

# **FURR & HENSHAW**

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## **YOUR AUTOMOBILE ACCIDENT CASE**

The purpose of this booklet is to familiarize you with the way your case will be handled and to tell you how you can help us to obtain justice for you. After you have read the booklet and the checklist contained in it, if you have any questions, do not hesitate to get in touch with us, and we will do the best we can to answer them.

### **THE FIRST STEPS**

Shortly after the first interview with you and when we have accepted the case, a file will be established and we will begin an extensive investigation.

You will be asked to prepare a statement of all the events that occurred surrounding your accident and to obtain a statement from any the witnesses that may exist. You will also be asked to obtain photographs of the accident scene, and of your injuries, before bruises, lacerations, etc., have had a chance to disappear.

We will assemble all of the information that is available to us as to how the accident occurred and who is responsible.

During this investigation, our office will prepare a letter to each of your physicians and will request medical records.

One of the first things the insurance company will wish to have from us is a list of special damages which are incurred by you. By special damages, they mean out-of-pocket expenses such as doctor bills, hospital bills, medical bills, any loss of earnings or income that occurred as a result of the accident, and any property damages that may have resulted.

You should refrain from discussing the details of your accident or injuries with persons not entitled to that information. Any inquiries from the person responsible for your injuries or their representatives should be referred to your attorney. If the insurance company representative comes to you, inform him you are represented by our law firm and REFER HIM TO US for any information he seeks. Do not make statements to him. If you have already made statements to any insurance company representative, or anyone else, tell us immediately of these statements and the contents of the statements, and furnish us with a copy if you have one in your possession.

## **YOUR DOCTOR**

It is our belief that you are entitled to the very best of medical care available in order to effect a cure or to minimize the permanent effects of your injury. It is essential that you assist us in obtaining copies of all bills and receipts for all expenditures made by you. The pecuniary loss suffered by you is sometimes less important than the effects of the injury on your life. We will need your assistance in keeping us informed of the effects of the accident on your life and in furnishing us with information as to where we can obtain credible and admissible testimony to prove the effects of the injury on your life.

As we have stated, you are entitled to the best of medical care for conditions caused by the accident, and certainly the person who is at fault should be compelled to pay for it. It is important that you continue to go to a doctor as long as your injuries continue to bother you. You should cooperate with your doctor in every way and should relate to him truthfully and fully all symptoms that you have which arise from or were affected by the accident. You should, of course, answer fully all questions he puts to you. You should realize that medical treatment often takes time to obtain results, and often the possibility of a doctor's diagnosis being accurate is improved by opportunities for improved examination. You cannot expect a doctor to give effective testimony as to your conditions at time of trial if several months elapsed since he last examined you, as obviously he would not be able to state what the condition was at the time of trial. Moreover, insurance companies will often treat the failure to obtain medical treatment as evidence of no injury on the part of the client or an early cure. Naturally, we do not wish you to fake or exaggerate anything, but as long as there is anything legitimately wrong with you, in order to facilitate the doctors in making their diagnosis and to avoid a distortion of your medical picture by the insurance companies, we believe you should continue to obtain medical care.

We are particularly interested in your keeping us informed as to how rapidly you recover from the injuries which you received. One of the nightmares that haunts every professional trial attorney is the possibility that he will at some time settle or try a case and then subsequently find out that there were additional injuries of which he had no knowledge, or conditions of which he had no knowledge, for which no recovery was made.

Obviously, one of the most significant factors affecting the value of your lawsuit is whether or not we can establish by the testimony of a physician that you have suffered a permanent injury because of the accident. Doctors know from experience that the full extent of a person's injuries sometimes is not known for several months after an accident. We will be in close communication with your doctors while they are in the process of treating you, and will be monitoring the medical aspect of your case until your doctors are able to give us an opinion concerning this important question.

Please do not talk about your case or your lawyers when you see your doctor. If you do talk about your case with the doctor, the doctor may get the wrong idea, and think that you are more concerned about collecting money than you are about getting well.

## **WHAT IS MY CASE WORTH?**

Some insurance companies, in cases where the liability is clear, relate the value of a case to the "special damages." This is often an unrealistic manner of evaluation since your major damages might be factors such as physical pain and suffering, loss of capacity to lead a normal life, and other factors which do not cause actual bills to be incurred by you.

