defend the lawsuit and that lawyer will file what is known as an Answer. The Answer usually denies responsibility for the injuries, denies the extent of your personal injuries, and may possibly seek to bring in other parties who might have been involved in the incident which caused your injuries. It usually takes 45 to 60 days after the filing of the petition before the Defendant files its Answer.
- d. After the Answer is filed a process is started called discovery in which both parties seek information from each other. You will be involved in this process. The process includes some or all of the following:
 - 1. Questions, called "interrogatories", which require written answers.
 - 2. Oral testimony from you and other parties called "depositions". Such testimony takes place in front of the lawyers with a court reporter who takes down the questions and answers in order to prepare a transcript.
 - 3. "Requests for production of documents" in which the lawyers ask for lost wage information, witness statements, medical bills, and other documents relating to the case. In most cases, your lawyer will have to send such

documents to the other lawyer even if they have already been supplied to the insurance company.

4. "Requests for admissions" which is a process that requires the parties to narrow the issues by admitting certain facts that are not in dispute.
5. A so called "Independent Medical Exam", in which the other side selects a doctor to exam you. This doctor will then testify in court as to his findings. The law requires you to cooperate and submit yourself for this examination. There is always a risk that the doctor selected will slant his findings and opinions in favor of the defense, since they are the one who hired him/her.
6. Pretrial procedures such as motions in court and other tactics that process the case to trial.
7. Preparation for trial including possible video depositions of your doctors, meeting with witnesses, writing briefs, and appearances of your attorney before the trial judge.
8. The trial, if your case does not settle before the trial date.

4. **Is it possible that my case will settle before trial?**

Yes. Many cases settle during the lawsuit process while a small minority of cases have to proceed all the way through trial. It is impossible to predict when or if any particular case will settle.

5. **What will I have to do if my case proceeds to a lawsuit?**

After the lawsuit is commenced, your lawyer will contact you about your duties. You will probably have to answer interrogatories and attend a deposition. During litigation it is important for you to do at least the following:

- a. Stay in touch with your lawyer.
- b. Inform your lawyer of any changes of address, phone number, work status, marital status or changes in your injury.
- c. Respond to your lawyer's letters and phone calls if he or she requests contact.
- d. Prepare and obtain any documents requested from your lawyer immediately after the request.
- e. Keep track of all medical bills and lost income and report such information to your lawyer.
- f. Stay out of trouble which could be used against you in court such as drunk driving,

shoplifting and other criminal activities.

- g. Maintain your employment status and avoid confrontations with your employer that could be used against you at trial.

6. **Does a lawsuit require a substantial amount of work from my lawyer?**

Litigation is a very time-consuming and difficult process. Your lawyer will have to prepare documents for court, take depositions, research the law, correspond with the defense attorney, correspond with you, correspond with your witnesses and doctors and prepare for trial. Your file will grow in size and your lawyer will probably have other people work on your case as secretaries, paralegal and associates. Therefore, you can expect that your lawyer will be very busy preparing your case for trial. T

7. **Will I have to answer interrogatories?**

Interrogatories are questions sent to your lawyer by the lawyer for the defendant. You and your lawyer may be asked to answer a number of questions. Some of these answers will be prepared by you and some of them will be prepared by your lawyer.

You will usually be asked about your complete medical history, educational history, work history, and a number of questions about the accident and your injuries. It is important that you take time to prepare your answers carefully and accurately. If you leave something out that is important, or if there is a piece of information that is not accurate, such mistakes can be used against you at trial or at your deposition. It is important to prepare your answers within the time frame requested by your lawyer. Time limits such as 20 days for answering interrogatory questions have been mandated by state statute. You can be penalized for a failure to provide the answers in a timely manner.

Most clients do not like having to answer detailed questions such as interrogatories and often they put off the task until the last minute. Do not fall into this trap. If you take the time to prepare your interrogatory answers accurately and carefully, you are more likely to have a successful case.

8. **What are depositions?**

Depositions are very important procedures because a deposition is usually the first time that you will actually testify about your case. Depositions take place in the office of one of the lawyers involved in the case. In your deposition, the attorney for the defendant will ask you questions about your injuries, the incident, and background information about you and your family. Your answers will be taken down word for word by a court reporter who will transcribe your testimony. The transcript of your testimony will be read by all attorneys, representatives of the insurance company, and portions may be used at trial.

9. **What if I do not want to have my deposition taken?**

Unfortunately, you don't have a choice. If you have commenced a lawsuit involving personal injuries, the law requires that you must be deposed if requested to do so by the other side.

10. **Does the person or persons who caused my injuries have to be deposed also?**

If your lawyer decides it is necessary, a deposition of the defendant or defendants will also

take place. In some cases, your lawyer may believe that it is better not to take a deposition. Your attorney will make that decision. There is less information required from the defendant than you, the plaintiff.

