

PERSONAL INJURY HANDBOOK



*STRAIGHT TALK ABOUT PERSONAL INJURY CLAIMS,
INSURANCE, & LAW ENFORCEMENT*

Mike Myers & Double D



MYERS & FOX
MOTORCYCLE ATTORNEYS

**SNEAK
PEEK**



ABOUT THE AUTHORS

Mike Myers



Mike has been riding motorcycles since 1985.

He played varsity soccer at Stanford and graduated with honors from law school.

Mike is AV rated by Martindale and has been named a SuperLawyer for the past 10 years. He's one of the top personal injury attorneys in the Pacific Northwest.

Mike has recovered over \$50 Million for personal injury clients. He has also led the charge in the motorcycle rights movement and won major victories involving public records, traffic stops and equal access for patchholders to public events.

David "Double D" Devereaux



Double D has been around the motorcycle community his entire life. He is a second-generation member of an old-school northwest motorcycle club.

Double D has dedicated himself to advancing the legislative, legal and political rights of bikers.

Double D is the Chair of the Washington State Council of Clubs, Spokesperson for the National Council of Clubs and Founder of the Motorcycle Profiling Project.

Double D travels coast-to-coast educating and speaking to motorcyclists and legislators about the fight against profiling and discrimination.

Forward by Double D

I have worked with attorneys from all over the country. That gives me some background and perspective.

I think Mike Myers is the best for three reasons:

1. Results. Mike has 25 years of experience and has handled over 1,000 cases. He's recovered millions of dollars for clients and is in the top echelon of personal injury attorneys in the Pacific Northwest.
2. Rights. Mike reinvests in the community to advancing the liberties of motorcyclists.
3. Riding. Mike has been riding a motorcycle since 1985. He understands motorcycle law from both a legal and person perspective.

Mike donates a tremendous amount of time and resources to the motorcycle community. Mike is able to make this kind of investment because of his successful personal injury practice.

When you hire Mike you're getting a heavy-hitter who gives back to the community. You're not going to find that combination anywhere else.

So why write this handbook? We want people to know their rights. We want people to take advantage of opportunities. We don't want people to overlook rights or miss out on the compensation they deserve.



MOTORCYCLE ACCIDENTS

Motorcycle accidents are different than other motor vehicle accidents.

- Motorcycles stop and handle differently than cars.
- Drivers perceive motorcycles differently than cars or trucks.
- Accident reconstruction involving motorcycle accidents is much more complex than ordinary car or truck accidents.
- Witnesses frequently misperceive what happened: for example, they don't appreciate that high RPMs mean the rider downshifted to slow down.

Maximizing value takes more than just a good attorney. It takes a good attorney who is experienced in handling motorcycle cases.

No License? No Problem.

Some people think that they can't bring a claim if they're involved in an accident and don't have a valid driver's license.

An endorsement is required to ride a motorcycle, but it isn't required to make a personal injury claim after a motorcycle accident.

Our client was riding at night without lights and didn't have a motorcycle endorsement. We kept the fact that he didn't have an endorsement out of evidence and recovered over \$600,000.

If you're hit by a left-turning driver, it doesn't matter whether you have a suspended license or even no license. You have a personal injury claim against the driver who turned in front of you.

Claims Against Friends and Family

We represented a daughter in a case against her dad. She recovered \$300,000 under her dad's insurance policy.

A lot of people would rather not make a claim against friends or family.

But we ride with family and friends. And accidents are bound to happen.

The first instinct is to suck it up. But it's important to remember that friends and family have been paying insurance premiums for years to make sure that they have coverage just in case this type of accident occurs.

If you decide not to make a claim in this situation, the only one who wins is the insurance company.

Working with an attorney makes sure to minimize the impact on friends and family and maximizes benefits under their insurance policies.

Liability Waivers and Releases

A lot of groups have members sign waivers before rides. Sometimes they want to “protect” the group. Sometimes they’re not really sure why they have members sign the waiver but it seems like the right thing to do.

Most of these forms not only release the group but also all participants on the ride.

Is that really in everyone’s best interest?

Probably not. Here’s an example from one of our cases:

Wife is riding with husband. Husband turns to look at a bald eagle. Husband is still looking at the eagle when he runs into the rear-end of a garbage truck. Wife is seriously injured.

