

The Ultimate Guide To Medical Malpractice Cases in Michigan

*Why Most Medical Malpractice Victims
Never Recover a Dime*

An Insider's Report on Medical Malpractice Claims

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Who is Behind This Book and “Why Should I Listen to You?”

You have done yourself a giant favor by obtaining this book. The information I give you here will help you if you believe you or a loved one has been injured or died due to medical malpractice. I personally guarantee it.

There is a lot of misleading information out there about medical malpractice claims. There are folks out there who try to believe that they will “get rich quick” for every perceived disservice done to them by a doctor, hospital or other health care provider. Some lawyer advertising makes it sound that way, doesn't it?

On the other hand, there are people out there who would be happier if malpractice lawsuits were simply banned. These folks work to change the laws to make it extremely difficult for even legitimate cases to see the light of day in a courtroom. Of course, they are lobbyists who are bought and paid for by physician groups, hospital associations, and the big medical malpractice insurance companies. These malpractice insurance companies collect big premiums every year from doctors and then pay lobbyists to wine and dine politicians to pass laws so that they do not have to pay out settlements to victims of medical malpractice. I'll discuss the frivolous “caps” on damages later in this book.

I wrote this book so that you could have good, solid information about malpractice lawsuits, hiring an attorney or

dealing with an insurance company. Forget the hype. This book is not about hype. It's about the difficult world of medical malpractice and what you can do to improve your odds of winning *if* you have a legitimate case. Even if doctor or committed malpractice, I cannot help you if your injuries and damages are not significant. The way the malpractice laws are written, there simply is no room for small cases and unfortunately, many victims go uncompensated for this reason.

If a doctor or hospital did commit real malpractice and you or a family member has been seriously or permanently injured - I can help you.

My name is Larry Buckfire and since 1989 I have been representing individuals and their families in serious and catastrophic injury cases. I learned to handle these cases from the best lawyers that I have known, my father and mother who were both outstanding attorneys and practiced law for almost 40 years throughout the State of Michigan. They taught me how to handle significant injury cases with the highest degree of skill and integrity and these principles have been the foundation for my law practice. Some information regarding my background and credentials is below:

- Experienced trial attorney with significant settlements and jury verdicts
- Fighting Insurance Companies Since 1989
- Member of the Michigan Association for Justice
- Member of the American Association for Justice
- Member of the Michigan Brain Injury Association
- Author of Numerous Consumer Books and Reports
- Licensed to practice law in Michigan and Ohio

Both my brother Daniel Buckfire and I joined their firm after obtaining our law degrees. We limit our practice to serious accident and injury cases. You can find out more about me and the other attorneys at the firm at our web site at www.BuckfireLaw.com.

Our law firm represents individuals throughout the states of Michigan and Ohio in accident, injury, and wrongful death claims. Our office is centrally located in Southfield, Michigan but we frequently travel throughout Michigan to meet new clients and handle their cases.

We realize that a lawsuit may be the most important event going on in your life right now. Your case will be personally handled by one of our attorneys – not a law student or secretary. While each case is different, and past results cannot be used to predict future success, I can tell you that I have been privileged to help my clients and their families recover millions of dollars in settlements and verdicts from the insurance companies.

If you have not already been to our firm's website, I strongly urge you visit www.BuckfireLaw.com. You will probably agree that this is the best lawyer web site on the World Wide Web because of the useful information, consumer articles, and links to a variety of subjects. We also have informative videos that you can watch on a variety of legal subjects. You can learn more about myself, the other lawyers in my office, and the type of great work that we do for clients just like you.

Why Did I Write This Book?

Simple.

I am tired of insurance companies taking advantage of people before they have a chance to talk to an attorney. I am also tired of misleading lawyer advertising that dangles dollar signs in front of patients that makes it sound like a malpractice claim is some sort of a lottery. Respond to some ad paid for by a lawyer who “says” he handles malpractice cases and you may end up in the hands of someone who has never been in a malpractice case in his or her life.

