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Costly Mistakes of Personal Injury Cases and How to Avoid Them



DEWITT
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ATTORNEYS AND COUNSELORS AT LAW

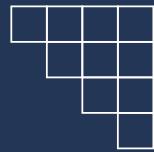


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ABOUT THE AUTHOR

Moses Dewitt

Moses DeWitt is an attorney with DeWitt Law Firm Injury & Accident Attorneys who has recovered millions for his clients. As an advocate for the injured, he has fought insurance companies and large corporations to get his clients the compensation they deserve.

He is a regular commentator for many media outlets in Florida, including The News Junkie and CNBC on Real Radio 104.1 FM and The Bone 102.5 FM. His sound legal advice has also been utilized by national media outlets, including Newsweek. After graduating from Winter Park High School, he went on to Emory University in Atlanta, Georgia, to receive his undergraduate degree in Political Science and to Florida State University College of Law to receive his Juris Doctor.

In addition to serving his accident clients, Moe founded the non-profit, Helmet Heads of Florida, to provide helmets to children throughout Central Florida. Helmet Heads of Florida works to help prevent minor children from suffering traumatic brain injuries, which are almost fully preventable by utilizing the proper safety gear. Moe believes that the job of injury attorneys is to make the world a safer place. To date, Helmet Heads of Florida provided over 2,000 helmets to the children of Central Florida.

Our Core Values

At DeWitt Law Firm Injury & Accident Attorneys, we understand that there are more lawyers out there now than ever, and people have a number of choices when deciding to hire an attorney. We understand that our office needs to be different and try harder than any other law office. That is our goal each and every day and with each and every client. How can we provide a better service to you than the lawyer next door?

There are 3 core values that we believe set us apart from every other law firm that you could hire.



You Will Work with an Attorney

Your case deserves the attention of an attorney. A lot of law firms advertise the attorney, but you end up only dealing with a paralegal or secretary during your case. You might never meet your attorney. DeWitt Law Firm Injury & Accident Attorneys understands the value of each and every client and also understands that your case is likely the most important matter in your life at that time. I have become lifelong friends with a number of my clients and text or talk with them on a regular basis. You will get personal service and respect.





You will get Sound Advice

The ability to give sound advice comes from experience. We have evaluated thousands of cases. We know what to expect if we take your case to trial. The relationship with clients is very important so that the client will trust our advice when it comes time to decide to take the case to trial or settle the case prior to trial. Each case is very different, and there are a number of factors in each case that need to be analyzed to make the right decision for you. We will give you the advice you need.



We will Deliver Results

We have tried cases. We have settled more. The ability to get good settlements is to send a message to your opponent that you will try a case. We are not scared! We can promise that we will take the case to court if the case requires us to go that far. If the opposing party or lawyer is not treating our client fairly, we look forward to the opportunity to take your case to a Judge or Jury. We will deliver the results your case deserves.



The greatest compliment we can get is a referral from a present or former client. We know that the only way to get that referral is to treat each client with the respect that they deserve. We cannot promise a particular result for your case. We can promise that you will deal with an attorney, get sound advice, and will take your case as far as it needs to go to get you the best result we can. These are our core values.

If you have additional questions after you've finished reading this book, please give me a call at 1-866-CALL-MOE to schedule an appointment. I'll be glad to answer your questions. If you decide you don't need this book after you've finished reading it, please pass it along to a friend or family member to read.



Important Notes

While I have significant experience in handling accident and injury cases, each situation is different. I can provide you with basic information about injury cases and offer suggestions on ways to identify potential problems. Please do not take anything you read as legal advice unless I have met with you to discuss your specific case, you have decided to hire me, and I have agreed in writing to accept your case.

**If you are currently represented by another attorney in this matter,
please read this:**



If you have previously hired a lawyer to represent you in this matter, we need to know this. We normally do not take cases away from other attorneys after they have begun to work on them. If you have a specific issue with the attorney handling your case, we recommend that you sit down with him or her and discuss your concerns. In many cases, problems that arise due to miscommunication can be cleared up with an honest and open conversation. If you both agree that the relationship is not working out and you would be better off with another lawyer, we would be happy to speak with you.

What Is Personal Injury law?

The field of personal injury covers various types of cases, from automobile accidents to dog bites. Essentially, if you have been injured as the result of another person's negligence, your case is likely covered under personal injury law.



What is **negligence**?

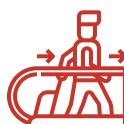
If an individual, business, or the government is aware of a safety issue and does nothing to prevent it, they are said to be negligent. Likewise, if the person, business, or government does something they should not do, it may also be considered negligence.



