

WHAT CAR  
INSURANCE  
COMPANIES DON'T  
WANT YOU TO  
KNOW

# 10 Biggest SECRETS

TO WINNING YOUR  
**PENNSYLVANIA**  
CAR ACCIDENT CASE

A Guide  
for Injured  
Pennsylvania  
Drivers

**MHK** ATTORNEYS

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DISCLAIMER  
**THIS BOOK IS NOT LEGAL ADVICE**

The Pennsylvania State Bar requires that we inform you that this book is not legal advice. We are not your attorneys until we enter into a written agreement to be your attorneys. We know the arguments the insurance company will make and so should you, even before you file your claim. We 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 give you quality legal advice only when he or she fully understands the facts involved in your case and agrees, in writing, to represent your interest.



FOREWORD  
**WHO WE ARE**

For more than twenty years we have represented auto accident victims and people injured at work throughout the state of Pennsylvania. Many of these cases are referred to us by satisfied former clients and by other attorneys. If we accept your case and you do not live close to one of our offices, we will come to you.

Sometimes the best advice you can get when you are considering a lawsuit is that you do not have a winnable claim. If that's true, we'll tell you. We'll also tell you when we believe that you're better off handling a claim by yourself, without an attorney. But, if your case passes our test and we accept it, you can be assured that you will receive our personal attention. We will aggressively represent you, keep you informed about what is happening in your case, and give you our best advice as to whether you should settle your case or whether we should go to trial.

We will fully explain all fees and costs to you before we start working on your case. Together, as a team, we will decide the best tactics for your case.

## **Why We Wrote This Book**

Year after year, we see insurance companies take advantage of people before they have a chance to talk to an attorney. For years, one major insurance company encouraged claimants not to hire an attorney. While the law does not require an attorney to represent you in your injury case, you should be armed with this important information right from the beginning of your claim. We wrote this book so you can be informed, today.

## **How This Book Is Organized**

This book is broken down into 3 major segments.

1. **Insurance.** What you need to know about your own insurance policy and the insurance companies.
2. **Personal injury.** What you need to know about personal injuries arising out of car accidents.
3. **Hiring an Attorney.** What you need to know about hiring an attorney and our law firm.

## **WILL WE HANDLE YOUR CASE?**

If you can answer yes to the following 7 questions, we may be the injury firm for you:

1. Do you have total expected medical bills and lost wages of at least \$2,000?
2. Is there visible property damage to your vehicle and was the collision reported to the police?
3. Was the accident at least 51% someone else's fault? See page 29 for a full explanation.
4. Did you get prompt medical treatment after the collision?
5. Have you followed your doctor's recommended course of treatment?
6. Did the accident happen less than 18 months ago?
7. Do you have full tort? If you don't have full tort do you have a "serious injury" or do you fall into one of the limited tort exceptions? See page 24 for an explanation.

## **FEWER CASES FOR US—MORE TIME FOR OUR CLIENTS**

We are different and we try to be different. We don't rely on a high volume of cases generated by a massive television campaign. We don't claim to handle every type of case under the sun. We don't want to. We don't need to. We handle auto accident cases and work injury cases. If you have another type of serious injury, we can help you find an attorney who specializes in that kind of case, but generally we won't handle those cases. Each year we accept a limited number of injury cases from hundreds of people who ask us to represent them. We are not a TV advertising, personal injury and worker's compensation mill. We do not allow our paralegals and assistants to negotiate your case with the insurance company; one of our attorneys always will handle negotiations. Fewer cases means more time for you and, we believe, better overall results both for us and for you.

P A R T 1 .  
**THE INSURANCE COMPANY'S MOTIVE:  
MAKING MONEY**

**UNDERSTANDING INSURANCE COMPANY GREED**

There is a reason why big insurance companies spend millions of dollars training their adjusters to stick it to you. There is a reason big insurance companies are some of the world's largest corporations. There is a reason why insurance companies spend billions of dollars on TV campaigns, in Washington and in capitals of every state, trying to get politicians to help them get richer by taking away more and more of your rights. There is a reason that the big insurance companies call you repeatedly after you have been in an accident, hoping you will deal with them directly and not speak to a lawyer. The reason is money. Insurance companies make more money than virtually any other type of company. In large part, this is because insurance companies don't play fair. They are experts at insurance and their clients usually don't know the first thing about insurance. They aren't in the business of paying money; they are in the business of collecting it. MHK attorneys know how to handle insurance companies. For over twenty years we have been successfully outsmarting insurance companies. We'll do it successfully for you. The bottom line is this: the insurance companies' own research shows that people who are represented by attorneys get over three times more money than those that are unrepresented.



## CHAPTER ONE

# THE TOP 7 INSURANCE COMPANY MYTHS

Before we get into some of the nuts and bolts of an auto accident personal injury claim, let's dispel some of myths you may have heard.

### **Myth #1: You don't need a lawyer.**

**Truth:** The answer is, it depends. If it is a small claim with an injury that has resolved itself quickly and you believe that it will never resurface, and the liability issues are cut and dried, then with some help from this book and a consult from a qualified personal injury attorney, you can handle your own case. After the initial consultation, we will give out advice for an hourly fee arrangement that we discuss later in this book. However, if you are seriously hurt or if you run into complications, then you need an attorney to assist you in case.

