

# GETTING BACK ON YOUR FEET

7 Strategies for a **Successful**  
**Nebraska Pedestrian Injury Claim**



**WILLIAM “BILL” STEFFENS**

**STEFFENS LAW OFFICES, P.C.**

LINCOLN, OMAHA, GRAND ISLAND, KEARNEY, BROKEN BOW, AND NORTH PLATTE, NEBRASKA

**GET YOUR FREE CONSULTATION TODAY! CALL 402-787-4713**

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## FOREWORD

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**I grew up in Kearney, Nebraska** back when it was still a small town. As a child, I was able to ride my bike anywhere, attend movie matinees and walk to the public swimming pool – all in complete safety. My wife, Cory, and I wanted our children to experience that same lifestyle growing up. So, we moved to Broken Bow, Nebraska. With two years of litigation experience as a deputy county attorney in Hastings, Nebraska, I was ready to jump into a civil practice.

After trying several different areas of law, I found myself magnetically drawn to helping injured people. People who found themselves pitted against a big insurance company bully – a bully who refused to treat them fairly.

I come from a long line of people who were passionate about helping others. My father was a doctor in the days when physicians made house calls. My mother was a school

counselor. After she retired years ago, she still received numerous phone calls and letters from her former students.

I believe I bring a similar passion to my work. While challenging, it is also the kind of work that allows my team and me to really get to know and understand clients. In the process, I have formed many wonderful relationships. We continue to stay in touch with many of the injured clients we have helped.

After handling many injury cases over the past 30 years, I've learned the unwritten rules. What works, and what doesn't. This experience is what levels the playing field for us. Large insurance companies have vast resources and they can give people the runaround for a long time. That's where we come in. That's why I wrote this book. To help people systematically work through the issues that an injury victim faces following a serious pedestrian accident. The seven most common problems pedestrian injury victims confront and the strategies needed to be successful are all addressed in this book.



## **DISCLAIMER**

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### **Nothing in this book may be construed as legal advice.**

You will find a wealth of information about handling a personal injury claim in this book. I have condensed many years of experience in the area of personal injury law between the covers. However, every injury case is different and the general information found in this book may not specifically apply to your particular case.

So, I am not allowed to give “legal advice” in this book. I can only offer suggestions and identify some of the pitfalls. Please do not consider anything in this book to be legal advice until you have agreed to hire me and my team, and I have agreed, in writing, after reviewing the facts of your case, to represent you.





## STRATEGY #1:

# SEEK MEDICAL TREATMENT IMMEDIATELY AND CONTINUE TO TREAT AS LONG AS NEEDED

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**You should seek medical treatment** immediately following an accident for your own well-being as well as the success of your injury case.

**1st** Get to an emergency room. If the ambulance doesn't take you, have someone drive you. You may be hurt worse than you know. But you won't know if you don't go.

In the emergency room, tell the doctor about the accident and where you hurt. This is not the time to

suffer in silence or try to “cowboy up.” Describe your pain in as much detail as possible so that it later appears in the emergency room medical record.

If you wait too long after the accident before seeing a doctor, the insurance company may well argue that your injuries happened later and did not result from this accident.

**2nd** Follow the emergency room physician’s advice regarding pain medication and therapy. One of your most precious assets is at stake – your health. Truth be known, no injury award is large enough to replace your good health. What you do in the first few days and weeks following your wreck can impact you for the rest of your life. Be smart about this and follow the doctor’s advice.

**3rd** See your own family doctor about your injuries. The emergency room physician may not suggest this, but you need to do it. Your family doctor knows you best and can refer you to any specialist you may need.

Be sure to tell your doctor about the accident, where you hurt and what your pain level is.

Follow your family doctor’s recommendations as if recovering from this accident is your new job – it is, really. You want to recover as much as possible from your injuries. Proper medical treatment early on is the key.

Continue treating regularly with your family doctor until he releases you or refers you to a specialist. You should visit your doctor at least once a week for a while, at least until he determines the extent of your injuries.

Remember that some pedestrian accident victims initially hurt all over and then have very specific pain in certain areas later.

Every time you see your doctor, refer to your pedestrian accident and honestly describe where you hurt and your pain level.

If you stop medical treatment, the insurance company will presume, and later argue, that you are no longer hurting. So, as long as you hurt, seek medical treatment.

Your family doctor is probably someone you have known over the years and have come to trust. I strongly suggest you follow his advice for the sake of both your health and your case.



## **STRATEGY #2:**

# **HOW TO DETERMINE IF YOU HAVE A CASE**

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## **The Primary Rules of Pedestrian Law in Nebraska:**

1. Pedestrians have the right of way when crossing the street within a crosswalk, so long as they are obeying all traffic lights, signals, or signs present. But even then, there are some tricky exceptions.
  - For example, even when you are in a marked crosswalk, if you head into traffic while ignoring a red DON'T WALK signal, a driver that hits you won't be liable for your injuries.

