

SELECTING A CIVIL ATTORNEY

Note: Certain content areas in this material are current as of this printing, but, over time, legislative and regulatory changes, as well as court decisions and new developments, may date this material. In addition, laws vary from state to state, and the strategies outlined in this brochure may not be suitable for every individual or in every jurisdiction. This brochure is meant to provide general guidance for selecting and hiring a civil attorney; it is not meant to be a substitute for or to supersede specific professional or legal advice.

Are you Injured?

Was Your Loved One Killed?

Call 1-800-SUEBIG

We'll get you Big Bucks Every Time!

You saw it on television or on a billboard, so hiring this attorney must be a good idea!

Wrong!

Nor will you want to hire

- the lawyer who handed you a business card at the hospital or the funeral home,
- the lawyer whose card was given to you by the tow truck driver, or
- your lawyer relative or friend who generally works divorce cases, real estate cases or any cases other than personal injury/wrongful death cases.

You or someone you love has been injured in a crash, or your loved one was killed. Amid the pain and anguish of your trauma, you also face legal and

financial challenges. Among them is the possibility of filing a civil suit against the driver or against a third party who might have contributed in some way to the crash. For most people, this is foreign territory. The thought of meeting with an attorney, not to mention knowing how to select one, is a frightening prospect.

This brochure is intended to help alleviate some of those fears by providing information you need to find the right civil attorney for you and to maintain a positive working relationship with him or her throughout the court process. It is not intended as a substitute for experienced legal counsel or as legal advice concerning the numerous factual and legal issues arising from a drunk driving crash.

Before You Begin

As you consider hiring an attorney, make a commitment to yourself and your family that you'll weigh all the pros and cons of a civil suit before you actually initiate any action. The media is full of stories of people threatening to sue, filing suits and winning (and losing) lawsuits. What those stories often don't convey is the emotional and psychological price paid by those involved. Civil lawsuits are often extremely time-consuming and emotionally draining. Additionally, legal resolution may not come for years.

A successful civil suit may provide you with a sense of justice and may result in financial resources needed by you or your family. It may also result in changes in laws or practices that will ultimately keep

society safer. These positive outcomes make a civil suit worthwhile in some instances.

Be sure that as you work with an attorney to honestly assess the legal merits of your case, you also work with the attorney as well as trusted loved ones to weigh the psychological factors. The circumstances that have led you to consider legal action were sudden, violent and beyond your control. You had no choice in what happened but you do have choices in how you respond. Regardless of what you decide as it relates to a lawsuit, you can aid in your own healing by carefully making a decision based on the best information and insight possible.

DIFFERENCES BETWEEN THE CRIMINAL AND CIVIL CASE

The driver responsible for the crash may have been charged by the prosecutor in your county with a crime, ranging from driving under the influence to homicide. Specific language of the charge varies from state to state. This charge initiates the criminal case where the State prosecutes the driver because he or she broke a state law. An assistant prosecutor may have been assigned to handle the case. It is not necessary for you to hire or pay for these services.

On behalf of the state in which the crash occurred, the prosecutor will attempt to convince the judge or jury that the driver should be convicted of the crime and punished appropriately. Sometimes, the prosecutor, in consultation with the victim's

family and the offender's attorney, can agree on a plea to the offense and/or sentence and thereby avoid going to trial. This strategy is called a plea bargain. The plea bargain must be approved and accepted by the presiding judge. The judge is not bound by the plea agreement.

If you were involved in the crash yourself, or witnessed it, you may be asked by the prosecutor to testify at the trial. Otherwise, your role in the criminal case is limited. In most cases, however, you will have the opportunity to offer a Victim Impact Statement before the offender is sentenced. The prosecutor or victim advocate will describe this process to you.

The sentence or punishment usually consists of a fine payable to the state, loss of driver's license and/or incarceration in the county jail or state prison. If the offender is found guilty but not incarcerated, a period of probation may be ordered in which the driver performs community services hours or does other things the victim, prosecutor and judge deem appropriate. Sometimes the sanction includes a period of incarceration followed by a period of probation. For more information about the criminal case, see MADD's brochure, Victim Information Pamphlet (VIP) or ask your local MADD chapter for their state-specific version of this document.

