

## **SPECIAL REPORT**

### ***Five Deadly Sins That Can Wreck Your Injury Claim***

*(Avoid them and you may have a shot at winning)*

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# Five Deadly Sins That Can Wreck Your Injury Claim

## Who Is Behind This Report – and – “Why Should I Listen To You?”



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

I have written this report so that consumers could have good, solid information before hiring an attorney or dealing with the insurance company. As I point out later, not every case needs a lawyer! There are lots of books on the market that you could buy, and you could get this information after making an appointment with an attorney, but I want you to have this valuable information right now, for free, in your home and on your own time.

Hello, my name is Gerry Oginski and I have been representing individuals against insurance companies since 1992. Before that, I worked for a law firm that represented insurance companies. I've been on both sides and use that experience to great advantage for my clients. I limit my practice to personal injury and medical malpractice cases; so if you want a divorce or a will, or have a traffic ticket, I can't help you. (If you live in Brooklyn, Bronx, Queens, NYC, Nassau or Suffolk, call us anyway. We can usually provide you with the name of other attorneys who may be able to help you with your situation. We do not charge for this service). I am an active member of the New York State Trial Lawyers Association, as well as the Brooklyn Bar, Queens Bar, and Nassau County Bar Associations.

I represent many people who have been injured by the negligence of others. I also represent the families of loved ones who have died in wrongful death cases. While each case is different, and past results cannot be used to predict future success, I can tell you that I have been privileged to help my clients and their families recover millions of dollars for their personal injury, wrongful death and medical malpractice cases.

## Why A Free Report?

I am tired of insurance companies taking advantage of people before they have a chance to talk to an attorney. For years, one major insurance company encouraged claimants to not hire an attorney. You may not need an attorney to represent you in every case but you do need to be armed with this important information. I prepared this report so that you can be informed, quickly.

Most attorneys require you to make an appointment in which you would get some of the information that I have provided here. Some may pressure you to sign a retainer agreement right then and there. I believe that you should be able to have this information, right now, and without any pressure. The hiring of an attorney to represent you is a very important step that should not be taken lightly.

Frankly, this method of talking to you also saves me time. I've packed a ton of information into this report and it saves me the hours of time that it would take each day just to talk to all of the new clients who call me. I cannot and will not accept every case. So, rather than cut you short on the phone, writing this report gives me a chance to tell you what you need to know so that you can make an informed decision about what steps to take with your case. Even if I do not accept your case, I would like you to be educated about the process so that you don't fall victim to the insurance companies.

### **BONUS**

At the end of this report, I've included a special bonus report explaining the most important automobile insurance you can buy. The insurance companies don't push this product yet it's the only way to fully protect yourself against negligent and irresponsible drivers.

### **I Am Not Allowed To Give Legal Advice In This Special Report!**

I know the arguments the insurance company will make – and so should you – even before you file your claim. When you were injured you entered into a war zone. The insurance industry has spent hundred of millions of dollars to inflame the public against you and me. We will be in this together. I am not allowed, however, to give legal advice in this report. I can offer suggestions and identify traps, but please do not construe anything in this report to be legal advice until you have agreed to hire me AND I have agreed, in writing to accept your case. (Because I value personal service, I do not accept every case that comes my way – I couldn't – the numbers are staggering. I'll explain more in detail later.)

### **What is a Personal Injury Case?**

Let's start at the very beginning: Just what is a personal injury case?

Lawyers say that they do 'personal injury cases' or 'accident cases' or 'wrongful death cases' and, yet my wife tells me that she does not think that everyone understands exactly what this means. Indeed, people who have known me for years will come up to me and ask me for a referral to an automobile accident attorney! They do this even though that they know exactly what it is that I do.

I handle injury and accident cases throughout the New York Metropolitan area including Brooklyn, Bronx, Manhattan, Queens, Nassau and Suffolk.

A personal injury, automobile accident, or wrongful death case is any type of situation where a person has been injured or killed due to someone else's carelessness. If the only damage in your case is that your car got banged up, then you don't have a personal injury case – but you may have a property damage case. We do not handle

property damage cases, but there are many lawyers who do. If both you and your car have suffered an injury, then you have both a personal injury and a property damage claim. In those circumstances, either your insurance company or the other driver's insurance company will usually take care of the property damage claim.