2. Anyone who crosses a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection with traffic signals, must yield the right of way to all vehicles on the roadway.
  
3. Pedestrians may not cross the street between two traffic signals when not within a marked crosswalk.
  - Pedestrians cannot cross a roadway intersection diagonally, unless traffic control devices are present and specifically allow this type of crossing.
  
4. Pedestrians should never suddenly enter the path of oncoming traffic, which is travelling too fast to stop in time for a pedestrian. In fact, people who have done so and were injured lost their case when they sued the driver.

So, these rules essentially tell us that pedestrians who cross the street anywhere other than an unmarked crosswalk or an intersection with traffic signals or marked crosswalk must always yield the right of way to vehicles, which means that pedestrians certainly do not always have the right of way!

## **EXCEPTIONS TO THE LAW**

Even if you or a loved one is unfortunately struck and injured by a vehicle and didn't have the right of way, it's critical to remember a claim might still be made against the driver. Why?

## GETTING BACK ON YOUR FEET

Here are just a few of the possible reasons a driver may still be responsible for the accident:

- If they were traveling too fast for the road conditions, even if driving under the speed limit.
- Rain, fog, snow, or time of day can all influence liability.
- If the driver was on the phone, texting or searching the web, they likely failed to “keep a proper lookout.”
- If the driver was under the influence of alcohol.

Just last year our law firm successfully obtained substantial compensation for a client who was struck while crossing in the middle of the street (far from any crosswalk). However, the defendant driver had quickly accelerated from a green light along with the driver next to him. His “exhibition of acceleration” was illegal and could not be reasonably anticipated by our client. So, she was justly compensated.

## TOO COMPLEX TO HANDLE ALONE

The bottom line is that pedestrian accidents and the ensuing legal questions are often complex. Pedestrian injuries can be severe and may contribute to one of most difficult times in a person’s life. Huge medical bills, battles with insurance companies, and lost income from missed work are just some of the obstacles to recovery. It’s no wonder many injured pedestrians suffer from mental anxiety or even PTSD. The last thing an injured, suffering person needs to worry about during this stressful time is “how will I deal with all this?” That’s where a great legal team comes in, and why you should contact one without delay.



## STRATEGY #3:

# DOCUMENT YOUR ACCIDENT

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**Your injury case** will probably take some time to be resolved. Months – maybe even years. So, you must preserve evidence early that you may need later.

**1st** Before the driver's insurance company pays you, you will need to prove that the driver who hit you was negligent. Maybe the negligence was obvious, but maybe not.

Preserve how the accident scene looked with a few photos. You wouldn't be the first accident victim to return to the scene months later and find changes in the crosswalk or surrounding area. For instance, the

city may change the signage or tear up concrete and curbing for whatever reason.

Take a picture of the vehicle that hit you, before it's sold or salvaged.

Don't depend on law enforcement officials to take the photos you might need. While well-meaning and typically thorough, they are not required to take photos. Law enforcement officials don't always get the photos you need and they are not required to keep the photos for a long period of time. So, take your own.

Check for traffic cameras or businesses video cameras that might have captured the event.

**2nd** Even if you are able to prove negligence, you must also prove "pain and suffering" before receiving compensation.

Take pictures of your physical injuries. Here is where a picture really can be "worth a thousand words." For instance, it is one thing for medical records to say your head required 24 stitches for closure and quite another to produce a color photo showing your bruised and discolored face all stitched up.

While no one likes having their picture taken under these circumstances, such a photo can be invaluable later when the insurance company is scoffing at you, saying, "Your injuries weren't that bad."

**3rd** If you are in pain, keep a journal.

Later, if you are asked how many headaches you suffered through and the degree of your pain, you will then have physical evidence.



You can use whatever feels comfortable. A tablet with dated pages, a diary or even boxes on a wall calendar. Our office can provide you with a simple ‘Pain Diary’ free of charge.

You won’t remember all that happened months from now when you need it, so write it down now. My grandfather, a very successful architect, used to say, “A 29-cent notepad can be more valuable than a million-dollar memory.”



## STRATEGY #4:

# HOW TO COVER MEDICAL EXPENSES AFTER AN ACCIDENT

**(WHEN YOU DON'T HAVE INSURANCE OR MONEY)**

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**Few stresses in life** match the financial pressure you may be forced to endure after a pedestrian accident. Particularly, if you can't work for a while. Your medical provider wants payment now, but you are struggling just to pay your regular monthly bills. And you're thinking, "I didn't cause my injuries. Why doesn't the other guy's insurance pay for my medical treatment?"

Well, sorry to say, legally the “other guy’s” insurance can avoid paying until your case is either settled or decided in court.

But there are ways to receive top-notch medical treatment even if you have no health insurance, Medicaid or Medicare available to cover the expenses, or have no money to pay for treatment.

**1st** Seek “MedPay” from your own auto insurance policy. “MedPay” is insurance money, available under most auto policies, to pay for your medical bills. It is typically available in amounts of \$2,500 to \$5,000.

