

TEXAS AUTOMOBILE INJURY HANDBOOK

The Ultimate Guide to Handling Automobile
Injury Cases in Texas

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WHO WROTE THIS BOOK?

My name is Kerry H. Collins. I am a proud Trial Lawyer. I am a Board Certified Personal Injury Trial Attorney and have been licensed to practice law since 1984 and have been Board Certified since 1991. I have had tremendous success in recovering money damages for persons injured by the negligence of others.

"Make no mistake, the constant changes to our written laws and the continual rulings of our State Courts make it virtually impossible for an individual to navigate our legal system with any hope of being compensated for the injuries and suffering they sustain, unless they hire a competent, experienced Attorney." Now, more than ever before, injured Texans should immediately seek the advice and assistance of an experienced, Board Certified Personal Injury Law Specialist if their rights are to be protected.

Far beyond merely possessing a license to practice law generally, a Board Certified lawyer has years of experience in a specific field of practice and has passed an additional rigorous, written examination given by the Board of Legal Specialization. Each year, only a small percentage of attorneys in Texas qualify to take the Board Certification exam in Personal Injury Trial Law...still fewer pass.

I am a Board Certified Personal Injury Law Specialist. My firm handles injury claims caused by:

- * Medical Malpractice
- * Nursing Home Neglect and Abuse
- * Automobile, Motorcycle and all Vehicular Accidents
- * Credit Card Debt
- * Traffic Tickets
- * Construction Accidents
- * Slip and Fall
- * Dangerous Products and Toys
- * Swimming and Diving Accidents
- * Shooting and Inadequate Security Claims
- * Animal Bites or Attacks

- * Bicycle Accidents
- * Oil/ Gas Field Accidents
- * All Types of Serious Personal Injury and Death Claims

There is no charge for answering your questions, and should you decide to retain our services, you do not have to pay any money up front. You will only owe us a fee if a recovery is made. This means that you will pay no legal fees or expenses unless we negotiate a settlement or win a judgement in court on your behalf.

Kerry H. Collins & Associates, P.C. is located at 1301 Ballinger Street in Fort Worth, Texas. If you would like a free brochure entitled "What Is A Board Certified Personal Injury Trial Law Attorney?" or any other of our free books or publications, please call (817) 335-9700 or e-mail my office at kcpc@txis.net or info@kerrycollinslaw.com or you can contact us via our website at www.kerrycollinslaw.com.

TEXAS AUTOMOBILE INJURY HANDBOOK

If you can answer YES to the following questions, we may be the injury law firm for you.

1. Did you see a healthcare provider within 1 week of your accident?
2. Was there at least \$2,000.00 property damage to your car?
3. Was the accident someone else's fault?
4. Have you reasonably followed what your doctors or therapists have asked of you to try to get well?
5. Are your medical bills, lost wages and out of pocket expenses other than your property damage expected to be over \$2000.00?
6. Did the accident happen less than 18 months ago?

If you can answer YES to each of these questions, give us a call at 817/335-9700 or toll free at 877-988-1603.

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MY LAW FIRM - PERSONAL ATTENTION

When I started practicing Law over 26 years ago I recognized that most attorneys felt they were "too good" and "too educated" to actually deal with clients and listen to their needs. As time went by I also saw lawfirms turn into settlement shops or advertising mills where they spent so much time and money on just getting in new cases that they did not correctly work on any file and would force a client to settle for whatever an insurance adjuster would offer. Of course, all insurance companies keep very good records on what lawyers work hard on files, file suit and actually go to trial. So pretty soon the insurance companies figured out what lawyers will not work a file correctly and realized they could offer very little to the settlement mills and the cases would settle.

My firm is different.

We don't rely on a high volume of cases generated by massive TV, radio and Yellow Page advertising. We don't claim to handle every type of case in every type of area of law. We don't want to and we don't need to.

Each year, we accept a limited number of serious injury cases related to any type of negligence claim that results in injury from the hundreds of people who ask us to represent them. We also handle related insurance claims against insurance companies that refuse to actually do what their insurance policy says they will do. (Many don't or won't ever do what they are supposed to do until forced.)

We do not advertise on TV nor do we advertise with a large page in the Yellow Pages. We do not seek to handle thousands of cases at a time. We are not a personal injury mill or settlement shop. We work each case as it deserves and deal personally with each client. We don't take cases that a client can handle themselves and do not take a case merely because a prospective client feels they have been wronged. We discuss your claim in detail before we take it and will only take cases with merit where our clients need professional legal help.

Handling fewer cases means more time to spend on your claim and more time specifically for you. Our results have shown that handling fewer files and spending more quality time in each file provides the best result possible on each claim.

Since 1984, Kerry H. Collins & Associates, P.C. has represented accident and injury claimants throughout Texas and the surrounding States. Most of our cases are referred to us by former satisfied clients and by other attorneys and health care professionals. If we accept your case and you cannot make it in to our office to meet with us, we will come to you, anywhere.

Do we take the case of every person that contacts us? No. If your case does not have merit under the Texas Court System we will tell you. I believe that if you do not have a case that can be won under Texas law, the best advice you can get is that you do not have a claim that can be won. If that is true, we will tell you. If you are better off handling a claim yourself without an attorney we'll tell you. But, if we accept your case, you can be assured that you will receive **personal attention**. I personally like to meet every client at the time they ask me to represent them. However, sometimes due to being in Court or out of town on another case I cannot. However we will make an appointment as soon as possible so that you and I can meet to specifically discuss your case. I am personally involved in every case. My office staff has years of experience handling all types of personal injury and insurance related cases. You can rest assured your claim will be aggressively pursued, will be kept up to date on what is happening in your case, and, at the appropriate time, we will advise you as to whether you should settle your case or go to trial. We will explain the entire claim process, as well as what happens if a case goes into suit, all fees and costs to you before we start working on your case. After we explain the case and we are able to obtain basic relevant information or documents about your case we will sit down together and decide on the best way to proceed with your case.

QUESTIONS ABOUT YOUR ACCIDENT?

You have been in an accident that was not your fault. You have questions. Some may be:

- * What do I do now?
- * Do I hire a lawyer immediately?
- * Do I try to handle it on my own and if its get too complicated then hire an attorney?
- * Won't the insurance company treat me fairly since the accident wasn't my fault?

