

**COVER PAGE**

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Printed in the United States of America.

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## **YOU NEED THIS BOOK!**

If you are like most people, this is probably the first time you or a loved one has been involved in a large truck wreck and experienced all the ways that it can turn your life inside out and all around. Even more, since you or your loved one has been in a truck accident you are probably seriously injured. Or even more unfortunately, you may be reading this book because you have lost a loved one in an 18-wheeler wreck. Both situations are tragic and we are sorry you find yourself in this position; however, now is the time to make the person or company at fault pay for their negligence and you are taking the right step by reviewing this book.

### **Do I even need an attorney to handle my claim?**

You may be asking yourself, “Do I even need to hire an attorney to handle my case?” The answer is YES. There are many minor wrecks that do not require the assistance of an attorney. However, if you have suffered through an 18-wheeler wreck, you understand that the injuries are severe, sometimes fatal. The 18-wheeler company is going to hire an army of lawyers to represent them and try to do whatever it takes to minimize what they have to pay you or your family.

### **Will an attorney be necessary to get me what I deserve?**

Choosing the right attorney that is Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization will likely get you closer to what you deserve. Did you know that insurance industry studies have shown that auto insurance companies pay more in settlement to people represented by attorneys than those who represent themselves? The Insurance Research Council is an independent, nonprofit research organization supported by leading property and casualty insurance companies and associations. Simply put, it is an organization funded by the insurance industry. It publishes reports on the insurance industry on a wide variety of topics. In 2008, it published a report outlining its study of more than 42,000 auto wreck claims nationwide to explore claims patterns under auto insurance coverage and compared the results to earlier studies. The study re-confirmed the IRC’s earlier findings that people who used attorneys to represent them for their auto wreck claims received multiple times more in settlement than people who settled their cases on their own.

Read on. This book will give you the information you need to determine whether you even need a lawyer and what you can expect as you proceed down this difficult road. You won’t find the lawyers of Denena & Points, PC jumping around on TV, or showing paid actors crying, or even paid actors making wild claims about what their “mad dog” lawyer that got them a pot of money for a sore back. Tony and Chad are serious Board Certified trial lawyers that run a

serious law firm that takes you and your injuries and problems seriously. We are trial lawyers and believers in what we do.

**This Book is NOT Legal Advice and It Does NOT Create an Attorney-Client Relationship**

The content in this book is not meant to be legal advice. An attorney-client relationship is not created between Denena Points, PC or any individual attorney in the Firm because you were sent this book. No such attorney-client relationship exists until there is a written, signed agreement between you and the Firm for legal services that clearly spells out the fee arrangement. The attorneys of Denena Points, PC know the arguments, traps and games that insurance companies and corporations use to sink your case and you should know this information as well. This book contains information and in some places suggestions but under no circumstances should you construe anything in this book as legal advice about your particular case because every case is different. Without knowing the specific facts and circumstances of your case and having a contract Denena Points, PC does not and is not giving legal advice in this book.

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

A personal injury case is any type of case where you have been injured or a loved one has been killed due to someone else's negligence or carelessness. Types of cases include car wrecks, truck collisions, motorcycle wrecks, unsafe cars or component parts of a car, falls in a store or any host of other situations where you are injured because of someone else's negligence. Negligence can be a tricky concept for even some lawyers. In Texas, "negligence" means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances. "Ordinary care" means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

If you are reading this book, it is because someone else's negligence caused serious injuries to you or a loved one or caused the death of a loved one, which is called a wrongful death case. The law of every state differs on what can and cannot be recovered in a wrongful death claim, so call us quickly so we can properly advise you about your legal rights and remedies. You need a Board Certified, Personal Injury attorney who understands the complexities of Texas Wrongful Death law.

If you have been hurt because of another's negligence read on for more information. Also be sure and visit our information packed website at [www.denenapoints.com](http://www.denenapoints.com). Of course, you can always call us at 713.807.9500 or toll free at 877.307.9500.