If you sue the driver or a third party in a civil suit, you will be required to play a more substantial role. You are the plaintiff (the entity initiating the

suit) rather than the State. Deciding to file a civil suit is totally separate from initiating the criminal case. While punishment is the desired outcome of the criminal suit, financial recovery of monetary damages is the desired outcome of the civil suit.

You may feel uncomfortable getting financial reward for what happened because it feels like 'blood money'. On the other hand, you may have costs associated with the crash that were not covered by insurance, Crime Victims' Compensation or any restitution the criminal judge may order the offender to pay to you. Furthermore, if you want to teach the offender a lesson - and others like him or her who may consider doing something similar in the future - spending time in jail or prison AND being required to pay you money for current and future losses may be appropriate.

Damages may be paid to you for past and future medical expenses, permanent scarring or disfigurement, loss or loss of use of a limb or other bodily function, travel to and from medical appointments, lost wages as well as lost future earning capacity, pain and suffering (past, present and future) and loss of love and companionship. However, no matter the quality of your case, if the defendant has neither insurance nor recoverable income or assets, a civil suit may be wasted time, energy and money.

If the defendant was driving under the influence of alcohol or other drugs and does have income and assets, your attorney may still advise against a suit.

He may tell you that the defendant will simply file bankruptcy to avoid paying you. That may not be true. Bankruptcy law is federal, and changes have taken place during recent years to assure that intoxicated drivers cannot obtain relief under Chapters 7 and 13 of the Federal Bankruptcy Code to avoid paying civil judgments or criminal restitution in claims arising out of drunk driving crashes. In other words, if you obtain a judgment against the intoxicated driver and he or she subsequently files bankruptcy, the bankruptcy judge will not discharge the claim arising out of the drunk driving crash. The offender will still owe the judgment although you may have a difficult time collecting on that judgment. However, bars and restaurants sued for irresponsible serving may still file for corporate bankruptcy under Chapter 11.

If your attorney is unfamiliar with this law, ask him to consult with a qualified bankruptcy attorney. The American Bar Association and most state Bar Associations have bankruptcy sections that can refer you or your attorney to qualified attorneys in your community.

Instead of, or in addition to, filing a case against the impaired driver responsible for the crash and his or her insurance company, you may also have an action against a 'third party'. A third party is any person or entity whose actions may have contributed to the circumstances of the crash. In drunk driving cases, 'dram shop' statutes and case law may provide potential liability for a restaurant, bar or liquor store

that negligently allowed an underage or intoxicated person to purchase or drink liquor who was subsequently involved in a crash involving death or injury. Both the business and individual that actually sold or served the alcohol may be liable.

Other third parties may include those who knew the offender was impaired but allowed him or her to drive anyway; the person who purchased or provided the vehicle; or the social host who provided the alcohol to a minor or obviously intoxicated person. If the offender was driving a company vehicle or on company time at the time of the crash, his or her employer may also have some liability.

Third party liability varies widely from state to state. An attorney can help you assess the probability of third party responsibility in your state.

If a public entity such as the city, county or state was in any way responsible through commission, omission or negligence, financial recovery from them also may be possible. Traditionally, governments and governmental entities such as police departments have been immune from civil suits based on the theory of 'sovereign immunity'. Appellate courts in a number of jurisdictions have now found them legally and financially responsible for such things as inappropriate parole release, inadequate probation supervision, improper street or highway maintenance or signage and failure to arrest a drunk driver who then kills or injures someone.

You and your civil attorney are responsible for proving your civil case in court. Remember that you can win a civil case even though the criminal case may not have been successful. In criminal court, the judge or jury must be convinced beyond a reasonable doubt to convict the defendant. In other words, they must have no reasonable doubt that the driver was totally responsible for what happened. In civil court, the judge or jury must be convinced only by a preponderance of the evidence, generally a 51% likelihood, of the defendant's responsibility or by clear and convincing evidence, somewhere around 70%.

