

***Dirty Little Secrets  
Insurance Companies  
Don't Want You To Know***

Your Guide to Colorado Accident Cases



319 Ross Avenue  
Alamosa, CO 81101

(719) 587-1992

[www.keithvancelaw.com](http://www.keithvancelaw.com)  
Table of Contents

Introduction . . . . . 3

“Legal Advice” . . . . . 5

Insurance Tricks to Watch Out For . . . . . 6

What is a Personal Injury Case . . . . . 11

The Legal Process of a Personal Injury Case. . . 12

Myths, Legends & Wishful Thinking . . . . . 15

The Insurance Claim War . . . . . 17

What You Must Prove to Win Your Case . . . . . 18

Do You Really Need an Attorney? . . . . . 19

10 Questions to Ask the Insurance Company  
Who Wants to “Just Sign A Few Forms And  
Give Us A Statement:” . . . . . 20

What a “Good” Attorney Can Do for You  
Insurance Company Arguments Against You . . . 22

How To Choose The Right Attorney For You . . . 25

The 5 Deadly Sins That Can Wreck Your Case. . 28

Should We Be Your Attorney? . . . . . 32

## **INTRODUCTION**

This book is to help you figure out what to do about your personal injury claim. If you are like most people, this is the first time you have been in a motor vehicle accident or hurt by someone else's fault. Now, you have medical bills, you may be out of work, and you need to know where to go from here. The insurance company may already be calling you, requesting a statement. Maybe they have already offered you some small amount of money to settle. You may be in very unfamiliar territory.

So, now you may be thinking you need to get an attorney. You see their ads on TV or in the Yellow Pages. But how do you know which lawyer is right for you? They all say "hire me." They all say: (1) We won't charge you unless we win or (2) We are tough ("The Bulldog," "The Strong Arm," "The Tigers," etc.) or (3) We care. You probably realize that those ads that show some lawyer winning fistfuls of cash and making empty promises are 100% meaningless.

The truth is you may not even need a lawyer to settle your claim. Maybe you just need some help to avoid the pitfalls, especially if

your injuries are not severe and you don't have a "big" claim. But then again, maybe you DO need a lawyer to help you through this difficult time.

The ensuing chapters will give you tips to handle your own small claim. They will also help you figure out what lawyer is right for YOU.

## **LEGAL ADVICE**

This book and its contents are NOT legal advice. I am not your lawyer unless and until you and I enter a written agreement for me to be your lawyer. Yes, I know how to help you because I know some of the tricks and traps used by insurance companies. I share some of those in this book. However, this is not legal advice.

Each case is different and the suggestions I make in this book cannot fit every scenario. In fact, an attorney can only give good advice when he or she knows that facts of your case. Since I don't know anything about your situation, I cannot give you advice. Please do not construe anything in this book as legal advice.

## INSURANCE TRICKS TO WATCH OUT FOR

I used to work for the insurance companies. It took me a while to discover their “tricks.” Usually, the attorney is not involved in the games insurance companies like to play. That happens with the claims adjusters. But, as an attorney, we would later find out some of the things these adjusters said or did. Truthfully, some of the things I saw made me sick. That is why I started representing people against tricky insurance companies.

Here are a few of their favorite tricks that can harm your case:

1. Advising “You don’t need a lawyer!” It really gets under my skin to see an insurance company take advantage of someone before he or she has a chance to talk to a lawyer. They use fear tactics like telling you “the lawyer will only take one-third of the check we will give you just for talking.” They say this to steer you away from seeking legal advice.

As I said in the introduction, you may not need an attorney to represent you in your case. However, no one should settle his or her case without understanding his or her rights and what settlement really means. For example,

the adjuster likely will not tell you that if your health insurance paid for your medical bills, you might have to take the settlement check and pay back your health insurance company. Also, they may not tell you that once you sign on the dotted line your right to re-open your case is gone, even if you do not know how bad you are hurt and it turns out you are hurt worse than you thought. These, and other consequences to settling your claim should be explained to you by a competent legal professional.