### **FACTS ABOUT TRUCK WRECKS**

Large Truck crashes are devastating in terms of fatalities and injuries, and financial costs. According to the Department of Transportation, Federal Motor Carrier Safety Administration, in 2005, there were 5,212 fatalities and 91,993 injuries from large truck crashes, and 335 fatalities and 14,283 injuries from bus crashes. The average cost of a large truck crash involving a fatality is \$3.6 million per crash. A crash with injuries costs almost \$200,000 per crash.

There are many reasons why 18-wheeler accidents are so catastrophic. The pressure for speed and efficiency by the trucking companies and the deregulation of the industry are both major factors - 18-wheeler drivers are typically required to work long hours with little or no sleep. Large trucks consistently break the speed limit in order to deliver goods quickly - adding fuel to an already dangerous fire. The sheer size of an 18-wheeler makes for a massive impact and hinders the ability of the truck to make sudden stops. The results are too often fatal. Below are some of the most common causes of Trucking Wrecks:

#### **Common Causes of Truck Wrecks:**

- Failure to properly accommodate blindspots
- Brake failure
- Debris thrown from the truck
- Driver fatigue
- Excessive speed for the road conditions
- Tire failure or separation
- Driving under influence of drugs or alcohol
- Unsecured cargo or freight shifting in the payload section
- Unsafe driving practices

The good news is that many crashes are preventable. According to the FMCSA, in 1997, 22% of large truck fatal crashes involving more than one vehicle were speeding-related. In 2003, about 2% of drivers with a commercial driver's license (CDL) used controlled substances, and 0.2% used alcohol (0.04 or higher blood alcohol content) while performing their duties. 5.5% of fatal truck crashes are caused by driver fatigue. A 2006 study found that only 59% of commercial motor vehicle (CMV) drivers wear safety belts. In 2005, of the 696 CMV drivers who died in truck crashes, 344 were not wearing safety belts. ALL of these statistics show that these truck rashes could have been prevented.





### **YOU SHOULD HIRE AN ATTORNEY IMMEDIATELY IN A TRUCKING CASE**

Sometimes, and in different types of cases, we advise potential clients that they may not need to hire an attorney. Visit our website to download books on car wrecks, motorcycle wrecks, and the others to see what other types of cases we handle. However, trucking cases are different than most other types of accident cases because the injuries are generally far more severe and devastating, and the evidence is far more crucial to the outcome. For these reasons, it is crucial that you hire an attorney as soon as you can after the wreck.

By the time you are discharged from the hospital or your family finds out about the wreck, the trucking company has already secured a team of investigators to descend upon the crash scene and document every piece of evidence possible. They, often, reconstruct the accident within days of the crash to determine things such as closing speeds, steering inputs, and the use of cruise control, braking maneuvers, and much more. They interview each and every witness including ALL first responders. They do this in an effort to mold their driver's testimony into the most favorable posture possible.

At Denena Points, P.C., we have our own team of experts we rely on to assist us in trucking cases to do the same things the defense is doing so we can ensure that we have the most accurate information possible and to ensure that the defense does not alter any of the evidence it obtains. We also know how to ensure that the trucking company preserves whatever evidence it discovers in its investigation.

Our team of experts include accident reconstructionists, trucking industry experts, and biomechanic engineers whose job it is to recreate everything about the crash sequence, including the minutes, hours, and even days leading up to the crash. We work as a team to painstakingly pour through the evidence to uncover the true picture of what happened and what caused the trucking wreck.

## **THE FOUR QUESTIONS YOU MUST ASK AN ATTORNEY BEFORE HIRING THEM**

If you or a loved one have been seriously injured or killed in a trucking wreck you need to protect yourself and your family. Here is a list of questions to ask any attorney who claims to have expertise in handling complex, serious injury cases. There are certain skills you should demand your attorney have before you hire him or her. Use this checklist when determining what attorney to hire for your case. Remember, this is likely one of the most important decisions you will make in your life.

