

## **10 Myths about Florida Personal Injury Claims** **By James W. Hart, Esq.**

### **1. If I write a nice letter to the insurance company, I will receive a reasonable settlement offer.**

**TRUTH:** *The insurance company works very hard to pay you as little as possible (or nothing) for your injuries. The insurance company is not your friend. They make money by collecting and investing premiums, not by paying your claim. They have unlimited resources at their disposal to investigate, defend and deny your claim.*

### **2. If I am in an accident, I always need an attorney.**

**TRUTH:** *Not every case needs an attorney. Many small injury cases can be settled directly with the insurance company. Often, it makes more sense to settle a small case without the help of an attorney because attorney's fees and other costs, including your medical bills, might leave little or no compensation for you when the case is finished. This is especially true of a "fender bender" with some minor property damage and perhaps some minor "soft tissue" physical injuries, like a sore neck or sore back that clears up in a few days.*

*On the other hand, if your case involves serious injuries or complicated issues of liability (meaning who is at fault) it becomes more important to have an attorney working on your side, or at the least to consult with an attorney prior to talking to the opposing party or the insurance company.*

### **3. I should allow my lawyer to refer me to a doctor.**

**TRUTH:** *If your attorney tries to refer you to a particular doctor, this is a sign that they may have no interest in trying your case. This is because if a jury later finds out that an attorney referred you to a particular doctor, they become very suspicious of the relationship. The insurance company can find out how many times that attorney has referred patients to that particular doctor. A single referral raises suspicions. Multiple referrals confirm those suspicions. The only exception is if the client needs a very specialized type of medical care and the attorney steers them in the right direction. Make sure you understand the referral relationship between your attorney and that particular doctor before you accept any referral to that doctor. If an attorney pressures you to use a particular physician, you should avoid hiring that attorney.*

### **4. When I have been in an accident, the legal system is a way to get rich.**

**TRUTH:** *Nothing could be farther from the truth. Just because you have been in an accident does not mean that someone caused your accident, nor does it mean that you have sustained damages. Many people who have been in small accidents will sustain no injuries at all. However, there are other people who have been permanently or catastrophically injured as a result of someone else's negligence. These people will have large medical bills and may need to miss work. Only the most drastic and devastating cases will lead to the large verdicts and*

settlements that plaintiff's attorneys get "bad press" about. However, these cases are not the norm.

**5. All lawyers who advertise for personal injury cases have the same experience and ability.**

TRUTH: Just as with any other profession, attorneys have varying levels of experience and ability. Obviously, the longer you have been practicing a particular area of the law, the more you will know about that subject. Experience can be a big factor in most cases. Some attorneys have experience actually trying cases, while others loath the courtroom. Experience can also be measured by whether a lawyer is published, has conducted any lectures or is a member of area Trial Lawyer Associations. In Central Florida, look for a lawyer who is a member of the Florida Justice Association (formerly the Florida Association of Trial Lawyers) or the Central Florida Trial Lawyers Association. Also, look to see if the lawyer is a member of the American Association of Justice (formerly the Association of Trial Lawyers of America (ATLA)). (A clue that someone is not really involved with AAJ is that they still refer to it as the American Trial Lawyer Association - we have seen this on web sites and in the Yellow Pages.) All three of these organizations provide extensive education and networking for trial lawyers.

**6. I should choose my personal injury lawyer based on the biggest ad in the Yellow Pages or on television.**

TRUTH: You should not hire your personal injury lawyer based solely on who has the biggest advertisement in the yellow pages. A lot of the very best attorneys run referral only practices, and don't have yellow page ads at all. However, a lot of times people just don't know any attorneys, or they don't know anyone who can refer them to a competent attorney. So, if you do decide to begin your search in the phone book, keep in mind a few things:

- First, any attorney or law firm can buy a yellow page advertisement. All that a big ad means is that the law firm spent more money on the yellow pages. A large, expensive advertisement says nothing about the credentials of the attorney that placed the ad, nor does it imply that the attorney is very good at what they are doing. You will want to talk to the attorney about their experience and credentials as well as how they will handle your case before you decide to hire them.
- Second, make sure that the attorney or law firm you decide to hire is not running a "settlement mill". Many firms run very large and expensive advertisements that bring in lots of clients. This causes two problems. First, there are more clients than the firm has attorneys to handle the cases. Second, the law firm must pay the large advertising bills each month. These firms do not have the manpower or the time to devote to each case that comes through the door. The attorneys are taught to settle cases as quickly as possible, because that is how they can keep the cash flow up to pay the advertising bills. Cases that won't settle within a few months are farmed out to other firms or dropped. The cases that do settle will sometimes settle for a fraction of what they are worth.

- *Finally, make sure to talk to the attorney who will be handling your case. Lots of firms will employ paralegals to do most of the legwork on the file. Many times, the client will talk to a lawyer only at the end of the case when they are signing settlement paperwork. Make sure to talk to the attorney who will be handling the case, and verify that they will be the one who advises you and answers your questions throughout the process. Finally, make sure your personality meshes with the attorney you hire. You could be working with this person for an extended period, you should like them.*

**7. If I am in an accident and the other person's insurance company requests a recorded statement, I must give one or they will not settle my case.**

TRUTH: *Insurance companies do not want you to hire an attorney. For this reason, they will do or say just about anything to get you to settle your case and waive your rights as soon as possible after the accident. If you do give a recorded statement before retaining an attorney, you may do or say something that could damage your case. Any case that has merit will have value. If you believe that you have been seriously injured, you should always at least talk to a lawyer before you sign any documents given to you by the insurance company or give a recorded statement.*

**8. The insurance adjuster is my friend.**

TRUTH: *The insurance adjuster may seem like your friend. This is because the insurance companies know from years of experience that if you know, trust and like their adjusters, than you are more likely to settle your case before going to see an attorney.*

**9. The main goal of the insurance company is to pay me fair compensation as soon as possible.**

TRUTH: *Unfortunately, this statement couldn't be farther from the truth. The insurance companies have spent a great deal of money over the years making sure that they pay you as little as possible. The reality is that insurance companies make money by collecting and investing premiums, while at the same time not paying out any claims.*

**10. I should run out and hire the first attorney I meet with.**

TRUTH: *No. No. No. Take your time. Meet with several attorneys. Make sure you are comfortable with your decision. Don't feel pressured into signing a contingent fee contract. Any attorney that pressures you is not the right lawyer. Even after you have entered into a contract with an attorney, you still have three days to reconsider your decision. This is clearly outlined in the "Statement of Client Rights" that you should receive whenever you are about to enter into a contingency fee contract with a Florida attorney. If the attorney did not provide you with this statement of rights, then you should reconsider your decision to hire that attorney.*

*Always ask for information about the attorney that you are meeting with. Ask that attorney about their education, training, and experience. It's important for you to remember*

*that you should take your time with your decision and make sure that you are comfortable with the attorney you decide to hire.*

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At The Law Office of James W. Hart we would be more than happy to talk to you about your personal injury case. Our phone number is (407) 839-4340 and our office is conveniently located on Lee Road in Winter Park. I am always happy to answer any questions you might have. Thank you for your time and consideration of my firm.