

NC PERSONAL INJURY CHECKLIST®

INTAKE/REVIEW
<input type="checkbox"/> Statute of Lim. 2 WD/3 MVA <input type="checkbox"/> Liability ▲ <input type="checkbox"/> Contibutory Negligence ▲ <input type="checkbox"/> Ticket <input type="checkbox"/> Damages <input type="checkbox"/> Property Damage ▲ <input type="checkbox"/> Medical Injury <input type="checkbox"/> EMS <input type="checkbox"/> ER <input type="checkbox"/> Objective Signs <input type="checkbox"/> Costs <input type="checkbox"/> Previous Claims ▲ <input type="checkbox"/> W/C <input type="checkbox"/> Accident <input type="checkbox"/> Pre-existing Injury ▲ <input type="checkbox"/> Social Factors <input type="checkbox"/> Insurance <input type="checkbox"/> Liability ▲ <input type="checkbox"/> Medical Payments <input type="checkbox"/> Underinsured/Uninsured <input type="checkbox"/> Workers Compensation <input type="checkbox"/> Health Insurance/Liens <input type="checkbox"/> Medicare <input type="checkbox"/> Medicaid <input type="checkbox"/> Private Health/ERISA <input type="checkbox"/> State Employee <input type="checkbox"/> Workers Compensation <input type="checkbox"/> M.D./ Hospital Liens

PRE-DEMAND STEPS
<input type="checkbox"/> Interview <input checked="" type="radio"/> <input type="checkbox"/> Contract Signed <input type="checkbox"/> HIPPA Releases <input type="checkbox"/> List Medical Providers <input type="checkbox"/> Police Report Info <input type="checkbox"/> Pre-X Medicals <input type="checkbox"/> Wage Statement <input type="checkbox"/> Photographs injury/veh <input type="checkbox"/> Insurance Notification <input type="checkbox"/> Liability Carrier <input type="checkbox"/> Reqst Statements <input type="checkbox"/> UM/UIM <input type="checkbox"/> Med Pay <input type="checkbox"/> Pre-Suit Discovery <input type="checkbox"/> Crash Report <input type="checkbox"/> Medical Records <input type="checkbox"/> Medical Bills <input type="checkbox"/> Photographs <input type="checkbox"/> Lien Requests <input type="checkbox"/> Medicare <input type="checkbox"/> Medicaid <input type="checkbox"/> Private Health <input type="checkbox"/> State Employee <input type="checkbox"/> Workers Comp. <input type="checkbox"/> Defendant's Criminal Record <input type="checkbox"/> Plaintiff's Criminal Record

DEMAND
<p style="color: white; margin: 0;">Letter to Include</p> <input type="checkbox"/> Description of Crash <input type="checkbox"/> Ticket <input type="checkbox"/> Property Damage <input type="checkbox"/> Witness Statement <input type="checkbox"/> No contrib. <input type="checkbox"/> Explanation of Liability <i>(Refer to Pattern Jury Instr.)</i> <input type="checkbox"/> Statutes Violated <input type="checkbox"/> Common Law Duty <input type="checkbox"/> Aggravating Factors <input type="checkbox"/> DWI <input type="checkbox"/> Def. Crim. Rec. <input type="checkbox"/> Extreme Speed <input type="checkbox"/> Admissions <input type="checkbox"/> Med. Care Summary <input type="checkbox"/> Wage Loss Summary <input type="checkbox"/> Pain & Suffering <input type="checkbox"/> Events <input type="checkbox"/> Activities <input type="checkbox"/> Permanent Impairment <input type="checkbox"/> Demand \$ <input type="checkbox"/> Documents <input type="checkbox"/> Crash Report <input type="checkbox"/> Medicals <input type="checkbox"/> Bills <input type="checkbox"/> Wages <input type="checkbox"/> Photos <input type="checkbox"/> Statements <input type="checkbox"/> Send to UIM Carrier?