If someone's carelessness causes the death of another, then this is called a 'wrongful death' claim. I handle wrongful death claims all the time. The type of compensation that can be obtained in a wrongful death claim is significantly different than in a personal injury claim. You need an attorney who understands the specialized wrongful death laws.

### **You Are At War – But It's A War That Can Be Won**

The day you were injured, you entered a war zone. Insurance companies have declared war on injured people and their attorneys. Some of them write letters to claimants to discourage them from seeking legal representation. They have waged war in the media and their propaganda has had a tremendous effect on juries and their verdicts. The success that the insurance companies have had in tainting the minds of jurors has emboldened them to not offer fair settlements until you prove to them that you are ready, willing and able to go to trial.

### **What About Harmful Products, Medical Malpractice, and Slip-and-Fall Cases?**

Whenever you are hurt by anyone's carelessness, including that of a doctor, or a builder or a manufacturer or a store merchant, you have a 'personal injury' claim. Products liability (injury by a harmful product), medical malpractice (injury by a doctor, hospital or other health care provider), slip-and-fall (injury because someone did not take care of a walkway) are all subtypes of personal injury cases. I have represented people in medical malpractice and personal injury cases since 1988.

### **What Must Be Proven To Win A Case?**

The law does not demand compensation for every injury. You must prove that someone else was negligent or careless and that it was his or her negligence or carelessness that caused your injury. If you have suffered an unfortunate accident that is no one else's fault, or if you do not sue the right person, then the law says that you will not win your case.

### **Do You Really Need An Attorney To Settle Your Case?**

You definitely **do not need an attorney** for every small injury case. In fact, our office does not even accept cases where there's little or no property damage or the injuries are minor. Why not? Simple. In the small case, the attorney fee and costs might leave little or nothing for you after your medical bills are paid, and we don't believe that would be fair to you.

## How Do I Find A Qualified Personal Injury Attorney?

Choosing an attorney to represent you is an important but daunting task. The decision certainly should not be made on the basis of advertising alone. The Yellow Pages are filled with ads...all of which say basically the same thing. You should not hire based solely on advertising—anyone can buy a slick commercial. Heck, you shouldn't even hire me until you trust that I can do a good job for you.

### How Do You Choose?

How do you find out who in your local community is the best for your case? I believe that there are certain questions to ask that will lead you to the best person for your case—no matter what the specialty. It may involve some time on your part, but that's OK because the decision as to who your attorney will be is very important.

The world of personal injury and medical malpractice cases are much too specialized for someone who does not regularly handle these cases. Too many times we have looked at cases that other- inexperienced- attorneys have handled. You should be aware that the insurance companies who defend personal injury and medical malpractice cases know who the attorneys are in your area who actually go into court to try cases and who do not. The insurance companies use that information to evaluate their risk. One of the first questions some insurance adjusters will ask when a serious claim comes in is: who is representing the plaintiff? **If this information is important to the insurance company, shouldn't it be important to you?**

If an attorney who has never tried a malpractice case or who 'handles' a lot of automobile cases but settles them all represents you, you may not be in the best of hands. *I believe it is so important that you get into the right hands that in this report I give you the names and telephone numbers of other good attorneys in our area who you should call if you don't become my client. Why do I give you the names of my competition? Easy—I believe that we are all on the same side in battling the insurance companies (there's an insurance company behind just about every case.) These people are attorneys who I have a great deal of respect for in our area. It is my desire, above all else, that people with meritorious cases get into the hands of the experienced, good, trial lawyers.*

### So how do you find out who is good in your area? Here are some tips.

1. Ask a friend for the name of an attorney.
2. Ask an attorney you know to recommend an attorney who handles accident cases.
3. Look in the yellow pages for an attorney. However, understand three important things with the yellow pages: (1) Not everyone advertises in the Yellow Pages. Most of my cases come from referrals from other attorneys or from satisfied clients. (2) Be careful about the ads that tout too many different specialties. (3) BE careful about the full-page ads. This advertising typically attracts a lot of cases, including the small cases that we do not accept. Make sure that the attorney

you hire is selective enough with his or her cases that your important case does not become just one more file in the pile.