This may be the first time you have been in an accident. For some this may not be the first accident but this is the first serious accident where you have an injury or someone you are helping in your family was injured. You have questions. You are getting calls from the insurance company representatives, wanting to just speak with you to ask if you are willing to get a "release statement." They may be telling you that you have to do these things before they will even consider your claim. They may be begging you to sign the forms "so we can get the check and handle this for you." They may even have already offered you money or told you they will offer you money to settle your claim if you don't hire an attorney.

You may already be receiving phone calls or personal visits from someone claiming they can get you to an attorney. Not only is it illegal in Texas but generally any lawyer that has to solicit business in an illegal manner is certainly not worth hiring to handle your serious claim.

When you were injured you started looking for an attorney, but quickly found that most attorney advertising doesn't give you any useful information at all about how to find the right lawyer for your case. All of the ads contain worthless statements like "We don't charge a fee unless we get you money," or "we will fight for you" or "we are aggressive" but then you realize that every personal injury lawyer advertises in

these ads say that or something else that does nothing to help you decide if that lawyer is right for you. You soon realized that ads that showed car wrecks or listed that they got thousands of dollars for their client or statements like "We Are in Your Corner" or "We Are the Law Firm That Cares" are completely meaningless. Don't you believe and expect that your attorney will care for you and will be aggressive and fight for you?

Look through the Yellow Pages. You will see many statements and meaningless Headlines such as:

- * Legal help for the seriously injured
- * I will fight for your rights!
- * We are the law firm that cares
- * The right team
- * All serious accidents and injuries
- * Aggressive, experienced, compassionate
- * Legal help for the seriously injured
- * No fee unless we get you money
- * Free initial consultation
- * Full service law firm
- * Highest rated or "AV" rated or "AVVO" rated
- * Member of million dollar club

Do any of these headlines answer your questions? Do any of these statements help you determine if the lawyer is the right lawyer for you in your particular type of case?

I am sending you this information so that you could have good information in the quiet of your own home before you try to decide to hire a lawyer and before you talk to the insurance adjuster. This information is designed to answer some of your questions and provide you with some guidance as to how the claims process works. You may not even need a lawyer to settle your claim. I address whether you even need a lawyer later on in this booklet.

PERSONAL INJURY MYTHS

- * All lawyers who advertise that they handle accident cases have the same ability and experience to handle your case.
- * If a lawyer advertises that they do personal injury they must know what they are doing.
- * If you make a fair demand to settle with the insurance company you will get a reasonable settlement offer.
- * If the insurance company calls you to ask for a recorded statement or that you sign a medical authorization, you have to give agree and do what they want or they won't settle with you.
- * The insurance company has to pay all your medical bills as they become due so that you don't get behind.
- * The court and jury system is a great place for injured persons to recover their damages and even more. In fact, isn't it called some sort of lottery that will help you get rich?
- * Just because there has been an accident and it wasn't your fault, there must be some insurance company or some individual or company that will pay for all your bills, lost wages and injuries.
- * All lawyers can properly handle a simple car wreck case.
- * There is a "secret" formula for determining settlement value so I don't need a lawyer.
- * The insurance company will pay me more without a lawyer. or
- * You don't need a lawyer because you will get the same offer from an insurance company whether you have a lawyer or not and all the lawyer will do is take part of your money.

AREN'T INSURANCE COMPANIES GOING TO TREAT
ME FAIRLY SINCE I WAS NOT AT FAULT?

NO! Insurance companies love to try to take advantage of people before they have a chance to talk to an attorney. Most insurance companies will even try to encourage you to not even talk to an attorney before settling the claim. They use fear "The lawyer will take one-third of this check we're about to pay you just for talking to them" to talk you out of getting good advice. All insurance companies know that if you hire a good, qualified lawyer the value of your case increases dramatically. If not, why would they care if you hired a lawyer?

You may not need an attorney to represent you in your case! No one, however, should settle a case without understanding the claims process and how insurance companies work to try to pay as little on your claim as possible. Typically the insurance adjuster isn't going to tell you that you might have to turn around and take the check they just paid you and pay it to your health insurance company. They don't care about you or whether your claim is settled fairly. The adjuster just wants to close the file and get you to release all of your claims for the least amount of money possible.

INSURANCE COMPANY TRICKS THEY MAY USE IN YOUR CLAIM

Here are some well recognized tricks insurance companies use to wear you out and get you to settle your claim:

1. **Require you to provide unnecessary information.** Insurance companies will insist that you track down every little piece of information before "we can evaluate the claim." Even if the information they are now asking for would not add a penny to their offer, they are happy to wait another six weeks for you to track it down. Meanwhile, they are earning interest on the money they are NOT paying you.
2. **Intentional delay.** They know that often you are in a financial squeeze. Even if you have good health insurance, the fact that you aren't working may make it difficult to pay co-pays and deductibles. The insurance company knows you are getting billed and bugged by the doctors, so they take their time with your claim.
3. **Dispute your medical treatment.** Even though I've never met an adjuster who went to medical school, they seem to know just what treatment is right for you! Usually, they "know" that you were over treated because "our computers say you should have been better by now."
4. **Nickel and dime the medical charges.** Think about it. If they shave just 5% off your claim and can do that to the millions of claims made each year, they get richer.
5. **Misrepresenting insurance benefits.** This is a big one. They tell you that there's only \$100,000 in coverage. We file suit and "magically" find an umbrella policy! Don't you think they knew that just by looking on their computers before we filed suit? Of course, they did.
6. **Promising to take care of you or trying to act like your friend.** Watch out for the adjuster who

befriends you, shows up at your house and promises to pay your future medical bills. This is a tactic to stop you from hiring a lawyer. They won't come around to your house once you have a lawyer! Those future medical bills? Well, they'll pay them until their computer says "too much, too much, this claim is costing us too much."

7. **Arguing that you could not have been hurt in this "fender bender".** This is a big one! Not only will they begin arguing early on that they cannot understand how you could have been injured in "such a minor accident" but will argue that any serious condition your doctor finds that is related to the collision is "pre-existing" or "just a condition of life that you were going to have anyway". In fact, they even have doctors on their payroll that will review your records and testify you were not hurt in the collision. They use this argument to make any seriously injured person go all the way to trial. All the while hoping the delay or threat of trial will make you take much less than your claim is worth.