If you or a loved one has been the victim of medical malpractice, what you need is useful information that you can trust. Try to deal with the doctor, hospital or insurance company yourself and they will just dismiss your complaint and blame you for your problems, even if they are at fault.

STOP RIGHT HERE!!! Put this book down and pick up the telephone directory. Count up the number of lawyers who advertise that they handle malpractice cases. I promise you that many have not. How can a consumer tell? Later in this book, I teach you exactly the process you can go through to make an informed decision to find the best attorney for your case.

I wrote this one-of-a-kind book so that you could have good, honest, useful information to review and study in the comfort of your own home.

No Hype.

No pressure.

Frankly, this book also saves me time. I get many calls each day from people asking me to represent them in their medical malpractice claims. I have packed a lot of useful information into this book and it saves me hours each day by not having to talk to all of the potential clients who call me. I simply cannot accept every case and if I gave a “free consultation” for each new potential case, there simply would not be enough time to get any work done.

Look again in the telephone directory at all of the lawyers who offer a “free” initial consultation for all new malpractice cases. Folks, a good initial meeting with a client can take several hours. How busy can these other lawyers really be with their actual cases if they are offering “free consultations” to everyone who calls? Writing this book gives me a chance to “talk to you” about what you need to know about malpractice claims so that you can make an informed decision about what steps to take with *your* case. Even if I cannot accept your case, I would like you to be educated about the process so that you do not fall victim to the insurance companies.

This Book is Not Legal Advice

I Am Not Allowed to Give Legal Advice In this Book!

I know the arguments the insurance company will make—and so should you—even before you file your claim. When you were injured, you entered a war zone. The insurance industry has spent hundreds of millions of public relations dollars to inflame the public against you and me. We will be in this together.

I am not allowed, however, to give legal advice in this book. I can offer suggestions and identify traps, but please do not construe anything in this book to be legal advice until you have agreed to hire me AND I have agreed, in writing, to accept your case.

What is a Medical Malpractice Case?

You may have a medical malpractice case if you are injured as a result of preventable error or negligent care while receiving medical treatment. The Harvard Medical Practice Study done in 1999 revealed that over half of all injuries caused by medical management (i.e., those not caused by the patient's initial injury) were preventable, and another quarter of those incidents were caused by negligence.¹ Medical malpractice can occur at virtually any stage of treatment, and one-fifth of medical management errors occur outside of the hospital and inside a doctor's office.

What Must be Proven to Win a Case?

Medical malpractice cases are among the most difficult a lawyer will ever handle. A medical malpractice case requires the patient, the “plaintiff,” to prove that his or her doctor, hospital, or nursing home, the “defendant,” deviated so far from what is accepted as “standard” diagnosis and treatment that the law considers them to have been “negligent.”

The plaintiff is also required to prove that the doctor’s negligence was a primary cause of the injury that the plaintiff has suffered. Your case must be proven by expert testimony. That is, other doctors in the same specialty as the negligent doctor must be willing to say that the conduct of the defendant fell below accepted standards. Simply making a mistake or getting a bad result is not enough – we must prove that it was a really major error which directly led to your injury. Yes, it’s true. Doctors sometimes “get away with” malpractice because the injury they have caused is not severe. I can’t do anything about that

Remember, too, that just because serious injury or even death resulted from a doctor’s care, this does not mean that *malpractice* occurred. People get sick and die each day from reasons other than malpractice.

How Do You Know You Really Have a Case?

In order to determine whether you have a case, we must first gather all of the pertinent medical records involved in your care. We also must have a complete, honest statement of facts from you - please don't hide anything from your lawyer.

Once all of the records are received and reviewed and you have been interviewed, we will tell you if it looks as though there is a provable case of medical malpractice. If the case *looks* meritorious, experts in the appropriate specialty must be consulted and retained by us. Again, these experts must be of the opinion that the medical care received was substandard and that the substandard care caused major injury or death.