Some examples of negligence might include:



A person speeding in their vehicle which causes an accident;



A retail store with a broken walkway that results in a customer falling and being injured;



A dog owner who allows the animal to roam free, resulting in a child being bitten;



An elderly person does not receive proper care at a nursing home, resulting in bedsores or infections; or



A manufacturer who imports toys that are painted with lead-based paint, causing injury to a child.

Obviously, these are just a few examples of negligence. If you are seriously injured as a result of another person's negligence, you deserve to be compensated!



Do I Really **Need** an Attorney?

There are a few questions you can ask yourself to determine whether it's time to take the next step and talk to an attorney:



Did the incident result only in property damage? If the answer is yes, you probably do not need an attorney.



Was the injury severe? If the answer is no, you probably do not need to hire a lawyer.



Was someone else at fault? If the answer is no, an attorney may not be able to help you.

If your injury was due to another's negligence or if you are not sure, you **SHOULD** at least speak to an attorney to learn your rights. This is especially true if your injuries were more serious, resulting in lost wages, high medical bills, or any permanent impairment or ongoing pain.



If your injury is not severe, do not expect to file a lawsuit and get rich. The legal system should be used as it was intended – to protect the rights of those with legitimate cases. There are firms out there that file frivolous lawsuits – making it look like they are working hard for you when in reality, they are hurting everyone by clogging the court system with cases that shouldn't be there. At the end of the day, it is our job to seek fair and just compensation for our clients. We have no time for frivolous lawsuits.

What To Expect If You **Hire an Attorney**

When you hire an accident and injury attorney, he or she will work to represent you and protect your rights. You should be completely truthful with your attorney and answer all questions honestly. You should also expect your attorney to be honest with you. This is a two-way relationship and requires the input of both parties for it to work best.



Once you have decided on an attorney, discuss your goals and expectations to make sure you are “on the same page.” Find out how the attorney will keep you informed about progress on the case and ask what he or she needs from you to get started. You may also want to ask for an approximate timeline, so you will understand how long it takes (on average) to handle each activity.

Here is a list of the tasks your attorney may be called on to do in your case. Remember that each case is different, so not all of these steps will apply to your situation. These tasks are:

- Initial interview with the client;
- Educate the client about injury claims;
- Gather documentary evidence, including accident reports, medical records, and bills;
- Collect other evidence, including any photographs or videos that show what happened;
- Analyze all insurance policies to see what coverage is available;
- Interview known witnesses;
- Analyze the legal issues, such as contributory negligence and assumption of risk;

- Obtain medical reports to understand the client's condition;
- Analyze the client's health insurance policy 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 and put them on notice of the claim;
- Decide with the client whether negotiation will be attempted, or a suit will be filed;
- If a suit is filed, prepare the client, witnesses and healthcare providers for depositions;
- Prepare written questions and answers and take the deposition of the defendant and other witnesses;
- Produce to the defendant all pertinent data related to the claim, including medical bills, medical records, and tax returns;
- Go to court to set a trial date;
- Prepare for trial and settlement before trial;
- Prepare the client and witnesses for trial;

- Organize the preparation of all exhibits for trial;
- Prepare for mediation or arbitration;
- File briefs and motions with the court to eliminate surprises at trial;
- Take the case to trial with a judge or jury;
- Analyze the jury's verdict to determine if either side has grounds to appeal the case; and
- Make recommendations to the client on whether or not to appeal the case.

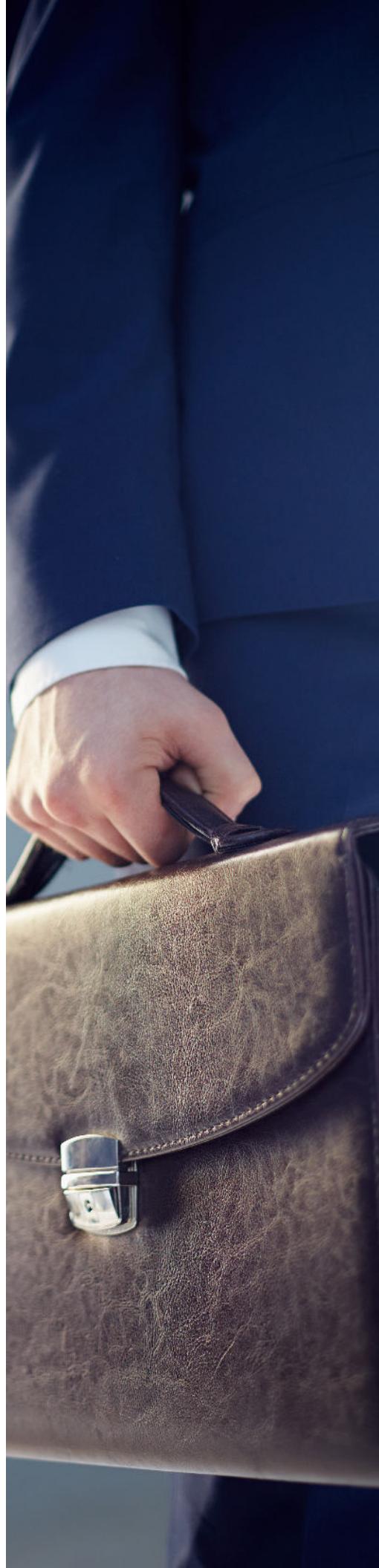
While not all steps will apply to your case, you can see that there is potentially a lot of work involved in negotiating a settlement of your injury claim or taking your case to court!



