



Asbestos & Mesothelioma

Legal Resource Guide

THE

SAM BERNSTEIN[®]

LAW FIRM



Bernstein BOOKS

Phone:

1-800-CALL-SAM

1-800-225-5726

Web:

WWW.CALLSAM.COM

Facebook:

FACEBOOK.COM/CALLSAM

Twitter:

@CALLSAM

FOR DECADES our firm has worked to educate the public about the law and safety issues. We believe that knowledge is power. The more you know about your legal rights the more likely it is that you'll be treated fairly. Bernstein Book publications represent our effort to continue informing the public about important issues.

THE
SAM BERNSTEIN
LAW FIRM

Table of Contents

<i>What is Asbestos?</i> 1-2	Chapter 1
<i>History of Asbestos</i> 3-4	Chapter 2
<i>Uses for Asbestos</i> 5-6	Chapter 3
<i>Types of Injuries Caused By Asbestos</i> 7-10 8..... <i>Mesothelioma</i> 9..... <i>Asbestosis</i> 10..... <i>Lung Cancer</i>	Chapter 4
<i>Legal Remedies</i> 11-12	Chapter 5
<i>How an Asbestos Case Works</i> 13-16	Chapter 6
<i>Asbestos Trust Fund</i> 17	Chapter 7
	Resources p. 18
	Our Client Committment p. 19

01

The term asbestos refers to multiple magnesium-silicate minerals.

What is Asbestos?

The term asbestos refers to multiple magnesium-silicate minerals. These fibrous minerals are found in all parts of the world. Due to its durable, heat-resistant, and non-flammable properties, asbestos was commonly used in construction and manufacturing for most of the 20th century.

Today asbestos is recognized as an extremely harmful substance, but decades went by where construction workers, vehicle mechanics, shipyard workers, electricians, and others employed in building trades were exposed to asbestos on a daily basis.

Although the United States Department of Labor issued a bulletin in 1918 stating that there was an “urgent need for more qualified extensive investigation” into the severe harm caused by asbestos, its widespread use continued. Throughout the following decades, more and more links between asbestos and health issues were discovered.

Asbestos fibers are invisible to the human eye and can easily become airborne. Many people have been exposed without their knowledge. Even minimal exposure to these asbestos fibers can develop into serious –sometimes–fatal – conditions. It may take decades for symptoms to appear in someone who has been exposed. The danger is not limited to those who directly handled asbestos. If somebody has had substantial exposure to asbestos, his or her co-workers or spouse are also vulnerable to asbestos-related illnesses.

Evidence of health issues related to asbestos exposure can be found in records dating back to ancient Rome. Research into the health risks of asbestos accelerated during the 1920s and 1930s and later into the 20th century. By the 1980s and 1990s, the dangers of asbestos exposure had become public knowledge, and governments around the world began to regulate, restrict and ban the use of asbestos.

Because illnesses related to asbestos are so severe, the great extent of asbestos’ use, and the fact that asbestos-related diseases can take decades to exhibit symptoms, asbestos litigation has become an enormous legal issue in the United States. For many manufacturers and insurers, the issue of asbestos liability remains an ongoing concern to this day.

THE
SAM BERNSTEIN
LAW FIRM

02

History of Asbestos

There are accounts of asbestos being used for a variety of purposes by the ancient Greeks, Persians, and Romans.

Because asbestos is naturally-occurring, its earliest use by humans dates back to over 4,000 years ago, where it was used to strengthen ceramic pots. There are accounts of asbestos being used for a variety of purposes by the ancient Greeks, Persians, and Romans.

Modern large-scale asbestos mining began in the mid-19th century. Following unsuccessful attempts in Italy to produce asbestos paper and cloth, a German industrialist adopted a process to manufacture asbestos yarn in his factories. The first asbestos manufacturing company was established in Glasgow, Scotland in 1871, and Scotland became a center for the burgeoning industry for the following decades.

Asbestos mining began on an industrial scale in Quebec, Canada in the 1870s. Following industrial innovations and the adoption of new machinery, the largest asbestos mine in the world for many years was in the town of Asbestos, Quebec. The following decades of the 19th century saw asbestos open in the Russian Empire, Italy, South Africa, China, Brazil, and the United States.