8. **Arguing you are partially at fault.** Texas is a comparative negligence State. This means that your negligence, if any, is compared to the negligence of the person that caused your injury. If you are considered 10% at fault and have \$10,000.00 in damages your damages are to be reduced by 10% of the amount of your negligence or reduced by \$1000.00, so you would receive \$9,000.00. If you are 20% at fault your damages are reduced by 20% or \$2000.00 and you would receive \$8000.00, and so on. However, in Texas, if you are more than 50% at fault you receive NOTHING! In trying to reduce what they have to pay you adjusters regularly get you to admit in a statement that you could see their insured as he was about to run the stop sign. Since you should have been paying better attention and should have tried to avoid the collision since you saw he was about to run the stop sign, they will immediately argue "YOU ARE PARTIALLY AT FAULT" and are therefore not entitled to your full damages. I know, I know, ridiculous. But how many people do

you think try to handle their claim on their own
and will agree that they are 10% - 20% at fault.
Think of how many millions of dollars the insurance
companies save every year using this argument.
alone!

LAWYER ADVERTISING AND FRIVOLOUS LAWSUITS

I am sending you this information so that you will have information on how to choose a lawyer to help you overcome these ridiculous arguments and delays that insurance companies use in every case.

I am as sick as you are of crazy lawyer advertising where lawyers with a reputation for handling hundreds of cases at a time make promises that can't be kept or equate your injury to "a fast cash settlement." Did you notice that almost all of the attorney ads in the Yellow Pages claim personal injury expertise? There are many lawyers who NEVER go to court, settling each case for pennies on the dollar. The insurance companies know who they are, so should you.

I am also tired of lawyers who file ridiculous, frivolous lawsuits, because frivolous lawsuits hurt everyone by delaying real claims from getting to court. If you are looking for a lottery win, look elsewhere. If you are looking to get rich or never have to work again because someone tapped you from behind at a red light, look elsewhere. My firm handles legitimate claims for legitimate claimants. No "fast cash settlement" here. We will explain to you what we feel your claim is worth once we have all relevant documents and information regarding all aspects of your claim. We base each evaluation on my experience in over 26 years of practicing law and having tried hundreds of cases involving injury and property damage claims.

WHAT IS A PERSONAL INJURY CASE?

Just what is a personal injury case? Lawyers say that they do "personal injury cases", "accident cases", "medical malpractice cases" or "wrongful death cases" but not everyone understands exactly what this means. In fact, people who have known me for years will come up to me and ask me for a referral to a car accident attorney! They do this even though I think that they know exactly what it is that I do.

A personal injury, slip and fall injury, medical malpractice claim, car accident, or wrongful death case is any type of claim where a person has been injured or killed due to someone else's carelessness. Their carelessness is legally defined as "negligence". 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 solely property damage cases, but there are many lawyers who do so. 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 their insurance company will usually take care of the property damage claim.

If someone's negligence causes the death of another, then this is called a "wrongful death" claim. The law of each state or jurisdiction differs significantly regarding what can be recovered in a wrongful death case. You need an attorney who understands the specialized wrongful death laws of Texas.

MAKE NO MISTAKE YOU ARE IN A BATTLE

The day you were injured, the battle began. Insurance companies, many politicians and some in the government have declared war on injured people and their attorneys. They have waged the war in the media and their propoganda has had a tremendous effect on juries and their verdicts. This is called tort reform. The success that the insurance companies have had in tainting the minds of jurors has made it so that insurance companies will not offer fair settlements until you prove to them that you are ready, willing and able to go to trial.

In fact, many politicians running for office and the insurance companies have turned the phrase "Trial Lawyer" into something that makes you think of a sleazy, dishonest money grubbing lawyer.

Bet you have heard that. And I bet if you think about it honestly until you or a family member were injured, you, too, may have thought that a personal injury "Trial" lawyer is a bad person and that people who make claims and file lawsuits are stealing from society or are just trying to rich for nothing or are trying to get more than they are entitled to receive for their injury. That's what billions of dollars in insurance company advertising will get you!

SINCE I WAS NOT AT FAULT DO I HAVE TO PROVE ANYTHING?

Yes, You do. You have what is called the "burden of proof". Just because you were hurt doesn't mean you are automatically entitled to money. You must prove that someone else was negligent or careless and that it was their negligence or carelessness which caused your injury. If you fail to do this, you lose. If you sue the wrong person, you lose. If you wait too long to sue, you lose. If you had an injury BEFORE the accident, then you are only entitled to be compensated to the extent your injury is now worse.

In Texas, if you are more than 50% at fault, you lose. This is known as the law of comparative negligence. Further in Texas any damages you are entitled to will be reduced by the amount of negligence that a jury finds you. This means that if the "other guy" was 90 percent at-fault and you were 10 percent at fault, then you can only recover 90% of the damages a jury awards you. Therefore, in many cases whether you are at fault or not the insurance adjuster will argue "You should have been paying better attention", "You should not have stopped so fast" or even "You should have seen that our insured was going to run that stop sign". Sound ridiculous? It is! But we hear it from adjusters every day and they will even hire "experts" to argue that you are either partially at fault or more than 50% at fault for not seeing that their insured was going to run a stop sign and hit you!

This is solely an attempt to reduce the payment that they owe you for your full damages. Before we accept your case, we must be confident that you were not more than 50% at fault and determine if you were at fault in any way.

WHAT ELSE SHOULD YOU BE AWARE OF WHEN YOU ARE TRYING TO HANDLE YOUR OWN CLAIM?

Think you are now safe to make a fair demand because you were not at fault and have been injured? Wait! What else do you need to be aware of that insurance companies will try to pull on you?

Surely your own insurance company will treat you right. Wrong! I have routinely seen my clients own insurance company wrongly tell my clients that they have to go through the careless driver's insurance company to get their car appraised/fixed since it was the other guy's fault." This simply is not true. You paid your insurance company a premium for service. It is often quicker to go through your own insurance company to get your car fixed. Yes, you will pay the deductible up front but your insurance company should get that back from the other insurance company and reimburse you.

Entering a secret "side agreement" with the careless driver's insurance company to get reimbursed for medical bills it paid and never telling you about it.

Secretly videotaping you and talking to your neighbors about you just to get some "dirt" on you to use in settlement negotiations.