**NEWS FLASH!** Most attorneys won't charge you a dime to explain these things to you. It is only if they take your case that a fee will be charged.

2. Delay. I have seen insurance companies wear people down until they are in such financial difficulty that they settle for pennies on the dollar. They know you have the hospital and doctors breathing down your neck to get paid, you can't work because of your injuries, and your rent is due and your family needs groceries. So, do they work on your claim quickly? NO! Instead, they take their time so you will give your case away. Then, the claims adjuster looks good to his or her boss because they "saved the company money."

3. Denying Available Coverage. I've seen adjusters tell victims that coverage "expired" a month before the wreck. Therefore, there is no coverage for you from the person that caused you harm. Or, more commonly, they tell you there is only \$25,000.00 in coverage. Then, we file the lawsuit and "miraculously" we find more coverage. Maybe we find higher limits or an umbrella policy. That is fraud, plain and simple.

4. Requesting Unnecessary Information. Kind of like the "delay" tactic, insurance companies often insist that you collect books of information (receipts, medical records, prescription records, pay stubs, tax returns, notes from physicians, etc.) before they can "evaluate the claim." Most information does not help them evaluate anything, but they make you wait until they have it, hoping to wear you down. Meanwhile, they are earning interest on the money they are NOT paying you.

5. Acting Like Your Friend and Making False Promises. I've seen adjusters call victims on the phone and promise them a smooth settlement, payment of future medical bills or anything else that makes you like them. This is



a strategy to persuade you not hire a lawyer. The truth is, they won't pay the medical bills until the claim is settled. Then, if they think the bills are too high or you went to the doctor or chiropractor too much, they will only pay what they think is "reasonable and necessary."

6. Denying Medical Bills. Although claims adjusters are not doctors, they often act like they are. Sometimes they say that you saw the doctor or chiropractor too much or criticize you because you missed a few appointments. They use a computer that tells them how your course of treatment should go. When your body doesn't respond to treatment like the computer says it should, they discount the value of your claim. That means they try to settle with you for less money, requiring you to dip into your own pocket to pay medical bills.

7. Surveillance. Insurance companies love to catch you doing things you doctor says you shouldn't (lifting something heavy, working in your yard, carrying a child, etc.). They will send out a private investigator to catch you on film. I have seen these investigators let the air out of your tire in the Wal-Mart parking lot and film you changing it. I have seen them with a camera on a belt buckle catching you lift a watermelon into your grocery cart in the

supermarkets then, with this video, they attempt to scare you into accepting a low settlement. However, most juries understand that the investigator only gets a “snapshot” of your life. If you did overdo it on tape, you were probably in bed the next day, regretting it. They never put your condition the next day on videotape.

## **WHAT IS A PERSONAL INJURY CASE**

This book will talk about “personal injury cases.” My wife, Patricia, tells me that not everyone knows what that means. In fact, many folks know that I only do “personal injury” cases, and they talk to me about a real estate dispute, because it is “personal” to them and they feel “injured.” But, that is not a “personal injury case.”

A personal injury case is a car accident case or a slip-and-fall case, or a wrongful death case. It is any type of claim where a person has been injured or killed due to someone else’s negligence or carelessness. If the only damage in your case is that your car got banged up, then you don’t have a personal injury case – but you may have a property damage case. If you have been hurt in addition to your vehicle’s property damage, then you have both a personal injury claim and a property damage claim.

If someone else’s negligence causes the death of another, then this is called a “wrongful death” claim. This is a specialized personal injury case in Colorado.

## **THE LEGAL PROCESS IN A PERSONAL INJURY CASE**

After gathering all of the facts and medical records, and after your medical treatment has ended, your attorney will try to get the case settled with the insurance company. There are many reasons to settle a case. One reason is that we live in a very conservative part of Colorado as far as jury verdicts go. Another is that your attorney fee will be less if the case settles than if the case goes to trial. Another is that settling guarantees the result. Juries can be unpredictable and decide a case differently than we anticipate.