As the 19th century came to a close, the worldwide use of asbestos accelerated. Asbestos has many natural qualities that make it durable and heat-resistant, making it desirable for use in fabrication, manufacturing, and construction. It became an increasingly common product used in various industries, and remained so for the majority of the 20th century.

Evidence of the adverse effects of asbestos exposure date back to the 1st century AD. It wasn't until the early 1900s that researchers began to fully notice the negative health effects of asbestos and the large number of early deaths and lung problems in asbestos-mining towns.

History of Asbestos

02

For the next few decades, many studies linked asbestos exposure to negative health effects. In the United States, the relationship between asbestos and its health effects was documented as early as the 1930s. During the early decades of the 20th century, asbestos companies were aware of these risks but suppressed research and public knowledge of these links.

The United States Government has been widely criticized along with the asbestos industry for allowing the use of asbestos to continue and for failing to inform the public of health hazards or reduce public exposure. Documents from a court case in the 1970s prove that asbestos industry officials had known of the health dangers since the 1930s, but had concealed them from the public.

Asbestos is not currently banned entirely in the United States. A ban enacted by the Environmental Protection Agency in 1989 was overturned in a 1991 lawsuit. Asbestos is currently used in a variety of products, but only in trace amounts. Many other uses for asbestos were banned, including any new uses. Additionally, the Occupational Safety and Health Administration (OSHA) has set limits for amounts of asbestos in workplace air for 8-hour work shifts and 40-hour work weeks.

History of Asbestos
Continued

03

Asbestos was so desirable during the 19th and 20th century due to its affordability, strength and durability

Uses For Asbestos

1. Asbestos is a very durable material that became desirable to use in various industries. Some of the qualities that make asbestos so desirable include:

- **Affordability** – Asbestos is naturally occurring, and many of the industrial mines open during the 19th and 20th centuries were very productive. During the 20th century, mines around the world could produce 2 million tons of asbestos in a single year
- **Strength** – Asbestos fibers can withstand being pulled with a great deal of force without breaking.
- **Durability** – Asbestos is very resistant to damage from fire, heat, chemicals, and electricity.

Asbestos was often used in construction of buildings for insulation, as well as electrical wiring insulation. Asbestos fibers were also often mixed into cement or woven with fiber or mats to make fire and heat-resistant materials.

2. In Michigan alone, many industries were making and selling asbestos until it was banned in the latter part of the 20th century. Asbestos was used widely in:

Heavy industry
Caulk
Electrical wiring
Cement
Paper
Fire Doors

Floorboards
Drywall
Plaster
Popcorn ceilings
Fireproofing
Brakepads

Insulation in hair dryers
Fire blankets
Roofing materials
Thermal pipe insulation
Many other common items

Today there is a legal ban on new uses for asbestos, but thousands of Americans are endangered by exposure to existing asbestos sources through older items. *During the many decades of widespread asbestos use, untold numbers of workers were exposed to dangerous airborne asbestos fibers on a daily basis.*

Uses For Asbestos

03

3. The trades likely to have a high number of asbestos disease cases include, but are not limited to, the following:

- Asbestos workers
- Insulation workers
- Automobile mechanics
- Shipyard workers
- Sailors (both on seagoing vessels & in dry dock)
- Maintenance employees
- Chemical and petroleum workers
- Locomotive repairmen
- Stationary engineers
- Stationary firemen
- Concrete workers
- Steel erectors
- Carpenters
- Electricians
- Pipe fitters
- Welders
- Oil field workers
- Boilermakers
- Steel workers
- Drywall finishers
- Painters
- Pot tenders
- Electric & gas utility workers
- Fabricated plate workers
- Paper mill workers
- Construction contractors
- Plumbers
- Plasterers
- Iron workers
- Floor coverers
- Masons
- Power station operators

4. Asbestos exposure is particularly heavy at certain job sites. Here is a partial list of common sites where asbestos exposure occurs:

- Chemical plants
- Smelters
- Refineries
- Steel mills
- Shipyards
- Oil fields
- The Military
- Power plants
- Residential construction sites
- Commercial construction sites
- Manufacturing plants
- Navy Shipyards
- Paper Mills

Because of the widespread use of asbestos was, these lists are by no means comprehensive. Due to the airborne nature of asbestos dust, workers did not have to be in direct contact with asbestos materials to become exposed. Workers who handled asbestos would often carry deadly fibers on their clothes, shoes and hair into their household. *There have been cases of mesothelioma, lung cancer, and asbestosis from family members who have interacted with exposed workers and become exposed themselves.*

Due to the airborne nature of asbestos dust, workers did not have to be in direct contact with asbestos materials to become exposed.