4. Check out an ad for an attorney you saw recently.
5. Call the Bar Association in the town in which you live for the name of an attorney. They probably have a lawyer referral service. Understand that lawyers have signed up and may have paid a fee to be listed in certain specialties. Their names come up on a rotating basis. This is another good source for an initial appointment. Just take the questions we talk about here to that interview.

### **HOW DO YOU KNOW IF THE ATTORNEY YOU MEET IS THE RIGHT ONE FOR YOU?**

You must ask questions.

### **HERE'S A LIST OF VITAL QUESTIONS YOU MUST ASK ANY ATTORNEY YOU MEET WITH:**

1. Ask whether they have information just like this report and/or a web site so that you can find out more about qualifications and experience before you walk in the door.
2. The most important qualification an accident attorney can have is experience handling the type of case you have. An attorney who handles real estate closings and contracts may not be ideal attorney to handle your accident case or complicated medical malpractice matter. *You must ask how many years the attorney has been practicing, and whether he's handled similar cases.*
3. Beware of any attorney who contacts you in writing just after you have had an accident. Attorneys are allowed to do this, but some actually buy lists of police accident reports each week and solicit the cases. You have to ask yourself the question of why an experienced, respected attorney would need to come looking for you that way.
4. Beware of an attorney who has a stable of doctors he wants to refer you to. As I discuss in this report, this can actually be the "kiss of death" to your claim.
5. *Will the attorney you meet with be handling your case each day? Or will your case be handed off to a young associate who is just learning the ropes?*
6. If you call the attorney's office after normal business hours, is there any way to reach him directly? Or will you be required to leave a message and wait for the attorney to call you back at some later date?
7. How quickly does the attorney return your calls?
8. If the attorney appears in Court on my case, will he notify me about what happened, either by letter or by phone call?

9. How often will I receive updates about the status of my case?
10. Will I have to call the attorney to get updates, or can I rest assured knowing that the attorney will contact me regularly about the status of my case.
11. What types of specialty cases do you handle? Medical Malpractice, car accidents, real estate, criminal, contracts, slip & fall.
12. How many cases does each attorney handle?
13. Are you trial attorneys? Have you picked juries?
14. When was your last trial that you took to verdict? What was your last verdict?
15. What was the last case you settled? For how much?
16. Why is my case worth your time and effort?
17. Can you name another attorney I could speak to get another opinion, before I make my final decision?
  - a. If the attorney will not give you the name of another colleague, I would suggest that this may not be the attorney for you. They should have nothing to worry about, and in fact should feel comfortable recommending someone they trust and believe is good at what they do. In all likelihood you will wind up staying with the original attorney you spoke with, assuming of course that you have developed a good rapport with him during your consultation, and that he has answered all of your questions to your satisfaction.
  - b. You've been injured. You shouldn't have to worry about how your attorney is going to handle your case. You should be comfortable with your attorney. You're going to be together for a few years, so if you have questions, now is the perfect time for them. You should be concentrating on getting yourself well again so you can go back to your daily activities and resume work.

### **HOW IS THE OFFICE RUN?**

1. Are you a volume attorney, where you take any case that comes in, in an attempt to settle it for a small amount?
  - a. If you happen to meet with an attorney who handles a huge amount of volume, find out how many paralegals he has on staff to handle the paperwork. How often does he review your case and have direct contact with you. These types of 'volume' offices are occasionally referred to in the legal business as 'mills' where they take cases in, and just as quickly resolve them for small amounts, to generate cash flow.

2. Are you selective in the cases you accept?
  - a. A selective attorney spends countless hours and dollars reviewing each case to determine whether the case has merit, and whether the potential reward to you justifies his time, effort, and investment of his own money to prosecute your case.
  - b. This type of office is much more conducive to a personal approach to the practice of law where the attorney spends considerable time counseling you about the merits of your case and the likelihood of success. Remember, as in life, there are no guarantees. However, with the right information an informed consumer is much better equipped to handle decisions and make informed choices about what needs to be done on his or her case.
  - c. An attorney who spends the time to answer all of your questions, and is willing to speak to you, *at your convenience*, is much more likely to be personally responsive to your concerns as the litigation proceeds. Obviously we all get busy during our day, and it's understandable if a phone call needs to be returned. But, you should not feel rushed or pressured into making decisions that will affect your case or your settlement.