### **1. Are you Board Certified?**

The Attorney **MUST** be **Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization**. Only 2% of the approximately 88,000 attorneys in the State of Texas are Board Certified in Personal Injury. This alone greatly narrows your search. Board Certification is flat out a mark of excellence and a huge professional accomplishment. Within the legal community, Board Certification means an attorney has substantial, relevant experience in the Personal Injury field of law as well as proven, and tested special competence in this area of law. Don't waste time dealing with attorneys that are not Board Certified in Personal Injury Trial Law.

### **2. Do you carry errors and omissions insurance?**

The law firm must carry errors and omissions insurance. Think of all the types of insurance out there: car, home, health, life and many others. Would you go to a doctor that didn't carry malpractice insurance? Of course not! Why hire a lawyer that doesn't have insurance to protect you in the rare event an issue arises. Carrying appropriate insurance is just another sign of stability.

### **3. Do you have solid experience with my type of case?**

Does the attorney have solid experience in your type of case? There are many "generalists" out there. Attorneys that claim to practice in the area of family law, criminal law, estates and trusts law and personal injury law. A recent client told me a story of an attorney saying to her he could get her kid out of jail, divorce her, write her mother's will and handle her motorcycle accident case. Is that really what you want - an attorney that knows a little about several areas but is likely a master of none? The attorneys at Denena & Points, PC are Board Certified Personal Injury Trial Attorneys that represent injured plaintiffs 100% of the time. If you need help on a will we can refer you to someone, but we don't claim to know how to do that nor do we want to do that. We are 100% committed to helping injured folks get their lives back on track.

**4. Give me a FULL explanation of the entire legal process.**

Demand the attorney you are interviewing gives you a full explanation of the process your case will go through. A “full” explanation should include the pre-litigation and litigation process. Like there are many generalists out there, the legal world is filled with settlement lawyers. These attorneys settle every case and do not take cases to trial. You should hire at the outset an attorney that knows the courtroom and has a history of success with juries. One way to judge this is to look for Board Certification. Another is to research a firm’s successes. A third way is to ask questions about your case and whether that attorney has had success with your particular type of case. Every case is different, but past success indicates competence. If the attorney you are speaking with cannot fully explain the litigation process you should move on to the next lawyer on your list.

**FACT: WE ARE DIFFERENT THAN ALMOST EVERY PERSONAL INJURY LAW FIRM OUT THERE**

There are hundreds of law firms out there advertising on television, filling up the inside and outside of the yellow pages, and all over the internet. It is no wonder that we get so many calls from folks unhappy with their current lawyers. The problem is nobody really knows what to look for when hiring an attorney to represent them in their accident case. There are several things that make this law firm different from many other firms out there, like these:

- **BOTH PARTNERS ARE BOARD CERTIFIED**

Both Chad and Tony are Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization. Board certification in personal injury trial law is achieved by less than 2% of the licensed attorneys in Texas and very few pass the exam the first time they take it, but this is exactly what both Chad and Tony were able to do. To become Board Certified, we had to demonstrate an extensive knowledge of personal injury trial law through our education, experience, and substantial involvement in a wide variety of personal injury matters including auto wrecks, truck wrecks, motorcycle wrecks, and defective products. We each had to sit as lead counsel on several cases that were tried to a jury verdict; we had to be evaluated by our peers, including attorneys with whom we have worked, opposing attorneys, and judges; and lastly, we had to pass a grueling, day-long written examination administered by the Board. We encourage you to visit [www.tbls.org](http://www.tbls.org) to find out more about Board Certification.

