



The Noll Law Firm  
**Legal Talk™**

## Take Responsibility For Your Case & Your Care

From: *The Dirty Dozen: 12 Mistakes To Avoid In Your New York Accident Case* by Richard E. Noll, ESQ.

**Mistake # 4: Not knowing who is treating you, why particular treatments are being recommended, and what the treatments are.**



This is **your** personal injury case. You were injured. Your life has changed for the worse. You are claiming someone else caused all of this and you want fair and adequate compensation for

your pain and suffering, your medical expenses, and loss of earnings. You have to prove your case to a jury and usually convince a judge not to dismiss your case before it is even heard by a jury. This case is all about *you*. Therefore *you* have to take an active part and be the interested party. Part of being actively involved in your medical care means taking note of who is providing your care, what they are doing for you, and why they are doing it.

One of the pitfalls of going to the clinic the 'good samaritan' directs you to is that you never really know who is treating you and why those treatments are being recommended. These 'medical mills' may be supervised by one physician, but that physician may only see you periodically. The physical examinations may be performed by different doctors on each occasion. The therapy you receive will usually be performed by different therapists on each occasion. Don't get me wrong, there are some excellent multi-specialty trauma clinics that provide the best in medical care. But those that *are* excellent are run by board certified physicians, provide useful and

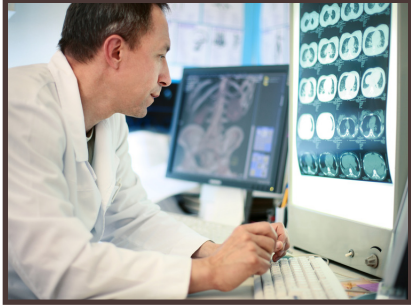
beneficial care, and document their examinations and treatments with the utmost professionalism. At the end of the day, regardless of the medical care you receive, it will be up to you to keep track of that care, and have the knowledge to describe the treatments you received in sworn testimony. I cringe when a client giving sworn testimony at a deposition or trial cannot answer the questions: "What is the name of your doctor?" "What is the doctor's specialty?" "Where is the office located?" "What did the doctor do for you?" "Did the doctor take or refer you for any diagnostic studies?" and so forth. Remember this is your life, your injury claim, and *your* burden of proof.

How can you protect yourself in this regard? First, use reliable, reputable medical providers. Next, obtain a business card from every medical provider who treats you. Third, advise your attorney of every medical provider who treats you so your attorney can obtain full sets of all medical records and outline them for you. Fourth, keep a calendar or diary of your medical appointments and what was done for you on each occasion. This will help you keep track of what may become an extensive amount of information, and will help you refresh your memory when the time comes to give sworn testimony. Finally, do not just go through the motions. Listen to the doctors. Ask them questions. Follow their advice. Take an active part in your medical care. First and foremost, it will benefit you medically and hopefully improve your health. As a corollary benefit, you will assist your attorney in the prosecution of your case, you will be a worthy and credible witness who a defense attorney will have a difficult time cross examining, and a jury of your peers will find you credible, giving them the reason they need to find in your favor.

# What Clients Should Know About IME's

*an interview with John W. DeHaan, ESQ., Partner, DeHaan Busse LLP*

Q. For those who may not know, please explain what an IME is all about.



A. If you become disabled or injured, one of the things the insurance carrier may demand is that you submit to an Independent Medical Examination, or IME. Most people assume that this medical examination

is impartial because the word *independent* is used in the title. However, that could not be further from the truth. In fact, it would be a lot more accurate to call the exam an **Insurance Medical Exam** because it is done by, for, and to benefit the insurance company. Unfortunately, insurance carriers are not looking for an independent evaluation.

Q. Who chooses the examining doctors, and who do these doctors work for?

A. Most medical professionals who perform IME's work for insurance carriers on a regular basis either in a direct relationship with the carrier or with a third-party IME service. This gives them a vested interest in finding disabled or injured claimants healthy and able-bodied - they consider it job security. These medical professionals seek to tell the insurance carriers (*their customers*) what the insurance carriers want to hear, i.e., that the patient is medically fine and **not** entitled to disability benefits. They know that if they perform a real independent examination and find the claimant to be disabled or injured, it will lead to less repeat business from the insurance carrier, or carriers. In the end, the IME doctor most often chooses to keep his or her customer happy by giving them what they want - **a medical report which supports denying the claim.**

Q. What can a client expect during an IME?

A. It usually starts with a record review. Before you have even met the IME doctor, the insurance company already has combed through your medical records,

typically cherry-picking which records to provide to the IME doctor for review. The records are often taken out of context to make it seem as if the claimant's medical condition isn't too bad, or that the medical evidence is contradictory or ambiguous. As a result, even if the IME doctor may be inclined towards impartiality, he or she only is provided with controlled information.