After we have assembled all of the information that is necessary, we will sit down and make the best and most intelligent estimate of the least jury verdict we could obtain, the highest jury verdict we could obtain, and the probable jury verdict. Once this is done, then we evaluate all the evidence we have available to determine our chances of obtaining a judgment in your favor.

In those cases where there is some question whether or not we can win, we think it is necessary or desirable to discount the probable jury verdict by the percentage of our chances of winning. For example, if we estimate in some hypothetical case that we might obtain a jury verdict in the amount of \$15,000.00, but that we had only a fifty-fifty chance of winning, we believe that for settlement purposes the value of the case is approximately \$5,000.00.

There are special factors that influence the value of your case. These factors will also affect whether or not we will be able to file suit on your behalf.

As you may know, if you are involved in an automobile accident case, there are many situations where the driver of the other vehicle had no automobile insurance or had automobile insurance in the least amount that can be carried (\$15,000.00). It is therefore necessary for us to know whether or not you have a policy of automobile liability insurance and whether you have purchased uninsured and/or underinsured motorist coverage on that policy. In South Carolina an injured person is permitted to make a claim for his pain and suffering against his own insurance company if he had uninsured and/or underinsured motorist coverage. You can also recover under the uninsured or the underinsured motorist policy of any relative who was living with you at the time of the accident, even if that relative or his car had nothing to do with the wreck. Therefore, it is extremely important that we receive a copy of the "declarations page" (the page showing which coverages are on the policy) of any policy owned by you or any resident relative at the time of the wreck. Even if a relative did not own the car you were in at the time of the wreck, you can sometimes recover under the uninsured or underinsured motorist coverages for this car, so we need a copy of the declarations page of that policy as well. You can also sometimes recover under the uninsured or underinsured motorist policy of the vehicle which you were driving or in which you were a passenger at the time of the wreck, regardless of whether you or any relative owned that particular vehicle. Therefore, we need a copy of the declarations page on any policy covering the vehicle you were driving or a passenger in at the time of the wreck. If you have trouble getting these policies we will help you.

We wish that we had the opportunity to tell all of our clients before automobile accidents occur that uninsured and/or underinsured motorist coverage is one of the most important automobile insurance coverages you can buy. It is only by this coverage that you can guarantee a source of recovery for yourself or your family for the negligence of another driver. You will also find that uninsured and/or underinsured motorist coverage is relatively inexpensive. We recommend to all of our clients that, in the future, they should purchase uninsured and underinsured motorist coverage on each of the vehicles they own.

Many automobile policies also contain a coverage called Personal Injury Protection (PIP) which reimburses the insured or anyone riding in the car for lost wages or medical expenses, regardless of fault. If a pedestrian is struck by a car, that car's PIP coverage would also apply to the pedestrian. Because PIP does apply regardless of fault, most companies are good about paying under this coverage, with exceptions of course. If you have trouble getting a company to pay your PIP coverage, please call us and we will be glad to assist you. Otherwise, feel free to deal with the company directly on issues of PIP coverage as long as you call us before describing your injuries and the circumstances of the accident on the PIP application form.

Many times you have suffered property damage in the accident in addition to your personal injuries. This can include not only damage to your car but charges for a reasonable time for a rental car if necessary, and damage to personal items contained in the car. If you had collision insurance on your car with your own company, you can turn to them and ask them to pay for this damage regardless of fault, provided you are willing to pay your deductible. If the case is one where liability is not disputed, the defendant's insurance company will pay for your property damage including the cost of repairing your automobile (up to a maximum of the market value of the car.) We encourage you to deal directly with the insurance company about property damage provided that you do not discuss the circumstances of the accident or your personal injuries with them. Refer all questions about these matters to us. Of course, if they give you any problem, we will be glad to assist you. Whatever you do, do not sign a property damage release without letting us review it, because if worded too broadly, it could bar your claim for personal injuries.

### **THE LAWSUIT**

If it should become necessary to file suit, the procedure is somewhat as follows:

You are the Plaintiff. A Complaint is filed on your behalf which states the reasons why we believe you have a cause of action against the Defendant, and it sets forth the various claims we are making. The Defendant has thirty days from the time he is served with the suit papers in which to answer. Usually, the Defendant will answer and deny responsibility and deny that you were injured to the extent described in the Complaint. Often, the Defendant will claim that you contributed to your own injuries.