- **SUCCESS**

Let's face it – you want your case to be successful. We define success as maximizing the value of your personal injury case in the most efficient way possible. Past success is no guarantee of future success of course but it is a good barometer. You are probably looking at many different law firms so look at their track record. First and foremost, don't even waste time analyzing law firms that don't have Board Certified Lawyers. If the insurance company or corporation doesn't know your lawyer tries cases and wins, why will they agree to pay you fair value? Second, check out their results and check out what other past clients and other lawyers say about the lawyer you are looking to hire. You can find lots of this information on our website, [www.denenapoints.com](http://www.denenapoints.com). Go to Tony and Chad's biographies and get to know each of them. Research the lawyer rating websites such as [www.avvo.com](http://www.avvo.com), Texas Super Lawyers, and the site of the Texas Board of Legal Specialization. You want a lawyer that has a proven track record of success in the courtroom.

- **UNDERSTANDING OF THE PROCESS**

Our lawyers will take the time to explain the entire process to you so you are not in the dark. Think about that for a second. If you are talking to an attorney and you don't understand a thing that lawyer is talking about, how is he going to explain your case to a jury or an insurance adjustor? No secrets here at Denena Points, PC – you will be our partner during your case.

### **TRICKY INSURANCE COMPANY PRACTICES**

Insurance adjustors have one goal in mind: close the file as soon as possible, for as little money as possible. To do this, they will stop at nothing to make sure you do not get what you are entitled to. They are highly trained in using several tactics to minimize what you get out of your case. For years, the insurance company adjustors would advise injured people not to talk to attorneys, knowing that they pay more money to folks who hire attorneys than those that do not. However, their tactic of giving legal advice came crashing down when state committees started ruling that the advice amounted to the unauthorized practice of law. Even though they are committing CRIMINAL acts (in Texas) we have still found many instances of clients that we now represent (or have represented in the past) in which the adjustor advised them against hiring an attorney.

Here are some other tactics we have seen over the years that insurance adjustors use to try and wear you down and get you to accept their miniscule offer:

**1. We won't be able to accept liability until you give us a recorded statement with your version of the facts.**

This is one of the oldest tricks in the books. They insist that it is needed to make a liability determination on the case. They will tell you that if you refuse, they may not be able to determine fault and may not be able to pay to fix your vehicle or pay you for your legal damages. This statement could not be a more blatant lie. They are simply coercing you into giving them a statement so they can invade your privacy and start to build their defense to your damages case. Do not give in.

**2. We cannot evaluate your injury claim unless you give us a carte blanche authorization to your medical history.**

Another common deceptive insurance company trick to derail your claim. The adjustor will send you a blank authorization dating back to your birth and will insist that they need it to "properly evaluate your claim." It is another delay tactic designed to slow down your case and uncover irrelevant information that they can use against you when negotiating a settlement, all the while, the insurance company gets to hold onto its money and earn interest, while you are left playing the waiting game, wondering when and if you will ever be fairly compensated.

**3. Take your time with your case, you have 2 years to decide what to do – also known as the King of all Delay Tactics**

This is the king of all delay tactics. Adjustors use it for two reasons: first, the longer you wait to decide what to do about your case, the less time you have to evaluate whether the offer is fair, negotiate a fair settlement, and preserve your right to litigate your dispute with the at-fault driver; second, and more importantly, the longer the insurance company keeps you from talking to an attorney about your case, the less likely you are to find an attorney who is willing and capable of helping you. Most Board Certified personal injury trial law attorneys like to talk to clients right after their accident so they can advise them how best to proceed against the insurance company. Like we have said in other parts of this book, you don't always need to hire an attorney, but you should get some free legal advice, whenever you can. You know this, or you wouldn't have requested this book. Most attorneys also have a rule against taking on a case after too much time has passed. This plays right into the insurance company's hands. The longer they can keep you from seeking legal advice, the less likely it is that you will be able to find a competent attorney to help you.

**4. We have to send all of your medical records and bills to an “independent” auditor to make sure the treatments were necessary and the charges were reasonable.**

I have never seen an insurance company audit that found that all of my client's treatment was necessary and the charges were reasonable. Why? Because, if each adjustor can save 5 to 10% on each claim by disputing the necessity and reasonableness of the services and charges, think about how many millions of dollars can be saved each year on the insurance company's bottom line, thereby increasing profits.

