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## PERSONAL INJURY ATTORNEYS - What to look for

People often ask us what they should look for when trying to decide who to hire for a personal injury attorney and what advice we would give to persons looking for personal injury attorneys.

First and foremost, when deciding whether or not to employ a particular firm as a personal injury attorney, do not use TV advertisements or the quality or type of ads as a factor in that decision. Beware of firms that handle a large volume of cases or promise quick settlements, they often:

1. Settle cases as quickly as possible without regard to the value of a case.
2. Look for the easy cases to settle "low-hanging fruit" and fail to make recovery for the difficult and sometimes most valuable part of the case.
3. Have little or no attorney involvement in the case.

For example, recently we were retained by a truck driver who was involved in an accident in Georgia. He was told by one Knoxville firm

that he had seen on TV that there was no insurance in his case and he could not recover a settlement. After reviewing his case and working on it for several months, we were able to not only discover insurance, but we were able to recover a significant settlement for him.

Also, do not look for firms that promise to settle your case quickly. This is a bad sign that the firm is more interested in resolving your case for quick cash for themselves without regard to the true value of your case.

It is very important to look at the experience of a particular firm. How long has a firm been in business? What do their former clients say about them? Is it a firm that regularly represents insurance companies or one devoted to representing people? What kind of recoveries have they gotten for clients? How much experience does the firm have in a particular field? Is the firm able to handle both complex and simple cases? Does the firm attend national seminars and events and do other lawyers refer difficult cases to the firm? Also, look to see if members of the firm are also members of organizations

like Best Lawyers, ABOTA (American Board of Trial Advocates), and Million or Multi-Million Advocates Forum? All of these organizations are organizations which, in some form or fashion, require persons to be competent or achieve certain results in order to be a member of those organizations.

How long has the firm been in existence, and how long have the firm's attorneys been representing people with personal injuries? Do the attorneys just use gimmicky ads to get cases? Are the lawyers respected by local and regional bar association and judges? We ask you to ask these questions about our firm and any firm so that you can make an informed decision.

**“Do the attorneys use gimmicky ads to get cases? Are the lawyers respected by local and regional bar associations?”**



## ABOUT US - Experience counts

The Terry Law Firm has been in existence since 1960, when Charles Terry started the firm. In the last 55 years, the law firm has helped countless people wrongfully injured in many different types of cases.

Our experience in the realm of personal injury is both wide and deep. We have represented people in cases ranging from over-service of alcohol, leading to a car crash, to defective industrial machines and consumer products; from tractor trailer crashes to gas and other explosions; from social security disability to mass industrial injuries to workers. We are regularly consulted or have cases referred to us by other lawyers in the southeast. We are not a group of "Johnny-come-lately" attorneys using gimmicky TV advertisements to get cases and immediately settle the case for half its value.

We are experienced lawyers dedicated to helping people who have wrongfully suffered injuries and now find themselves in the difficult position of dealing with insurance companies dedicated to saving every last nickel for the sake of

corporate earnings and Wall Street. If we agree to accept your case, you can be assured we will pursue it as if yours is the most important case we have because we know it is the most important case you have.

## UPDATE - BERKLINE and SHELBY WILLIAMS HEARING LOSS CASES

As many of you already know, we have represented a large number of people who sustained hearing loss while working at Berkline or Shelby Williams. We believe we have had a tremendously successful effort in representing and recovering monies for employees suffering hearing loss while at Berkline or Shelby Williams.

After Berkline closed its doors in Morristown three years ago, we began to represent persons who were exposed to extremely loud noises while working at Berkline. In the course of our involvement, we discovered that in the 50 plus years Berkline had been in Morristown, Berkline had never provided any type of hearing protection to its employees. We

## SOCIAL SECURITY FREQUENTLY ASKED QUESTIONS

The Terry Law Firm files many Social Security Disability initial applications online to ease the stress and burden for our clients.

Cost of living increase for Social Security Benefits of 1.7% became effective January 2015. There is a user cap fee of \$91.00 per month.

If you are 55 or older and are awarded your Social Security Disability benefits, then you can elect to accept your retirement benefits at age 65 rather than 62, resulting in more dollars in your pocket.

If you have COPD, then the results of your PFT (pulmonary function test) may meet the qualifications of a listing which would entitle you to receive your Social Security Disability benefits.

The average processing time for Social Security Disability benefits from application to the hearing phase (3 levels) is approximately 18 months.

If you have diabetes, then your A1C number may entitle you to receive Social Security Disability.

There is a 25 month waiting period from your entitlement date to obtain Medicare. You are required to pay for Medicare from your Social Security Disability benefits, if you choose to carry it.

The Terry Law Firm handles claims from start to finish, from application to decision.

further discovered that not only did they not provide hearing protection, but they also encouraged practices that increased the noise level in their work environment. For instance, Berkline would allow persons to remove mufflers from air guns, which made the air guns more productive, but increased the noise level to the point that it would almost certainly cause hearing damage.