Once we have retained experts who are prepared to testify on your behalf, other records, including employment records and tax returns, must be obtained. These will aid us in proving the damages which have been suffered due to the malpractice. Your financial and employment records must be full, complete and credible in order for us to include them in your claim that you have suffered financial damages as a result of malpractice.

Michigan's Artificial Damages Limit in Malpractice Cases

The State of Michigan imposes limits to recovery for medical malpractice cases. No matter how seriously injured you are, there is a maximum recovery you can obtain for non-economic damages, which include pain and suffering, loss of enjoyment of life, scarring and disfigurement, and similar

damages. This amount increases slightly every year and I will let you know the current maximum when you call my office.

There is no limit to the amount that you can receive for your economic losses, like lost earnings, medical expenses, and future similar expenses for your lifetime.

Michigan was one of the first states to pass such a law. Despite being unfair and unjust, it has been held constitutional by the Michigan Supreme Court. It is not surprising that the majority of the judges on the court that determined that the law is constitutional were appointed to their position because of insurance company money and lobbyists from the medical profession. The law is ridiculous because it puts limits on cases brought by malpractice victims with the most serious injuries and does nothing to reduce the number filings of so called “frivolous cases.”

The Reasons Most Malpractice Victims Receive Nothing

Despite popular opinion about the “skyrocketing” increase in malpractice suits and awards, the number of suits has not increased since 1996,² and in most cases, plaintiffs receive nothing. There are a variety of reasons why patients do not recover any compensation for injuries suffered while receiving medical care. Most of these issues stem from general misconceptions about medical malpractice. It is important for potential malpractice plaintiffs to understand these issues while seeking counsel to represent their case.

1. Patients don’t know they are victims of medical malpractice. Studies show that roughly 2.9 to 3.7 percent of admitted hospital patients suffer some sort of preventable injury as a result of medical management (i.e., not from the original medical condition). Up to 98,000 patients are *killed* each year as a result of preventable medical error. Medical malpractice is the eighth leading cause of death in the United States, yet only 10,000 cases are filed each year. In the vast majority of cases, however, the fact that malpractice occurred is hidden from the patient and the patient’s family.

When was the last time that you heard of a doctor or hospital calling the family to apologize for their malpractice that caused the death of a loved one?

2. No autopsy was ever performed. In a situation where we claim that the malpractice caused death, we must prove that the carelessness of the health care provider directly

resulted in the patient's death. In some medical malpractice cases that result in death, it can be difficult to prove that the death occurred because of the malpractice without an autopsy. This is because there are so many reasons why a person might have died, but we must prove that the one reason why they died is because of the negligence of the health care provider. In many cases, it is clear from the medical records and circumstances involving the death that the malpractice was the cause of death and no autopsy findings are necessary to win the case.

3. Even though the doctor committed malpractice, the disease or illness likely would have resulted in death anyway. Sometimes cancer or other deadly illnesses may go undiagnosed for months or even years. A late diagnosis of cancer does not always mean, however, that the doctor is responsible for the patient's death. An experienced malpractice attorney can help determine whether the cancer or other serious illness should have been detected "in time" to save the patient.

4. A physician's poor bedside manner does not constitute negligence. In the vast majority of cases, even egregiously poor bedside manner cannot be considered in determining whether a physician committed malpractice in providing treatment. We have reviewed many cases where rude physicians provided care and the patient was injured. It just doesn't matter that the doctor was a jerk. We must prove, from a scientific and legal standpoint that it was carelessness, not poor bedside manner that caused the injury.

5. The patient suffered no significant damages. While we understand that every case is an important case to the patient, the legal system is not set up to handle “small” medical malpractice cases. We decline many cases each year where it appears that the doctor was careless, but the resulting injury is not significant. A hospital may incorrectly give a patient the wrong medication and this may make the patient violently ill for several days. If you have a good recovery, however, you probably do not have a case to pursue. This is because the costs of pursuing the case will be greater than the expected recovery. Our court system may not be perfect, but it does act as a filter to keep out all but the most serious cases of medical malpractice.