CONSIDERATIONS BEFORE FILING A CIVIL SUIT

In many cases, evidence or admissions presented in criminal court may be used in civil court. However, this does not mean that you should wait to discuss your case with, or even hire, a civil attorney. The earlier an attorney is hired, the easier it will be for him to gather information on your case. By waiting weeks or months, witnesses become harder to find, physical evidence may be lost or damaged and memories fade. Additionally, each state has a statute of limitations establishing a certain time period after which a civil suit can no longer be filed.

Meanwhile, your insurance company and the responsible driver's insurance company will be attempting to settle the case. Insurance companies are required by law to negotiate settlement of cases in 'good faith'. When they have failed to do so, insureds

as plaintiffs have sued the insurance companies and recovered damages in so-called 'bad faith' lawsuits. These cases have motivated insurance companies to make reasonable offers, although their idea of reasonable and yours may differ. Be sure the offer is based on the maximum allowable for your property damage, medical expenses, lost wages - past, present, and future - and pain and suffering.

It is usually not necessary to file a civil suit if you are dealing only with property damage where market value of your vehicle can be easily determined. However, personal injury and death cases are much more complex. **DO NOT** settle with an insurance company until you are absolutely certain that all costs associated with the crash are covered. This can take months - even years. Request copies of each settlement offer in writing to avoid confusion and to have proof in the event that you receive conflicting information. **DO NOT** sign any settlement agreement or releases until you are absolutely certain of the terms and conditions.

Even if you decide not to hire an attorney to pursue a civil action and you are satisfied with the settlement offer, you may want to consider paying an attorney just to review the settlement agreement and release and to explain it to you. It is critical that you are aware of what you're agreeing to by accepting the insurance company's offer. By signing the release you sign away any and all claims against the offender forever.

If you have a property damage claim as well as a personal injury or death claim, each of these can be settled independent of the other. If you have agreed to a settlement of the property damage claim only and are reserving your personal injury or wrongful death claim, make sure the settlement agreement is limited to the property damage claim only. If you have any doubts, paying an attorney to review and explain the documents is a wise investment.

If you decide to hire a civil attorney, he will handle all insurance issues. You will no longer have to speak with the defendant's insurance adjuster or with yours. The attorney's investigators will collect evidence, interview witnesses and gather information from the time he is retained, even though the civil case may not be filed for some time.

You may feel unable to look for an attorney now because of your injuries or because you are so depleted of energy due to grief or post-traumatic stress. Coping with anything else seems almost impossible. Consider asking a trusted friend to help with the preliminary work; sharing this brochure is a good way to begin. Ultimately, however, you will need to interview the final candidates and make a decision. You will be working with your attorney over a long period of time and it is important that you feel comfortable with the relationship.

IDENTIFYING POTENTIAL ATTORNEYS

The best way to find a good attorney is the same way you find a good mechanic or hairdresser. Seek recommendations from someone you know to have good judgment or has had a good experience using an attorney in a similar case.

Other Lawyers

Since you want to find a good attorney who specializes in personal injury and wrongful death cases, particularly those with expertise in vehicular crashes, ask a judge or lawyer you know and trust who he would hire if he were in your situation.

Hold out for someone with the kind of legal experience you are seeking. Just as you wouldn't see your dentist for a heart problem, or hire a plumber to repair your roof, don't hire someone whose legal expertise is in other areas. Go ahead and ask your tax attorney or the lawyer who handled your divorce for a referral, but be certain that you hire someone who specializes in this kind of law.

Additionally, think carefully before you hire a friend or family member even if they have the legal expertise that you are seeking. While they may have a greater interest in the case than a stranger, it may be difficult to maintain an appropriate attorney-client relationship. Will you be comfortable telling your uncle that you disagree with his settlement recommendations? Will you be able to ask your former

roommate for an itemized list of expenses? Will you feel embarrassed if you have to call with questions?