After discovering the large number of people who suffered work-related hearing loss, we began to file claims on behalf of persons who had sustained work-related hearing loss. Clients were compensated by the workers' compensation insurance carriers of the Berkline Company which had ceased to exist. (continued on P. 3)

## HOW MUCH CAN A HOSPITAL CHARGE - If you don't have health insurance?

Tennessee has regulated how much hospitals can charge uninsured patients by a law which describes the maximum amount a hospital can charge you for services the hospital renders, either in the emergency room or for a hospital stay. The statute has gone largely unnoticed by many people as it can be found buried in the numerous healthcare laws that have been passed by the Tennessee legislature. The law in Tennessee prescribes that uninsured patients can only be charged an amount equal to 175% of the hospital's cost-to-charge ratio.

What is a cost-to-charge ratio? The cost-to-charge ratio is essentially a formula that gives a measure of the hospital's profitability based on the amounts charged patients and also the cost of those services. Most hospitals in this area have a cost-to-charge ratio in the neighborhood of 20% to 25%. For example, if you received a hospital bill for \$500 and that hospital had a cost-to-charge ratio of 20%, the maximum the hospital could charge you would be 20% of the bill of \$100 x 175% or \$175.

We are investigating cases where hospitals have charged more and patients have paid more than 175% of the cost-to-charge ratio. If you think you may fall into this category, feel free to contact us.

### What is a hospital lien and how does that affect my lawsuit?

Hospital liens can be filed by hospitals that have provided treatment to an individual who has been in an automobile accident. A hospital lien obligates a person, the insurance carrier, and any lawyer involved to repay the hospital the amount of the lien. The statute also provides that the lien cannot be for any more than one-third (1/3) of the total amount of the case settlement.

In recent years, hospitals have become more and more aggressive with filing hospital liens on virtually every person who enters the hospital as a result of some type of trauma. (For example, for persons involved in automobile accidents, persons injured on premises, etc.). Unfortunately, the

practice of hospitals for many years was to reduce their charges in an amount commensurate with a monetary figure that was fair to everyone considering the nature of the injuries, the amount of the settlement and any other important factors. However, in today's environment, hospitals and the company they have hired to file their liens (Avectus) essentially will not reduce their liens unless they are forced to do so.

**“The law prescribes that uninsured patients can only be charged an amount equal to 175% of the hospital's cost-to-charge ratio.”**

When settling an automobile accident case without first consulting an attorney, you put yourself at risk for hospitals overbilling for their services, and filing a lien against you. Not only that, but automobile insurance carriers are also paying these inflated liens submitted by the hospitals. If you fear this situation has happened to you, let us know if you want us to look into it for you.

## Custody Battles - A thing of the past?



### Paige Collins devotes her practice to domestic relations cases.

Getting along with your soon-to-be ex-spouse may be challenging, but if you are a divorced or divorcing parent of a minor child in Tennessee, it should be a top priority. Last July, the Tennessee custody statutes were modified to promote more effective “co-parenting” of children. In previous years, it was typical to see one parent be awarded the majority of the time with the child, with the other parent receiving visitation only, usually about 4-5 days per month. Lobbying of legislators by mostly fathers' rights groups has resulted in substantial changes in our nation, and now in Tennessee, concerning equality of parents in custody cases. Now, many family law

judges begin with the notion that the parents should share equal time with the child, unless it is not in the child's best interest to do so.

Family lawyer Paige Collins, who has been with The Terry Law Firm since 2012, represents clients involved in divorces with custody disputes and non-married parents seeking to establish custody and co-parenting time. As a certified family mediator, she has also mediated nearly a thousand family law cases in the last 7 years and has seen the trends change in the courts in Tennessee. The new custody laws have changed the way she advises her clients and in their positions in court. Most notably, Collins advises her clients to do their best to get along with the other parent as much as possible and to facilitate a good relationship with the child and other parent, if possible. The primary reason for this advice is because second on the list of factors that the court MUST consider in making a determination as to custody is “each parent's ability and willingness to encourage a close and continuing parent-child relationship” with the other parent. Before last year's changes, that factor was at the bottom of the same list. To attorneys, this implies that this factor is much more significant than before. If one parent introduces evidence of parental alienation by the other parent, the consequences can be loss of primary parent designation, which usually results in less time with the child as well as a possible loss of decision-making authority over the child in certain areas.

In addition to the statutory changes, new changes were made to Tennessee's Parental Bill of Rights, which essentially gives equal rights to both parents, regardless of which parent is designated primary residential parent. These changes appear to be consistent with the Court's ultimate goal in each custody case, which is to consider what is in the best interest of the child or children, not the parents' individual interests. For example, both parents are now entitled to receive their child's records directly from their child's school, as well as the right to visit at any time. Historically, this right was given to the primary parent only and subject to his or her wishes concerning the alternate parents' rights to do the same.

While these changes apply to all cases that go before a judge, the court must still ultimately rule consistent with the child's best interest, which many attorneys and judges believe render the new changes meaningless. Either way, it is still prudent advice to try to keep as civil and respectful of a co-parenting relationship between parties as possible. It certainly will not hurt your custody case and will hopefully allow children to live in two homes more peacefully.