If your injuries are minor, you may want to seek “MedPay” by yourself. Call your insurance agent and ask how much “MedPay” is available on your policy. Next, submit your medical bills to your agent and request payment using your “MedPay.” Do this in writing and save a copy of your letter as well as copies of the bills you send to your agent for your own records. Also, ask for written confirmation when these bills have been paid.

If your injuries are serious, “MedPay” will not cover all the medical expenses. You may need to tap into another form of coverage to cover what “MedPay” does not.

**2nd** Contact your medical providers and ask them to file a “medical lien.” The law provides that if a medical provider submits a “lien” in your personal injury case, they get paid before you do. Doctors like that (who wouldn’t).

Many medical providers want to know that you are working with an attorney before agreeing to a “medical lien.” They want assurance that you have hired an experienced lawyer who will recover medical expenses in your case. At Steffens Law Office, we will contact any reluctant medical provider and encourage them to file a “lien” with us. We have even gone so far as to prepare the “lien” for them.

**3rd** The critical mistake you must avoid is a lapse in treatment or the “other guy’s” insurance agent will say, “You must have gotten better.” In the insurance world, “I didn’t have the money to treat” is not an excuse. To be successful, you must treat medically until your doctors say they can do nothing more for you. This is called “maximum medical improvement.” If you quit medical treatment prematurely, you usually do more damage to yourself and your case.

**Contact the Steffens Law Office if you need additional ideas for paying your medical bills.**



## STRATEGY #5:

# HOW TO DEAL WITH THE OTHER GUY'S INSURANCE COMPANY (WITHOUT HURTING YOUR CLAIM)

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- 1st** It is very important that you recognize at the outset of your claim that you are now in the midst of a battle with the other guy's insurance company. No matter how pleasant the other insurance company's representative may be (and they often are) or how many times the agent tells you they can help you settle your claim quickly – they are not a friend, but a foe. They are being paid well to find a way to deny or reduce the

value of your claim. Worse yet, the agent may delay doing anything at all until you are so frustrated – and broke – that you will take whatever lowball offer they make – so watch out!

**2nd** You should also recognize that right from the start, insurance representatives have the upper hand. They have been trained in these sorts of matters. They probably have considerable experience and vast resources that you don't – like legal advisors to turn to for help. Also, they likely know the things to look for to wreck your claim. They are under no obligation to help you, inform you of the law or advise you as to what is best for you.

So, if you have been seriously hurt, you should seriously consider not talking with the insurance carrier at all or sign any forms until you have consulted with a knowledgeable attorney. If you choose this direction, be sure to get the agent's contact information and tell them you will be in touch with them after you have talked with an attorney.

If you choose to communicate with the agent – be careful!

**3rd** The first thing the insurance carrier will probably want is a recorded telephone interview about the accident and your medical care. Beware! If you agree to this, carefully think through what happened. Consider preparing notes, including a timeline beginning several hours before the accident, then retracing the

accident itself and what followed. If you participate in an interview unprepared, and answer a question with "I don't know" and later remember the answer, you could be accused of "changing your story." It is better to qualify answers to questions you know, but can't remember at the time with an answer like, "I can't recall that at this time."

A book could be written about this interview process. But with some help, you can tell the complete truth and avoid hurting your claim. We at Steffens Law Office have a series of pointers we give clients. We also like to be part of the interview and record it ourselves.

**4th** If the insurance company asks you to sign any papers, again, approach this with extreme caution. You should strongly consider getting legal advice first. Whatever you do, don't sign anything you don't completely understand or haven't carefully thought through.

In summary, the negligent driver injured you. Don't let the other driver's insurance company injure your claim, too.



## STRATEGY #6:

# HOW TO DECIDE IF YOU NEED A LAWYER TO SETTLE YOUR CLAIM

**(AND IF SO, HOW TO CHOOSE A GOOD PERSONAL INJURY ATTORNEY)**

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- 1st** You may not need, or want, an attorney involved in your claim. If you have experienced minor injuries, have less than \$5,000 in medical expenses, have recovered completely and have lost little or no time from work, you probably have a “small claim.” In a small claim, the attorney fees (typically one-third of your settlement) and costs might leave you little or



nothing after your medical bills are paid. That really wouldn't be fair to you.

If you are not sure if you have a claim that needs an attorney, just call Steffens Law Office. We will help you analyze the situation without charge.

Don't base your decision to use a lawyer on what the insurance agent says or the amount of money they initially offer you. No matter what, the agent will always discourage you from using an attorney and the first offer will always be low. In addition, you may not know how serious your injury is for weeks after the accident, long after the insurance agent's initial offer.