Mothers Against Drunk Driving

If there is a MADD chapter in your community, it may be able to provide you with a list of at least three attorneys who are experienced and have been successful in trying personal injury/wrongful death cases. Many chapters have mailed surveys to civil attorneys interested in receiving referrals and will be happy to share the surveys with you to assist you in deciding who to interview. If you cannot find MADD in your local phone book, call the MADD national toll-free helpline, 1-877-MADD-HELP (1-877-623-3435) and ask for your nearest chapter or state office. If you have Internet access, find MADD at www.madd.org and click on 'find your local chapter'.

Bar Associations

Your city or county Bar Association will give you a list of attorneys who specialize in personal injury/wrongful death cases. If your contact with the local Bar Association is not satisfactory, call Directory Assistance in your state capital city and ask for the number of the state Bar Association. It's probably to your advantage to hire a local attorney because you don't want to pay for unnecessary travel time and expenses. A local attorney is likely to be more accountable to you and will also know the judges and how to work with them to your advantage.

You may find referral services in the Yellow Pages under 'Legal Services'. Be sure it is one offered by the Bar. Sometimes groups of lawyers form their own referral service and simply refer to each other.

Martindale-Hubbell

Go to the library and ask for the Martindale-Hubbell Directory that provides you with basic information and biographies of most attorneys in your area. It sometimes includes a rating based on polls of how their peers evaluate them in terms of ability, expertise and integrity.

The Yellow Pages

It is somewhat risky to simply pick someone out of the phone book. Just because a lawyer or a firm pays for a large ad does not mean they are the best for you. A lawyer listed under a specific category does not mean he is a certified specialist in that field. A 'certified specialist' received more education and is more likely to have had actual courtroom experience than a non-specialist, but it takes more than that to be a good lawyer.

Avoid an attorney whose name you find under all or many subcategories of law. No one individual or even small group of attorneys can stay current on all kinds of law.

A Final Bit of Research

By now, you have several names on your list. Call the state Bar Association and ask if complaints have been

filed and substantiated on any of the names on your list. Most disciplinary actions on the part of the Bar are public information and you are entitled to the information under the Freedom of Information Act. You may also want to go to the county clerk's office to see if anyone on your list has been a defendant in a malpractice suit or if any were dilatory in their actions resulting in a default judgment against any of their clients. If an attorney has been successfully sued, steer clear. You could also check the criminal court index to see if any of them were ever charged with a crime.

PREPARING FOR THE INTERVIEWS

Initial Calls

As you call firms from your list, briefly describe your situation and then ask if the attorney has more experience representing plaintiffs or defendants. You will generally want a plaintiff's lawyer, but having some experience on the other side can also be useful. Ask what percentage of his cases settle before going to trial. This will help you assess how much trial experience he has. Of the cases that have gone to trial, how many has he won and lost.

If you are satisfied with the answers to these questions, ask for a consultation interview. Ask if there will be a fee for the first visit. Most attorneys do not charge for the initial visit, but some charge a nominal fee. The attorney may ask you to mail basic documents such as the crash report or medical records before the interview. This is fine as long as you send

copies, not originals. A trusted friend or relative of an injured or bereaved person can set up initial interviews, but before signing a retainer, the person directly involved must be well enough to determine if he or she can work comfortably with the attorney.

PREPARING FOR THE CONSULTATION INTERVIEW

Collect all relevant paperwork and arrange it in a binder with section labels so you can find things easily. If you have not already sent the following documents in the mail, take them to the meeting.

Take the police report and tell the attorney if there are any errors on it. Take copies of ALL medical files, names and addresses of all medical personnel who have treated victims of the crash, counseling records, ambulance bills, funeral expenses, insurance communication, a log of all expenses associated with the crash such as phone calls and mileage, and an employer statement of lost wages. Regarding the vehicle, take copies of all estimates for repairs and receipts for out-of-pocket expenses. If you have copies of any written or transcribed statements by parties or witnesses, take them. They are very important for admissions, witnesses impeachment, etc. If you have obtained the criminal record and driving record of the defendant, take that. If you are aware of witnesses to the crash who were not listed on the police report, give their names and addresses. If pictures were taken of the vehicles and of survivors as they are moving through recovery, take those. If someone was killed

in the crash, take a copy of the autopsy report if it is accessible to you in your state. The law enforcement agency that investigated the crash, and probably the prosecutor, will have crime scene photos. Ask if they can be released for the civil case. More than likely, they will not be available until the criminal case is finished.

