



BRAIN INJURY
ASSOCIATION

OF AMERICA

Guide
to Selecting
Legal Representation
for
Brain Injury
Cases



Introduction

People who sustain brain injuries from vehicle crashes, medical malpractice, falls, defective products, or other incidents caused by another person's carelessness often find it helpful to talk to an attorney. Medical treatment, such as rehabilitation, and long-term care services, can be expensive and span many years.

Pursuing the corporation or the individual that caused a brain injury is a way to ensure justice and accountability. A lawsuit can also provide additional financial resources to aid with rehabilitation and long-term care if the injury causes a permanent disability. Sometimes a lawsuit will encourage the responsible party to take steps to prevent injuries to others in the future.

Consider an Attorney Soon After the Injury Occurs

It is important to contact an attorney as soon as possible after a person is injured. An attorney can determine whether or not the plaintiff has a case.

The plaintiff is the person bringing the suit. This can be the injured person or the family (or estate) of the injured person.

The defendant is the party or parties that caused the brain injury. One of the most important reasons to get legal help is the difficulty of determining who is legally responsible for the injury. In a motor vehicle crash, the driver of an automobile, his employer, the automobile manufacturer, the local government or its employees, or the bartender at a local bar could all be liable.

An attorney can investigate the case, determine what kind of case to bring against which defendant, and begin preparing the case while the injured person and his or her family focus on rehabilitation and recovery.

A good lawyer will work to make sure someone with a brain injury receives full compensation for his or her injuries.

Choose Your Attorney Carefully

Choosing an attorney can have significant long-term implications. The attorney will seek to obtain full compensation for medical bills, lost income, and future care costs. The attorney may also seek damages for pain and suffering. Importantly, an experienced attorney can help to preserve any entitlements to federal and state benefits. Without careful planning, valuable benefits may be lost.

Choosing an attorney requires consideration of many factors, including education and training, knowledge of the consequences and treatment of brain injury, knowledge of how to structure and manage awards, and experience with similar cases. An attorney must have the financial resources to try the case as well as access to the best experts.



Attorneys Also Choose Their Cases Carefully

Most personal injury attorneys work under a contingent fee arrangement. This means the attorney receives no fee if the plaintiff is not compensated. Attorneys will often invest substantial time and money during the investigation, preparation, and resolution of the case. Because of the financial risk involved, attorneys may decline cases if they do not believe there is a reasonable likelihood of success.



Getting Started

The Brain Injury Association of America (BIAA) provides a list of Brain Injury Preferred Attorneys with experience handling brain injury cases. The list is available on BIAA's website at <http://biausa.org/preferredattorneys>. Scroll through the list of attorneys, or choose your state from the menu to be referred to a preferred attorney in your area.

Brain injury attorneys offer a free consultation, and if they take your case, there is no attorney's fee if there is no compensation.

Once you have an appointment with an attorney, be prepared to answer the attorney's questions about the injury. You may also find it useful to have a written list of questions to ask the attorney.

During the consultation, you will want to ask about the attorney's legal background and experience with cases involving brain injury.

Be observant during the time you spend with your attorney. Pay attention to how the attorney and his or her office staff interact with you and your family and determine if it is comfortable for you. Trust your instincts. Many personal injury cases take years to resolve, so the relationship between you and the attorney can be very important.

Here are some questions you may want to ask:

- How much of your practice is devoted to personal injury?
- Of your personal injury cases, how many are devoted to brain injury?
- How did you first become involved in brain injury cases?

- Based on the information you have, what are the strengths and weaknesses of my case?
- What additional information about my case do you need?
- Who else in your practice would you involve in my case? What role(s) would these people have? Describe their background and expertise.
- Who will be my primary contact with your practice?
- Are you or your law firm able and willing to advance as much as \$50,000 in the investigation, preparation, and presentation of my case?
- Have you been successful handling cases similar to mine in the past?
- What is your involvement with legal associations, local, state, or national brain injury associations, or other organizations?