**2nd** If you decide you need an attorney, how do you choose a good personal injury lawyer?

I suggest the following criteria:

Seek an attorney with knowledge and experience. How many pedestrian accident claims has the lawyer actually handled and how many years has he concentrated on this type of claim? Personal injury is a specialized area of the law, and it requires years of education, training and experience. Even if the lawyer is seasoned, if he practices in many different areas of the law without focusing on personal injury pedestrian accidents, look elsewhere.

Look for someone with a good reputation for honesty and professionalism – so you can believe what he says. There are several indicators:

- a) Is this attorney accredited by the Better Business Bureau?

- b) Does he have at least a “very good” rating on AVVO, which rates lawyers for experience, industry recognition and professional conduct?
- c) Can he provide numerous reviews and real testimonials where clients remark about the attorney’s character, credibility, and the outcome of their claim?
- d) Does the lawyer sound “questionable”? Make promises to you early on about how much your claim is worth or give you inflated guarantees about the outcome of your claim? Experienced, knowledgeable, ethical attorneys simply don’t do this.
- e) Does the lawyer seem genuinely interested and compassionate about your medical condition? If the lawyer isn’t encouraging you to get excellent medical care and not asking how your condition is progressing – that’s a problem. Your talks shouldn’t just be about “money.” No amount of money will replace your good health.
- f) Can the lawyer supply you with useful, free information about this area of the law and what issues you should be concerned about? You shouldn’t have to pay for this information or have to travel to the attorney’s office to receive the initial information. Lawyers should be able to send you “information guides,” a book, or blog posts upon your request. If the lawyer is pushing you to sign a contract for representation first, before answering your questions and supplying free information, I would be skeptical.

- g) Does the attorney have a reputation for good results?
- Look at his Google reviews to find out what previous clients thought.
  - Ask the attorney to supply you with real testimonials from clients who rate the attorney and whether or not his claim was successful.

There are a lot of attorneys out there who “tout” themselves to be personal injury lawyers – so take your time searching for a good one who can genuinely help you.



## STRATEGY #7:

# HOW TO DETERMINE WHAT YOUR CLAIM IS WORTH

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While no two claims are alike and it is impossible to tell you what your particular claim may be worth, there are specific criteria that will indicate the value of your claim.

**1st** The nature and extent of your injuries or, simply put, how badly you were really hurt. This is key.

Was the injury extremely painful and for how long? Do you have evidence to support this in the

form of medical records, witnesses, a journal or photographs?

Is your pain ongoing and how long is it expected to last? Do you have evidence supporting that?

Did your injury disfigure or scar you physically or emotionally?

**2nd** The type and cost of your medical treatment.

Don't expect your claim to have much value if you have never been treated by a specialist like an orthopedist, neurologist, surgeon or ear-nose-and-throat (ENT) specialist.

The length of time you were treated and the cost of your treatment will play a significant role in determining the value of your claim. However, your medical care will need to be viewed as reasonable and necessary for your condition.

Medical records showing that you need medical care or should expect to need medical care in the future will further increase your claim value.

**3rd** Wages lost as a result of your injury.

Lost time at work because you were receiving treatment or physically unable to work will add value. You will need medical records and employment records to support this claim.

If your condition is such that you will not be able to return to the same job or may not be able to work at all, the value of your claim will be significantly increased.

**4th** Lost or diminished quality of life.

Such things as activities that you can no longer enjoy may influence value. The more important these lost activities were to your previous lifestyle, the more value they usually have.

Because there is no exact formula for determining “fair compensation,” it is important to consult with an experienced personal injury attorney about your specific circumstances to determine the general value level of your claim.



## CONCLUSION

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**Hopefully, this book** has answered a lot of your questions. Maybe, you've even gained some insight that has changed the way you think about your injury claim. I hope so.

The problem with a book of this kind is that the information found in it can only be general in nature. It cannot answer all the specific issues raised in your case because every case is different.

Frankly, as an attorney, it is this very element that makes my work so challenging and rewarding. No matter how many hundreds of cases I review in my career, no two cases will ever be exactly the same.

As an injury victim, though, this has to be frustrating, and I certainly didn't mean to leave you thinking, "Yeah, but what about...because that happened to me."

The reality is this. I can't possibly explain and document all that I have learned in the many years I have specialized in personal injury law. The result would be a very long book that few would even attempt to read. I have intentionally kept this book short so that, hopefully, no one will be intimidated by its size or the time needed to read it.

If you still have questions, just call or contact us on our website – [www.steffensinjurylaw.com](http://www.steffensinjurylaw.com). I'm not going to charge you to answer a few questions. You might have a very simple case that you can, and should, settle yourself without an attorney. Or, you might not.

I am very selective about what cases I take. We only sign cases involving serious or catastrophic injury. Also, in most cases, I make more than one contact with a potential client before the client and I are both sure that we want to work together. Only then do we talk about legal representation and a written contract.

Thank you for your valuable time. I look forward to hearing from you.





## **CASE RESULTS**

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### **Disclaimer:**

Injury claim results may vary depending on the facts and circumstances of your case.