**5. You don't need to hire an attorney. He is just going to take 1/3 of your money, leaving you with next to nothing.**

Did you know that insurance industry studies have shown that auto insurance companies pay more in settlement to people represented by attorneys than those who represent themselves? The Insurance Research Council is an independent, nonprofit research organization supported by leading property and casualty insurance companies and associations. Simply put, it is an organization funded by the insurance industry. It publishes reports on the insurance industry on a wide variety of topics. In 2008, it published a report outlining its study of more than 42,000 auto wreck claims nationwide to explore claims patterns under auto insurance coverage and compared the results to earlier studies. The study re-confirmed the IRC's earlier findings that people who used attorneys to represent them for their auto wreck



claims received multiple times more in settlement than people who settled their cases on their own.

### **5 QUESTIONS TO ASK THE INSURANCE ADJUSTOR**

1. If I give you a recorded statement, will you give me a copy of your insured's recorded statement?
2. Will you send me a letter accepting liability on behalf of your insured driver?
3. Will you provide me with written documentation of your insured driver's policy limits, including any umbrella policies?
4. If I give you a signed medical authorization will you agree to limit it to the medical providers I see for this wreck and none other and will you agree to provide me with copies of the records as soon as you receive them?
5. Will you agree to provide me with copies of any statements you obtain from eyewitnesses?

It is highly likely that the answer to all of these questions will be a resounding, NO! Some insurance companies will agree to one or two of these items, but most will not even admit to liability in the face of a clear accident report and statements to corroborate the facts. Don't let it be a one-way street. Demand that you receive all of this information before agreeing to give them any of the information they are requesting.

**YOU ARE AT WAR WITH THE INSURANCE COMPAY – BUT YOU CAN WIN**

The moment you were injured, you went to war with the insurance company. It is a war you did not choose, and one you may not think you are in, but make no mistake; the insurance company is at war with you. Years ago, back in the 1980s, insurance companies, large corporations, and some in the government began a systematic attack on individual rights. They began to wage war on personal injury lawsuits in the media and their propaganda has had a huge effect on juries, their verdicts, and public perception, in general. If you watch Fox News, you have seen it. If you follow the Republican Party, you have seen it. It is called Tort Reform. The success the insurance industry has had in the Tort Reform War has systematically driven down case values over the years. With the systematic whittling-down of case values have come fewer jury trials because most lawyers are afraid of risking a jury's ire when they try a case. Don't worry; however, Tony and Chad are Board Certified in Personal Injury Trial Law, which means each of us has tried a significant number of cases to jury verdict. The insurance companies know this and they know we are ready to try our cases the moment we file a lawsuit.

The fact is most people feel that tort reform is a good thing until they are affected by it. You may have personally supported the tort reform cause directly or indirectly because of the billions of dollars that have been spent on the War in advertising. The reason insurance companies have been so successful in their campaign is simple: people vote, think, and act with their pocketbooks. The insurance industry has led you to believe that frivolous lawsuits cost you more in insurance premiums. The fact is, this is simply untrue. If you doubt what you are reading, go to your state department of insurance company website and check out your insurance company's yearly financial statements for the past 5 or 10 years. What will you find? You'll find that their PROFITS have been increasing every year, even through the economic downturns, and that the major injurers all make BILLIONS in profits each and every year. You may ask, why then are they supporting tort reform and fighting a war to limit what I can get for my injuries? The answer is simple: to increase their bottom line.

## **THE 7 CRUCIAL MISTAKES YOU MUST AVOID**

There are many traps along the way to getting the compensation you deserve for the injuries you have after a motorcycle accident that was not your fault. Here are the 7 crucial mistakes you must avoid that can wreck your case before it can even really get started.

