

Choosing An Attorney For Your Accident Case

By Michael A. Schafer, Attorney at Law



The Schafer Law Office

1218 S 3rd St
Louisville, Kentucky 40203
(502) 584-9511
www.mikeschaferlaw.com

CHOOSING AN ATTORNEY FOR YOUR ACCIDENT CASE

Have you ever looked through the attorney section of the “yellow pages” or the phone book? There are way too many advertisements (some times dozens and dozens of pages) for personal injury attorneys. All of these ads say almost the exact same things:

- “Free Consultation”
- “No Recovery, No Fee”
- “We’ll Protect Your Rights”
- “Aggressive Representation” or
- “Need A Lawyer?”

There are no differences other than the names. If you have never been in an accident before how do you find the best attorney for you? Looking at and choosing an attorney from these ads is like throwing darts. Finding a good personal injury attorney is a challenge, but it is not impossible. Here are some pointers which should make your search easier. Knowing the questions to ask will allow you will allow you to get the information you need to make the right choice for you. First find an attorney who concentrates in personal injury. There are many attorneys who represent personal injury clients in addition to other practice areas, such as divorce, criminal defense, wills & estates or real estate. Look for an attorney who concentrates his practice 100% to personal injury law. The field of personal injury is too complicated for a general practitioner. If you needed surgery on your shoulder, would you rather see a “general” surgeon or someone who only does “shoulder surgery”? Most people would choose the specialist. Don’t take chances with your personal injury claim by hiring a “jack of all trades”. Choose an attorney who concentrates in the field of personal injury law. There are too many different types of the law for any one attorney to claim a complete knowledge in all areas. No one can do everything well. Most people want to see someone who concentrates in a particular area of law. The field of personal injury law is complex with subtle nuances that could mean the difference between recovering a few hundred dollars or several thousands of dollars.

Understanding the medical treatment in your case is very important. Your attorney should be one who understands this. There are a lot of attorneys who concentrate in personal injury that simply do not understand the care and treatment involved with the client's injury. For instance, you have a case involving neck and back injuries. These types of injuries have historically been some of the most difficult to prove in Court. This is because treatment of injuries of the spine and back are complex. X-rays and other diagnostic testing may show very little or nothing at all unless you are familiar with their interpretation and how to explain it. Yet, this area of medicine has also undergone enormous strides and advances just in the last ten years. There are new diagnostic tests in the area of spinal medicine. There are also new treatments and minimally invasive procedures that have been created due to advancements in technology. If your neck or back has been injured in an accident, you want to make sure your attorney understands spine medicine so proper treatment and diagnosis and an explanation of this can easily be presented to the insurance company in negotiations, or made part of a persuasive presentation to a jury on your behalf. Neck and back injury claims make up the bulk of accident cases that exist in Kentucky. Knowing the law and the medicine is very important for any attorney handling these cases.

Choose an attorney who actually goes to trial. Most people who have a claim for injuries would rather not have to go to trial. Pick an attorney who actually goes to trial on an injury case. This is an extremely important factor when choosing an attorney because of the way insurance companies settle these cases. The insurance company manages "risk". It accepts your premium payment with the promise that it will pay you money if you encounter a certain problem or damage. These risks are low, which is why the insurance company earns enormous profits. Settling or paying a claim is a management of this risk. The company will pay a "settlement" if they believe there is a "risk" that the insurance company will pay more if a lawsuit is filed and the case goes to trial. Attorneys who go to trial increase the insurance company's "risk" that it might have to pay more money. This happens if the jury award is greater than the last settlement offer. Insurance companies know the

personal injury attorneys who do go to trial. I believe that insurance companies pay more money to settle cases with attorneys who will try the case in Court. Having an attorney who has a reputation of going to trial can actually increase your chances of avoiding trial. You may have to file suit to get this increased benefit, but you will generally get the benefit.

You need to be careful and cautious of attorneys who contact you in writing just after you or a loved one has been injured or killed in an accident. In Kentucky an attorney must wait 30 days before they can do this or any kind of direct solicitation that is not requested. They are violating the Kentucky Bar Association rules if they do so before 30 days. This 30 day rule does not apply to advertising companies who solicit cases for chiropractors or even attorneys. Loan companies are also getting involved in this offering you money now at an extremely high interest rate. I think you should be wary of anyone who actively solicits your case. Do your research and make sure you hire the attorney that is best for you.

Another way many people look for an attorney is the yellow pages or looking at television advertisements. They are effective but you should be cautious. Many of the T.V. and yellow page ads for lawyers advertise for attorneys who do not do the legal work. As with any attorney research that attorney to make sure that they are the right attorney for your accident case.

Many local bar associations have a lawyer "referral list". You can call, describe your case and get the name of an attorney. Lawyers sign up and pay a fee to be included on the referral list. Some of these referral lists don't even bother to check the attorney's experience. These lists are not necessarily bad. I am on the Louisville Bar Association lawyer referral list. This list is a valuable service to the community. My point is the same here as it is with any lawyer advertising. You need to do your homework and check out the attorney that you are referred to and make sure they are the best attorney for your accident case.

Choose an attorney who you feel comfortable with. You should feel comfortable with the lawyer and his or her ability to communicate with you. Does the attorney seem trustworthy?

Does the attorney explain everything to your satisfaction or does he explain why an answer to your particular questions can't be given at that time? You should feel comfortable with the lawyer. You should also understand how the two of you will be working together on your case. The bottom line is you need to trust your attorney. You must believe and know that he or she is on your side, even if you are getting opinions you don't want to hear.

Case study: T.V. Lawyer nailed for false advertising

I'm sure you've heard it before, but don't believe everything you see on T.V. Arizona lawyer Stephen M. Zang and his partner ran numerous T.V. commercials and other massive print advertising to market their young four year old law firm. The campaign was hugely successful – it managed to produce over 1600 personal injury cases in just four years. The ads contained the following statements:

- We are a personal injury law firm with the medical experience to understand complicated injuries.
- We have investigators to find witnesses and hidden evidence.
- We perform detailed preparation in your case, and the better your case is prepared for trial, the more likely your case will settle out of court.
- If you are in an accident, you need more than a lawyer's words.

The ads included dramatic footage or scenes showing accidents, books about accidents and medicine, a judge in a courtroom and a picture showing the attorney arguing before a jury in the courtroom. Upon investigation, the Supreme Court of Arizona discovered the following:

- No attorney at the firm had ever tried a personal injury case in Court or to its conclusion.
- Mr. Zang, who was pictured in ads arguing a case in front of a jury, admitted that he was not competent to try personal injury cases.

- The firm had an express policy of not taking cases to trial.
- In those cases where trial was necessary, the policy was to refer the case to a competent personal injury attorney who would try the case in Court for a cut of the fee.
- Although the firm's policy was to settle all cases, the clients were not told this.
- Clients were never informed about the attorneys' lack of experience or that their case would be referred to another attorney if trial was necessary.

Mr. Zang and his law partner were found to have committed numerous ethics violations. They were disbarred by the Arizona Supreme Court. (WHAT ABOUT ADDING IN THE WINTERS YONKERS & ROUSELLE JUDGMENT?)