04

Types of Injuries Caused by Asbestos

When a person is exposed to asbestos, the airborne asbestos fibers become embedded in the lungs or other parts of the body. It can take years for the symptoms of asbestos-related illnesses to appear, and some experts believe that no symptoms appear for more than a decade after exposure. In some cases, it can take even longer for the illness to become evident. There are three serious health conditions that may result from exposure to even a small amount of airborne asbestos fibers:

These three serious health conditions that may result from exposure to airborne asbestos.

1. Mesothelioma
2. Asbestosis
3. Lung Cancer



1. Mesothelioma

Mesothelioma is a type of cancer that develops from cells of the mesothelium; the protective lining that covers many of the body's internal organs. It is usually caused by asbestos fibers that penetrate lung tissue. It can sometimes develop after these fibers penetrate the heart or the abdomen. In very rare cases, it is possible to have a non-cancerous, or benign, form of mesothelioma, which is known as cystic mesothelioma of the peritoneum. However, in most instances mesothelioma is a cancerous, or malignant, disease.

Mesothelioma was previously considered quite rare by the medical profession. While it is still uncommon, the number of workers diagnosed with mesothelioma has risen. Today, approximately 3,000 new mesothelioma cases are reported in the United States every year. The incidence of mesothelioma is increasing at an even higher rate in Europe.

The two most common types of mesothelioma are named after the parts of the body where they occur.

Pleural Mesothelioma appears in the pleura, the outer lining of the lungs and internal chest wall.

- Pleural mesothelioma is the more common form of mesothelioma cancer. Its symptoms include:
- Chest pain
- Shortness of breath
- Coughing
- Rapid weight loss or persistent fever.

Peritoneal Mesothelioma develops in the lining of the abdominal cavity.

- This form of mesothelioma progresses more rapidly and is more deadly.
- Early diagnosis and an individual's response to treatment are important factors in combating the disease.
- Symptoms of peritoneal mesothelioma include:
- Nausea
- Vomiting
- Swelling of the lower extremities
- Individual symptoms vary and may not all be present

If you are experiencing any of the symptoms listed above for and were exposed to asbestos, contact your physician or health care provider immediately.

04

Pleural Mesothelioma & Peritoneal Mesothelioma

04

The main symptom of asbestos is usually a slow onset of shortness of breath, especially with physical activity.

2. Asbestosis

The term asbestosis is sometimes used incorrectly to refer to all illnesses or injuries resulting from asbestos exposure. However, it is actually a very specific condition. Asbestos is also known as interstitial fibrosis, and develops when inhaled asbestos fibers causes scarring of the lung tissue. Over time, this scarring causes inflammation, reducing the capacity of the lungs.

The symptoms of asbestosis often don't appear until several decades after the initial exposure to asbestos. The main symptom of asbestos is usually a slow onset of shortness of breath, especially with physical activity. Other possible symptoms of asbestosis include coughing and chest pain.

There is no cure for asbestosis. Oxygen treatment at home is often required to relieve the shortness of breath experienced by sufferers of asbestosis.

Individuals with asbestosis may suffer debilitating lung impairments, and require close monitoring due to their increased risk of even more serious asbestos-related conditions, including mesothelioma and lung cancer. If an individual with asbestosis who smokes quits smoking, they reduce the risk of further damage. The best method of prevention for asbestosis is to avoid contact with asbestos. If your job requires you to be around asbestos, follow all safety protocols, make sure air levels are measured, and wear a proper respirator to avoid breathing in asbestos fibers. If you live in a house or work in a building that contains products with asbestos, you generally don't have to take any special precautions. Being around items that contain asbestos isn't necessarily dangerous, as long as the asbestos is enclosed. It's when asbestos fibers or dust is airborne and inhaled that it becomes a health hazard.

3. Lung Cancer

Pulmonary carcinoma, or lung cancer, is uncontrolled cell growth in the lungs, resulting in a lung tumor. If this cell growth is left untreated, it can spread throughout the lungs and to other parts of the body.