Trolling YouTube.com, Facebook, MySpace, Google and other Internet social networking sites for your postings and videos of activity and sometimes attempting to be a "cyber-buddy" to get you to admit to certain facts.

Putting their own insured at risk of financial ruin by failing to settle claims fairly and by failing to advise their insured of settlement offers. Routinely, we have seen one of the largest car insurers in the world subject their own customer to large verdicts and judgments against them because they refused to settle cases fairly. Suppose a negligent driver has only \$30,000 in insurance (a very low number, considering the cost of medical care) but the case is legitimately worth several hundred thousand dollars. The insurance company makes a low-ball offer that is rejected. The jury

returns a fair verdict of several hundred thousand dollars. The insurance company only has \$30,000 to pay, leaving their own customer with a recorded judgment of several hundred thousand dollars. Try getting a mortgage with a judgment like that against you!

BEWARE OF STATUTORY LIENS, ERISA AND HEALTH CARE SUBROGATION LIENS

You should be aware that often, if your medical bills were paid by health insurance of an employer's health plan, the health insurance company or plan may want you to reimburse it out of any personal injury recovery. Your "insurance" turns out to not be insurance at all, but a "loan." The laws in some states, including Texas is that these liens have to be addressed at the time of settlement. 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. If these liens are not addressed at the time of settlement, they may sue you immediately to recover the money back you received.

There are other liens that may affect your total recovery in the case. If your bills were paid by Medicare, Medicaid, the United States Government (including "free" military care) you may be forced to pay back a portion of your settlement. These are called Statutory Liens because they are created by law and have to be dealt with or you will be sued.

Imagine that you are not at fault, you receive some money from the other persons insurance and because you did not know about the lien laws you now get sued and have to pay. When you settle your claim with the careless person insurance they will get a "Complete release". This means that if anyone else claims you owe them money the insurance company is out and you will be solely responsible for all liens on your own.

Another very important lien matter to consider is a hospital lien. This is also a Statutory Lien. If you are treated within the first 72 hours after an injury the hospital can automatically file a lien. It is filed with the County Clerk and will pop up anytime you try to finance anything or buy or sell a house. This lien also

has to be addressed at the time you settle your claim. The problem with these liens is they never bother to notify you they have actually filed the lien. You have to either call them or check with the County Clerk to see if they filed the lien.

The problem with many of these liens, if you try to settle the case on your own, is that the insurance companies are probably aware of them. They will not tell you about them when they negotiate your claim and you think you are getting some money in your pocket. Then after you agree to settle, for a set amount, they make the check out to the hospital or the insurance company with your name on it and let you bother with trying to get them to sign the check and hope you still have some money left for your pain and suffering.

An experienced Board Certified Personal Injury Trial Attorney will be able to determine if any of these liens exist. Also, there are many different ways to make sure the liens are valid and if so make sure they are only paid what they are entitled to receive. Further, many times they will negotiate with an attorney they have dealt with before so that means the liens are addressed and you receive more money in your pocket.

TEXAS REQUIRES PROOF OF FINANCIAL RESPONSIBILITY!

Texas law requires you to have auto liability insurance, and if you still owe money on your car, your lender requires that you also carry collision and comprehensive coverage. Auto insurance pays for damages, injuries, and other losses specifically covered by your policy. Read your policy carefully to know exactly what it covers. Pay special attention to the exclusions section, which lists the things your policy doesn't cover. The front page of your policy is called the declarations page. It contains useful information such as the exact name of your insurance company, your policy number, and the amount of each of your coverages and deductibles.

Texas has an automobile insurance Consumer Bill of Rights. Your company must send you a copy with your policy or policy renewal. Take time to read it to fully understand your rights under Texas law.

If you drive in Texas, you must show that you can pay for accidents you cause. Most Texas drivers do this by buying auto liability insurance. As of January 1, 2011, Texas law requires minimum coverage to be raised to \$30,000 per injured person, up to a total of \$60,000 for everyone hurt in an accident, and \$25,000 for property damage. This basic coverage will be called 30/60/25 coverage.

So you are clear, what exactly does the 30/60/25 coverage mean? The first number 30 is the total amount of insurance you purchased and available to protect you for any one person injured. So if the first number is 30 there will be a total of \$30,000.00 to pay for any one person injured.

The second number 60 is the total amount of insurance you purchased and available to protect you for the entire accident. If there is more than one person injured you have \$60,000.0 available to pay for all persons who claim an injury. If five people are hurt in the accident, the most any one person can be paid is \$30,000.00 but all five people will have to share the

total of \$60,000.00. In this situation if any one persons damage exceeds \$30,000.00 or if the entire claim of all persons exceed \$60,000.00 you will be personally responsible for what the policy does not pay.

The third number 25 is the total amount of insurance you purchased and available to pay for property damage. This is whether it is one vehicle damaged or five. If there is more than one the \$25,000.00 will have to be split somehow between all vehicles damaged as \$25,000.00 is the most that will be paid total for all vehicles you damage. Again, in this situation if any one persons vehicle damage exceeds \$25,000.00 or if the entire property damage claims of all persons exceed \$25,000.00 you will be personally responsible for what the policy does not pay.

As seen, basic coverage might not be enough if you are held liable for an accident. You should consider buying more than the basic limits. When you buy an auto policy, your insurance company will send you a proof-of-insurance card. You will have to show proof of insurance when you:

- * are asked for it by a law enforcement officer
- * have an accident
- * register your car or renew its registration
- * obtain or renew your driver's license
- * get your car inspected.

Texas law provides severe penalties for violating the state's financial responsibility laws. A first conviction will result in a fine between \$175 and \$350. Subsequent convictions could result in fines of \$350 to \$1,000, suspension of your driver's license, and impoundment of your automobile.

AUTOMOBILE COVERAGES IN TEXAS - OR HOW TO FIGURE OUT WHAT TYPES OF COVERAGE YOU HAVE PURCHASED

I am always surprised when I ask my clients what type or how much insurance do you have?

Almost everyone tells me "I have full coverage". And almost everyone does not have "full coverage". What they mean is they have the VERY BASIC coverage required in Texas. That means only Liability coverage required by Texas Law so you don't receive a ticket for no insurance.

For a much more detailed description of automobile coverage in Texas email me at info@kerrycollinslaw.com, or email me at kcpc@txis.net or call me at 817/335-9700 for your free copy of A SIMPLE GUIDE TO UNDERSTANDING AUTOMOBILE INSURANCE IN TEXAS that I wrote so that everyone in Texas can understand something about the complicated insurance policies written in Texas.