***Once you have decided on an attorney, make sure you both understand your goals and you understand how the relationship between you and your attorney will work.***

3. In my practice, I generally send copies of the pleadings and important correspondence to the client. I regularly update the client about their case, and give them our best insight into the pace and timing of the case. I encourage clients to call whenever they have questions, and I always return their calls shortly afterwards. Cell phones and beepers are amazing things, however in some cases it's impossible to return the call immediately particularly if I am on trial or in a deposition or in Court on another matter. Attorneys are not permitted to use their cell phones in any Courtroom in the State of New York. If I am in Court for a conference and I am waiting to see the Judge to discuss a particular case, you can understand why I might not be able to return your call at that moment. Rest assured, as soon as I am able, I call you to discuss your concerns. You are also invited to make an appointment to come in at a time that is convenient to you.



**If you don't hire us, or if we decline your case, please consider calling from this list of experienced personal injury and medical malpractice attorneys:** (This list is not meant to be all encompassing or an endorsement of any particular attorney, but is simply intended to give you a good start! These attorneys, in our opinion, are very good trial lawyers. If you have any questions, email us at [lawmed1@optonline.net](mailto:lawmed1@optonline.net).)

Thomas A. Moore	212-267-4177
Patrick Bisogno	718-745-0880
Evan Torgan	212-232-2500
John Carro, Jr.	212-213-5005
Stephen Erickson	516-684-2900
Harvey Weitz	212-553-9000
Jean Hazelton	631-283-6400
Jeffrey Korek	212-385-4410
Ivan Schneider	212-553-9000
David Golomb	212-661-9000
John Bonina	718-522-1786
Eleni Cofinas	212-732-9000
Robert Conason	212-943-1090
Arthur Luxenberg	212-558-5500
Andrew Siegel	212-532-0532
Robert Kelner	212-233-7890
Ben B. Rubinowitz	212-943-1090
James R. Duffy	516-746-2840
Fred Queller	212-422-3600
Robert Sullivan	212-732-9000
Hunter Shkolnik	212-684-1880
William Groner	914-686-3700
Herbert Subin	212-285-3800
Richard Gurfein	212-406-1600
Henry Miller	914-946-8900
Paul Weitz	212-553-9000
Stephen Mackauf	212-943-1090

### **What Do I Do For You In A Personal Injury Case?**

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

- ✓ Initial interview with the client.
- ✓ Educate client about personal injury claims.
- ✓ Gather documentary evidence including police accident reports, medical records and bills.

- ✓ Analyze the client's insurance policy to see whether there are any coverage's which the client has that may pay all or a portion of the medical bills while the claim is pending.
- ✓ Analyze the client's insurance coverage and make suggestions as to what coverage should be purchased for future protection.
- ✓ Interview known witnesses.
- ✓ Collect other evidence, such as photographs of the accident scene.
- ✓ Analyze the legal issues, such as contributory negligence and assumption of risk.
- ✓ Talk to the client's physicians or obtain written reports from them to fully understand the client's condition.
- ✓ Analyze the client's health insurance policy or welfare benefit plan to ascertain whether any money they spent to pay your bills must be repaid.
- ✓ Analyze the validity of any liens on the case. Doctors, insurance companies, welfare benefit plans and employers may assert that they are entitled to all or part of the client's recovery.
- ✓ Contact the insurance company to put them on notice of the claim, if this has not already been done.
- ✓ Decide with the client whether an attempt will be made to negotiate the case with the insurance company or whether suit shall be filed.
- ✓ If suit is filed, prepare the client for deposition.
- ✓ Prepare questions and take deposition of the defendant and any other relevant witnesses.
- ✓ Provide to the defendant all pertinent data and documents for the claim, such as medical bills, medical records, and tax returns.
- ✓ Go to Court for status conferences with the Judge handling this matter; go to Court to set discovery schedules and to set a trial date.
- ✓ Prepare for trial and/or settlement before trial.
- ✓ Prepare the client and witnesses for trial.
- ✓ Organize the preparation of medical exhibits for trial.