6. The injury suffered was not necessarily caused by the physician’s or hospital’s mismanagement. As discussed earlier, it is often very difficult to prove that medical mismanagement was the reason the patient suffered the injury that he or she did. The insurance companies have many standard defenses including, for example, that **(1) the injury was an unpreventable result of the initial condition/injury** (e.g. *“If the tumor had been diagnosed six months earlier, it would not have made a difference.”*); **(2) the injury was due to the patient’s noncompliance with medical advice** (e.g. *“I told him to return to the office if his symptoms did not clear up, but he didn’t listen.”*); **(3) the risk of the patient’s particular injury was an acceptable one** (e.g. *“He got infected in surgery but 2% of all patients undergoing that surgery get an infection.”*); **(4) some other party was responsible for causing the injury**, or **(5) the injury was caused by a previous illness or disease.** Medical

malpractice plaintiffs must show a very clear connection between the defendant's misconduct and the claimed injury.

7. The plaintiff has not retained an experienced attorney. Medical malpractice litigation is a world unto its own. It has its own special rules and laws. There are very few lawyers in Michigan who specialize in medical malpractice claims. We believe that it is imperative that you be represented by an experienced medical malpractice attorney or an attorney who is "teaming up with" or co-counsel with an experienced malpractice attorney.

The malpractice insurance companies and the doctors' lawyers know who the "real" plaintiffs' (patients') malpractice lawyers are. They know who will have the experience and brains to battle them in court and who doesn't. The insurance lawyers billing by the hour will string out the inexperienced, poorly prepared lawyers for as long as they can before beating their brains in court. In malpractice cases, perhaps more than in any other type of case, experience and prior results do matter.

Do not be afraid to check out the experience and the results of your medical malpractice attorney. It's your responsibility to ask. The Bar Association does not prevent an attorney from advertising for malpractice cases. If you end up in inexperienced hands, it's your fault!

8. The statute of limitations has expired. Each state has its own statute of limitations for filing a medical malpractice suit. These are strict time limits! If the statute of limitations has expired, you cannot file a case. The Michigan Statute of

Limitations is *two years*. The important question is “Two years from when?” Typically, it is two years from the date of the malpractice, but there are exceptions to this rule.

These exceptions include cases involving wrongful death, cases for children, and cases where the malpractice was not discovered until after the two year period.

One reason that you should consult an experienced medical malpractice attorney now is to determine when the statute of limitations expires in your case. You may not need to hire an attorney now, but you should get an attorney’s advice now as to when your statute of limitations expires!

9. Jurors have been biased by the insurance industry. The insurance industry has spent millions funding “research” to suggest that there is a widespread problem with medical malpractice law suits. These studies falsely “prove” that excessive verdicts are causing malpractice insurers to raise their premiums, forcing physicians out of the medical profession. Jurors who hear these messages often award lower verdicts than they would have a decade ago.

Far from “runaway” verdicts, Michigan is known as a very conservative state in terms of jury awards. Unfortunately, malpractice victims often receive less from the jury than is necessary to pay their medical bills for treating the subsequent injury caused by the malpractice due to the phony propaganda and reports of huge verdicts.

10. The Plaintiff is Unable to Hire Good, Qualified Experts. You cannot win a medical malpractice case without one or more very qualified medical experts. They can be hard

to find. It is becoming increasingly difficult to find doctors who are willing to stand up for a victim of malpractice. This is one area where the insurance companies have a tremendous advantage. They can always find doctors willing to come to the aide of a physician colleague to help get them off the hook for the harm that was caused to a patient, regardless of the truth. They have a regular stable of these doctors who are willing to take any position, no matter how ridiculous, to defeat a patient's legitimate claims.