NEGOTIATION
<input type="checkbox"/> Venue <input type="checkbox"/> Social/Societal Factors <input type="checkbox"/> Insurance Company <input type="checkbox"/> Property Damage <input type="checkbox"/> Pre-Existing Conditions <input type="checkbox"/> Chiropractor <input type="checkbox"/> Length of Treatment <input type="checkbox"/> Surgery <input type="checkbox"/> Permanency <input type="checkbox"/> Contrib. <input type="checkbox"/> Aggravating Factors <input type="checkbox"/> UIM <input type="checkbox"/> Excess Verdict <input type="checkbox"/> Reasonableness of Medical Treatment <input type="checkbox"/> Reputation of Doctors <input type="checkbox"/> Defenses <input type="checkbox"/> Defendant at Trial <input type="checkbox"/> Jury Verdicts <input type="checkbox"/> Liens <input type="checkbox"/> Future Medical Costs <input type="checkbox"/> Plaintiff Personality

RECORDED STATEMENTS
<input type="checkbox"/> Conference Call <input type="checkbox"/> Prepare the Client <input type="checkbox"/> Clarify not Object <input type="checkbox"/> Don't Correct if it Helps <input type="checkbox"/> Take your own Statements <input type="checkbox"/> Reciprocity with defendant <input type="checkbox"/> Statutory right to read stmt

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LIENS	Medicare	Medicaid	M.D./Hospital	State Employee	ERISA	Work Comp
	65 or Disabled Notice: NO Med Pay: Yes	Poor, Disabled, Kids Notice: NO Med Pay: Yes	All Medical Serv. Notice: YES Records FREE Med Pay: ?	Paid after 7/04 Notice: NO Med Pay: ?	NOT a Lien Notice: Yes Med Pay: Yes	WC benefits pd Notice: No Med Pay: Yes
	<u>Reduce Lien:</u> Atty Fee + Costs Total Settlement = Reduction %	<u>Reduce Lien:</u> Max of 1/3 Gross Medicare First Paid Pro-rates w/ M.D's	<u>Reduce Lien:</u> 50% AFTER Atty. fees (not costs) Pro-rates w/ M.D's NCGS 44-49/50/51	<u>Reduce Lien:</u> 50% AFTER Atty. fees AND costs May reduce also if less than 50% gross Pro-rates: NO NCGS § 135-40.13A.	<u>Reduce Lien:</u> Negotiation usually 25% -33%	<u>Reduce Lien:</u> Negotiation usually 33% by I.C.
	Lien x Red. % = Amt. of Reduction				Contract action in Fed. Court	NCGS 97-10.2j hearing

NC PERSONAL INJURY LITIGATION CHECKLIST®

PRE-FILING RECORD REQUEST

- Obtain Records for Discovery
 - Ticket
 - Property Damage ▲
- Pre-existing Injury ▲
 - W/C file from IC
 - Accident reports
 - Pre-x medical records
- Insurance
 - Liability Limits
 - Medical Payments
 - Underinsured Warning
 - SSD file request
- Health Insurance/Liens
 - Requests sent out**
 - Medicare
 - Medicaid
 - Private Health/ERISA
 - State Employee
 - Workers Compensation
 - M.D./ Hospital Liens
- Asset Check on Defendant
- Secretary of State: Corporations
- Informed Consent of Client
 - Time for suit 1-2 yrs
 - Costs of suit
 - Results unsure
 - Time of client
 - Skeletons in Closet
- NC Reinsurance Facility Policy
- Causation from Doctor
 - Pre-existing conditions
 - Permanent injury
 - Client Compliant

DRAFT & FILE SUIT

- Complaint ●**
 - GAL or Estate Admin.?
 - Consortium?
 - COA's: NIED, IIED, Punitives
 - All defendants
 - J&S Liability
 - Agency
 - Vicarious Liability
 - Reg. Agent
 - Description of MVA
 - Location/time/vehicles
 - Diagram
 - Duty Violations
 - Negligence
 - Duty
 - Breach
 - Neg. Per Se
 - Common Law
 - A Proximate Cause
 - Damages
 - Property Damage
 - Physical injury
 - Past, present, future (ppf)
 - Pain & Suffering (ppf)
 - Medical costs (ppf)
 - Lost Wages (ppf)
 - Permanent injury/disabil.
 - Scarring
 - Loss of use
 - Insurance Service
 - Liability (Facility Policy)
 - UM real service
 - UIM- real or certified
- RFO/INT/RPD (Discovery)
- Distict <10k Superior >10k

DISCOVERY

- Written Discovery:**
 - Request for Admission
 - Interrogatories
 - Request for Production
- Plaintiff Depositions:**
 - Defendant (video tape)
 - Treating Physicians
 - video tape if good
 - subpoena (costs)
 - live is better
 - Eye Witnesses
 - Bad one's first
 - good one's live
 - Defense Experts
 - get background
 - previous depos
 - financial records
- Defense Depositions:**
 - Plaintiff
 - Prepare!
 - Review Meds
 - Hired lawyer
 - Pre-x conditions
 - Diagrams
 - Guessing distance
 - P's Treating Doctors
 - Cross notice/sub.
 - Prep with pre-x
 - Explain WHY