### **1. Giving a Recorded Statement to the Insurance Adjustor**

Giving a recorded statement to the insurance adjustor of the at-fault driver can be a real case killer. In fact, you shouldn't even speak with the insurance adjustor at all. The insurance adjustor is not on your side, no matter what they tell you or how nice they seem. The insurance company adjustor will ask you questions in such a way that the full and true facts will not be recorded and never see the light of day.

Do you think that insurance adjustor is going to give you a copy of your statement? The answer is no. You will have no way of checking to make sure the recorded statement is accurate. We frequently see situations where the insurance company produces a typed transcript of the recorded statement but then the company cannot produce the recording. When the client says the transcript is not accurate there is no way to prove this. Should you just trust the insurance company to accurately record the facts? No.

You are under no legal obligation whatsoever to give a recorded statement. The insurance company adjustor will claim she cannot make a decision on your claim without the statement. This is not true. The only evidence necessary is the police report and the medical records and medical bills you accumulate over the course of your medical treatment. In fact, you have an obligation not to commit this sin that will wreck your motorcycle claim.

### **2. Signing the insurance company's forms**

There is no doubt the insurance adjustor will say you MUST sign a few forms for her to evaluate your claim. Just like with the recorded statement, you are under no legal obligation to sign any of the forms. These are forms that will be used to dig up totally private and completely irrelevant information about you. This irrelevant information will then be used to muddy the waters at best and at worst outright deny your claim.

One of the insurance company forms will be an open-ended HIPPA medical authorization that will allow the insurance company to gain access to virtually every medical record on you from every doctor you have seen in your lifetime. How is broken ankle you had in middle school relevant to the neck and back injury you have as a result of the wreck? One of the main strategies of the insurance companies is to dig around in your medical records and tie any prior injury, no matter how remote, to you the injuries you suffered in the wreck. Any prior

worker's compensation claim, car wreck, sports injury or complaints of pain to any doctor will be used by the insurance company to kill your motorcycle claim. Do Not Sign These Forms!

### **3. Not getting immediate healthcare and then ignoring the doctor's advice**

If you are really hurt, you should go to the emergency room immediately or a doctor to assess your injuries. If you did not go to the emergency room immediately after the accident then get to a doctor as soon as possible. Any passage of time between the accident and medical treatment will be labeled a delay by the insurance company. You will then be accused of essentially engaging in fraud by not seeking healthcare until days after the accident. Although in some accidents it is reasonable to give the body a few days to heal itself, the insurance company will use this against you. If you are hurt at the scene go to the hospital or get to a doctor right away. If you do heal up in a couple of days, fine, but at least you did not harm your motorcycle injury case by not seeking immediate healthcare.

There are more people in Texas without health insurance than there are that have health insurance. This is a sad state of affairs, but it is reality. Without health insurance you may think you cannot afford to see a doctor. This is not an excuse that can be used with the insurance company. If you are hurt, you must find a way to get the healthcare you need. Many doctors will treat you on a payment plan. Likewise, payment plans can be set-up with hospitals for treatment in the emergency room. Also, our attorneys and staff can help you with setting up these options with healthcare providers.

Also, you absolutely must follow all instructions given to you by your doctor and physical therapist. If the doctor prescribes 6 weeks of physical therapy you need to complete it. If the doctor prescribes medication you need to take it. Now, I don't mean to imply to do things you don't need. By all means when you begin to feel better you must tell your doctor your accurate condition. On the other hand, you must follow orders for as long as your injury persists.

### **4. Not being totally accurate with your Board Certified Attorney**

In today's world, we all have more to do and things to juggle than ever before. It is downright hard to remember what you had for lunch yesterday, much less the details of the car wreck you had 5 years ago or the back injury you had in your 20's. Be that as it may, you absolutely must be as totally accurate as absolutely possible with the Board Certified Attorney working on your case. As the Plaintiff, you need to lay out all the facts and history of everything that could remotely be related to your case. This is because everything is potentially fair game and even things that are not fair game the insurance company will try to find and use against you. Your Board Certified Attorney cannot defend against this unless he knows about it. This is

a prime example of the saying, “the best defense is the best offense.” This means you must tell your attorney about ALL:

Prior accidents of any kind: car, motorcycle, at home, at work.