How Do I Find a Qualified Medical Malpractice Attorney?

Choosing an attorney to represent you is an important but daunting task. The decision certainly should not be made on the basis of advertising alone. The Yellow Pages are filled with ads—all of which say basically the same thing. You should not hire based solely on advertising—anyone can buy a slick commercial.

How Do You Choose?

How do you find the lawyer in your community that is the best for your case? I believe that there are certain questions to ask that will lead you to the best person for your case—no matter what type of claim you have. It may involve some time on your part, but that's fine because the decision as to whom your attorney will be is very important.

The world of personal injury, medical malpractice and disability claims is, in our opinion, much too specialized for someone who does not regularly handle these cases. Too

many times we have looked at cases that other—inexperienced—attorneys have handled.

You should be aware that the insurance companies who defend medical malpractice and nursing home negligence cases know who the attorneys are in your area who actually go into court to try cases and those who do not. The insurance companies use that information to evaluate their risk. One of the first questions some insurance adjusters will ask when a serious claim comes in is: who is representing the plaintiff?

If this information is important to the insurance company so it should be just as important to you.

The fact that Attorney Ernie drafted a will for your uncle or that Lawyer Linda handled your cousin's divorce case does not make them qualified to handle a medical malpractice case. Many attorneys who claim to be specialists in medical malpractice cases do not know the intricacies of these areas of law.

While many lawyers will offer to represent you in your case, it is important to choose a lawyer to represent you that handles serious medical malpractice cases everyday and has significant experience and expertise in representing injury victims. Lawyers without this knowledge and experience may not be familiar with or even understand these laws and its many technicalities, which could cause you to lose your benefits and your opportunity to obtain a settlement in your case.

What questions should you ask before you hire your lawyer?

The best way to find the right lawyer is to know the right questions to ask the lawyer before you hire the lawyer for your case. These questions are a good start:

1. What percentage of your practice is devoted to handling serious injury claims?
2. Have you ever written any books or reports on medical malpractice cases?
3. Do you have a website with information on the different types of medical malpractice cases?
4. Have you ever taken a medical malpractice case to trial and won a verdict for your client?
5. What kinds of settlements have you received for your clients?

The lawyers at **Buckfire & Buckfire P.C.** will give you direct answers to these questions. Our firm has represented accident and injury victims and their families throughout the State of Michigan for almost forty years. Our lawyers have the thorough knowledge, expertise, and experience in handling these cases and understand how to handle difficult cases and best represent our clients.

Most of our clients are referred to us from other clients who have placed their trust in us to represent their family members, friends, and colleagues. We also receive many referrals from other lawyers and from medical professionals who recognize that we are the law firm to best represent their clients and patients.

**How Do You Find Out Who Is Good In Your Area?
Here Are Some Tips**

1. First, while your attorney should be licensed in Michigan, do not limit your search geographically. There are a small handful of attorneys in Michigan who specialize in malpractice cases. ***Find the best attorney in Michigan for your case and do not concern yourself with geography.*** Our firm handles cases throughout Michigan. Our size and small case load allows us to deliver terrific service whether you are ten minutes or six hours from us.
2. *Results matter.* While past results in major malpractice cases do not mean that a similar result will be achieved in your case, the lack of *any* significant verdicts or settlements in malpractice cases ought to be a huge red flag warning.
3. Get a *referral* from an attorney whom you do know. He or she will probably know someone who specializes in your area of need.
4. *Beware of internet “directories” promising to get you a qualified lawyer.* We get solicited almost daily from companies who will offer to place us in their directories for a hefty fee. Most of these directories of specialists are a joke.
5. The *Yellow Pages*. Not everyone advertises in the Yellow Pages. Most of our cases come from referrals from other attorneys or from satisfied clients. *Be careful about the full-page ads.* This advertising typically attracts a lot of case inquiries, including the small cases that we do not accept. Make sure that the attorney you hire is selective enough with his or her cases that your important case does not become just one more file in the pile.