There are various possible signs and symptoms of lung cancer, and they include:

- Coughing, or coughing up blood
- Wheezing
- Shortness of breath
- Fever
- Fatigue
- Chest pain
- Bone pain
- Difficulty swallowing

Lung cancer is all too common in our society and has many possible causes, including:

- Cigarette use
- Air pollution
- Genetics

There is evidence of a link between asbestos exposure and lung cancer. The risk of lung cancer is compounded and even higher for an individual who not only was exposed to asbestos, but also smokes cigarettes. In fact, an individual who smokes cigarettes who was also exposed to asbestos has a risk of lung cancer 45 times higher than that of the general population.

The treatment for lung cancer depends on the cancer's specific cell type, how far it has spread, and the patient's well-being and daily life. The most common treatments for lung cancer are palliative care, surgery, chemotherapy, and radiation therapy.

Prognosis for those diagnosed with lung cancer depends on various factors, but high among those are how developed the cancer was when it was initially discovered. Data from the United Kingdom suggests that for those diagnosed with lung cancer at its earliest stage, 70% of patients will survive at least a year. However, this rate drops as the cancer progresses. For patients diagnosed with lung cancer at its most advanced stage, the 1-year survival rate drops to 14%.

If you or a loved one was exposed to asbestos and is exhibiting symptoms of any of these asbestos-related illnesses, contact your health care provider immediately.

04

Data from the United Kingdom suggests that for those diagnosed with lung cancer at its earliest stage, 70% of patients will survive at least a year.

05

Legal Remedies

Available Legal Remedies

Mesothelioma and other asbestos-related illnesses are the result of employers who negligently allowed their employees to work in conditions where they would be exposed to these harmful substances. Asbestos manufacturers and employers who exposed their workers to asbestos are responsible for the consequences of using this dangerous product. Even individuals unknowingly exposed by loved ones who carried fibers home on their bodies and clothing after working in an environment containing asbestos count among the victims of their actions.

Thankfully, there are legal remedies available to individuals who have been exposed to asbestos and their families. Consulting with a lawyer and filing for relief is intended to compensate you and your loved ones for your injuries.

Filing a claim against those who are responsible for your exposure to such a deadly chemical is a powerful way to make your voice heard. Just filing the claim is a firm statement to the other party that allowing you to become exposed was wrong. You could also influence your employer's future behavior, potentially helping to prevent countless more workers falling victim to diseases linked to asbestos exposure.

Compensation

While no amount of money will ever make up for your illness, that doesn't mean that you don't deserve to be compensated. A successful outcome in your mesothelioma claim means that you will have the ability to pay for costly medical bills and treatments. It can also provide peace of mind and financial security for you and your family for years to come.

Legal Remedies

05

Here are some facts that are important to know if you are considering legal action:

The Statute of Limitations, or time limit for making a legal claim, depends on the state in which you live. Your time to make a claim may start to run once a doctor diagnoses you with an asbestos-related illness. For this reason, you should seek legal advice immediately.

Most states allow a spouse and other family members of a person who was passed away from an asbestos-related illness to bring a wrongful death case. However, there is a limit to the amount of time you have to file a suit, and in some states a probate court must first officially name the personal representative of the estate of the deceased person. It is important to take action as soon as you can, to make sure your legal rights are protected.

Even if you are not sure who is responsible for your asbestos exposure, you can still file a claim. Your lawyer will investigate where you were exposed to asbestos and which companies are responsible for your illness. If more than one company is at fault, each is usually assigned a percentage of the damages. Your attorney will gather all of the information needed to file your claim.

Every asbestos-related lawsuit is unique and requires different strategy, but you should feel confident in your ability to pursue legal action for your asbestos-related injuries.

Statute of Limitations

Death of a Loved One from Asbestos Exposure

Unclear Time or Cause of Asbestos Exposure

06

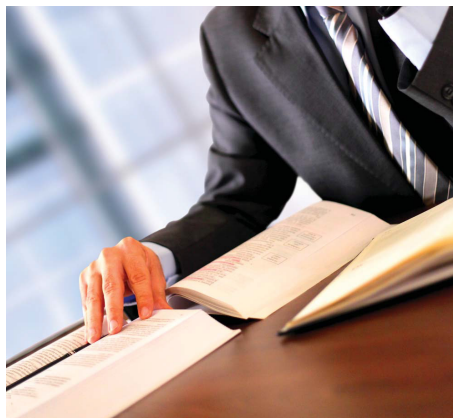
How an Asbestos Case Works

You do not pay out-of-pocket expenses during the litigation

Your lawyer will tailor the handling of your asbestos lawsuit to meet your individual circumstances and needs, but you can generally expect the following:

Asbestos lawyers generally work on a contingency fee basis. This means they only receive compensation if and when you do. You do not pay out-of-pocket expenses during the litigation. If you win or receive a settlement, the attorney receives a percentage of your compensation. The contingency fee is determined when you hire your attorney.