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SERVICE: RULE 4

- Summons "alive" 60 days
- A&P issued by 90 days
- Keep alive until Answer
- Certified/Restricted/Sheriff
- Publication only after:
 - Exhaust above and request from ins. co., check public records, judgments, filings, internet search, DMV, criminal record, deaths, defense attorney

EXHIBITS:

MEDIATION

- Required in All Counties in Superior Court
- All Parties must attend
- Mediator selected by agreement
- Notice to Lien Holders (Medicaid, WC)
- Determine Costs and Liens before mediation
- Explain mediation to client (expectations)
- Not admissible at trial
- Show you are prepared for trial
- Base Demand on Jury Verdict Possible
- Cite emotional/personal factors
- Potential for excess judgment
- Reasonable Expectations (use mediator)
- Don't take it personally
- Bring a calculator
- Don't spring new evidence
- Bring your trial exhibits

NC PERSONAL INJURY TRIAL CHECKLIST®

TRIAL ORDER	○Calendar Call	○P strikes from new, seats 12	○last chance to Voluntary Dismiss	○Jury Instruction Conference
	○Pre-Trial Conference	○Process continues until jury selected (8 strikes each)	○P rests case	○Jury Instructions given to Jury
	○Motions in Limine	○Jury Sworn by Judge	○D Mot. for DV	○Deliberation
	○Judge Instructs Jury Pool	○P opening (usually 5 mins)	○D witness	○Verdict
	○Introduction of Parties	○Def. opening	○P cross	○Motions
	○Voir Dire Begins w/ P	○P Witness	○D rests	○Winner prepares Judgment
	○P seats 12, strikes then is accepts 12 jurors	○Def. Cross	○P Mot. for DV	
	○Def. strikes, seats 12	○All P exhibits in (check)		

DOCTOR DIRECT EXAMINATION

- Qualify as expert in specialty
- Judge Allows Expert
- "Can you agree that all of your opinion answers today will be at least to a reasonable degree of medical certainty?"
- examined plaintiff, took history, ordered tests, reviewed medical records, diagnosis, treatment rendered, permanent impairment
- "Is ___ considered an injury?"
- "After treatment [detail] have you formed an opinion to at least a reasonable degree of medical certainty as to the cause of the injuries you diagnosed and treated?"
- What is that opinion? (car wreck caused it)
- Doctor, was the treatment you rendered reasonable and necessary medical treatment given your diagnosis of [the plaintiff]?
- Doctor, have you reviewed the records from the [ER, family doctor, physical therapist] and if so, was the treatment rendered reasonable and necessary given the Plaintiff's diagnosis?"
- (optional) Are these the records you maintained in your office for [plaintiff]? Introduce records into evidence (part or whole)
- Cover all the "bad stuff" before cross

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LAW ENFORCEMENT DIRECT

Police Report Admissibility

- Business Records Exception
 - Personal Knowledge of report
 - Made at/near time of collision
 - Made in every crash case
 - Filed in system/retrieved from

Police Report Redaction (inadmissible parts)

- Insurance Information
- Opinion of causation/fault
- Speed unless observed/stated by party
- Accident diagram if "reconstruction"
- Not based on personal knowledge
- Criminal charges (unless admitted)
- Estimated amount of vehicle damages \$
- Hearsay witness statements

Key Questions

- Experience (# MVA's investigated)
- Use Report as exhibit (enlarged)(admitted)
- What did you see, hear, etc?
- Did defendant make statements?
- If P vehicle not damaged: "officer have you seen bad wrecks where people walked away fine? How about wrecks like this where people were taken away on stretchers? No unusual, right? So the injury to the car may not relate to the injury to the person?"

CLOSING THEMES

- ☼ Defendant admits fault but refuses to take responsibility. That is why we are here today.
- ☼ We live in a society where people refuse to take responsibility for their own actions.
- ☼ Saying you are sorry is the first step, correcting the problems you caused is the next step.
- ☼ Only give [the plaintiff] what is just and fair, put [her] back where she was before the defendant failed to follow the rules that all of us must follow.
- ☼ When we get our drivers license we make a contract and a promise to obey the rules of the road.
- ☼ When we break that promise, or violate that contract, we are legally responsible fix the problem.
- ☼ The defendant wants it all- to ignore the rules, deny responsibility, and then pick and choose what medical treatment the person he injured can have. It is your duty to level the playing field.
- ☼ The Defendant says that because we can not show you a picture of an injury, none of [plaintiff's] injuries must be real. Do we have to see something to believe it? What about love, or God? Or doing "the right thing." Everyday we take actions on what we know to be true, without seeing it.