Also be careful not to choose a lawyer that advertises for all types of cases in the ad, like “We Specialize in Medical Malpractice, Criminal, Drunk Driving, Divorce, and Probate Law Cases.” **This is a red flag because each area of law is highly specialized and no legitimate attorney can specialize in every single area.**

6. Your local bar association probably has a lawyer referral service. Understand that lawyers may have signed up **and paid a fee** to be listed in certain specialties. Their names come up on a rotating basis. **Remember though that the bar association is not making any judgment about who is a good attorney or not.** We could sign up our firm as “divorce attorneys” if we wanted to and no one would check to see if we had ever handled a divorce case!

7. *Ask the attorney about other lawyers you are researching.* Attorneys who are at the top of their profession are not hurting for cases and will gladly say complimentary things about their peers. If the attorney has nothing nice to say about the others that you mention, this is probably a good time to end your discussion.

8. Ask each attorney if they have a *book like this and/or a web site* so that you can find out more about qualifications and experience *before* you walk in the door.

9. *Forget fancy slogans and hype.* Slogans like “we are aggressive,” “we care for you,” “we fight for you,” are absolutely meaningless. After all, aren’t these the things that

you would expect from your attorney?

10. Here are factors and good points to look for and question your attorney about. Note that not every attorney will meet all of these criteria, but the significant absence of the following should be a big question mark.

Experience. Obviously, the longer you have been practicing a particular area of the law, the more you will know. Experience can be a big factor in many cases and is vital in an area as specialized as medical malpractice. Forget about the ads that brag about “combined experience,” such as “29 years’ *combined* experience in practicing law.” This means they have added up the number of years of experience of each lawyer in the firm. It’s meaningless.

Experience actually trying cases. Ask the attorney how many cases he has actually tried. Has he or she achieved any significant verdicts or settlements? The greater the number of cases actually tried and substantial verdicts and settlements achieved, the more likely the insurance companies will respect your attorney.

Membership in trial lawyer associations. In our area, you can certainly find a lawyer who is a member of the Michigan Association For Justice (MAJ), and the American Association for Justice (AAJ)

Publications. Has your attorney written books or given any presentations to groups of lawyers, doctors, or health departments on legal issues.

Professionalism. Has the attorney been the subject of any disciplinary proceedings by the state bar? In Michigan, this information is available through the State Bar of Michigan.

What Do We Do For You In a Medical Malpractice Case?

Here is a more or less complete list of the tasks we may be called to do in your case. Remember that each case is different, and that not all of these tasks will be required in every case.

- Interview the client
- Educate you about medical malpractice claims
- Gather documentary evidence including medical records and hospital documents
- Interview known witnesses
- Collect other evidence, such as photographs of the injury itself
- Analyze the legal issues in the case
- Talk to your physicians or obtain written reports from them to fully understand the client's condition
- Analyze your health insurance policy or welfare benefit plan to ascertain whether any money they spent to pay your bills must be repaid. (Unbelievable as it may sound, your health insurance company may be entitled to *full* reimbursement of the money it paid on your behalf.)

- Analyze the validity of any liens on the case. Doctors, insurance companies, Medicare, welfare benefit plans and employers may each assert that they are entitled to

all or part of your recovery

- Obtain relevant medical literature to help determine whether malpractice was involved in your injury
- Recommend whether an attempt should be made to negotiate the case with the insurance company or whether suit shall be filed. (However, you should know that it is the rare malpractice case that can be successfully negotiated before filing suit.)
- Obtain nursing and expert review of your claim
- If suit is filed, prepare the client, witnesses and healthcare providers for depositions
- Prepare written questions and answers and take the deposition, under oath, of the defendant and other witnesses
- Produce to the defendant all of the pertinent data for the claim, such as medical bills, medical records, and tax returns
- Go to court to set a trial date
- Prepare for trial and/or settlement before trial
- Prepare the client and witnesses for trial
- Organize the preparation of medical exhibits for trial
- Organize the preparation of demonstrative exhibits for trial
- Prepare for mediation and/or arbitration
- File briefs and motions with the court to eliminate surprises at trial
- Take the case to trial with a jury or judge
- Analyze the jury's verdict to determine if either side has good grounds to appeal the case