If collecting all this documentation seems overwhelming, don't let it keep you from interviewing attorneys. They can collect the material themselves, but the more you can provide, the more time and money will be saved. These documents will help your potential attorney decide whether or not to take your case and to get a sense of the merits of the case.

The Interviews

Explain the circumstances of your crash to the attorney and show him your prepared materials.

After completing your presentation and responding to the attorney's questions, you will have a pretty good idea about whether the attorney is interested in taking your case. If you don't sense significant interest, don't feel obligated to continue the interview. If the attorney has questioned you about your case and interest continues, don't leave before asking questions of your own. Refer to the list of questions you've prepared and feel free to add to the list throughout the course of the interview. Take notes as you talk, both to document answers and to assist you in comparing attorneys after you've completed all your interviews.

Your list of prepared questions should include the following as well as others of your own.

- What do you see as the strengths and weaknesses of my case?
- What kind of timetable do you foresee in the handling of this case?
- How likely is it that I might wind up spending all of the judgment in legal fees? (Be cautious if the attorney gives you a dollar amount for the outcome of the trial. A competent attorney will discuss strengths and weaknesses and may make a general guess, but will refrain from making promises. Beware of attorneys who tell you up front that you have a 'policy limits' case, i.e. they almost guarantee you that they can recover for you the full amount of the defendant's policy.)
- If you take this case, how do you think you would proceed?

Ask again the questions you asked during the phone interview to see if you get the same answers.

- Tell me again if you generally represent the plaintiff or the defendant in cases like this.
- What percentage of cases like this have you settled out of court?
- Of cases like this that have gone to trial, how many have you won and what size judgments have you received for your clients?
- Have you argued against this defendant's lawyer before? What was the outcome? What is your relationship with him or her?

Now ask questions about handling of the case and money.

- Will you be handling the bulk of this case yourself or will you pass it on to an associate or paralegal? (If others will be involved in a substantive portion of the work, you may want to interview those individuals.)

- Will I be notified of all court dates? Who will inform me? (It's acceptable for an associate or paralegal to do this.)
- Will you provide me with copies of all documents and correspondence?
- How will you charge for this case?

The last question is crucial. Common options are contingency, flat fee and hourly rate. Contingency fee arrangements usually are used with these kinds of cases and are attractive because they rarely require money up front. When the settlement or judgment is complete, the attorney will take a percentage ranging from 20% to 50%, which comes off the top of the settlement or judgment.

The most common in many jurisdictions is one-third, although 40% is becoming more common. The percentage may be less if you settle out of court and more if the case goes into appeals. Sometimes the firm pays expenses, but most often the client pays them. What's left belongs to you.

If a flat fee is charged, it will be easy for you to compare with other lawyers you will be interviewing. If your research has indicated that you are interviewing a well-respected lawyer, expect the fee to be larger. However, remember that if he can do as good job for you in fewer hours than a less expensive lawyer who will take more hours, you may still be ahead with the higher priced attorney. If the attorney thinks your case will likely be settled out of court, an hourly fee may be to your benefit.

If you have been contacted by the defendant's insurance company prior to meeting or contracting with the civil attorney, make the attorney aware of this. If your insurance company has made you a settlement offer, it is critical that the offer and the amount be a part of your fee negotiations. Some attorneys will agree to base their contingency fee agreement only on a percentage of the amount recovered over and above the settlement offer that has already been made. In this situation you are coming to the meeting with 'money on the table', in a manner of speaking. You may not think that it is appropriate for the attorney to get a percentage of this sum, especially if the case settles for the same amount you were originally offered. Not all attorneys will agree to base their fee only on 'over and above' settlements, but this should be part of your fee negotiation prior to retaining an attorney.

In some states, fees and costs are regulated. Ask the attorney if there are any such regulations in your state. You may also obtain this information from the state Bar Association.