If you file a claim while suffering from an asbestos-related illness, your health needs come first. Your attorney will try to make the legal process as easy as possible for you. They will travel to your home to meet with you and work around your doctor's appointments and treatments schedule. Much of the necessary paperwork can be handled by mail or email.



How an Asbestos Case Works

06

Mesothelioma

The process of an asbestos lawsuit is generally as follows:

Each defendant in your lawsuit will receive a copy of your complaint and have the chance to respond. For asbestos lawsuits, it is common for many years to have passed since you were exposed to asbestos. Because of this, the responsible company could now be a different company or could be bankrupt. It may take some time to locate and provide the appropriate people with your complaint. Your attorney will oversee this process.

Once served with a copy of your complaint, each defendant will have a certain amount of time to respond, usually 30 days. Defendants rarely admit fault, they will most likely deny your claims and defend themselves. They may argue that your complaint is not valid or that someone or something else is responsible for your asbestos exposure. They may even claim that your condition is not related to asbestos exposure. You shouldn't worry. These are all normal, and your attorney will reply to each defendant's responses.

Once your asbestos lawsuit is filed, it enters the discovery phase. This is when lawyers on both sides gather relevant information about your allegations. Both sides will ask the other to answer written questions, produce documents and participate in depositions. Documentation may include your medical, employment, and military records.

Your attorney will prepare your responses to any written questions and document requests. Your lawyer will also go over likely deposition questions with you in advance and be present to assist you during the deposition. In addition to helping you

1. Responses

2. Discovery Phase

Continued →

06

How an Asbestos Case Works

2. Discovery Phase (Continued)

respond to discovery requests, your lawyer will also make similar demands to the defendant for information supporting your claim that the defendant negligently exposed you to asbestos.

The purpose of the discovery phase is to prepare for a jury trial and to gather information for settlement discussions between your lawyer and the lawyers for the asbestos companies. Some of the information gathered will become the evidence used at trial. Discovery may take several months, but if you are very ill, your attorney can ask the court to speed the process along before your condition worsens.

3. Settlement or Trial

Before a trial starts, a defendant may offer to resolve the case by offering you monetary compensation. If you decline the settlement offer, it's possible that the defendant will make another offer during trial. Your attorney will negotiate on your behalf.

Many claims never go to trial because the companies settle before trial. Of course, each case is unique and there is always the chance that your case may go to trial. Sometimes the parties reach a settlement after the trial starts.

Your attorney will notify you every time a company makes a settlement offer, and will recommend that you accept or reject these offers, and explain why. The final decision to accept or reject the offer is up to you. Even if you accept reasonable settlement offers from most of the asbestos companies, you can still go to trial against any company that does not make an appropriate offer.

1. Responses
2. Discovery Phase
3. Settlement or Trial?
4. Depositions
5. The Trial
6. Appeals

Approximately three months after initial contact with your lawyer, you will be deposed by one of your attorneys and by the attorneys for the asbestos manufacturers. You will be videotaped offering testimony under oath, but out of court, either in or near your home. One of your attorneys will travel to your home prior to your deposition to help you prepare. The actual length of the deposition can vary, depending on the complexity of your case, but usually lasts between one to five days.

If one or more defendants refuse to offer a fair settlement, you may choose to go to trial. Many companies will settle during the beginning of the trial. Few cases go all the way to obtaining a jury verdict; the rest settle with all of the companies before or during trial. A jury trial usually lasts from three to six weeks.

The trial process varies depending on where you file a claim. In many cases, it is not necessary for you to appear in court. If you win and the defendant does not appeal, you will usually start receiving payments a few months after the trial.

If you win the trial, the defendant may file an appeal. The defendant will have a limited amount of time to file an appeal, usually between 30 and 180 days. This will delay any monetary award, but the defendant will need to post “bond” for the amount awarded while the appeal proceeds. If the defendant loses their appeal, you will start receiving payments. If the appeal is successful, the defendant may only need to pay a smaller amount or nothing at all.