- Make recommendations to the client as to whether or not to appeal the case³

The Legal Process in Medical Malpractice Cases

In most cases today, attempting to negotiate with the insurance company before filing suit is not a worthwhile endeavor. Insurance companies use pre-suit negotiation only to attempt to find out as much about you, your lawyer, and your doctor as they can. It is my opinion that many lawyers waste precious time attempting to negotiate with the insurance company before filing suit. If I accept your case, it is because we believe it is meritorious and you deserve a trial by jury. We will usually file your suit before negotiating so that if negotiations break down, we will already have a trial date in place to head towards.

In Michigan, there are very strict time limits and procedural guidelines for filing a case. Unlike most other states, a patient must send a “Notice of Intent To File Suit” to all possible negligent parties six months before a lawsuit can even be filed with the court. The failure to serve this letter on the proper parties may prevent the filing of a lawsuit.

Once the lawsuit is filed, both sides engage in the legal process called “discovery.” Each side is allowed to investigate what it is the other side is going to say at the trial. The defendant will be permitted access to your medical, work history and income records. You must give a deposition under oath and also answer written questions under oath. You may be required to submit to a medical examination by a physician of the defendant’s choosing. In, short, when you file a medical malpractice case, your life becomes an open book.

The defendant is also subject to discovery. He will answer written and oral questions about his own professional background and qualifications, and he will have to give testimony about the treatment he gave to you. Both sides' experts may also be deposed. Prior to that, each side must disclose to his opponent what it is that the experts are expected to testify to. Other witnesses may be deposed.

In Michigan you can expect to go to trial within year or so after the case is filed. The parties usually engage in settlement discussions after all of the depositions are taken and the other work is done to see if they can resolve the case. Your attorney should make recommendations to you regarding a settlement and the likelihood of winning at trial, but ultimately the decision is yours to make.

Why You Should Hire Us

There are many attorneys who advertise for medical malpractice cases. Unfortunately, some of these attorneys have so many small cases in their offices that no case gets their personal attention. Others have no real intention of trying your case themselves, and if the case cannot be settled with the insurance company, they will try to refer the case out for trial. There are good experienced attorneys in this field, but it is very difficult for a consumer to separate the good from the bad. You need to ask your attorney all of the questions we have outlined in this book.

What Cases Do We Not Accept?

Due to the very high volume of calls and referrals from other

attorneys that we receive, we have found that the only way to provide personal service is to decline those cases that do not meet our strict acceptance criteria. Our practice focuses on the most serious cases of medical malpractice. Therefore, we generally do not accept the following types of cases:

- Cases with no clear objective evidence of significant injury which is directly caused by the health care provider's malpractice. These cases are expensive and time consuming. The last thing you want to do is to "win" your case, only to have the attorney fees and expenses be larger than your personal recovery. I would like to represent everyone who needs a good attorney, but we cannot.
- Cases with significant pre-existing injury in the same body part. If you have had three back surgeries in the past and you are now claiming that your most recent surgeon is the cause of your chronic back pain, the chances of a jury awarding you a substantial amount of money in your claim is just about zero. Again, I feel that it is not worth the risk to the client to pursue these cases.
- Cases where the statute of limitations will soon run out. We like to have enough time to adequately investigate and evaluate your claim. Because of the complexity of these cases and the extensive review process, we require the lead time. **We do make exceptions in certain cases where the malpractice is so evident that significant investigation is not required.**

If your case has already been filed, we will not represent you. We like to do things our way. If you or another attorney have already filed the case, that's fine, but all we can do is wish

you “good luck.”