- How often will I be billed for expenses, and will the expenses be itemized?
- If we enter a contingency agreement and lose, who pays expenses?
- What expenses will I be paying for? Court fees? Depositions? Stenography? Paralegal services? Copying? Faxing? How are phone calls charged?
- How many depositions do you think will be required? Why? How are they billed?

- Do you require a retainer up front? If so, how much? What does it cover? If there is a remainder when the case is finished, do I get a refund? (The retainer usually is not more than 20% to 25% of the expected cost of the case.)

You now have asked enough questions that the attorney knows you are a competent person who takes the hiring of your attorney seriously. Therefore, if you haven't already discovered the answer, ask the last question.

- Have you ever had a complaint filed against you and have you ever been sued for malpractice?

If you have no further questions, thank the attorney for his time and tell him you will get back in touch after you have completed all your interviews. If the attorney is professional and works out of a sense of integrity, he will not push you to sign a contract but give you time to make the best decision for you and your family.

THE DECISION

After you have met with several attorneys, you will probably develop a sense about which one is best for you and your financial situation. If you are not yet clear, look over all your notes, but also consider how the attorney related to you. Did he take time to evaluate your paperwork before making recommendations about the case? Was he on time for your appointment? Did he take other calls while interviewing you (making double-billing possible if you were charged for the interview)? Did he give you enough time to get all your questions answered? Did you feel respected during the

interview? Did the attorney thank you for all your preparatory work? Do you think you would be comfortable calling the attorney with questions and concerns as the case progresses?

One final note: some crash victims have strong feelings about hiring an attorney who also does drunk driving defense. Feel free to make that a criterion in your selection if it's important to you. However, other victims correctly note that attorneys who have first-hand defense experience may actually have an advantage when it comes to preparing and arguing your case. Only you can decide how comfortable you feel hiring an attorney who also represents drunk driving offenders.

THE CONTRACT

Many states require attorneys to provide clients with written contracts unless the client waives the right. Don't waive your right.

Take the proposed contract home and read it carefully to be sure everything in it is the same as what you were told during the interview. Be particularly cautious about expenses. Exactly what will be charged and when? If the case is charged on a contingency basis, are expenses taken out before or after the attorney receives his percentage?

Negotiate with your attorney on anything in the contract that will be difficult for you. For example, if a retainer is required and you have less money now than you will in a couple of months, ask if the retainer

fee can be deferred. If you are worried about excessive fees, ask if a cap can be placed on fees. Ask to be billed monthly at the beginning, end or middle of the month depending on your financial situation.

Be sure the contract spells out your financial responsibility if you decide to drop your case or take it to another attorney.

If the attorney asks you to sign a contract that is 'standard' and you would like items included that were discussed during your interview but not spelled out in the contract, ask that they be included. Remember, you are hiring this person to work for you - not the other way around. The contract is a legally binding document so be sure it states the details exactly as you understand them.

RESPONSIBILITIES AS THE CASE DEVELOPS

Your Attorney's Responsibilities

Once you have signed a contract with an attorney, you should expect certain things of him. An attorney's primary responsibility is to act on your behalf. He should create an atmosphere of confidentiality where you can ask questions and receive honest answers and advice. A competent attorney will always be able to tell you the status of your case in simple language and give you a timetable on how he sees the case developing. He, or a member of his staff, should return your calls as soon as possible. (However, remember that if he is a good trial lawyer, he will spend much time in court.)

If the contract states that you will receive copies of all correspondence and filings on your case, expect them. You should be notified of all court dates and settlement discussions.

Your lawyer should discuss with you laws relevant to your case and show you why ideas you may have fit or do not fit within the framework of the law or court procedure. He should provide you with all the evidence he has obtained about your case and then follow your direction in how you want to proceed.

Your Responsibilities

Your attorney also has the right to expect certain things of you. If you obtain new information, share it with your attorney immediately. This includes information that may be detrimental to your case. Any and all communication between you and your lawyer is totally confidential. No one can require him to disclose it unless you tell him you are planning to commit a criminal act. An attorney can only act as your best advocate if he knows everything. The best way to damage or destroy your attorney-client relationship is to be dishonest with him. Your case will not be enhanced if your attorney is embarrassed or surprised in the courtroom. He should be able to anticipate every move the defense plans to make.