BIAA Preferred Attorneys

If you or a family member sustained a brain injury because of the carelessness of someone else, you need help to ensure that the responsible party is held responsible and you receive all the compensation the law allows.

The BIAA Preferred Attorneys Program was established to help people with brain injuries and their families in identifying qualified personal injury attorneys. The lawyers who participate in the program are knowledgeable about brain injury, experienced trial lawyers, and actively involved in the brain injury and legal communities. BIAA does not guarantee success or warranty the lawyers in its program. The ultimate decision of who you choose to represent you is yours to make after carefully considering all the options.

The BIAA Preferred Attorneys Program is provided solely as resource for the public and does not represent any endorsement, guarantee, approval, or warranty with respect to any attorney. BIAA does not provide legal services and is not responsible for legal services rendered by firms in the Preferred Attorneys Program. BIAA hereby disclaims all liability for any claims, losses, or damages in connection with the services of any firm in the Preferred Attorneys Program.

BIAA'S PREFERRED ATTORNEYS

BIAA created the Preferred Attorney Program to help people with brain injuries and their families find attorneys who are effective advocates for people with brain injury.

The selection of an attorney can have a significant impact on the ability to be compensated from litigation. Preferred Attorneys have extensive knowledge and experience representing the brain injury community and understand the subtle cognitive, physical, behavioral, and social difficulties that can occur following a brain injury.

Among the many criteria that go into selecting Preferred Attorneys are a firm's skill and experience representing people with brain injuries, available resources to pursue a client's claim, and the personal dedication to protecting and improving the futures of people with brain injuries.

For more information about BIAA's Preferred Attorneys Program, or to find an attorney who serves your area, visit www.biausa.org/preferredattorneys.

CHAIKIN, SHERMAN, CAMMARATA & SIEGEL, P.C.

The Washington, D.C. law firm of Chaikin, Sherman, Cammarata & Siegel, P.C. has extensive experience, both in and out of the courtroom, handling cases for people who have sustained a brain injury.

Two of the firm's partners, Joseph Cammarata and Ira Sherman, are founders of the Brain Injury Association of

Washington, D.C. and serve as the president and vice president, respectively. Mr. Sherman has served on the BIAA Board of Directors for many years and is currently serving as treasurer.

The firm has also been successful in a number of multi-million dollar brain injury settlements.

To learn more about Chaikin, Sherman, Cammarata & Siegel, P.C., visit the firm's website at www.chaikinandsherman.com.

COHEN, PLACITELLA & ROTH, P.C.

Cohen, Placitella & Roth, with offices in Philadelphia, Penn., and Red Bank, N.J., has a long-standing commitment and dedication to representing people with traumatic brain injury (TBI) that goes back more than four decades.

Senior partner Stewart L. Cohen served as president of the Brain Injury Association of Pennsylvania and is a frequent speaker and published author on the topics of representation of people with TBI, proof of injury, and ethics in the representation of people with brain injuries and their families.

Chris Placitella, senior partner with the New Jersey office, is a board member of the American Association for Justice and past president of the New Jersey Trial Lawyers. He has represented people wrongfully injured, including those with TBI, for more than 30 years.

Partner J.B. Dilsheimer has vast experience representing catastrophically injured people, and frequently represents individuals with TBI and post-concussion syndrome. He presented a day-long seminar for the Pennsylvania Bar Institute entitled "Traumatic Brain Injury – Understanding the Medical and Legal Aspects of Brain Injury Litigation."



To learn more about Cohen, Placitella & Roth PC, visit the firm's website at www.cprlaw.com.

DE CARO & KAPLEN, L.L.P.

De Caro & Kaplen, L.L.P., has provided compassionate and zealous legal representation to victims of devastating injuries and death due to vehicle negligence, unsafe buildings, construction site accidents, and medical malpractice in New York state and nationwide since 1982. Their continuing mission is to improve the quality of life for people with serious injuries and their families.