Well, Are There Any Cases Left?

Yes, there are, and that’s just the point. Just look at our results.

We represent many clients with valid claims. When we devote our time and resources to representing only legitimate claimants with good claims, we are able to do our best work – getting “bogged down” in lots of little cases, each with a “special problem,” is not good for clients with legitimate claims.

What Can You Do From Here?

The most important thing that you can do as a potential medical malpractice plaintiff is to collect and maintain all of your hospital records. We are able to obtain records that are not in your possession. Any attorney who ends up representing you will need to have as extensive a record as possible.

Keep a journal of events, and note the date, time, and circumstances of your developing situation. Details are *very* important—malpractice cases may involve looking back at years of the patient’s medical history, particularly if the insurance company argues that your injury was a result of a pre-existing medical condition, rather than from malpractice. Obviously, by requesting this book, you have begun your search for experienced malpractice counsel. Remember, in Michigan, the statute of limitations could expire in as little as

two years. The legal process does take time—you should weigh your options for counsel carefully, but you should begin your investigation immediately.

Our Cases and Verdicts

A sampling of some of our *medical malpractice* verdicts and settlements are listed below. Many, many more may be reviewed on our website at www.BuckfireLaw.com. Remember that each case is different. Once a case is in the hands of the jury, it is out of our control. We do believe, however, that significant trial experience in big cases is an important factor that people should use to choosing one attorney over another. Many of our clients have told us that this is true.

Confidential Settlements

As you can imagine, many defendants insist that our settlements remain confidential from public disclosure. Although we prefer that the public be aware of these settlements, many of our clients agree to this provision in order to settle their case. As a result, we cannot report those case results to you.

\$3,750,000 Settlement For Hospital Negligence

The daughter of our client went to a university hospital due to depression and suicidal ideations. She was left unsupervised in a room that had an electrical cord that was accessible to her. She attempted suicide and failed, but suffered permanent and irreversible brain damage that requires lifetime medical care and supervision.

\$500,000 Settlement for Anesthesia Wrongful Death

We represented the family of a fifty-two year old woman who died due to an anesthesiologist mistake during a routine colonoscopy. She suffered a respiratory arrest during the procedure and later died. We filed a wrongful death lawsuit against the physician and the hospital.

\$400,000 Settlement for Failure to Diagnose Frostbite

Our client was a psychiatric patient who was found in his unheated home in the middle of winter. He was taken to a local emergency department and presented with signs of frostbite. He was not treated for the condition and was then sent to a psychiatric hospital, where the diagnosis of frostbite was made. Due to the delay in treatment, he had both legs amputated below the knees.

\$300,000 Settlement for Bariatric Surgery Malpractice

We represented a woman who underwent a gastric bypass surgery for weight loss. She was discharged from the hospital with signs of a post-operative leak and suffered significant sepsis. She required extensive hospitalization and suffered serious injuries. We filed a lawsuit against the surgeon and the surgery group.

\$290,000 Jury Verdict for Hospital Bedsores

Our client was hospitalized at a large urban hospital due to a gunshot wound to the head. He was not properly treated in the hospital and developed Stage IV pressure sores on his buttocks that required surgery. The hospital made no offer of settlement before trial.

\$250,000 Settlement For Wrongful Death

Our client went to the emergency room at a large hospital and presented with signs of hypoglycemia. He was not properly treated and was discharged home. He subsequently became comatose and died.

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Endnotes

¹ Institute of Medicine, National Academy of Sciences, *TO ERR IS HUMAN: BUILDING A SAFER HEALTH SYSTEM*, 25 (National Academy Press 1999).

² Brian J. Ostrom et. al., Court Statistics Project, *Examining the Work of State Courts, 2001*, at 31.

³ Our contract with you does not obligate us to participate in any appeal.

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