### **\$350,000 - STRUCK BY A CAR WHILE ENTERING A CONVENIENCE STORE**

SM was struck by a car, which jumped the curb, as he was entering a convenience store for his morning coffee. The impact was so severe that it resulted in a compound fracture of his left femur and two surgeries to install hardware for the repair.

Steffens law was able to obtain the policy limits of both the liability insurance from the negligent driver, as well as the

policy limits from the clients underinsured motorist policy. No lawsuit was necessary to settle the case.

SM's claim, brought by Steffens Law, against the convenience store, for not providing a safe entryway, is still pending.

## **\$150,000- HIT AND DRAGGED BY A BUS**

Our client was walking in a parking lot at night when she was run over and dragged by a "party bus". Her injuries were extensive and included multiple severe abrasions on her buttock requiring stitches, debridement, wound vac, and a skin graft, a torn right ACL/MCL, Concussion, and PTSD.

Steffens law was able to obtain the policy limits of both the liability insurance from the negligent driver, as well as the policy limits from the clients underinsured motorist policy. No lawsuit was necessary to settle the case.

In addition, Steffens Law was able to completely erase the client's Blue Cross/ Blue Shield health insurance lien, so no medical expenses were taken from her settlement.

## **\$150,000- STRUCK DOWN CROSSING STREET TO WORK**

CV was crossing the street between her workplace and the parking lot, when she was struck down by a vehicle which had just dropped off a passenger. Her injuries included a complex tear to her knee which required surgery and extensive physical therapy.

Steffens law was able to obtain the policy limits of both the liability insurance from the negligent driver, as well as the policy limits from the client's underinsured motorist policy.

No lawsuit was necessary to settle the case, and her future work comp medical expense remains open on her knee injury, so she will not have to personally pay for any future medical treatment on her knee.

## **\$125,000 - HIT BY A BACKING CAR**

SH, an elderly woman, was struck by a teenage driver backing up. Her hip and knee were very bruised and bloodied, but no surgery was necessary. Steffens Law obtained the policy limits of both the liability insurance from the negligent driver, as well as the policy limits from the clients UIM policy. Steffens law also negotiated a large reduction of Medicare's lien, creating a larger settlement for the client. After a long period of rehabilitation, the client was able to return home. No lawsuit was required to reach full settlement.

## **\$100,000- STRUCK IN AN UNMARKED INTERSECTION**

CJ, a young person, homeless at the time, was struck while crossing in the middle of a busy street. However, Steffens law was able to determine that she was struck by a speeding driver who was involved in a drag race at the time. The extreme negligence of the driver exempted CJ from the standard rule which would have placed the blame on her for crossing outside of the intersection.

Her injuries included a fractured collarbone, pelvis fracture, head laceration, torn ACL, and a leg fracture. While CJ's medical expenses were very large, Steffens law assisted her in receiving Medicaid which paid for all of her medical treatment.

Because CJ did not own an automobile, Steffens law was only able to collect the policy limits of the negligent driver's liability insurance. However, Steffens law was able to secure a reduction of Medicaid's lien by one third, and pass that savings on to the client. The case settled within six months, and no lawsuit was necessary.

## **\$75,000 - PARKING LOT VICTIM**

Our client, FF, was run over in his workplace parking lot. His ankle and leg were injured, and required surgery and a steel plate. Steffens law obtained the policy limits of both the liability insurance from the negligent driver, as well as the policy limits from the client's underinsured motorist policy. In addition, Steffens law negotiated a two thirds reduction of the work comp lien, which dramatically increased the client's net settlement. Both the pedestrian injury and the work comp case were settled within 11 months of the accident, without the necessity of filing lawsuits. In addition, the client's primary goal of keeping his job was met.



## **FREQUENTLY ASKED QUESTIONS**

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### **DO I HAVE A CASE?**

An injured party is referred to as the “plaintiff”. In Nebraska, the plaintiff has the burden of proof. This means the “burden” is on you to establish the legally required elements in your case or you will not be entitled to any recovery. The plaintiff must prove three major elements in order to “have a case”: liability, causation and damages. While you will need help to fully evaluate whether or not you have a case, the following will get you started:

#### **Element #1 – Liability**

In order to “have a case,” the other party must be “liable” for your injuries. Typically, this means the other party has com-

mitted a negligent action that caused your injuries. In order to prevail on a claim of negligence, the facts must clearly show the other driver's negligence or failure to meet the standard of care. Refer to Strategy #2 in this book, "How to Determine if You Have a Case".

## **Element #2 – Causation**

You must be able to show that your injuries were caused by this accident. For example, in order to be compensated for a ruptured disc in your lower back, you will need strong evidence showing that this injury resulted from your pedestrian accident and not from an accident at home or at work. A doctor's medical opinion may be required to resolve this issue.

## **Element #3 – Damages**

This can be defined as how the accident impacted you physically, emotionally and financially. More specifically, your (a) pain and suffering; (b) lost wages; (c) lost or diminished quality of life; (d) present and future medical expenses, and (e) out-of-pocket expenses.