Prior injuries you have had to any part of your body. Even if you saw a doctor because of a sore back brought on by a weekend of too much bending and stooping in your garden. You must disclose all prior injuries to your attorney.

Prior lawsuits you have been involved in of any kind, including other accidents, divorces or even business matters.

Any prior arrests, no matter why, where or how long ago the arrest happened.

Any prior claims you have made for other accidents, workers compensation or anything else.

#### **5. Not being aware of your surroundings and watching out for surveillance.**

The insurance company adjustors and lawyers will likely order surveillance be taken of you out in your yard, around town, even at work. Nothing is too low for these folks. Private investigators may be hired to follow you around during your day trying to get some incriminating photo or video of you. Of course, what they do with these videos is edit them and then refuse to hand over to you the complete video. By not getting the full video, you don’t get the true story. Creative editing of the video essentially results in a surveillance video that is inaccurate at best and flat out dishonest at worst. Don’t be naïve. The insurance company adjustors and lawyers will do whatever it takes to destroy your valid claim. This is the real world and bad things happen and people do bad things. You have to be completely aware of your surroundings and all time. You must watch out for people following you and taking video of your actions.

#### **6. Leaving the scene of the wreck without making a police report.**

We see this huge mistake all the time. If you are able, you must give your version of the facts before you leave the scene of the wreck. The trucking companies and their drivers know how to shift the blame and if you do not come forward immediately with the true version of the facts, the initial police report (even if it is inaccurate) will be very difficult to dispute. You must call 911 and you must wait for the police officer to arrive at the scene so an accurate account of what happened can be memorialized in the report. This is also important because the other driver is far less likely to give false information to a police officer. This situation arises

frequently if the other driver is under the influence of alcohol or drugs. Don't Forget – Call the Police!

### **7. Not consulting with and hiring a Board Certified Personal Injury Trial Lawyer.**

Picking the right attorney for your case is one of the most important decisions you will ever make. Think about all the decisions you make in life like what car to buy, what doctor to see, what mechanic to use on your car, even what grocery store to buy your groceries from. In all of these instances you seek out the best, most experienced and most trusted places by doing your research. You need to do the same kind of work when you are looking for an attorney to handle your car wreck case. A lawyer that is Board Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization is Experienced, Respected and Tested by the Judges that will hear your case, the attorneys that will be up against you and the juries at the courthouse.

There are over 88,000 attorneys in Texas and less than 2% of them are Board Certified in Personal Injury Trial Law. Why would you even take on the RISK of hiring one of those 86,240 non-Board Certified lawyers? It simply is not worth it. Denena & Points, PC is not a law firm of settlement lawyers. Both Tony and Chad try lawsuits to verdict. We are not afraid of the court house and we know what to do when we get there. Not every case needs to go to trial, but if yours does you had better have the right lawyer in the trenches of that courtroom battle with you. The right lawyer for that battle is one that is Board Certified in Personal Injury Trial Law.

Slip up along the way and commit any of these 7 Crucial Mistakes and you will destroy your chances at a favorable outcome in your case. You must avoid these 7 Crucial Mistakes at any cost. Otherwise, you have very little hope of ever recovering the compensation you deserve because of your injuries. Don't do any of these things and arm yourself with information and you might have a chance at recovery. If you want help or more information call your Board Certified Personal Injury Trial Attorneys at Denena & Points, PC by calling 877-307-9500 or contact us through our website [www.denenapoints.com](http://www.denenapoints.com).