## HISTORY OF WORKER'S COMPENSATION

Prior to any workers' compensation laws being enacted in Tennessee, if you were injured at work, in order to recover for your injuries you had to prove negligence by showing there was an unsafe work environment; however, damages were unlimited. When workers' compensation laws were initially enacted in Tennessee in 1919, a compromise was reached. A locally elected Circuit or Chancery Judge would decide your case under the workers' compensation law, based on impairment ratings and caps on damages you could recover, and, in exchange, the employee did not have to prove negligence. Now, essentially, we are at a point where the employee has to compromise again, and will get nothing in return but medical treatment.

One of the major changes in the new law is the loss of your right to have an elected Judge decide your case. Prior to the July 1, 2014 changes, if you were injured at work you first had to attempt to resolve your claim through the Department of Labor, and if you were unable to do so, then you had a right to file your case in Court in Chancery or Circuit Court. The new law passed replaces your right to have an elected Judge decide your case and specifies that a new politically appointed Judge with the Department of Labor will decide your case.

A second major change is the loss of earning capacity for you if you are injured. The new law has dramatically reduced your ability to be compensated for your lost earning capacity on an individual basis, based on your injury and your earnings. Now you may be forced to settle your claim based on factors called multipliers that are uniform in your county, such as unemployment rates, in addition to other factors. These multipliers alter the way you are compensated for your injury, and not in a good way. They complicate and lessen the amount you can receive.

For example, we recently settled a case for a client under the workers' compensation law that existed before the July 1, 2014 reform. This case settled for \$75,000.00. Under the new law, the worker would only be entitled to \$ 48,652.83. This would be the maximum amount he could receive, which includes all of the multipliers.

A third major change is the loss of your right to reconsideration. Before the July 1, 2014 reform, if you were injured at work, settled your case and returned to work, then your claim was capped by a multiplier as to what you could receive. If you later lost your job, through no fault of your own, you were able to go back and receive more benefits for your injury. Now, under the new law, you no longer have that right. Thus the employer has no incentive to keep injured workers.

A fourth major change is that there is no compensation that you are allowed to receive if you sustain a gradual injury. For instance, if you work at a job that requires continued and ongoing lifting, and as a result, you injure your back, require surgery and can no longer work, then under the new law, you will now get nothing in workers' compensation benefits. Also, claims like hearing loss and carpal tunnel are no longer compensable.

### TENNESSEE Worker's Comp Reform - What YOU need to know

As of July 1, 2014, our Workers' Compensation laws in Tennessee have drastically changed, and not for the better for employees. Workers' Compensation is a system to provide medical treatment and disability benefits to those who are injured on the job. This is a critical support system for workers when they are injured so that they can continue to pay their bills and support their family at a time of loss in their life.

These new changes in the law came from a study performed by out-of-state insurance consultants and were passed almost unanimously by our state legislation, without allowing input from Tennessee Trial Attorneys or Associations representing working men and women in Tennessee on how this might affect Tennessee workers. These changes will dramatically affect you when you are injured at work by reducing the amount of benefits you could receive for your injury and taking away essential rights.



### DID YOU KNOW?

**Tennessee Code Annotated 56-7-1201 prohibits an insurance carrier from canceling, not renewing or increasing your premium due to making a claim on the uninsured motorists coverage portion of your automobile insurance policy.**

(UPDATE, cont. from P. 1 Compensation was and is based on specific factors: impairment for hearing loss; comp rate; noise exposed to before, during, and after employment at Berkline or Shelby Williams; and length of employment.

To date, we have represent(ed) over 1,180 people who worked for Berkline in Morristown. We have represented another 356 people who worked for Berkline in Livingston. We also represent 333 people who worked at Shelby Williams.

The total cases settled to date: 928. Total cases tried to date: 1. Total cases won at trial: 1.

The total amount of settlements obtained by The Terry Law Firm to persons working at Berkline in Morristown: \$16,506,650. The total amount of money awarded to persons working at the Berkline Livingston Plant: \$1,098,000. (We are early in the process with many of these claims.) The total amount of money awarded to Shelby Williams' employees suffering from work-related hearing losses: \$1,068,591.

### NEW STAFF MEMBERS

**Eliana Leal** has recently joined the Terry Law Firm. She is fluent in Spanish and is currently assisting the attorneys at The Terry Law Firm in serving the needs of the Spanish community of East Tennessee. She understands the importance of being able to communicate in one's own language regarding important legal matters and the security of knowing that every word is understood. Eliana is licensed to practice law in Florida and is currently seeking admittance to practice in Tennessee.



Eliana was born in Havana, Cuba. Her family immigrated to Miami, Florida when she was two years old. Eliana was raised in South Florida. She earned her Bachelor of Science in Criminal Justice from Florida International University and her Juris Doctorate from Nova Southeastern University School of Law in 1996.

Our firm is proud to announce the addition of **Elizabeth Tarlton** to our staff at our Greeneville location. Elizabeth has a degree in paralegal studies and lives in Chuckey with her husband and two children. She brings with her a vast knowledge and experience in the Social Security Disability arena. We are confident that Elizabeth will allow us to continue to provide great service and results for our Social Security Disability clients.