11. How do I prepare for a deposition?

Your lawyer will assist you in preparing for your deposition. In most cases you will be given plenty of notice so that you will have time to prepare. In addition to advice given to you by your lawyer, you should consider the following:

- a. Dress appropriately as though you were going for a job interview.
- b. Read your interrogatory answers and any other documents your lawyer instructs you to read. Read them carefully-don't just skim through them. Preparation will mean a better chance of a favorable settlement.
- c. Tell the truth even if you think the answer might hurt you. The worse possible answer is an answer which is a lie. If the defense attorney catches you in a lie, he or she now has the opportunity to destroy your entire case. It is always best to inform your lawyer of difficult past issues, even if the matter is of a private nature, or embarrassing to you. Experienced lawyers have had to deal with many such situations and handle them professionally and confidentially, unless disclosure in a litigation setting is required.
- d. Do not argue with the defense lawyer. It will never help you to argue with the defense attorney. You do not have to agree with everything defense counsel might suggest. If you disagree, then just say so respectfully.
- e. Be polite. It can only help you and will never hurt you.
- f. Listen carefully to the lawyer's questions. Do not jump ahead and answer the questions before the lawyer finishes.
- g. Think before speaking.
- h. Do not agree just because the defense attorney asks you to agree. Some defense attorneys use the trick of making several statements to which you agree. Then they throw in a final statement which may not be true, but because you are so used to agreeing, you admit something that you should not. Therefore, it is important to listen to each statement or question carefully.
- i. Do not answer more than you have to. Some witnesses ramble on and on. Rambling can destroy your case. Simply answer the questions and do not explain your answers unless you are requested to do so.

- j. Look the defense attorney in the eye as much as possible.
- k. Speak clearly and loud enough for the court reporter and attorneys to hear your answers.

12. **Why are depositions so important?**

There are several reasons why your deposition is important.

- a. The defense attorney will be sizing you up. If he or she is impressed with you and your testimony, settlement becomes more likely.
- b. The deposition is excellent preparation for trial. It gives you the opportunity to experience testifying.
- c. Your testimony, if it is false, can be used against you at trial.

The Trial

1. **When will the trial take place?**

This question is impossible to answer because there are so many factors which affect when your case will actually be reached for trial. Such factors include:

- a. The number of cases waiting for trial in your county or jurisdiction.
- b. The number of judges available to hear trials in your jurisdiction.
- c. Whether or not all discovery, such as interrogatories and depositions, have been completed by both sides.
- d. The type of trial calendar set up in your jurisdiction. For example, criminal trials usually have priority over a personal injury case, which is called a "civil trial".
- e. Whether or not the lawyers involved in your case have other trials or commitments that conflict with a particular trial setting in your case.
- f. Other possible factors, including availability of witnesses.

Your lawyer will be able to tell you approximately when your case will be reached for trial. In some jurisdictions it takes a year or more to get to trial after the suit has been filed.

2. **How much notice will I get before trial?**

Usually you will receive plenty of notice to prepare for trial. Unfortunately, in some

jurisdictions, you may have to "get ready" a number of times before your case is actually reached. In some jurisdictions, the court will set a large number of cases for trial, but only a few are actually reached. Your lawyer will explain this process to you.

3. **What happens in a trial?**

In cases which are not complex, the trial process usually involves a specific format. Do not count on television shows to accurately portray how trials actually occur. With some variations, depending on the jurisdiction, your trial will go something like this:

- a. The judge will open the trial by calling the lawyers, clients and prospective jurors into the courtroom.
- b. A jury selection process called "voir dire" takes place. In state court, the lawyers can ask questions of prospective jurors before selecting the jury. This process allows the lawyers to determine potential bias or unfairness on the part of prospective jurors. In federal court, the judge usually questions the prospective jurors.
- c. Jury selection takes place in which jurors are called by lottery fashion. The lawyers may exclude some of the jurors for various reasons.
- d. After the jury is selected (usually 12 people), the lawyers will make opening statements. These opening statements are brief summaries of the case so that the jury will have a road map of the case. Opening statements are usually short, perhaps 30 minutes.
- e. After opening statements, your lawyer will present your case by calling you and other witnesses to the witness stand for direct examination. Such witnesses may include your doctor, employer, friends, family, and other witnesses who can testify about the incident or your injuries.
- f. After each witness has finished direct examination by your lawyer, the lawyer for the defendant will be entitled to cross-examination. That is, you and your witnesses may be asked questions by the other lawyer.
- g. After cross-examination, your lawyer may have a few additional questions and this process is called re-direct examination.
- h. After your lawyer finishes presenting your case, the defense lawyer is allowed to present the other side of the case by calling witnesses for the defense. Your lawyer will be entitled to cross-examine those witnesses.
- i. After both attorneys have finished all questioning and all presentation of evidence, the judge will allow closing arguments. In closing arguments the lawyers have the

opportunity to summarize the case to the jury and ask for a verdict. Your lawyer will be allowed to go first, followed by the defense attorney. After the defense attorney finishes his or her closing argument, your lawyer may be offered a brief period of time for rebuttal.