The harm or injuries you have suffered must be significant enough to justify spending the time, energy and resources that are required to bring a successful claim.

## **DO INJURY CLAIMS ALWAYS GO TO COURT?**

Most personal injury claimants do not try their cases in court. Most cases are settled out of court. However, if the defendant's insurance company refuses to pay fair compensation for your damages, the case may need to be decided by a judge or a jury.

The decision about whether to settle a case or file a lawsuit is one of key importance. The right decision requires research, competent counsel and careful consideration. The final decision belongs only to the injury victim.

## **HOW LONG DOES IT TAKE TO SETTLE AN INJURY CLAIM?**

Time to conclusion depends largely on the circumstances of the injury, the nature of the case, the insurance company, the insurance adjuster and the attorneys involved. There is a wide time frame for settlements, which changes substantially if a lawsuit is filed. The key in an injury case is not to settle until you have reached maximum medical improvement. Once a settlement is accepted, the victim can never again go back and ask for more money – so don't get in too big a hurry. Some injuries demand a long waiting period – like head injuries. My personal rule of thumb is to never even consider settling a head injury case for at least a year after the initial injury.

## **HOW MUCH WILL IT COST TO HIRE A PERSONAL INJURY ATTORNEY?**

Generally, there is no fee for talking to a personal injury attorney about your claim; initial consultations are typically free. Usually in personal injury cases, once an attorney makes a commitment to represent you and/or your family, you are only charged a fee if the attorney successfully obtains a recovery for you. This fee is calculated as a percentage of the recovery. In Nebraska, this percentage is typically one-third,

or 40% if the case must be placed on file with a court. Expenses necessary for pursuing an injury claim may be advanced by the attorney. If an attorney is successful in obtaining a recovery for you, these costs are then reimbursed to the attorney from your portion of the distribution. If nothing is recovered on your behalf, you will generally not owe the attorney any fees or any case expenses depending on your circumstances. However, this may vary from one attorney/client contract to another. By the way, Nebraska law requires a written contract between an attorney and his client in a contingent fee personal injury case.

## **CAN I BE COMPENSATED IF I AM PARTIALLY AT FAULT?**

If you are partially at fault, you may still be entitled to receive a percentage of the compensation you would have received if you were not at fault at all. The amount depends on the percentage of fault assigned to you. This is your “comparative negligence.” Until that has been established by a judge or jury, you should seek the informed opinion of a personal injury attorney. If you are found to be 50% or more negligent, you are not entitled to recover anything.

## **WHAT INFORMATION SHOULD I GATHER AT THE ACCIDENT SCENE?**

While you should always contact law enforcement to investigate your pedestrian accident, you should if possible gather



information and supporting documentation. Try to get as many of the following items as possible:

1. Name of the insurance company of the "at-fault" party.
2. Identity and contact information of all possible witnesses.
3. The make, model, year, color and license plate number of the other vehicle.
4. Photos of damage to your person and property, and other property that was damaged as a result of the at-fault party. Take three times as many photos as you think are necessary, from several different angles.
5. Police report, if applicable.

## **WHAT WILL A PERSONAL INJURY ATTORNEY DO FOR ME?**

An experienced personal injury attorney will do the following:

1. Thoroughly investigate the accident, and help you memorialize important information with photos and interviews.
2. Advise you to follow your doctor's recommendations or seek a second medical opinion.
3. Protect you from unscrupulous insurance companies that want to diminish the value of your case.
4. Monitor your medical records for accuracy and consistency with what your doctor is telling you.

5. Advise you to seek medical attention , if necessary, in order to achieve maximum medical improvement and to receive fair compensation for your damages.
6. Contact you on a frequent and regular basis for personal status reports.
7. When the time is right, prepare a detailed “demand package” with an eye toward settling your case out of court, if possible.
8. Attempt to negotiate a fair settlement for you.
9. If you wish, file a lawsuit to pursue your claim if the insurance company is unwilling to pay you a fair value to settle.
10. Negotiate a reduction of your medical expenses.
11. Settle and pay all liens against your case.

## **WHAT DOCUMENTS SHOULD I BRING WITH ME WHEN I MEET WITH A LAWYER?**

The more information the lawyer has about your case, the better. You should supply any documents that might be relevant. Accident reports, for example, contain eyewitness accounts and details about the auto accident. Copies of medical reports from doctors and hospitals will describe your injuries. Information about the negligent driver’s insurer is extremely helpful, as are any photographs you have of the accident or of your injuries. If you do not have these documents in your possession, don’t worry. Your lawyer will be able to obtain all paperwork necessary to present your case.