How Do You Choose an Attorney to Handle Your Personal Injury Case?

Understand that while most attorneys offer a free initial consultation on your case, not all law firms are the same. Many attorneys claim they handle hundreds of accidents or injury cases each year. But when you look more closely, you might find that they settle almost all of these cases for pennies on the dollar. The insurance companies know who these attorneys are and will push to settle for less than you deserve.

Before you hire an attorney, do some research to make certain the law firm you hire has the right kind of experience to handle your case. Law firms that focus on personal injury law generally have access to skilled investigators, medical experts, and other resources that they utilize in handling personal injury claims.



You also want to find an attorney you feel comfortable with, one who will take your case seriously and treat you as an individual. Do not just pull a name out of a billboard or the internet! Take some time to find a good “fit.”

Some suggestions:

Find and interview several attorneys. In addition to asking the questions in the next section, ask each attorney for names of other attorneys in the area who handle personal injury cases. They should provide you with several names. When these names show up on more than one of your lists, they are probably good bets to speak with;



Look for a lawyer or law firm that focuses on your type of legal problem, and you need a lawyer who has tried personal injury cases and knows the ins and outs;



Ask for a referral from an attorney you know or from a friend or neighbor who has had recent success in a personal injury case in your area;



Be wary of any attorney who contacts you immediately after your accident to solicit your business.



Questions to Ask Each Attorney

It's always a good idea to ask each attorney you interview the same questions and then compare the answers before you decide which firm to hire. Here is a list of sample questions you may wish to ask. You may want to add a few of your own that address your specific case and concerns.



How many years have you practiced personal injury law?



Approximately how many personal injury cases do you handle each year? How many of those are my specific type of cases (i.e., auto accident, dog bite, wrongful death, etc.)?



How many of those actually go to trial?





Can you provide a list of recent settlements in your cases?



How will you keep me updated on the progress of the case? What information will you require from me?



Do you handle health care insurance and Medicare reimbursement for your personal injury case for no additional fee? Great value can be added to your case by reducing or eliminating the amount owed to your health insurance company or Medicare/Medicaid. You want an attorney experienced with these types of liens.



Do you have a blog or video blog that I can view?



Are you licensed to practice law in the state where my case will be filed? Note that if the answer is “no,” you may want to continue your search as the insurance companies will know the attorney cannot try the case.



5 BIGGEST MISTAKES INJURY VICTIMS MAKE



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When you've been seriously injured, you are not always thinking clearly. You may be in shock or afraid of a future that may seem uncertain. Add the stressors of a trip to the emergency room, missed work and lost wages, ongoing medical tests, or physical therapy, and many of us just want it all to "go away."

There are some things you **MUST** know to protect yourself and your family. If you do nothing else, PLEASE read this section carefully and **DO NOT MAKE THESE MISTAKES**. Some things cannot be undone, and I do not want to see you give up your rights or damage your case in any way.

MISTAKE #1:

Talking To The Insurance Adjuster Before Talking To An Attorney

If you are injured as a result of another's negligence, insurance companies will generally be involved. For example, if you are hurt in a slip and fall incident at a retail store, the store's insurance company will become involved. In the case where you sustain permanent damage to your health from improper care while hospitalized, the insurance carrier for the hospital will assign an adjuster to investigate. In a vehicle accident where another car was involved, both your insurer and theirs will require information about the accident.

You must use CAUTION when dealing with the other party's insurance adjuster as your statements and actions can be used against you. In most cases, you should NOT TALK WITH THEIR INSURANCE ADJUSTER BEFORE YOU SPEAK WITH AN ATTORNEY!

Many people believe that if they cooperate with the insurance carrier, they will be treated fairly. Remember that the insurance companies are in business to make a profit – not to make sure you are fairly compensated!

I have had cases where the injured party gave a recorded statement to the insurance company representing the person who caused the accident. This statement was then used against my client after we filed suit to recover damages. Do NOT allow the other person's insurance company to record your statement.