Sometimes, the case cannot be settled. Maybe the insurance company has a strange opinion about the value of your case and “low-balls” the settlement offer. Maybe the insurance company wants to engage in some of its “tricks” to wear you down so you will accept less in settlement than your case is worth. (See the section entitled “Insurance Tricks To Watch Out For”). When that happens, we would file a lawsuit and rely on a jury to give justice.

Once the lawsuit is filed, both sides engage in the legal process called “discovery.” Each side

gets to investigate what the other side is going to say at trial. The defendant can look at your relevant medical records, work history, income tax returns, and the like. You may be asked to sit for a deposition and submit to an Independent Medical Examination (IME) by a physician of the defendant's choosing.

The defendant is also subject to discovery. He or she will answer written and oral questions about the wreck, his or her background, and be subject to cross-examination on all issues he chooses to testify about.

Here are some of the Arguments the insurance company will use to justify a low payment (or outright deny your claim).

1. You weren't wearing a seatbelt.
2. Your car had defective equipment.
3. You were on your cell phone.
4. You were intoxicated by alcohol or drugs.
5. You should have seen the defendant blow through the stop sign and taken steps to avoid the collision.

6. You exaggerated the defendant's speed or conduct, so you're not credible.
7. You exaggerate or malingering your injuries.
8. Your injuries are all in your head.

## **MYTHS, LEGENDS AND WISHFUL THINKING**

These are some of the common perceptions by people. Unfortunately, they are false and relying on these ideas can only help the insurance company and hurt your case.

- If you write the insurance company a letter and are reasonable, you will get a reasonable settlement proposal.
- When you are in an accident and the insurance company calls you to ask for a recorded statement, you have to give them a recorded statement or they won't settle with you.
- All lawyers who advertise that they handle accident cases have the ability, tools and experience to handle your case.
- The insurance company for the person who hit you is obligated to pay your medical bills as they become due.
- All lawyers charge the same fees in injury cases.

- The court system is 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 that will pay for your bills, lost wages and injuries.
- If a lawyer refers you to a doctor, that is a good idea.
- Juries in Southern Colorado are generous.
- There is a formula for determining settlement value.



## **THE INSURANCE CLAIM WAR**

The day you were injured, you entered a war zone. Insurance companies have declared war on injured people and their attorneys. Some politicians fight alongside the insurance companies to keep injured people out of court and deny them equal justice. They have waged this war in the media with propaganda and lies. This is called “tort reform.”

The success that insurance companies have had in influencing people to think that injured people are faking claims for money is unreal. Many believe that legitimately injured people are playing the “lawsuit lotto” or “jackpot justice.” The success of influencing juries has emboldened insurance companies not to offer fair settlement until you prove to them that you are ready, willing and able to go to trial.

You have probably been affected by the insurance propaganda. Until you or a family member were injured, you may have thought that a personal injury lawyer is a bad person and that a person who makes a claim is stealing from society. It is sad. But, that is what billions of dollars in insurance company advertising will get you.

## **WHAT YOU MUST PROVE TO WIN YOUR CASE**

Just because you were hurt doesn't mean you are entitled to money damages. You must prove that someone else was at fault for causing your injuries. Maybe not 100% at fault, but it must be someone else's fault more than it was your fault. If you fail to prove they are more than 50% at fault, you lose.

If you prove you are less than 50% at fault for causing your injuries and the defendants are more than 50% at fault, you win. However, your damages may be reduced by your pro rata percentage of fault. In other words, if a jury awards \$100,000.00 in damages and finds you were 20% at fault and the defendant was 80% at fault, you will only received \$80,000.00 (\$100,000.00 -20%, i.e., \$20,000.00).

We must prove everything at trial by a preponderance of evidence, which is more likely than not. The burden is not beyond a reasonable doubt, as it is in criminal cases.

## **DO YOU REALLY NEED AN ATTORNEY?**

As I mentioned in previous sections of this book, you do not always need an attorney to settle your claim. Whether you need an attorney depends on a few facts. If your motor vehicle accident created little or no property damage, and your injuries are small, you may not need an attorney. Why not? Because in small cases, the attorney fee and expenses might leave little or nothing for you after your medical bills are paid. That isn't good for you.