Husband carried liability insurance. He bought it specifically for situations where someone got hurt because he made a bad decision or wasn’t paying attention.

But even though he purchased insurance and paid premiums for years, his wife may not be able to collect anything because of the waiver cuts off claims against not only the group that organized the ride but also all participants (like her husband).

That isn’t what anyone—except the insurance company—wants.

The solution is pretty straight-forward: Either don’t use waivers for group rides or make sure that they only release claims in excess of available insurance coverage (so people who pay for coverage can use it).

There are ways to get around waivers. But it’s better to avoid them altogether.

Several riders and passengers were hurt in a group ride. There was a waiver. We proved the waiver was unenforceable and recovered policy limits. It’s possible to navigate around waivers but they shouldn’t be used.

MOTOR VEHICLE ACCIDENTS

Motor vehicles are getting safer. But they're still the most dangerous technology we've invented. They kill and injure way more people than conventional, chemical or nuclear weapons.

The most common kind of accident is the rear-end collision. We all know the "following driver" rule. But does that mean that the following driver is always 100 percent at fault?

Following Driver Rule... And What We Can Learn from It

It's the responsibility of the following driver to avoid a collision with the lead vehicle. But this duty is not absolute – it is excused when unusual circumstances exist or there is an emergency (not created by the following driver).

We recovered policy limits of \$100,000 for a motorcyclist who rear-ended the car in front of her. The car made a lane change in front of our client and then immediately slowed for traffic.

For instance, if the lead driver slams on his brakes and the following driver hits the lead car, the lead driver is (at least) partially at fault for the collision. The following driver can make a claim against the lead driver.

The following driver rule isn't super-interesting. But talking about it—and the fact that there are exceptions to it—serves a good purpose. It points out that the "rules" we learn in driver's education or think about in absolute terms aren't necessarily black and white.

Every serious injury accident deserves intelligent and thoughtful analysis. Even if the facts seem insurmountable, there still may be a claim.

Drugs and Alcohol

A lot of cases involve alcohol. There are basically two variations. Someone gets drunk and hurts himself. Someone gets drunk and hurts someone else.

Recovering From The Drunk

A lot of people think that insurance doesn't cover drunk driving accidents. And maybe it shouldn't. But it does.

In most cases recovery is limited by insurance coverage.

We've used this leverage to obtain settlements far in excess of policy limits. We had a case this year where the defendant cleaned out her 401k to settle.

There are a couple of reasons for this but the biggest is that most people who cause accidents don't have anything you could get if they filed a bankruptcy petition.

You have additional leverage with a drunk driver: a judgement against a drunk driver is not dischargeable (can't be wiped out) in bankruptcy.

But because drunks usually don't have enough insurance or assets to compensate the people they hurt it's important to find other sources of recovery.

Bars and Restaurants

Bars and restaurants can be held responsible if they let someone have too much to drink.

Client was stabbed by an intoxicated customer. We recovered a six figure settlement from the bar.

In Washington the standard for imposing liability on bars and restaurants used to be "obvious intoxication". But the law has changed from "obviously intoxicated" to "apparently intoxicated". This relaxed standard means it's easier to pursue over-service claims.

Most of these claims are the product of drunk driving. But drunks make all sorts of bad decisions. Something we see a lot is drunks attacking other customers at bars. If the bar over-served the drunk, they probably share in responsibility (and likely have insurance to cover the claim).



BYSTANDER CLAIMS

Sometimes it's worse to witness a wreck than be in it. This is particularly true if the wreck involves a family member. Washington law recognizes what it's like to witness a family member get hurt and allows recovery.

We recovered \$50,000 for a father who arrived on the scene after his daughter had been hit by a car.

Bystander claims (negligent infliction of emotional distress) allow people to recover for seeing a family member get hurt or suffering right after an accident.

Many of these cases involve drunk drivers. Here are a couple of things from the MADD website:

Grief is not an event, but a process of experiencing the effects of a death or other loss. Grief is something that everyone experiences at some point in their lives. Traumatic grief is different and even more difficult. When someone is [hurt] suddenly and violently, grief reactions of family and friends can be intense, complicated, and long lasting. If your loved one was [hurt] in a substance impaired driving crash involving alcohol or drugs, you may feel angrier than you have ever felt and sadder than you ever thought possible.

If you see a family member get hurt or arrive on the scene right after they've been hurt it makes sense to make a claim.