- ✓ Organize the preparation of demonstrative exhibits for trial.
- ✓ Prepare for mediation and/or arbitration.
- ✓ Prepare briefs and motions to file with the Court to eliminate surprises at trial.
- ✓ Take the case to trial with a jury.
- ✓ Analyze the jury's verdict to determine if either side has good grounds to appeal the verdict.
- ✓ Make recommendations to the client as to whether or not to appeal the case (our retainer agreement with you does not obligate us to participate in any appeal).

### **Beware of the ERISA "Monster"**

You should be aware that often, if your medical bills were paid by health insurance of an employer's health plan, the insurance company or plan may want you to reimburse it out of any personal injury recovery. Your "insurance" turns out to be not insurance at all, but a "loan." The laws in some states, generally prohibit such claims by insurance companies, **but they make the claims anyway. We have seen cases where the insurance companies hired lawyers to make the claims for them.**

What they don't tell you is that this area of law, known as "reimbursement or subrogation" is actually quite complicated and is sometimes governed by a federal law called ERISA (The Employee Retirement Income Security Act of 1974). Your attorney must understand the implications of ERISA on your case.

### **The Legal Process in Personal Injury Cases**

In most cases today, attempting to negotiate with the insurance company before filing suit is not a worthwhile endeavor. Insurance companies use pre-suit negotiation only to attempt to find out as much about you, your lawyer and your doctor as they can. It is my opinion that many lawyers waste precious time attempting to negotiate with the insurance company before filing suit. If I accept your case it is because we believe it is meritorious and you deserve a trial by jury. We will usually file your suit before negotiating so that if negotiations break down, we will proceed as if we have a trial date in place to head towards.

I believe that it is a dangerous practice to wait until the statute of limitations has almost expired to file suit. I have seen other attorneys do this only to find that the defendant they sued is either not the correct defendant or is now blaming someone else. While there are legitimate reasons for delaying filing suit, there is no excuse for the

practice that I sometimes see whereby some attorneys routinely wait until the last moment to see if the insurance company will settle your case.

Once the lawsuit is filed, both sides engage in the legal process called discovery. Each party is allowed to investigate what the other side is going to say at trial. The defendant will be permitted access to your medical and work history, including your income records (In some cases, where there is no loss of income, we can usually avoid having to provide your income records). You may have to give a deposition under oath and you may be required to submit to a medical examination by a physician of the defendant's choosing.

The defendant is also subject to discovery. He will answer oral questions about his own background and he will have to give sworn testimony about the incident at issue.

## Why You Should Hire Me



There are many attorneys who advertise for personal injury cases. Unfortunately, some of these attorneys have so many small cases in their office that no case gets their personal attention. Others have no real intention of trying your case themselves and if the case cannot be settled with the insurance company, they will refer the case out for trial. There are good experienced attorneys in this field, but it is very difficult for a consumer to separate the good from the bad. You need to ask your attorney all of these questions.

Our clients get personal attention because we are very selective in the cases that we take. We decline hundreds of cases a year in order to devote personal, careful attention to those that we accept. We do not make money by accepting many small cases hoping to get a small fee out of each. There are many attorneys who do mass advertising and accept small cases and we will be happy to refer you to several such attorneys. These firms are better staffed to handle many cases at one time, often with younger attorneys and more paralegals.

## What Cases Do I Not Accept?

Due to the high volume of calls and referrals from other attorneys that I receive, I have found that the only way to provide personal service is to decline those cases that do not meet my strict criteria. Therefore, I generally do not accept the following types of cases:

### Cases with no clear objective evidence of injury.

I am sorry, but if you have a sprained neck or back, and the x-rays, MRI's, and CT scans do not indicate a very large disk bulge or herniation, then I will not accept your case. Insurance companies don't pay a lot for these cases because they know that local juries do not award significant sums of money without clear objective evidence of injury. There are plenty of lawyers who take these cases and we will be happy to give you the names of several of them.

### Cases involving minor impact.

My experience with juries is that by and large, they do not believe that a minor impact could cause substantial personal injury. I have tried several cases where we felt that the medical evidence was very strong, yet the photographs and the property damage showed little or no damage. Even though I had well-qualified physicians to testify for my clients, these cases were either lost or received very low verdicts. Thus, I believe that the risk to the client is too great to warrant pursuing these claims. There are other

attorneys with different opinions about these cases and, again, I will be happy to supply you with several names.

Cases with less than \$15,000 of “hard damages.”