Yes, it is true that studies show that insurance companies pay higher settlements to injured people who use an attorney than those who do not. In fact, studies show that, on average, they pay 3 ½ times more money in settlement to those with an attorney than those people who settle on their own.

But, that is usually not the result with small cases. Maybe the attorney can turn a \$2,000 settlement into a \$3,000 settlement, but after attorney fees (usually 1/3<sup>rd</sup>) and costs are deducted, you may end up with less than settling it on your own.

**10 QUESTIONS TO ASK THE INSURANCE  
COMPANY WHO WANTS YOU TO  
“JUST SIGN A FEW FORMS AND GIVE US A  
STATEMENT:”**

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 on me?

9. Will you give me a copy of any financial information that you may have already obtained on me?

10. Will you tell me which of my neighbors you have already interviewed?

Good Luck! Our experience is that the information sharing with insurance companies is a “one-way street.” You give to them and they *don't* give to you!

## **WHAT CAN A “GOOD” ATTORNEY DO FOR YOU?**

In most cases, a good personal injury can do the following tasks:

- Teach client about personal injury claim.
- Educate client about insurance tricks and how to avoid them.
- Gather police reports, medical records, bills and other important documents.
- Find out whether there is any insurance available to cover client's medical bills.
- Help the client get medical care when there is no insurance by working with doctors on a lien.
- Notify insurance companies and advise them of claims.
- Interview witnesses.
- Collect other evidence, such as photographs of the accident scene.

- Analyze legal issues, such as comparative fault, failure to wear seat belt, and assumption of risk.
- Talk to client's doctors and obtain a written report from them.
- Analyze the need to repay any health insurance money paid toward medical bills.
- Try to negotiate settlement with the insurance company.
- If reasonable settlement is not possible, file a lawsuit.
- If lawsuit is filed, make disclosures to opposing attorney, propound written discovery and help client answer written discovery requests.
- Prepare client and healthcare providers for deposition.
- Take deposition of defendant.
- Hire experts to help prove case at trial.
- Set trial date.

- Prepare for trial.
- Trial of case.
- Analyze jury's verdict for appeal.
- Appeal, if necessary.



## **HOW TO CHOOSE THE RIGHT ATTORNEY FOR YOU**

Choosing an attorney to represent you is a very important task. After all, you are placing your life in somebody's hands that you may not even know. This decision certainly should not be made on the basis of advertising alone. The Yellow Pages are filled with ads – all of which basically say the same thing. And TV ads – anyone can buy a slick commercial – and many have. The “Bulldog”, “Tiger”, “Strong Arm” or other characterizations of lawyers do not necessarily mean they are that way in real life, or that such a lawyer is right for your case.

You may be tempted to hire a “big-city” attorney. However, you must remember that Denver is a long way from the San Luis Valley and you will not likely have good access to your long-distance attorney. A local attorney knows the judges, medical providers, how juries decide cases, and small details about the region, local politics, community attitudes, and the like. The local attorney has access to local people and is able to “test” various aspects of your case on those local people. These are the same kind of people that would decide your case by serving on a jury.

How do you find out who in your local community is best for your case? There are certain questions to ask that will lead you to the best person for you. This will take some time, but this decision is so important that it is worth investing some time.

In my opinion, the world of personal injury claims is much too specialized for some attorney who does not handle these cases regularly. Many times, we see cases handled by general practice attorneys and mistakes are made. The client is shorted because the attorney did not know something important. The real estate lawyer, criminal lawyer, divorce lawyer, and other type of non-personal injury specialist is just as bad. If the attorney does not handle personal injury cases regularly, he or she may not have the knowledge to do a good job. Get a specialist! Do not get someone that advertises doing something other than personal injury or workers' compensation.

You should be aware that insurance companies know the attorneys in your area who go to court and try cases. These insurance companies keep a database of

attorneys. They use that information to help evaluate the value of the case.

When I did defense work for insurance companies we would laugh as we went to trial against one of those non-personal injury attorneys. It was like shooting fish in a barrel. And, most times, we would walk all over them and the jury would award no or little money to the Plaintiff.