## **WHAT CAN I EXPECT AT MY CONSULTATION WITH A LAWYER?**

Most important, you should expect to obtain a sense of confidence in the lawyer you are meeting with. He should be able to tell you if you have a case with merit. If your case is one the law firm is willing to accept, you will likely be provided with a written contract. All aspects of the agreement should be explained to you. A lawyer cannot represent you without a written agreement. Once that agreement is in effect, your counsel should start gathering the documents and information he will need to try your case. No competent lawyer would tell you exactly what your case is worth on the first visit. In order to arrive at a figure for damages, your lawyer will need to determine the extent of your injuries, including pain and suffering, disability and disfigurement, the cost of medical treatment, and lost wages. Many times, these elements of damage cannot be determined without extensive research and consultation with expert witnesses. Your lawyer, once retained, should be able to provide you with a proposed rough timeline for the various phases of your particular case.

## **HOW LONG SHOULD I WAIT BEFORE CONTACTING A LAWYER?**

If you are seriously injured, it is important that you contact a lawyer as soon as possible after your accident. In almost all cases, evidence begins to be lost, spoiled or altered immediately following the accident. Some of the evidence may be imperative. For example, the memory of a crucial witness

will, over time, become cloudy or completely fade away. The sooner your lawyer can get started working for you, the better. Remember, the insurance adjuster for your claim is also highly trained in negotiation and he has the job of convincing you to settle for as little as possible. This typically includes their “friendly” advice not to get a lawyer because “you won’t get as much money.” That’s a laugh. See the “Case Results” beginning on page 35.

It is also important to find out your time limits for filing a lawsuit or claim, called the “statute of limitations.” Remember that the claim investigation can take time. So don’t sit on your legal rights too long or you will lose them – even if you don’t want to go to court. Once the statute of limitations runs out, the insurance company will close the file and stop returning your phone calls.

## **WHAT AMOUNT OF MONEY IS “FAIR COMPENSATION” FOR MY PERSONAL INJURY CLAIM?**

Most people simply want fair compensation for the injuries they suffered in an auto accident. They are not trying to “get rich” or “get something for nothing.” However, what really is “fair compensation”?

There is no exact formula for determining the amount of compensation you should recover. A variety of factors are considered by your lawyer, the defendant and the insurance companies or, if your case goes to court, the jury. These factors include severity of the pedestrian accident, your injuries,

the impact of the injuries on your employment and day-to-day life, and the extent of your medical care.

Fair compensation certainly includes more than just reimbursement for your medical expenses. Depending on the circumstances, a personal injury victim may recover compensation for:

- Current medical expenses
- Future medical expenses
- Lost wages
- Loss of future earning capacity
- Physical pain and suffering
- Mental or emotional suffering
- Physical impairment
- Property damage
- Lost or diminished quality of life
- Loss of consortium (love and affection)
- Out-of-pocket expenses

In some cases, the injured person's family members may be entitled to compensation, depending on the severity of the injuries and their reliance on the injured person.

Determining the "fair value" of your claim is one of the critical issues in every case. If your injuries are substantial, you will need to consult with an experienced personal injury attorney.

## WHAT DO I DO IF THE OTHER DRIVER DOESN'T HAVE INSURANCE?

If the liable party doesn't have insurance to cover your damages, you can make a claim against your own automobile insurance policy's "uninsured motorist coverage." In some cases you can file a personal claim against the liable individual, but often, their assets won't cover the damage. In addition, even if you manage to win a large judgment in court against such an individual, he can just file bankruptcy and erase it. An "asset search" can be done by the Steffens Law Offices to determine whether the negligent driver has sufficient property to warrant a personal claim.

## WHAT ARE UNINSURED/UNDERINSURED MOTORIST BENEFITS?

If you were the victim of a pedestrian accident due to the negligence of a driver, you typically will seek compensation from the negligent driver's insurer based on their insurance policy. However, don't expect them to pay anything until your case has been settled.

If you have coverage through your own auto insurance policy you can make a claim for these benefits, if the driver's liability auto insurance first pays you on their policy limits. This is often referred to as "UM" or "UIM" insurance coverage. Seeking these benefits should not affect your future cost of insurance since you were not the negligent party.

## **WHAT ARE PERSONAL INJURY PROTECTION (PIP) AND MEDICAL PAYMENT INSURANCE (MEDPAY)?**

Many auto policies often include a form of medical and wage coverage called personal injury protection coverage, or PIP. This coverage is available to the insured pedestrian for any injuries sustained. PIP coverage pays 100% of the medical expenses, up to the limits of the PIP coverage. Typically, these coverages vary from \$2,500 up to \$10,000. PIP benefits do not have to be repaid if the negligent driver's insurance pays damages. MedPay benefits pay for medical expenses and are subject to "subrogation" unless liability and UIM coverage are both exhausted.

## **I HAVE A PERSONAL INJURY QUESTION THAT YOU HAVE NOT ANSWERED.**

Please call Steffens Law Office, P.C., at (308) 872-8327 or contact us online at [www.steffensinjurylaw.com](http://www.steffensinjurylaw.com).