- j. After closing arguments, the judge will instruct the jury on the law and how it should be applied to your case. The judge's instructions are the final words heard in the case before deliberation. The judge is not allowed to influence the jury one way or the other as to the potential result in the case.
- k. After the judge completes instructions, the jury is allowed to deliberate on your case in a closed room. This process usually takes several hours.
- l. When the jury has finished deliberation and reaches a verdict, the judge will call everyone back into the courtroom and the verdict will be announced. You will find out at that time whether or not you won your case and how much money, if any, has been awarded by the jury.

4. **What should I remember in order to be the best possible witness?**

The trial is the most important part of your case. It is your only day in court and you will probably not get a second chance. Nobody is perfect, but you can prepare yourself to be as good a witness as possible. The following recommendations will assist you to do the best job possible.

- a. **Review your deposition transcript and interrogatory answers if your lawyer asks you to do so.**
It is important for your trial testimony to be consistent with your discovery.
- b. **Do not mention insurance.**
If insurance or anything about it is injected into the case, the judge will probably declare a mistrial and you will have to wait for another trial date.
- c. **Dress appropriately.**
You should not wear flashy clothes, a lot of jewelry or a lot of makeup. The type of clothing you would wear to a church function or a PTA meeting is appropriate.
- d. **Review your medical history so that you have a good idea about injuries you have had, doctors you have seen, hospitals which have treated you, etc.**
- d. **Never exaggerate.**
Do not exaggerate about how the incident happened or about your injuries. An exaggeration will almost always hurt you and never help.
- e. **Don't be a "wise-guy".**

A courtroom is not the place for being coy, wise or funny. If something happens in the courtroom that is humorous, it is all right to laugh with the jury, but do not try to be a comedian.

- g. **Be courteous to everyone including the defense attorney and court personnel.**
Jurors are impressed by polite people. Call the judge "Your Honor," show respect to courtroom personnel, and call the defense attorney "Sir" or "Ma'am" from time to time.
- h. **Never lose your temper.**
Defense attorneys know one way to win a case-get the witness to lose his or her temper. If you feel badgered by the attorney, react courteously. Jurors are impressed by people who can remain calm under cross-examination.
- i. **Listen carefully to each question and take your time to answer.**
Do not anticipate. Wait for the questioner to finish before you speak.
- j. **Look at the jurors!**
This cannot be stressed enough. Look jurors in the eye when you testify just as if you were talking to your best friend or closest relative. Jurors tend to believe people who can look them straight in the eye.
- k. **Speak clearly and answer with "Yes," or "No," etc. and not with words like "Yeah," "Uhuh," "Um," etc.**
- k. **Do not look to your lawyer for answers.**
You are the witness-not your lawyer. If you look to your lawyer for answers, the jury may become suspicious.
- l. **Be yourself.**
You are likely to be nervous and this is appropriate because jurors expect that people who testify in court will be nervous. After a brief period of time, you will be comfortable, especially if you are telling the truth.
- m. **Do not put on a show about your injuries.**
Jurors are suspicious about people who try to exaggerate or display their injuries when they sit down, get up, walk, etc. Jurors are able to ascertain a phony gesture just like adults know when children are faking illness.
- n. **Tell the truth!**
This is repeated because it is so important. There may be things about your case that will hurt you-no case is perfect. If so, don't be afraid to admit the truth. The defense lawyer would love to catch you in a lie because one lie can destroy your case.

After the Trial

1. **If we win, how long does it take to recover the money?**

If a verdict is rendered in your favor, it usually takes a few weeks to a month to finalize the results. If the defense attorney does not appeal the verdict, the lawyers will work out the final figures with respect to the verdict, interest, court costs, deductions and attorney's fees. If the defense appeals they file a bond with the Court and we don't get paid until we also win the appeal. An appeal may take 6 to 18 months.

2. **What happens if we lose?**

Hopefully, we will not lose. If we do, your lawyer will discuss the possibilities of appeal. An appeal is usually a very expensive process but your lawyer will advise you whether or not appeal is appropriate.

3. **If we lose, is it still possible to get a settlement?**

In a few cases, the insurance company may be willing to offer a nominal settlement to avoid an appeal. The best thing to do is to concentrate on winning your case. If your case is clear on liability (fault of the other party) and you have prepared yourself well for trial, the chances are good that you will win your case. Justice usually prevails.

Conclusion

Your personal injury case is very important to you. We know this. In today's society, insurance companies have a lot of power, money and influence. However, most insurance companies try to be fair in settling ordinary cases. They do try to compensate people who have been legitimately injured as a result of the negligence of someone else. It is important for you to have a positive attitude throughout your case. This requires making an active effort to recover from your injuries. Cooperate with your lawyer. Be honest about your case with everyone involved. Injured persons should be compensated for injuries resulting from the negligence of a third party. This is the law and it is on your side. Place your faith, confidence, and trust in your lawyer and yourself and you will increase your odds of obtaining just compensation.