However for our purposes here I will briefly explain the types of automobile coverage and potential problems you need to be aware of once you report an accident to your own insurance company. Whenever you are involved in an accident you are required to notify your own insurance company of the accident and cooperate with them in any investigation they may want to perform.

The Texas Personal Automobile Policy offers eight types of coverage. Texas law requires you to have basic liability coverage. The other coverages are optional, but if you still owe money on your car, your lender will require you to have collision and comprehensive coverage. The following describes the eight types of coverage available in the Texas Personal Automobile Policy. Auto insurers may offer alternative policies if approved in advance by TDI.

1. Liability Coverage

Pays: Other people's expenses for accidents caused by drivers covered under your policy, up to your

policy's dollar limits. These may include the other person's medical and funeral costs, lost wages, and compensation for pain and suffering car repair or replacement costs, auto rental while their car is being repaired and punitive damages awarded by a court.

Liability insurance also pays attorney fees if you are sued and bail up to \$250 if you are arrested.

Covers: You, your family members, and other people driving your car with your permission, even if they don't have their own liability insurance and are not named on your policy. You and your family members also are covered when driving someone else's automobile - including a rental car - but not a car that you don't own but have regular access to, such as a company car.

* NOTE - The Insurance companies in Texas have convinced your State Legislature to change this provision. Starting in 2003 with the major "TORT REFORM" advocated by insurance companies they now have the power to "exclude" your family members if you sign a waiver. This provision violates Texas law but has not yet been tested by the Courts. In other words when you buy insurance and your agent "recommends" that he can make it cheaper he will have you sign an exclusion that removes your spouse, children or other family members that live with you. This means that even though they regularly drive your car they have NO INSURANCE COVERAGE and neither do you when they drive. Great huh? They never miss a chance to take your money in premiums and then deny you coverage when you need them. This means that even though you thought you were getting a good deal when you bought insurance when you get sued they do not have to handle the claim for you; do not have to hire an attorney for you; do not have to defend you and do not have to pay any money for the damages your family member caused. You are hung out to dry with a judgment and lien against you and you are still paying them premiums.

Who qualifies as a family member?

Your auto policy covers your spouse, blood relatives, in-laws, adopted children, wards, and foster children living in your home, even if not named on the policy. Family members attending school away from home and a spouse living elsewhere during a marital separation also are covered. * However, see note above about family member exclusions.

2. Medical Payments Coverage (MED PAY)

Pays: Medical and funeral bills arising from accidents, including those in which the victim was a pedestrian or a bicyclist.

Covers: You, your family members, and passengers in your car, regardless of who caused the accident. * See family member exclusions above.

3. Personal Injury Protection (PIP) Coverage

Pays: Same as medical payments coverage, plus 80 percent of lost income and the cost of hiring a caregiver for an injured person.

Covers: You, your family members, and passengers in your car, regardless of who caused the accident. * See family member exclusions above.

An insurance company must offer you \$2,500 in PIP, but you can buy more. If you don't want PIP, you must reject it in writing. This is the cheapest, best insurance to buy. I recommend buying at least \$10,000.00 or more if you can. Medical bills for a moderate collision can easily move upwards of \$20,000.00 or more with any type of testing or hospital stay.

4. Uninsured/Underinsured Motorist (UM/UIM) Coverage

Pays: Your expenses from an accident caused by an uninsured motorist or if the other driver did not have enough insurance to cover your bills, up to

your policy's dollar limits. Also pays for accidents caused by a hit-and-run driver if you reported the accident promptly to the police.

Bodily injury UM/UIM pays without deductibles for medical bills, lost wages, pain and suffering, disfigurement, and permanent or partial disability.

Property damage UM/UIM pays for auto repairs, a rental car, and damage to items carried in your car. There is an automatic \$250 deductible. This means you must pay up to \$250 of the repairs yourself.

Covers: You, your family members, passengers in your car, and others driving your car with your permission. * See family member exclusions above.

Insurers must offer UM/UIM coverage, but you can reject it in writing.

5. Collision (Damage to Your Car) Coverage

Pays: The cost of repairing or replacing your car after an accident, regardless of who was driving or who was at fault. Payment is limited to your car's actual cash value, minus your deductible. Actual cash value is the market value of a car like yours before it was damaged.

6. Comprehensive (Physical Damage Other than Collision) Coverage

Pays: The cost of replacing or repairing your car if it is stolen or damaged by fire, vandalism, hail, or another cause other than collision. Comprehensive coverage also pays for a rental car or other temporary transportation if your car is stolen. Your policy won't pay for an auto theft unless you report it to the police. Payment is limited to your car's actual cash value, minus your deductible.

7. Towing and Labor Coverage

Pays: Towing charges when your car can't be driven. Also pays labor charges, such as changing a tire, at the place where your car broke down.

8. Rental Reimbursement Coverage

Pays: A set daily amount for a rental car if your car is stolen or is being repaired because of damage covered by your policy.

WHY AREN'T JURIES ENTITLED TO CONSIDER INSURANCE WHEN REACHING A VERDICT IN A CAR WRECK CASE?

If Liability Insurance is mandatory and since every vehicle is required to have insurance why can't a jury consider that the Insurance Company and not the Defendant is really paying for the damages? What a great question! The insurance companies have spent billions of dollars on making sure they elect Legislators that will push their agendas. They have spent billions of dollars trying to convince every person who may be called to jury duty that every case is a "frivolous lawsuit" and that a "Trial Lawyer" is nothing more than a sleazy underhanded lying lawyer that will do and say anything to take money from the poor insurance company.

You can rest assured in a car wreck case that if there is a lawyer defending the Defendant and the case has made it all the way to a trial, the Defendant probably has insurance coverage that will cover the damages.

All insurance policies have a provision that the Insurance Company has a right to settle or not settle any claim on its own. The person who bought the insurance has no say in whether any case should settle and therefore no ability to prevent themselves from being sued. Insurance companies are betting that juries will give little or no money so they can pay as little as possible on each suit. In the large majority of cases the Defendant themselves will never have to pay a penny as they purchased insurance that will cover the damages in the suit.