If you answered yes to the seven questions under “Will We Handle Your Case?” you need a lawyer. Most likely, this is your first serious insurance company claim and you are up against a professional insurance adjuster, backed by a team of lawyers. Insurance companies make billions of dollars by paying people less than their claims are worth. The less they pay you, the more they make. The less your adjuster gets you to accept, the happier his boss is. We see client after client frustrated by trying to deal with an insurance adjuster

directly, only to be offered a small fraction of the money we end up recovering for them.

**Myth #2: The auto insurance adjuster is a trustworthy person whose job it is to help you with your claim.**

**Truth:** Even though most insurance adjusters are honest, remember who they work for—the auto insurance company. The adjuster’s job is to minimize the cost of your claim for the insurance company. Therefore, his or her job is to get you to settle your claim as quickly as possible, for as little money as possible. The adjusters are trained to earn your trust and get you to listen to what they tell you to do. The adjuster may try to get you to settle your claim right away, even if you are still treating for your injuries. Any attorney does the exact opposite; he or she is trained to maximize the amount you receive from the insurance company in order to compensate you fully for your injuries. Remember, your attorney works for you; the adjuster works for the insurance company. The insurance companies’ own study revealed that when injured parties have lawyers on their side, the settlements or award are 3 ½ times higher.

**Myth #3: You are not entitled to any compensation if you had any pre-existing injuries or conditions.**

**Truth:** So long as you have “full tort,” if your pain started as a result of the auto collision, or became significantly worse, then you’re entitled to compensation. Insurance companies almost always try to assert that your pain is being caused by a “pre-existing” or “degenerative” condition. Even if you did have past injuries or conditions, if your pain begins or

becomes worse after you were in an accident, you are entitled to money for your pain and suffering.

**Myth #4: You have “limited tort,” so you’re not entitled to any compensation for pain and suffering.**

**Truth:** “Limited tort” means that you can only recover money for your pain and suffering, if you suffer a “serious injury.” “Full tort” means you can recover money for your pain and suffering even if you did not suffer a “serious injury.” The problem is, what you think is a serious injury, may not be according to the law. Therefore, you should always select the “full tort” option, when buying car insurance. If you currently have the limited tort option, you can, and should, change it to the full tort option as soon as possible. In Pennsylvania, you have to sign a specific form selecting the “limited tort” option; if your insurance company cannot produce that document, then the full tort option applies. Even if you selected the “limited tort” option, there are several important exceptions to the limited tort option where you can still be entitled to money for your pain and suffering. Soon after an accident, well before the seriousness of your injuries is known, your insurance adjuster may try and talk you out of seeking a recovery because you chose limited tort. If your injuries turn out to be serious, such as a herniated disc in your back or neck, if you need surgery, or if you suffer from any physical problems that require prolonged treatment, you may still be able to recover for your pain and suffering.

**Myth #5: You'll wait forever to get paid if you hire a lawyer.**

**Truth:** The longer your pain and treatment lasts, the more your case is worth. This is why the insurance adjuster wants you to accept their small settlement offer quickly. If you desperately need money before your case settles, there are alternatives to settling your claim too quickly and for too little money. Remember, you can only receive one settlement from the insurance company covering the driver who caused your injuries. Once you sign a release and cash the insurance company's check, you cannot reopen the claim if you later discover that your injuries are worse than you thought, require more treatment, or result in additional out-of-pocket expenses or wage losses. Although everyone wants a prompt resolution of his or her claim, a good attorney knows that you must avoid settling it too soon.

**Myth #6: If you sign the insurance company's medical authorization, they will settle your case sooner.**

**Truth:** It is true that the insurance company will need to review the medical records regarding treatment you received subsequent to your injuries, in order to evaluate your claim properly. However, the insurance company is not entitled to unfettered access to all of your private medical information. If you sign a medical authorization, that's what you're giving them. The insurance adjuster wants this access so that he or she can search for any indication in any prior medical record, no matter how old the record is, that at some time in the past you treated for pain in the same part of your body that was injured in the accident. If they find any record of

prior treatment, they will use that access to your very private and personal medical records, and you are allowing them full access to information that they can now control.

**Myth #7: The insurance adjuster can help you better if you give him or her permission to record your statement about your accident.**

**Truth:** The main reason the other driver's insurance adjuster wants to record your statement is so that the insurance company can use it against you later. You are under no legal obligation to give a recorded statement, so don't. You may feel you have nothing to hide, so there is no problem letting the insurance company record your statement—but that would be a big mistake. This is because no one ever tells a story exactly the same every time. The insurance company will try to use any small omissions or inconsistencies in your recorded statement against you. For instance, if the adjuster asks you about your injuries, he or she is hoping that you will not tell about every part of your body that hurts. Being trained to do so, he or she may even cut you off so you don't finish answering the question. For instance, during the recorded statement you might forget to mention that you injured your knee. If you later tell the adjuster that your knee injury was caused by the accident, he or she will use your recorded statement to argue that you didn't complain about your knee then, therefore, your knee injury was not caused by the accident.