## TESTIMONIALS

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“We are very pleased with how you handled our case. You were honest and up-front with us on everything. Your staff was also helpful and pleasant. Thank you again.”

*Kari – O’Neill, NE*

“Steffens Law Office did a great job for me. I didn’t know what to do first, and they led me through everything. They encouraged me to get the best medical treatment I could, and I did. Plus, my settlement check was better than I ever expected.”

*Andy – Sidney, NE*

“I am very pleased with the overall experience of working with this law firm. Everything was broken down into terms that I



could understand. I do feel like they had my best interests in mind. I would recommend Steffens Law Office to anyone that wants great personable service. The staff that answers the phones was very kind and helpful as well.”

*Rodney – Wabash, AR*

“After my accident, I was confused and had a lot of questions. Bill was able to walk me through the process and help me to understand my rights as a victim. I was able to get a settlement even when my own insurance company refused to help.”

*Sabrina – Wheat Ridge, CO*

“I am extremely satisfied with the results obtained by Steffens Law Offices. After my car accident and suffering a back injury, I needed someone I could trust to handle my case. From the moment I chose them as my legal representation, I felt confident in their ability to fight for me. They skillfully negotiated a fair insurance settlement on my behalf, which made a significant impact on my life. I am grateful for their professionalism, dedication, and the positive outcome they achieved. I highly recommend Steffens Law Offices to anyone in need of expert legal representation.”

*George – Doniphan, NE*

“I am extremely satisfied with the results I received from Steffens Law Offices. After a serious accident with injuries, I chose them over other firms because of a flyer I received in the mail. Bill Steffens took up our case and resolved it quickly. We received the full amount from the person responsible for the accident as well as from our uninsured motorist policy.

This has greatly impacted our lives as we were able to negotiate the medical expenses and receive the largest amount of money possible. I highly recommend Steffens Law Offices for their exceptional service and results.”

*Joyce – Columbus, NE*

“We chose the right law firm, we were injured seriously in a car accident! Rear ended on I-80 while stopped in a construction zone, long ordeal which they helped every step of the way! God spared us but Steffens Law saved us and protected us financially! We recommend them highly.”

*Lyle – Lincoln, NE*

“I am extremely happy with the results I received from Steffens Law Offices. I came to them with an automobile accident injury and they were immediately responsive and sincere about our business relationship. They answered our calls promptly and provided us with the help and answers we needed to make our recovery possible. This not only gave us peace of mind, but also the relief we needed during a difficult time. I highly recommend Steffens Law Offices for their exceptional service and dedication to their clients.”

*Larry – Columbus, NE*

## **WANT TO HEAR MORE SUCCESS STORIES?**

Visit [www.steffenslaw.com/testimonials](http://www.steffenslaw.com/testimonials) for over 900 5-star reviews and see for yourself the difference Steffens Law Offices can make in your case!

## BIOGRAPHY

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### **Nebraska personal injury**

attorney William "Bill" Steffens, originally from Kearney, Nebraska, is the senior attorney at Steffens Law Office. He has specialized in injury law for the last 30 years of his 40-year practice, assisting many very satisfied clients throughout Nebraska and

south central South Dakota in both workers' compensation and personal injury cases.

Bill and his family made Broken Bow their home for 36 years. They now reside in Johnson Lake, in Dawson County. He has been involved in many local organizations, both civic and religious, holding both appointed and volunteer positions. Bill's hobbies include hunting, fishing, boating, biking and driving his "collector" car with his wife, Cory.

## GETTING BACK ON YOUR FEET

Bill earned his law degree from the Washburn University of Topeka College of Law and his undergraduate degree from Nebraska Wesleyan. He is licensed to practice law in Nebraska and South Dakota.



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***If you have been hurt in a pedestrian accident,*** one thing you need to know is that there are unwritten rules about what makes a personal injury claim successful and what does not. Big insurance companies have a lot of money and other resources that can give people the runaround for a very long time, most likely during a time when they are dealing with issues such as recovering from injuries and lost wages.

“That’s where I come in. That’s why I wrote this book.”

Nebraska attorney William “Bill” Steffens has specialized in injury law for the last 30 years of his 40 year practice. He has witnessed firsthand how injury victims can be victimized again by insurance companies that only want to delay paying injured parties the compensation they deserve, if they pay anything at all.

In *7 Strategies for a Successful Nebraska Pedestrian Injury Claim*, Steffens explains the seven most common problems injury victims confront and what is needed to overcome these obstacles to reach full and fair compensation. Among topics discussed are:

- Why seeking medical treatment immediately following an accident helps not only you, but helps your injury case as well.
- Why the “other guy’s” insurance company doesn’t want to pay your medical bills.
- How to cover medical expenses.
- Placing a value on your claim.

“No matter how many hundreds of cases I review in my career, no two cases will ever be exactly the same,” writes Steffens. And while each injury case carries its own set of challenges and solutions, the information Steffens offers in this book is a good starting point for anyone who has been hurt in an accident.

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