Your case must have at least \$15,000 in past and future medical bills and/or past and future lost wages before I will consider accepting it. I would like to represent everyone who needs a good attorney, but we cannot.

Cases with significant pre-existing injury in the same body part.

If you have had three back surgeries before this accident, then the chances of a jury awarding you a substantial amount of money for your back injuries here is very low. Again, I feel that it is not worth the risk to the client to pursue these cases.

Cases where the statute of limitations will soon run.

I like to have at least four to six months to adequately investigate and evaluate your claim. Your delay is not going to become my crisis.

If you have had several accident claims in the near past, then I will not accept your case. Jurors tend to look dimly on claimants who have a significant accident history.

I will not represent you if you were charged by the police in the accident.

I know that the police can be wrong; but if after interviewing the witnesses and evaluating the scene the policeman gave you a ticket and not the other guy, then I will not represent you.

If your only care has been by a chiropractor, then I won't represent you.

This goes along with what I said above about having a serious back injury. I respect the chiropractic field, but my experience is that juries don't. There are plenty of attorneys who are happy to try cases where the only healthcare provider is a chiropractor, but I won't.

If your case has already been filed, I will not represent you.

I like to do things my way. If you or another attorney has already filed the case, that's fine, but I will not handle the matter. The same goes if your attorney has withdrawn from your case.

### **Well, Are There Any Cases Left?**

Yes, there are, and that's just the point. We are a small firm and accept a limited number of cases each year.

*We Concentrate Our Efforts On Increasing the Value of Good Cases--Not filing and Chasing Frivolous Ones.*

I represent many clients with valid claims. When I devote my time and resources to representing only legitimate claimants with good claims, I am able to do my best work. I have found that getting “bogged down” in lots of little cases, each with a “special problem,” is not good for my clients with legitimate claims.

**CONTINUE TO THE NEXT PAGE FOR  
3 FREE BONUS REPORTS →**

# 1<sup>st</sup> FREE BONUS REPORT!

## **The Five Deadly Sins**

### ***Issues that Can Sink Your Case***

Here are what I consider to be the Five Deadly Sins that can wreck your personal injury claim. These sins are based upon my experience and discussions with many judges and jurors.

#### **1. The Client is Referred by the Lawyer to a Doctor**

Local judges call this “service” the kiss of death to a claim. The problem is that jurors are highly suspicious of lawyers and doctors who have a referral relationship. While the client may not know how many of that lawyer’s clients have been referred in the last 12 months to a particular doctor, you can bet that the insurance company knows it or will find out about it. How credible do you think that doctor’s testimony will be when the jury finds out that he treated 50 patients from the same lawyer last year? Are there exceptions to this rule? Yes, there are. You may have a very special need for a doctor with a special expertise. It is perfectly legitimate for the attorney to make a suggestion or recommendation. If every client though, is getting referred to the same chiropractor or the same orthopedist, then that is a huge problem. (So beware of the attorney who has a stack of doctor/chiropractor cards in his office. You need to ask the right questions and fully understand the business relationship, if any, between that attorney and the doctor.)

#### **2. Hiding Past Accidents From Your Lawyer**

Once you begin a case, the other side will be interested in knowing how many past accidents you have been in. The reality is that they probably already know the answer or have easy access to that information. All insurance companies subscribe to insurance databases and often the only reason they ask you this question is to test your credibility. If you have been in other accidents, your lawyer can investigate this and make a determination as to whether this is a valid problem in your case or not. If you do not tell your lawyer, however and you misrepresent your accident history to this insurance company, then it is almost guaranteed that you will lose your case.

#### **3. Hiding Other Injuries**

If goes without saying that you should be upfront and honest with your attorney about any injuries that occurred before or after this accident. Again, if you saw a doctor or other healthcare provider, then there is a record in existence that the insurance company will find. Your lawyer can deal with this if he knows about it. If you lie about it, and the insurance company finds out, then your case is over.



#### 4. Not Having Accurate Tax Returns

In most cases, a claimant will have lost income. You will only be able to claim that lost income if your past tax returns are pristine. Again, being honest with your attorney is the only way to be, because he or she can deal with the problem if they know about it.