In addition to specialization and experience trying cases, you probably also want to look for an attorney with memberships in trial lawyer associations. In our area, you can find a lawyer who is a member of the Colorado Trial Lawyers' Association (CTLA) and the American Association for Justice (AAJ). These organizations provide extensive education and networking for trial lawyers.

Lastly, you want an attorney that is properly educated and trained. For instance, Gerry Spence's Trial Lawyers College enrolls around 50 attorneys per year to attend a 1-month training camp where an attorney can refine trial skills and become a better trial lawyer. Having gone through this college or another college put on by AAJ is very beneficial.

## **THE FIVE DEADLY SINS THAT CAN WRECK YOUR CASE**

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

Some judges call this “service” provided by some lawyers “the kiss of death” to a claim. The problem is that jurors are highly suspicious of lawyers and doctors who have a referral relationship. While the client may not know how many of that lawyer’s clients have been referred in the last 12 months to a particular doctor, you can bet that the insurance company knows it or will find out about it. How credible do you think that doctor’s testimony will be when the jury finds out that he treated 50 patients from the same lawyer last year?

Are there exceptions to this rule? Yes, there are. You may have a very special need for a doctor with a special expertise. It is perfectly legitimate for the attorney to make that suggestion/recommendation. If every client, though, is getting referred to the same chiropractor or the same orthopedist, then that is a huge problem.

## 2. Hiding Past Accidents From Your Lawyer

Once you begin a case, the other side will be interested in knowing how many past accidents you have been in. The reality is that they probably already know the answer or have easy access to that information. All insurance companies subscribe to insurance databases and often the only reason they ask you this question is to 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.

## 3. 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.

#### 4. Not having Accurate Tax Returns

In almost every case, the injured person 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. 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.

## **SHOULD WE BE YOUR ATTORNEY?**

We are different.

We don't rely on a high volume of cases generated by statewide TV and Yellow Page ads. We don't claim to handle every type of case under the sun. We don't want to. We would rather specialize in personal injury cases.

Each year, we accept a limited number of personal injury and workers' compensation cases from the hundreds of people who ask us to represent them. On the cases we do take, we know them and know the people we represent personally. Fewer cases means more time for you and, we believe, better results overall.

Since 1997, the attorneys at VANCE Law Office have represented accidents, injury and disability clients throughout Colorado. Mr. Vance has also represented clients in New Mexico, Wyoming, Nebraska and Utah. Most of our cases are referred to us by former satisfied clients, other attorneys and health care providers.



Mr. Vance is a member of the Colorado Trial Lawyers Association (CTLA), American Association for Justice (AAJ), and is a 2005 graduate of Gerry Spence's Trial Lawyers College (TLC). He is a native of the San Luis Valley and raises his family in Alamosa. Mr. Vance has tried numerous cases to verdict and settled countless others, totaling over \$25 million in total revenues for his clients.

Sometimes the best advice you can get when you are thinking about a lawsuit is that you do not have a claim or it cannot be won. If that is the case, we will tell you. We won't sugarcoat it. We'll also tell you when we think you are better off handling the claim yourself - without an attorney. But, if your case passes our test and we accept it, you can be assured you will receive personal attention. We will represent you aggressively, keep you up to date on the status of your case, and help you decide whether to settle your case or take it to trial. We will explain all fees and costs to you fully before we start working on your case. Together, as a firm, we will help you get through this chapter in your life, as painless as possible.

**If you can Answer YES to these six questions,  
we may be the injury law firm for you.**

1. Do you have total expected medical bills and lost wages (not just out-of-pocket expenses) of at least \$2,000?
2. Is there visible property damage to your car?
3. Was the accident someone else's fault?
4. Did you get prompt medical treatment after the accident?
5. Have you followed the recommended course of treatment of your doctor?
6. Did the accident happen less than 2 years ago?

**If you can answer YES to each of these  
questions, give us a call at  
719-587-1992.**



**319 Ross Avenue  
Alamosa, CO 81101  
[www.keithvancelaw.com](http://www.keithvancelaw.com)**