An appeals court generally accepts the facts of the case as the trial judge and jury interpreted them, including how credible the jury thought certain witnesses were. Usually the only thing an appeals court decides is whether the trial court correctly applied the law in the case. If a mistake was made that affected the result of the trial, the appeals court may order a new trial. In other cases, the appeals court will just correct the mistake without a new trial, such as when the amount of the award was calculated incorrectly. If your case is appealed, your attorney will be available to explain the process to you.

06

4. Depositions

5. The Trial

6. Appeals

07

Asbestos Trust Fund

A fund to compensate
asbestos exposure
victims

Sometimes workplaces responsible for asbestos exposure have declared bankruptcy. Because of this, many law firms are fighting to challenge bankruptcies that corporations try to use as a shield against financial exposure to asbestos claims. Workplaces that have declared bankruptcy have often been merged with or sold to another business. An experienced team of researchers can find out to whom the business you worked for was sold or merged. In the process of these sales or mergers, the company's debts and liabilities are routinely transferred as well. Additionally, an attorney can trace the manufacturer and installer of the asbestos at your work site.

Many currently bankrupt companies that produced asbestos products were required to establish a fund to compensate asbestos exposure victims. The amount of compensation you might receive through a bankruptcy trust fund is usually less than what you might have recovered had the company not filed for bankruptcy, yet it might be your only option for compensation. Your lawyers will evaluate your case and file for compensation through bankruptcy trust funds if you are eligible.



RESOURCES

If you or a loved one is suffering from an illness related to asbestos exposure, please utilize the following resources.

More information can be found from The Sam Bernstein Law Firm website at: **callsam.com/case-types/asbestos-and-mesothelioma** or by phone **888.225.5726**

The Mesothelioma Applied Research Foundation

www.curemeso.org
877.363.6376

The American Cancer Society

www.cancer.org
800.227.2345

The American Lung Association

www.lung.org
800.586.4872

The National Cancer Institute

www.cancer.gov
800.422.6237

The Mesothelioma Information & Resource Group

www.mirg.org
888.802.6376

The United States Department of Labor Occupational Safety & Health Administration

www.osha.gov
800.321.6742

The National Institutes of Health

www.nih.gov
301.496.4000

This publication and the materials contained herein have been prepared by The Sam Bernstein Law Firm, PLLC for informational purposes only. This information may or may not reflect the most current legal developments. Readers should not act upon any information contained in this publication without first seeking the advice of legal counsel licensed in their state. The Sam Bernstein Law Firm, PLLC only practices law within the states of Michigan, Ohio, Florida, Illinois and New York. No action related to transmission or reading of this publication by The Sam Bernstein Law Firm, PLLC. A contract of representation with The Sam Bernstein Law Firm, PLLC can only be created after consultation with our attorneys. The Sam Bernstein Law Firm, PLLC is not engaged in rendering services by publishing and distributing this publication and materials. If legal advice or other expert assistance is required, the services of a competent professional should be sought. Every situation involves different facts and circumstances and claims any personal liability, loss or risk incurred as a consequence of the use, either directly or indirectly, of any information in this publication.

Our Client Committment



Lawyers Who Care.

We know that a serious injury is a life altering event. We understand that there is no way to make someone whole who has lost a loved one or suffered a significant trauma. We see the pain suffered by our clients every day. If you're a client of our office, you're a part of our extended family.

Three Generations of Experience.

Our firm has championed the cause of the seriously injured for three generations. We bring the significant academic and professional accomplishments of over two dozen highly qualified attorneys to work on behalf of our clients. We have a combined total of over 165 years of experience representing accident victims.

Work Ethic.

Our legal staff works diligently with one goal in mind, success for our clients. Every employee in our firm gives 110% to the success of our clients' claims. Pursuing a claim for damages requires tenacity, patience and perseverance. These values drive our office.

Honest Advice About Your Case.

We will advise you based on experience and knowledge regarding the best way to proceed with your claim. You will always know our opinion regarding the options that will be available to you.

Expert Representation.

Our attorneys are experienced, having worked on thousands of claims for injured individuals. Our legal staff is aware of the latest changes in Michigan law, and all of our attorneys work exclusively to help injury victims.

Phone Calls Returned Promptly.

If you call our office, you will speak to someone who can answer your questions. If your attorney or legal assistant is not in, they will return your call promptly.