#### 5. Misrepresenting Your Activity Level

Insurance companies routinely hire private investigators to conduct videotape surveillance. If you claim that you cannot run, climb or stoop, and you get caught on videotape, you can forget about your claim. There is no explanation (other than “You got my brother, not me!”) that can overcome the eye of the camera.

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### OUR CASES AND VERDICTS

Here is a sampling of cases that we have handled. There are others at our website at [www.oginski-law.com](http://www.oginski-law.com). Remember that each case is different. We’ve won cases we probably should have lost and we’ve lost cases that we expected to win. Once a case is in the hands of the jury, it is out of our control. We do believe, however, that significant trial experience in big cases is one factor that people may use to choose one attorney over another. Many of our clients have told us that this is true. With these disclaimers in mind, here are some of our cases:

# Results Speak Louder Than Words...

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\$1,000,000

A woman lost eyesight in one eye because a hospital failed to tell her about her brain tumor.

\$775,000

A man lost eyesight in one eye because an eye doctor failed to recognize that the optic nerve was cut during surgery.

\$750,000	A woman died because her doctor failed to recognize massive infection following gynecologic surgery.
\$700,000	Baby suffered brain damage from botched delivery.
\$500,000	Failure to timely diagnose lung cancer resulting in death
\$550,000	Woman had to be emergently re-operated when knee surgery was botched.
\$415,000	Woman died from failure to diagnose bladder cancer.
\$350,000	4-year-old girl was misdiagnosed leading to double pneumonia, surgery and loss of part of her lung.
\$350,000	Woman lost her uterus after doctors failed to recognize an infection following a tubal pregnancy.
\$325,000	A family man died when a blood clot to his lungs was not properly treated, resulting in pain, suffering and an untimely death.
\$300,000	A man bled to death from a ruptured gastric ulcer from orthopedic pain medication.
\$300,000	Woman died from a misplaced feeding tube.
\$300,000	Man died from misdiagnosis of mesothelioma.
\$250,000	Woman suffered coma and short-term memory loss from improper administration of anesthesia.
\$240,000	Woman had bowel perforated during laparoscopic surgery.
\$220,000	A woman suffered permanent bone loss because her dentist failed to recognize the extent of her dental decay.
\$200,000	A woman needed emergency surgery when her first surgeon failed to remove a tumor.
\$200,000	Woman suffered bowel perforation during surgery.
\$197,500	Man had hand cut when bouncer in a bar hit him with beer bottle.

# 2<sup>nd</sup> Free Bonus Report!

## ***10 Things You Absolutely Need To Know Before You Start A Lawsuit***

1. Lawsuits seek to compensate you for your injuries.
  - a. They compensate you for:
    - i. Your lost wages, and your future lost wages,
    - ii. Your medical expenses, both past and future, and
    - iii. Your pain and the suffering it caused in the past, and for the future
2. Lawsuits do not seek to harm anyone's reputation.
3. A doctor who is sued will not lose their medical license if the lawsuit is successful.
4. A lawsuit attempts to compensate the injured victim, and at the same time, try to ensure that the same type of bad treatment is not repeated in another patient.
5. A lawsuit is not a lottery.
  - a. Defense attorneys often use this phrase during jury selection to remind jurors that their job is not simply to allow the injured victim to 'hit it big' and award huge amounts of unjustified money.
  - b. A more realistic approach to a lawsuit is for reasonable, full and fair compensation to allow you to recover all of your past and future expenses, and all of your past and future pain and suffering compensation.
6. You don't have to pay any money upfront to an attorney to handle your case. There is no 'hourly fee'.
  - a. Medical Malpractice and injury cases are generally handled on contingency.
  - b. That means that the attorney fee is contingent upon you winning your case. If you lose, the attorney loses as well, and receives no fee.
  - c. The expenses that the attorney pays to prosecute your case are supposed to be repaid by the client in the event the case is lost. However, as a personal matter, I have never asked a client to reimburse me for my expenses if I lose a case. It just doesn't make sense to do so, and in my personal opinion, it's bad business. However, some attorneys do require this, so make sure you ask first before you make your decision.
7. Not every attorney has the same experience.