Another fairly common practice among some IME doctors is to look for "holes" in your medical record. Something as simple as an accidental omission on the part of your treating physician can result in an IME report that says your medical report does not support your disability or personal injury claim.



The carrier also provides the IME doctor with specific written questions for him or her to answer. And finally, when the exam finally happens, it usually is quite superficial. Most IME's only last a few minutes - surprising given the length of the IME doctor's report and the extensive list of clinical testing the doctor supposedly performed.

*The Noll Law Firm Legal Talk* is a trademarked publication, published bi-monthly by:

The Noll Law Firm  
 116 Jackson Avenue  
 Syosset, NY 11791  
 Phone: 516-307-1199  
 Email: [rnoll@lawnoll.com](mailto:rnoll@lawnoll.com)  
 Website: [www.nytrialattorney.com](http://www.nytrialattorney.com)



(c)The Noll Law Firm 2011  
 attorney advertising

## Love Your Bike? Be Safe Out There

As I've said before, I own a bike, and I find the freedom of the road to be the perfect solution to my very stressful and very busy life. But,



I also know what can happen when you're not paying close attention to motorcycle safety. As an attorney who represents people involved in motorcycle

accidents, I see the unfortunate results of carelessness everyday.

Motorcycle riders need to be even more cautious than drivers. Simply slowing down or making a stop is something you need to be thoughtful about.

For example, if you're coming to a stop, make sure that you've checked out the surface of the road. You will want to beware of rocks, oil spills, or any other materials that could cause you to skid or cause your bike to tip over. Avoid these conditions and look for a part of the road that will allow you the most traction.

Once you've decided to park your bike, if you are on the right side of the road, it is safest to dismount from the right. If you're parked on the left side of the road, it is safest to dismount from the left. When dismounting, shut off the ignition and make sure you've parked in the right position. Before you dismount make certain you have checked the road for traffic. You have no idea how many people get injured merely getting off their bikes because they forget to check for passing vehicles.

Simple safety rules can save your life.

## What You Should Know About IME's

*Cont'd from P.2*

Q. What other kinds of problems can a client expect from an IME?

A. Added to this already unfair system is the fact that many of these IME professionals often have their own preconceptions and biases about the medical conditions the claimants have. Many IME doctors will dismiss - outright - debilitating illnesses and conditions such as chronic fatigue syndrome and fibromyalgia because these conditions are not easily detectible through CT-scans, MRI's, or other diagnostic testing. Unlike a treating physician (your doctor) who tends to examine and treat you over an extended period of time, IME doctors see only a snap shot of your medical condition. The most an IME doctor can do is comment on the claimant's condition on the **one** occasion that he or she performs the examination on behalf of the insurance carrier.

Q. What happens if you don't go to the IME exam?

A. You cannot refuse to go to an IME. If you do, there is a high probability that the insurance carrier will deny your claim or cancel your benefits. But, you can be prepared by retaining a knowledgeable attorney at the outset. Our firm, for example, counsels our clients before they go to their IME's. And, we send a registered nurse from our staff with them to the examinations. That serves two purposes: 1) it tends to relax our clients, and 2) it sends a message to the independent medical professional performing the exam that the client's law firm is paying attention.

**DeHaan Busse LLP focuses on disability law including individual claims, FERS disability claims, VA disability claims and ERISA claims. For more information, visit: [www.dehaanbusse.com](http://www.dehaanbusse.com)**

# Announcing ... The Dirty Dozen



Last month I did something I've wanted to do for several years now - I published my first book - *The Dirty Dozen: 12 Mistakes To Avoid In Your New York Accident Case*. In it, I outline 12 major errors people tend to make when they've been injured in an accident, and then need to sue insurance companies for compensation. This is the same information I share with my clients.

It occurred to me that if people knew how to protect themselves *before* being involved in accidents, and *before* coming to my office, if and when they ever need my services, the odds of winning or settling their cases successfully would increase significantly in their favor.

Of course, no personal injury attorney could guarantee an easy case or an easy win. But, I am hoping that if you read this book, you will learn how to protect yourself from the common mistakes that most people make which can spell disaster for their personal injury claims.

If you'd like a copy of my book, you can email me at: [rnoll@lawnoll.com](mailto:rnoll@lawnoll.com). Or, you can go to: [www.amazon.com](http://www.amazon.com) to order a copy online.

Remember, insurance companies are not in business to pay you compensation for your injuries; they are in business to make money. Your best weapon in a personal injury case is information.

*Fold*



116 Jackson Avenue  
Syosset, NY 11791



**To:**