One of the more frequent questions asked by new clients is, "How much are we going to sue for?" In many states, this is a necessary decision and presents a considerable problem to the client and to the trial attorney. In those states where this is a problem, if the attorney fails to sue for enough money and it is discovered that the client is more badly injured than was first believed, the client may be prevented from obtaining full justice because of the fact that the lawsuit was brought for too little money. If, on the other hand, too large a sum is sued for and the client makes a more rapid or complete recovery than was first anticipated, it may well present the image to a judge or jury of a client who is seeking to obtain more than they are entitled to.

During the course of the lawsuit, we will be permitted to take testimony under oath from all witnesses and doctors who may be involved in the case.

The attorney for the Defendant will send you written questions known as Interrogatories, which must be answered under oath in writing. The attorney for the Defendant will also take your deposition testimony. However, before either of these things occur, we will make sure that you are familiar with these procedures and that you are thoroughly prepared.

There are certain items of damages you are entitled to recover in most lawsuits. Some of them are as follows:

1. Past pain and suffering;
2. Future pain and suffering;
3. Loss of income;

4. Future loss of income and diminution of earning capacity;
5. All out-of-pocket expenses, such as doctor bills, other medical bills and property damage;
6. Loss of consortium on behalf of the non-injured spouse; that is, loss of the services of the injured spouse in all the ways a spouse renders service to his or her mate, including housekeeping, lawn mowing, maintenance, cooking, companionship and sexual relations.

In attempting to evaluate your case, there are many important factors involved, and two of the most important are:

1. How certain are we that we can win for you and make the other side pay for the damages they have caused?
2. How much were you injured; in other words, what is the extent of the damage?

Naturally, a person who has received a serious and crippling injury is entitled to recover more money than an individual who has received only minor injuries, assuming that we have the same certitude of winning. However, in every instance, the chances of winning must be one of the several factors which are considered in evaluating your claim.

We will not settle your claim without your permission. At some future date when we know all of the factors we can possibly ascertain concerning the value of your case, we will advise you as to that value so that you may make an informed decision concerning whether you wish to settle your case or go to trial.

Please do not hesitate to ask us any questions that may occur to you or call us should you care to do so at any time. We will do our best to represent you fairly and aggressively, and we will keep you informed.

Following is a list of a number of things you can do to help us. These things are very important, and the list should be reviewed frequently so that you can keep us up-to-date on these matters:

### **CHECKLIST**

This list is designed to furnish us with information which is of great importance in preparation of your case for both trial and settlement purposes. We can do our best only when we know ALL of the facts in your case, so it is essential that you complete the list and review it from time to time, keeping us informed of any change.

1. It will be most helpful if you will keep a daily diary of your activities with emphasis on restriction of your activities caused by your injuries, specific pains and the frequency of them, frequency of medication taken, and kind of medication. A diary such as this would be useful to you at the trial to refresh your memory as to occurrences that otherwise might be forgotten.
2. Be sure you have accurately and completely filled out our interview sheet.

3. Forward to our office itemized receipts of:
  - a. Hospital bills
  - b. Doctor bills
  - c. Ambulance bills
  - d. Nursing bills
  - e. Drug (medicine) bills
  - f. All other expenses you incurred as a result of the accident, including:
    - 1) Travel to and from the doctors' offices and hospitals. Keep a notebook record of these expenses.
    - 2) Additional help around home and/or business (including baby sitters, if applicable, and domestic or yard help). Keep a notebook record of these expenses.
  
4. Please tell your drug store from which you purchase prescriptions to be certain that the bills which are furnished to you include only medicines which are related to the accident. In the event they should inadvertently include some other medicine or other household items such as talcum powder, etc., on your bill, the inclusion of this bill would be used by the insurance company to embarrass you at the time of trial to make it appear that you are seeking something to which you are not entitled. In the event you are using non-prescription drugs, such as aspirin, which are purchased in bottles or other containers, please save these containers since we may wish to introduce them into evidence at the time of trial as proof of the quantity of aspirin or other non-prescription drugs which you have taken.
  
5. List the names of any neighbors, friends, fellow employees or relatives who knew of your activities, both before and after the accident:

NAME	ADDRESS	RELATIONSHIP
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Finally, as you think of information that should be added to this list, please get in touch with us. We will need this information to do a better job for you.

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