Michael Kaplen is a professorial lecturer in law at the George Washington University Law School, teaching the only course in traumatic brain injury law. He is also past chair of the New York State Traumatic Brain Injury Services Coordinating Council, past president of the Brain Injury Association of New York State, and past chair of the American Association for Justice's Traumatic Brain Injury Litigation Group. He is board certified in trial advocacy and in professional liability-medical malpractice.



Shana De Caro is chair-elect of the American Association for Justice's Traumatic Brain Injury Litigation Group, vice president of the American Academy of Brain Injury Attorneys, and an officer and trustee of the Civil Justice Foundation. She is a member of the Advisory Board of the Acquired Brain Injury Program of The George Washington University Graduate School of Education and Human Development and member of the board of directors and editor of monthly updates for the New York State Academy of Trial Lawyers.

Their commitment, experience, and dedication focuses on holding those responsible legally accountable, and achieving maximum recovery while guiding our clients through the process.

To learn more about De Caro & Kaplen, L.L.P., visit the firm's website at www.brainlaw.com.

HICKEY LAW FIRM, P.A.

For more than 30 years, John H. (Jack) Hickey, of the Miami, Fla.-based Hickey Law Firm, P.A., has tried personal injury and wrongful death cases, including a number of traumatic brain injury cases, and is a member of the American Association for Justice Traumatic Brain Injury Litigation Group.

Hickey is board certified as a civil trial lawyer and as an admiralty and maritime lawyer by the Florida Bar and is board certified as a civil trial lawyer by the National Board of Trial Advocacy. He is rated AV by Martindale-Hubbell, the international listing of attorneys. He has been chosen as a "Top Lawyer in South Florida" in the areas of personal injury and maritime law in the South Florida Legal Guide (2004-present); "Legal Elite" in Florida Trend Magazine (2006-present); and "Super Lawyer" in the area of personal injury in Superlawyers.com (2006-present).

Hickey is a member of the Florida Bar Board of Governors and is a past president of the Dade County Bar Association (2003-2004) and is a sustaining member of the American Association for Justice.

To learn more about the Hickey Law Firm, visit the firm's website at www.hickeylawfirm.com.



JAMES F. HUMPHREYS & ASSOCIATES, L.C.

The Charleston, W.V., law firm of James F. Humphreys & Associates, L.C., has provided compassionate representation to people who have been injured and their families for more than 25 years. The firm's attorneys bring a wealth of experience working with clients with serious injuries, including those who have sustained brain injury, to each case as they help clients navigate the legal system and hold negligent parties liable for their losses.

The firm's philosophy of compassionate representation includes providing support to the families of people who have been injured and helping them understand what to expect in the future.



Attorney James F. Humphreys has been actively involved with BIAA for many years and was the driving force behind the creation of the Preferred Attorneys Program. He has served for several years on the BIAA board of directors and was chairman of the Board for 2012–2013. He is a member of George Washington University Law School's board of advisors and a member of the board of trustees of both George Washington and Brandeis Universities. He has received the coveted AV award, which recognizes superior legal ability and integrity, by a poll of his peers.

Mr. Humphreys has also been named a "Super Lawyer" in recognition of his advocacy on behalf of his clients and has been named one of the top lawyers in the state of West Virginia.

To learn more about James F. Humphreys & Associates, visit the firm's website at www.jfhumphreys.com.

THE TERRELL HOGAN LAW FIRM

With more than 40 years of service to the Northeast Florida, the Terrell Hogan Law Firm focuses on providing representation only to people injured through negligence, intentional wrongdoing or defective products. The firm's attorneys have a wealth of experience and expertise as specialists in civil trial advocacy for personal injury and wrongful death. As the firm has grown, it has also developed and maintained the resources necessary to support strong cases, including expert witnesses, medical testing, and information services.



To learn more about Terrell Hogan Law Firm, visit the firm's website at www.terrellhogan.com.



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