The reason why Courts and Attorneys can't tell you this in a specific trial involving a car accident is the Courts are afraid juries will disregard evidence and award money just because there is insurance that will pay for the damages. But if you sit on a jury in Texas, you will now know that the Insurance Company and not the Defendant will pay for all damages you award. This is what you are required to pay your hard earned money for and the Insurance Companies will begin to settle more cases and stop wasting your time by making you go to

jury duty once juries begin awarding more money than the Insurance Companies have to pay. Cases will settle much easier when that happens and you won't have to go waste your time sitting on a jury when they know they owe the injured party money.

DO YOU NEED TO GIVE ANY OF THE FOLLOWING TO YOUR OWN INSURANCE COMPANY AFTER YOU REPORT THE ACCIDENT?

1. **A RECORDED STATEMENT OR AN EXAMINATION UNDER OATH (EVO)?** An examination under oath is where your own insurance companies hires their own attorney to bring in a Court reporter or a videographer to ask you all the questions they want. You need to immediately tell your insurance if they ask for either of these to put in writing whether you need an attorney. (YOU DO!) They are then required by law to tell you, you can hire one if you want. (YOU DO!) Never attend a statement or EVO without an attorney. Your own insurance company is not on your side. They are already setting you up to deny your claim in full or in part.

2. **PROVIDE THEM WITH PRIOR MEDICAL RECORDS FOR AT LEAST 5 YEARS BEFORE THE COLLISION.** Yes. They will ask for this to try to find anything they can argue to claim your injuries were "pre-existing" and not related to this claim. Therefore you need to get your own records first and go over them to see what your doctors have put in your records. Many times you will be surprised to see incorrect or misleading entries that have been placed in your records that will need to be corrected before you pass them on. We do this automatically when we are hired on an injury claim

3. **SIGN A MEDICAL, SOCIAL SECURITY OR EMPLOYMENT AUTHORIZATION.** Yes. Again they are purely looking for something they can argue to either lessen your damage claim or to deny it out right if you end up making a claim against your own insurance company. Again we do this automatically when we ar hired on an injury claim and go over all records received with you if there are any discrepancies to make sure they are correct when they are forwarded to your insurance company.

4. **UNDERINSURED CLAIM.** Did you know you have to get your own insurance company's PERMISSION to settle your claim with the person that caused your injuries or you may lose your entire right to make a claim for your own underinsured insurance that you have paid for? You do!

How do you get their permission? Why do you need it? These are questions we can easily answer for you if you find yourself in an underinsured claim. You should never try to settle the underlying claim without talking to a Board Certified Personal Injury Attorney. There are just too many traps the insurance companies have set for you that can kill your claim.

QUESTIONS TO ASK THE INSURANCE COMPANY WHEN
THEY START TELLING YOU "YOU DON'T NEED A
LAWYER - WE WILL TAKE CARE OF YOU"

1. Will you put in writing that the accident was not my fault?
2. Will you tell me how much insurance the person who hit me has?
3. If I give you a recorded statement, will you give me a copy of the recorded statement that you already got from the person who caused the accident?
4. If I sign this medical release, will you immediately forward to me a copy of everything you get using my release?
5. Will you tell me how much money you have set aside in "reserve" to pay my claim?
6. Will you give me copies of the recorded statements that you have taken from any witnesses?
7. Will you tell me now whether there is any "umbrella" insurance coverage available to cover my claim?
8. Will you tell me whether you have already done video surveillance of me?
9. Will you give me a copy of any "index" information that you have already gotten from your computer system?
10. Will you give me a copy of any financial information that you may have already obtained on me?
11. Will you tell me which of my neighbors you have already interviewed?

I can't wait to hear their responses. My years of experience tell me they will tell you that you are "not entitled" to any of the information you request. With insurance companies information sharing is truly a one-way street. You give to them and they don't give to you!

HERE ARE SOME OF THE RESPONSES YOU WILL
RECEIVE WHEN YOU MAKE A FAIR DEMAND TO TRY
TO CONVINCE YOU THAT YOU SHOULD TAKE LESS

1. There wasn't enough property damage for you to have been injured.
2. The problems you are complaining of were pre-existing. Once they have set up your claim they run every type of check they can to see if you have ever been injured before or any insurance company has ever made a payment to you for a prior injury. If there is ever any mention in prior medical records regardless of how remote in time they will argue you were already injured and they don't owe you anything.
3. Your car wasn't working right or you had not maintained it properly so you are at fault.
4. You had been drinking, were drunk or impaired by legal or illegal drugs.
5. You didn't see our guy blow the red light, so it's your fault you got hit.
6. Or you saw he was going to run the red light and did not take proper evasive action so the collision is partially or all your fault.
7. You exaggerated our insured's speed or conduct, so you are not believable.
8. You weren't wearing your seat belt.
9. Your doctor should not have charged you that much so we will only consider 50% of your medical bills, or any other figure they can justify.
10. Since your doctor is recommending surgery and you haven't yet had it you must not be injured or you really don't need it. No matter that surgery costs tens of thousands of dollars and many people who do not have insurance have no way to pay for it.

DO I HAVE TO HIRE AN ATTORNEY TO HANDLE MY CASE?

No. You 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 fees 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.

However, there have been studies that hiring an attorney generally increases the settlement value. Specifically a 1999 study found that insurance companies, pay higher settlements to injured people who use an attorney than those who do not. The insurance industry performed a study to find out if people who had accident claims received more money in settlement by using an attorney than those people who settled on their own. The study was performed by the Insurance Research Council, a non-profit organization that is supported by leading property and casualty insurance companies across the United States. The mission of the IRC (IRCweb.org) is to advance the insurance industry's view on matters crucial to insurance companies. The IRC found that people who used an attorney received, on average, 3 times more money in settlement than those individuals who settled on their own.

HOW DO I FIND A QUALIFIED PERSONAL INJURY ATTORNEY?

Choosing an attorney to represent you is an important 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, and many attorneys who have never handled a personal injury case have purchased large, expensive and very impressive looking ads.

How do you find out who in your local community is the best for your case? There are certain questions to ask that will lead you to the best person for your case no matter what type of claim you have. It will involve some time on your part, but that's OK because the decision you are making may be critical to the success of your case.