### **WHO GETS PART OF MY COMPENSATION?**

At the conclusion of your case all issues related to liens and subrogation must be addressed. These are probably terms you have never heard before so let us explain, but before we do, know at the outset that your DP team will not leave you alone in this area of your case. Part of our service to our client is to handle the negotiation of liens, subrogation interests, letters of protection and any other issue that comes up related to your medical bills.

In Texas some healthcare providers have the legal right to file a lien against you for payment of medical bills. The lien can be for the entire amount of the hospital's bill which is usually the case with folks that do not have health insurance or it can be for the amount still owed on the bill after health insurance pays its portion of the charges. You will be given notice of the lien either directly or through your attorney. Your attorney must perform a lien check in the particular county where you were treated in order to assure that no liens are outstanding.

Liens CANNOT be ignored. If the lien is ignored and not honored the lien holder can sue you and the attorney to recover the funds. Additionally, if your medical bills were paid by Medicare, Medicaid or TriCare a lien will exist. These liens are known as "super liens" and these entities do not have to take any action to put you on notice of the lien. These governmental entities can come after you directly as well as come after the law firm. The statutes setting up the Federal program lien structure provides that the governmental entity can obtain as compensation for your failure to honor the lien as double the amount of the original lien, plus attorneys' fees and other costs. Remember, liens CANNOT be ignored.

If you are fortunate enough to have health insurance on your own or through your employer, that is great and congratulations because many, many Americans do not have health insurance. Written into the health insurance contract there is a subrogation provision. This gives your health insurance company the legal right to demand it be paid back out of your settlement or verdict proceeds. The amount you must pay back is dependent upon the amount your health insurance company paid the provider. Let's look at an example. You go to the emergency room after an auto accident for treatment. The hospital charges you \$3,000.00 for the visit (remember that the other providers at this emergency room visit will bill you as well). Of that \$3,000.00 your health insurance company pays \$1,200.00. The patient portion is another \$500.00 which you have to pay. If you recover money from the person at fault for the car crash you must pay back at least a portion of the \$1,200.00 paid by your insurance company to the hospital. Your DP team will negotiate with the health insurance company in an effort to get a percentage reduction of the \$1,200.00. This service allows you to get more compensation in your pocket.



If you do not have health insurance you may be treated by a healthcare provider pursuant to a letter of protection. This is essentially an agreement between you and the healthcare provider that you agree to pay the medical bill at the time your case is settled or the DP team obtains a verdict on your behalf. Your DP team will negotiate directly with the healthcare provider to obtain a reduced payback on your behalf. Again, this service we provide allows you to end up with more compensation for your injuries.

Now think back to the explanation of health insurance. There the total hospital bill was \$3,000.00. Of that \$3,000.00 you had to pay a co-pay of \$500.00 and your health insurance company paid \$1,200.00 for a total of \$1,700.00 paid on the bill. Now assume the hospital simply writes off the remaining \$1,300.00 balance of the bill. Under this scenario even though the original charge was \$3,000.00 you can only recover the amount paid and/or incurred by you or on your behalf - \$1,700.00. It is as if the medical bill were only the lower amount rather than the \$3,000.00. This relatively new law has vastly changed the landscape for victims of personal injury in Texas. First, it dramatically lowers the amount of economic damages present in your case. Second, it does nothing to take into account the fact that you will still have to pay back the insurance company and/or the healthcare provider out of your settlement proceeds. This bad law has really devastating effects on personal injury victims.

### **ABOUT THE AUTHORS**

Tony Denena and Chad Points have spent their entire careers representing individuals against insurance companies and corporations. Denena & Points, PC is a firm that represents people in personal injury cases. Hopefully you have already visited the Firm's website [www.denenapoints.com](http://www.denenapoints.com). The site has tons of information about Texas car accidents, truck wrecks, motorcycle wrecks, unsafe products and other personal injury cases. Additionally you can find out more information about Chad and Tony and the entire DP Team at our website which is packed with information you need. Please visit us at [www.denenapoints.com](http://www.denenapoints.com).



**Tony Denena**



**Chad Points**

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