Note that you **DO** need to cooperate with YOUR insurance company.

If your injury is anything other than very minor, it cannot hurt to speak to an injury attorney and learn your rights – and it can save you a lot of long-term headaches!



MISTAKE #2:

Accepting an Early Settlement & Signing a Release

There are some insurance adjusters out there who will push you to settle your case quickly. If they flash a check for a few thousand dollars, you might be tempted to do this – especially if your injury has resulted in financial hardship for you and your family. But consider this: that check comes with strings attached.



If you accept the money, you are **GIVING UP ALL FUTURE RIGHTS** to recover more money from this case.

I have seen many cases where the insurance adjuster will push the injured person to settle early in the process. But if you have been seriously injured, sometimes the full extent of your injuries or disability is not known for months or years. As an example, take the case of a child who is bitten by a dog. In some cases, this type of injury will require additional surgeries as the child grows to repair scar tissue or other damage.

Before you sign anything, you should speak to an attorney. He or she can advise you on how best to proceed.



MISTAKE #3:

Waiting Too Long to Speak to an Attorney

I have three words for you: Statute of Limitations.

With very few exceptions, all criminal and civil legal actions have a limited time under which the case must be filed. In the majority of injury cases, the Statute of Limitations in Florida is two years for negligence cases. This means that you must have your evidence put together, and the lawsuit filed with the court before that timeline has passed.

Compiling an injury case takes time. The longer you wait to speak to an attorney, the less time he or she will have to investigate the claim, locate witnesses, discuss potential settlements with the insurance company, get complete copies of your records, etc. The attorney must gather critical and relevant evidence and identify medical problems related to the incident. The investigation process frequently involves third-parties, which can further add to the timeline. Plus, as time goes by, evidence and witnesses that would have bolstered your case can be lost.

Many attorneys will simply not accept cases that are near the Statute of Limitations. If you believe you have a legitimate case, DO NOT WAIT TO TALK TO AN ATTORNEY!!



**MISTAKE #4:**

Failing To Preserve Evidence and Get Witness Information

When you are seriously injured through the fault of another, it's always a good idea to preserve as much evidence as possible. The more witnesses and documentation you have to support your case, the better your chances of winning your case or obtaining a just settlement.

I have seen vehicle accident cases where the injured party did not immediately realize he or she was hurt and, therefore, did not take down witness names or take photos of the scene. When the injuries became apparent the next day, it was too late to capture the evidence to support the claim.

If the police were called to investigate, you would want to obtain a copy of the report. Many police agencies now have reports stored online for easy access. You will also want to write down all the details you recall about the incident; it's human nature to forget things over time, so do this while it's fresh in your mind. Take pictures or video, or draw a diagram. Keep copies of all medical treatment information and bills. If you miss work, document the number of days missed and any lost wages (or lost vacation or sick days). Document any other related expenses.



Again, the **MORE EVIDENCE YOU HAVE TO SUPPORT YOUR CLAIM, THE BETTER OFF YOU WILL BE.**



MISTAKE #5:

Assuming The Insurance Company Is Working For You

In most injury cases, there will be insurance companies involved. In a car accident, the auto insurers for both parties will become involved. In the case of a dog bite, homeowner's insurance policies typically come into play. In a case of premises liability or nursing home neglect, the business should have liability coverage. In some cases, the negligent party may not have sufficient insurance to cover damages. It's important in these cases to understand other recovery options.

YOU ARE RESPONSIBLE for making sure you are getting the medical care and benefits you deserve. Do you have to do it on your own? NO! For any serious injury case where another party is at fault, you should talk to an attorney to make sure your rights are protected, and you are indeed getting all the benefits you deserve.





Summary

I have covered quite a lot in this book, and you may have found some of the material a bit overwhelming. But I believe it's important that you have this book to use as a resource and refer back to when you have questions about your injury case.

While you probably do not need to hire an attorney if the only damage was to property or if your injuries were minor, you may wish to consult with an attorney if your injuries were more severe or if you are confused or have questions about your situation.

For many of you reading this book, it may be the first time you have been seriously injured or the first time you have considered hiring an attorney. Many accident and injury victims believe that if they cooperate with the insurance company, they will get a fair and timely settlement. Unfortunately, it is way too easy to be pushed into waiving your rights for a settlement that doesn't cover your medical bills and lost wages.

Injury law can be very complex. You must have a basic knowledge of how the process works so that others do not take advantage of you. DO NOT MAKE THE MISTAKES I HAVE LISTED IN THIS BOOK!

If you have been seriously injured, DO NOT WAIT – schedule an appointment with an injury attorney and learn more.



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