Personal injury claims, particularly in Texas, are much too specialized for someone who does not handle these cases regularly. Too many times I have been asked to look at cases that have been handled by general practitioners, tax lawyers, criminal lawyers and family law lawyers. That's just not good. Get a specialist. They are out there. You need to make sure you hire a Board Certified Personal Injury Trial Lawyer.

You should be aware that the insurance companies who defend personal injury and accident 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 help 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? I've heard insurance defense lawyers laugh as they head for trial against one of these non-personal injury attorneys! It's like shooting fish in a barrel for them.

If this information is important to the insurance company, shouldn't it be important to you?

HOW DO YOU FIND OUT WHO IS AN EXPERIENCED PERSONAL INJURY ATTORNEY IN YOUR AREA?

1. Ask your friends or family if they have used an attorney for a personal injury case... Again not every lawyer has sufficient experience in handling personal injury claims so they give you the name of a Family Law or a Probate lawyer or don't plan on hiring them for your claim. You can call them and ask them to give you the name of a Board Certified Personal Injury Trial Lawyer.
2. Get a referral from an attorney that you know. He or she will probably know someone who does specialize in your area of need. If you need an attorney in an area of practice that we don't do, call us. We'll help you find the right lawyer for your case.
3. The Yellow Pages can actually be a good source of names. Understand three things, however: First, not everyone advertises in the Yellow Pages... Most of our cases come from referrals from other attorneys or from satisfied clients. In fact we only have a very small ad in the Yellow Pages. Second, be careful about the ads that say "they do too many different specialties. No one can do everything." We'll think, be careful about the full-page ads. This advertisement may attract a lot of frivolous cases that can overwhelm an attorney. Make sure that the attorney you hire is selective enough with his or her cases; that your independent cost does not become just one more file in the pile. We know several law firms that went out of business buried under the "weight" of full-page Yellow Pages ads.
4. Your local bar association probably has a lawyer referral service. Understand that lawyers have signed up and paid a fee to be listed in certain specialties. Their names come up on a rotating basis. This is neither a good source for an initial appointment. Just take the questions we talk about here to that interview.

5. Interview several attorneys. Ask each attorney who else handles these cases in your area. If they won't give you any names, leave. Ask this question of each attorney. The names you see showing up on various lists of recommendations are probably good bets for attorneys doing these cases in your area on a regular basis.
6. Run from any attorney who calls you first.
7. Beware of "runners." A "runner" hangs out at the police station or listens to a police radio to "run" to accident scenes or hospital rooms to encourage victims to sign contracts with attorneys. They also pay for police reports and then call you repeatedly or even show up at your house with offers to get you "free" medical treatment and offer to get you to a lawyer. Not only is it unethical for an attorney to "run" cases but it is also illegal. Outrageous does not begin to describe this practice!
8. Here are factors and good points to look for and question your attorney about. Note that not every attorney will meet all of these criteria, but the significant absence of the following should be a big question mark.
 - * Experience - obviously, the longer you have been practicing a particular area of the law, the more you will know. Experience can be a big factor in many cases.
 - * Experience actually trying cases - ask the attorney how many cases he has actually tried.

Has he or she achieved any significant verdicts or settlements? The greater your number of cases actually tried and substantial verdicts and settlements achieved, the more likely the insurance companies will respect you. Past results are not a guarantee of the future, but past results do demonstrate some level of experience and success.

- * Respect in the legal community. How do other attorneys and judges feel about this attorneys competence?
- * Board Certification - Texas offers a rigorous specialization process that tests and certifies lawyers. It requires a minimum number of trials and recommendations from judges and opposing attorneys as well as a very extensive testing process that covers every aspect of Personal Injury and Trial Law. Currently in Texas there are more than 83,000 licensed lawyers. Out of those only 8364 are Board Certified in any specialty and only a mere 1686 have met the qualifications for Personal Injury Trial Law. You can see there are a whole lot of lawyers that advertise they handle personal injury claims but very few are actually qualified by the Texas Board of Legal Specialization to be called a specialist in Personal Injury Trial Law. Ask any attorney you meet with "Are you Board Certified? If not why not?". For more information about Board Certification ask for our free brochure **WHAT IS A BOARD CERTIFIED PERSONAL INJURY TRIAL ATTORNEY.**
- * Membership in trial lawyer associations. In our area, you can certainly find a lawyer who is a member of the Texas Trial Lawyers Association (TTLA), the Tarrant County Trial Lawyers Association (TCTLA) the San Antonio Trial Lawyers Association (SATLA) and the American Association for Justice (AAJ). These organizations provide extensive education and networking for trial lawyers.

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

How will your attorney keep you informed about the progress of the case? Some attorneys send e-mails, some send letters and copies of correspondence and pleadings in the case to the client. Your attorney

should also take time to explain the "pace" of the case and in what time frames the client can expect activity to take place.

Find out who will actually be working on your case. Make sure that you and your attorney have a firm understanding as to who will be handling your case. There are a lot of things that go on with a case that do not require the attorney's attention. On the other hand, if you are hiring an attorney because of his or her trial skills, make sure that person is going to be trying your case for you.

WHAT DOES AN EXPERIENCED PERSONAL INJURY ATTORNEY DO FOR YOU IN A CASE?

Here is a more or less complete list of the tasks your attorney 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, witness statements, medical records and bills
- * Analyze the client's insurance policy to see whether there are any coverages 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 coverages and make suggestions as to what coverages should be purchased for future protection
- * Interview known witnesses and get testimony preserved for the claim
- * Collect other evidence, such as photographs of the accident scene, property damage, pictures of the injuries, videos of the scene
- * Analyze the legal issues, such as comparative negligence
- * Talk to the client's physicians or obtain written reports from them to understand the client's condition fully
- * 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, 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 of the pertinent data for the claim, such as medical bills, medical records, and tax returns
- * 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

- * File briefs and motions with the court to eliminate surprises at trial
- * Take the case to trial with a jury or judge
- * Analyze the jury's verdict to determine if either side has good grounds to appeal the case
- * Make recommendations to the client as to whether or not to appeal the case.

After gathering all of the facts and medical records, and after your medical treatment has ended, your attorney will develop a settlement strategy with you and attempt to get your case settled with the insurance company. There are many reasons to settle a case, including the fact that we are living in a very conservative part of the country as far as jury verdicts go, your attorney fee will be less if your case can be settled, and your costs will usually be less than if the case goes to trial. Your attorney will help you analyze the insurance company's best offer and compare it to what you might net by going to trial. Of course, you must know that every case (even "obvious" cases) can be lost.