- a. Ask your attorney how many years they've been in practice,
  - b. Ask the attorney what percentage of medical malpractice or car accident cases he handles compared to other types of cases,
  - c. Ask whether he/she tries cases in the Supreme Court (it's the trial level court for New York,
  - d. Ask whether he's ever lost a case
    - i. If he tries cases, and claims he's never lost a case...I'd suggest either that the attorney is not being accurate, or simply only accepts clear-cut cases that he cannot lose- that's extremely rare.
    - ii. The majority of trial attorneys will have lost a case from time to time. Unfortunately, it's the nature of the beast.
  - e. Ask whether the attorney you meet with will be the one handling your case on a day-to-day basis. If not, who will be your attorney? Whom will you call with questions? How quickly will the attorney call me back? How often can you expect to receive correspondence from them about the status of your case?
8. A lawsuit takes time to come to a conclusion.
- a. The average time is 2-3 years from start to finish.
9. How often do I have to come into the attorney's office during this time?
- a. Once to meet the attorney in an initial meeting,
  - b. Once to sign documents that start your lawsuit (often this can be done by mail),
  - c. Once to have your deposition (where you are asked questions by the other side's attorney),
  - d. At least once to prepare you for trial, and sometimes two or three additional times to prepare you.
10. As in life, there are no guarantees to winning. However, with good experienced counsel and thorough preparation, you stand a much better chance of being fully informed about your prospects and getting a good result.

### **Our Services**

We are here to represent you at every step of the way in your claim. Sometimes the best advice is that you do not have claim that can be won. If that is true, we will tell you so. If your case meets our criteria for acceptance, you can be assured that you will receive my personal attention. I will keep you advised as to the status of the case and give you my advice as to whether your case should be settled or whether we should go to trial. If we go to trial, I will be the attorney trying your case. An initial consultation is free. We will fully explain all fees and costs to you before proceeding. Together, as a team, we will decide on the tactics best suited or your case.

## **3<sup>rd</sup> Free Bonus Report!**

# **How to Protect Yourself Against Uninsured Drivers**

*(The Most Important Insurance You can Buy is  
Almost Never Fully Explained by Insurance  
Agents—Probably Because it is a Great Deal for  
Consumers)*

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## How to Protect Yourself from Irresponsible Drivers

What would you do if you were injured in an automobile accident, only to find out that the driver who hurt you had no insurance? Even in states where insurance is required, many drivers are minimally insured. Many look no further than what the monthly premiums will be in order to determine what amount of liability coverage to buy. They simply do not care if they hurt someone.

You can protect yourself. Review your own automobile insurance policy. You will find a "declarations page," which lists the various coverage's you have, along with the premiums you are paying for each. If you cannot find your declarations page, call your agent and have him or her send you a copy.

The two most important items on that page are the limits of the liability coverage and the uninsured/underinsured motorist coverage. It will usually say something like \$25,000/\$50,000, or \$100,000/\$300,000, or \$300,000/\$500,000.

**Liability coverage** is the amount of money your insurance company would pay in the event that you caused injury to another person. This coverage protects your personal assets. We strongly recommend that your liability coverage be in the amount of at least \$300,000. In today's world of soaring medical costs, a moderate collision can cause injury in excess of \$100,000, which is the limit many people tend to carry. Incredibly, some people carry coverage in amounts of less than \$100,000. Call your insurance agent. You may be surprised to learn that the cost of increasing your coverage to \$300,000 is not that much. It is under the liability clause of your policy that your insurance company will also provide you with a lawyer to defend against a claim brought by another person. This defense will be provided at the expense of the insurance company.

**Underinsured or uninsured motorists coverage** is very important. This protects you in the event that a person who causes your injury has little or no liability coverage himself. You should have coverage in the same amount as your liability coverage. In other words, if your liability coverage is in the amount of \$300,000, then your uninsured motorist coverage should be in the amount of \$300,000. You can elect to have less uninsured motorist coverage than liability coverage, but this is not recommended. Again, you may be surprised at how little the additional cost is. (It is really low but offers lots and lots of protection-I wonder why insurance agents don't push it more-is it because it's such a great deal for consumers? I think so!)

If you have uninsured or underinsured coverage in the amount of \$300,000 and someone with \$25,000 of coverage seriously injures you, their policy would pay the first \$25,000 and your policy would step in to pay the next \$275,000, providing you with coverage up to \$300,000. Uninsured motorist coverage is a way for you and your family to protect yourselves against irresponsible drivers.

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