Understand that while your attorney is working for you, he is also working on other cases. Just as you demand respect and attention when he is working on

your case, you must respect his time with other clients. Don't have your attorney paged or ask that he be interrupted in a meeting or when he is with another client unless it is an emergency.

Finally, your attorney is not your therapist or best friend. Nor have you hired him to deal with legal matters unrelated to the case. Your attorney was hired to handle this case only. If you feel that you need to call him just because you are angry or depressed, call a therapist instead. If you need advice on other legal matters, ask your attorney only for a referral.

Firing Your Attorney

If you interviewed thoroughly and if the contract you signed was complete, you will probably be satisfied with your attorney. However, even in the best of situations, problems can arise.

First, ask yourself why you are unhappy. Are you unhappy because the case is not turning out as you had hoped, or are you angry because you don't feel you are respected by your attorney or that he is treating you with dignity and integrity? Even the most competent attorneys lose cases. In fact, remember that for every case there is a winner and a loser. If you look at your case as objectively and honestly as you can and conclude that your attorney is doing the best job he can, even though you are disappointed in the results, you have no claim to fire him.

Don't confuse the passage of time with a lack of attention. Civil cases can take years to resolve and lack of apparent movement doesn't necessarily mean your attorney has lost interest or isn't pursuing the case. Review your initial notes to see how long your attorney predicted the case might take.

If you conclude that you are not being treated well by your attorney, the first step is to schedule an appointment and discuss your disappointments with him. Tell him the things you appreciate about his work and then tell him about your frustrations. Try not to blame, but simply to speak from the heart about what you are feeling. This will give the attorney the opportunity to correct any misunderstandings or incorrect information. If communication about your case has been limited, this will give him the opportunity to bring you up to date, which may make you feel better. No attorney wants to be fired or be the subject of a formal complaint. Therefore, he will be as eager as you to get your relationship back on the right track. Often one meeting will rectify the problem, and allow you to continue working together.

If you are unable to remedy the dispute, or if your attorney refuses to meet with you, you may need to end the relationship. Remember that the attorney was hired to work for you, and you can, therefore, choose to fire him. If you do fire the attorney, your contract should spell out all expenses for which you will be responsible. It may also give the attorney the

right to a lien on your eventual recovery. All documents related to your case are yours, however, to take to a new attorney. They do not belong to the lawyer or to the firm. Once you have paid the attorney in full, ask for ALL the documents, correspondence, physical evidence and other paperwork including informal notes on your case. You may want to put your request in writing in the event you later realize not all has been given to you. It is your property.

If you feel the attorney worked unethically or proceeded in an illegal manner, consider contacting your state legal regulatory agency or the state Bar Association. Regulations differ, but in every state you have the right to file a complaint. Finally, if you feel that your case was jeopardized by your attorney's incompetence, you may have a malpractice case against him. If this is your situation, you will need to contact a malpractice attorney who specializes in legal malpractice cases.

Kee in mind that as long as you are under contract with an attorney it is considered unethical for another attorney to give you advice or counsel. Do not ask other attorneys to comment on or give you advice on your case as long as you are being represented by someone else.

MADD has long advocated that all victims/survivors of impaired driving crashes should be fully and fairly compensated for all aspects of the harm caused by these crashes. However, every civil case is

different and there is no guarantee that you will recover the same amount that someone recovered in the next state or even in the next courtroom. If you take care in hiring your civil attorney and develop a trusting relationship with that person, it will help you know that you did the best job you could and that your attorney did the same. Our civil justice system cannot restore you to the person you were before the crash or restore your loved one, but financial recovery can help lessen some of the burdens you are confronted with as you try to heal both physically and emotionally.

*For more information or assistance
visit MADD's website at www.madd.org
or call 1-877-MADD-HELP (1-877-623-3435).*

NOTES