Sometimes, attempting to negotiate with the insurance company before filing suit is not a worthwhile endeavor. Insurance companies sometimes use pre-suit negotiation only to attempt to find out as much about you, your lawyer and your doctor as they can. It is generally 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 whereby an attorney waits until the last moment to see if the insurance company will settle your case. Sometimes when inexperienced lawyers attempt to handle a personal injury claim and when the claims do not settle, they often try to find an attorney to file the case on time.

(I've received plenty of those last-minute calls. I reject them. I lead a balanced life and don't need to take on problems other attorneys have caused by their delay in taking action. Their inaction is not going to be my crisis. Some accident victims are ill served by hiring attorneys who are not Board Certified in the area of law their claim involves.

Once the lawsuit is filed, both sides engage in the legal process called discovery. Each party is allowed to investigate what it is 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. 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 written and oral questions about his own background and he will have to give sworn testimony about the incident at issue.

WHAT CASES DO WE NOT ACCEPT?

- * Cases involving minor impact. Bumps and scratches on your rear bumper do not make for a good case in Texas.
- * Cases with less than \$2,000 of expected total medical bills and lost wages. Cases with lower damages than this can usually be settled on your own or with a less-experienced attorney. In calculating your medical bills, look at the full amount charged by your doctor, not the smaller amount actually "allowed" by the insurance company.
- * Cases with significant pre-existing injury in the same body part. If you have had three back surgeries before this accident, then the chance of a jury awarding you a substantial amount of money for your back injuries here is very low.
- * Cases where the statute of limitations will soon run. You have 2 years in Texas to file suit on a personal injury claim. If you wait until the time is almost up I will not take your case no matter what because I am not going to have a crisis at my office because you waited too long.
- * Cases where you were charged to be at fault in the accident.
- * Cases where you assumed the risk of your injury. Please don't call us if you spent three hours in a bar and let your drinking buddy drive or if you decided to test to see how fast your car could actually go.
- * Your case has already been filed by another attorney.
- * Cases where you have a significant prior criminal history. Sorry, no matter what your case involves Texas juries refuse to give any type of significant money to persons with a significant past criminal history.

All of this aside we represent lots of accident victims. Our clients are positive thinkers, not whiners or frauds.

ISSUES THAT CAN WRECK YOUR CASE

1. 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 attorneys they ask you this question is to find out if you are an honest person.

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 the insurance company, then it is almost guaranteed that you will lose your case.

2. Hiding other injuries

It 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. Remember, there is no privacy in America today. When you make an insurance claim, your life becomes an open book.

If your doctor keeps medical records because she's been treating you for years and you don't make sure that we get ALL of those records, we'll fire you. Simple!

3. Hiding other claims

As soon as the insurance company gets notice of the claim they will run a background check on you.

There are several websites - accessible to only insurance companies that they subscribe to and share information on - where any time a claim has been reported on you whether by you or by an insurance company that document the type of claim such as a car wreck or slip and fall etc. the type and nature of your injury and what amount of money was paid to you.

Not telling us about prior claims will only result in wasted time and money and will not get you anything in return. Once we find out that there are other prior claims that you have not told us about and we have represented to the insurance companies that there are none we will immediately withdraw from representation of you. Further any ethical lawyer will not touch your case.

Being up front and honest from day one means we can review your prior claims and see how we can now handle your claim. We have many clients that have had prior claims. In most cases we can ask the health care providers to explain the differences, if any, in the different claims and can proceed with the claim based upon their explanation. In very few cases are we unable to help them. Remember honesty is always the best policy.

4. Not Having Accurate Tax Returns

In almost every case, a claimant will have lost income because of the accident. You will only be able to claim that lost income if your past tax returns are pristine. You don't want to risk going to jail by claiming a loss of income, only to have your past tax returns not back up your claim. 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.

Be aware that you will most certainly be required to produce your tax returns if you file a lawsuit and claim lost wages. If you are a liar and a cheat, this will come back to haunt you in your injury case and I don't want my name associated

with liars and cheats.

5. Misrepresenting Your Activity Level

Insurance companies routinely hire private investigators to conduct videotape surveillance. Now, they also troll YouTube and other social networking sites or "Google" you. If you claim that you cannot run, climb or stoop, and you get caught on videotape or brag about break dancing on the Internet, 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. One of our former clients claiming a "back injury" got caught on his roof repairing shingles. That didn't look so good and I fired him as a client when I found out.

6. Hiding or mis-representing your past criminal history

The final determination in any claim is whether a jury will like you and want to give you money for which you are entitled. Juries can award whatever money they feel is justified for any reason. If they do not like you they will not give you money or will only award money for medical bills. Unfortunately, if you have a criminal history, in Texas they can bring that up if you have a felony conviction or have been convicted or pled guilty to a crime of moral turpitude in the past ten years.

We always ask our clients about past criminal record. Please understand it does not matter to us what has happened in your past but any claim must be evaluated in light of any past criminal history as the defense will do anything they can to get that information in front of a jury and we have to be able to tell you what impact we have seen it may have on juries.

Having past criminal convictions does not mean you cannot pursue a claim. However we must have all the facts about your claim to properly evaluate your claim.

Please Note: I will not take your case if you are already represented! If you are already represented by an attorney, this book may raise questions for you. Ask your current attorney these questions. Everyone does things a little differently and we do not accept cases in which another local attorney has already been involved. If you are currently represented, use this book to increase your knowledge and to ask questions, but please don't ask us to take on your case. We won't.

This Book is NOT Legal Advice!

The Texas State Bar requires that I inform you that what is in this book is not legal advice. I'm not your lawyer until you and I enter a written agreement for me to be your lawyer. I know the arguments the insurance company will make and so should you even before you file your claim. I can offer suggestions and identify traps, but please do not construe anything in this book to be legal advice about your case, as each case is different and an attorney can only give you quality legal advice when he or she understands the facts involved in your specific case.

Kerry H. Collins & Associates, P.C. is located at 1301 Ballinger Street, in Fort Worth, Texas. If you would like a free brochure entitled "What Is A Board Certified Personal Injury Trial Law Attorney?" please e-mail me at info@kerrycollinslaw.com or e-mail kcpc@txis.net or call (817) 335-9700.