



# The Lapidus Law Firm, PLLC



PERSONAL ATTENTION AND DEDICATION THROUGH EVERY PHASE OF THE CASE

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## NEWSLETTER

### FROM THE DESK OF



#### Lawrence S. Lapidus

In a recent U.S. Supreme Court case called *McCutchen v. U.S. Airways, Inc.* the Court determined

that an Employer Health Insurance Benefit Plan can recover from the Plan members and their dependents' settlement funds ALL of the monies it paid out for accident related treatment to the injured party's medical providers. This may not be as horrible as it seems at first when the following is considered: Health Insurance Plans rarely pay all of the medical charges. In a personal injury case, settlements are based on medical charges, loss of income, pain and suffering, due to the injuries incurred in the accident as well as other factors. In every case, there will be a significant difference between the total value of these factors and what the Plan actually paid. The law still permits the claimant to retain the difference. The Supreme Court stated that the Health Insurance Plan would have to pay some portion of the attorney's fee but the details of this was sent back to the lower courts to determine. The bottom line is that no one should be deterred from bringing a claim because of this case. While the payback to a Health Insurance Plan may be greater than in years past, there still should be adequate funds remaining to compensate injured persons for their injuries. **If you are injured, call us we can help.**

### FOREWARNED IS FOREARMED

Key Questions Every Insurance Adjuster Asks about Every Claim and What You Can Do to Answer Them for Your Protection

**Key Question 1:** *Were there any complaints of pain at the accident scene to the police or ambulance personnel?*

Be sure to mention any pain that you are experiencing to the police or witnesses at the accident scene. If an ambulance is offered, take it.

**Key Question** *How long did the injured person wait after the accident before receiving medical attention?* There are many legitimate reasons why injured people delay seeking medical attention. These reasons include transportation difficulties, financial fears about the cost of medical treatment, child or elder care responsibilities, work demands, or waiting for the pain to stop on its own. Unfortunately, none of these reasons carry much weight with the insurance adjuster. We advise every injured person to seek medical attention promptly and to obtain appropriate follow up care to help alleviate pain.

**Key Question** *Are there any time gaps in the medical treatment?* Keeping a calendar of your medical appointments and pre-planning your transportation to such appointments can avoid this. If you are unable to keep your appointment call the doctor's office to reschedule.

**Key Question** *When the injured person misses time from work, was the time off approved by the treating physician?* You should always inform your treating physician about the physical and mental requirements of your job. If you feel that your pain precludes you from working be sure to bring this to the treating physician's attention. If the physician determines that you are not able to work be sure to obtain a disability slip.

**Key Question** *Are the injuries claimed the same injuries reflected in the medical records?* Think about your body from your head to your feet and be sure to identify all injured body parts to the physician. Injuries claimed in a legal case but not mentioned in a medical record will diminish the value of your case. After the end of your exam, make sure your doctor understands and appreciates the nature and extent of your injuries.

**Key Question** *What was the injured person's medical condition before the accident?* The adjuster asks this question to ensure that the injuries claimed were caused by the accident and not some unrelated reason. However, if a doctor finds that a previous injury was made worse by the accident, such worsening is fully compensable. If you or your family or friends are injured, **call us we can help.**



If you, a friend, or relative have been injured in an auto accident, I can help.  
**Call Me** for a Free Consultation  
DC/VA 202-785-5111  
MD 301-605-4296

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