The ABA Guide to Establishing a Motor Vehicle Law Practice is a complete guide to establishing a practice, with samples, forms, pleadings, and a full trial transcript.

Settling (and sometimes litigating) motor vehicle accident (MVA) claims is a much-needed legal service. I’ve spent a number of years of my practice doing so, and have had a degree of success at it. To be brief, there are two great benefits: first, you provide an enormous service to people who need it; second, you can make an excellent living.

Why I Wrote This Book

There are three reasons I wrote this book: the needs of clients, the needs of attorneys, and the general lack of good information about litigating MVAs.

The Needs of Clients

Clients need MVA attorneys. There’s a constant need for lawyers to process and try these cases. According to the U.S. Census Bureau, in 2009 there were more than 10.8 million motor vehicle accidents with over 35,000 resulting deaths.1 Many people are unable to reach a fair settlement with the other side (typically, an insurance company). Accordingly, they need skilled personal injury lawyers who specialize in MVAs.

The Needs of New Attorneys

Over 40 percent of lawyers are unable to find employment upon graduating law school. Consequently, many fresh graduates are immediately starting their own law firms, but they have few or no practical skills. They are forced to start without any training.

The same is true of lawyers who are laid off and forced to practice a different type of law in order to sustain themselves. This is a very large number, according to today’s legal market.

New lawyers (and recently laid-off lawyers) have asked me for advice, for forms, and for pleadings. This book should fill the need. It teaches how to establish a corporation, open the proper accounts, and create and use dozens of forms that are necessary for the MVA practice. It also includes sample cross-examinations, discovery, and jury verdict studies.

The book should help you to immediately profit from your MVA practice without having actual experience in the practice.

**The Lack of Information**

The skills you need aren’t taught in law school or readily ascertained from the literature that’s “out there.” A review of competitive works showed me that there is no full MVA practice guide that includes actual forms, pleadings, and a full trial transcript.

Many of the skills revolve around practical tasks and using the right forms and letters. The forms, samples, and pleadings that I incorporated into the book, as well as my perspectives and instruction, helped me settle hundreds of cases for millions of dollars in settlement value, and I’d like to share this knowledge with you.

Currently, there are a number of books that teach fresh graduates how to run their own personal injury firm or how to start a solo practice, but none include the ins and outs of how to run a motor vehicle practice, *which is the most common type of tort/personal injury claim.*

The book is scholarly in the sense that actual cases and their respective Model Disciplinary Rules are included. Each activity discussed is referenced with the law and legal considerations that the practitioner should consider when handling any one aspect of an MVA claim. However, the language is (I hope) “plain talk.” It’s the kind of language you might use in front of a jury.

**Why You Should Consider Starting an MVA Practice**

Besides the sheer number of MVAs per year, there are a number of other reasons why those who recently graduated law school (or attorneys contemplating a different line of practice) may choose to handle MVA cases.

**Money**

First, running a high-volume MVA practice can be lucrative. Depending on your jurisdiction’s disciplinary rules, standard contingency-fee rates charged by MVA attorneys range from 33 percent to 45 percent of the net proceeds of a settlement. These numbers don’t include additional case expenses that MVA practitioners normally charge. Cases expenses may include printing, photocopying, phone calls, and postage.

**Availability**

Second, the number of recent law graduates who are unemployed or underemployed has skyrocketed in recent times. According to a recent article in *Time* magazine, in 2007, 91.2

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2. According to ROBERT HALF LEGAL SALARIES 2013, practitioners in small law firms (which presumably handle MVAs) can earn as much as, or in some cases more than, large law firm attorneys.

percent of law school graduates were hired and salaries were soaring, but after the 2008 meltdown, the employment rate was far lower—and the quality of jobs was a lot worse. The article states that in 2009, just 65.4 percent of law school graduates landed jobs for which they needed to pass the bar, and at present, many lawyers are forced to work for free or consider jobs that offer salaries as low as $10,000 per year! I think you’ll agree that you didn’t get a law degree and pass the bar in order to flip burgers.

**Student Loans**

Many argue that large law firm salaries in cushy downtown office spaces have become an anachronism in modern times. This market shift has left a number of lawyers unable to pay hundreds of thousands of dollars in student loan debt. You might be one of them. In order to cope in these difficult times, many lawyers should consider establishing an MVA practice, if only because of the need to pay off student loans.

**More Interesting Cases**

Practicing corporate law is fine, and some attorneys have never seen the inside of a courtroom, but would you want to build a career on that? Evidence suggests that even those who at one point practiced law in an established law firm representing high-profile clients are considering switching to personal injury and processing MVA claims.

A couple of years ago, an informative article explained how two lawyers made the shift from “Big Law” to personal injury law. The article, published in the notorious legal tabloid *Above the Law*, related how two Harvard graduates left the large firm of Skadden, LLP to establish a personal injury practice. Without any guidance, they reported being “thrown into the fire.” Nevertheless, personal injury afforded them the opportunity to represent people who would not have access to the judicial system without contingency-fee representation. According to them, “There are a lot of great personal injury attorneys, and their goal is to help people who need it.”

**You Are the Client’s Warrior**

For those of you who yearn for a deeper cause, running an MVA practice can also do a lot of good for socioeconomically disadvantaged clients. On innumerable occasions, I was able to provide a voice for clients who, for various reasons, lacked the ability to communicate their injuries to large insurance companies, and who couldn’t settle their claims for enough money to compensate them for their past injuries or future care needs.

The MVA attorney is uniquely in a position to fight for an adequate settlement or verdict for the client—often one who is without health insurance, and who must rely on the proceeds of the settlement to fund surgeries and other procedures that were caused by the accident.

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**Personal Growth**

An MVA practice broadens your skills and depends on your understanding of the law. The practice will improve your people skills as well as your legal skills. So, aside from money and helping clients in need, consider the value of becoming a very well-rounded professional.

**A True-Life Story: Mine**

I graduated law school not too long ago from a top-tier law school, and with honors from a top-ranked university three years prior. I had also clerked as a summer associate at one of California’s largest law firms for two summers. After that, I clerked for the First Circuit Court of Appeals and worked for one year in a small boutique law firm in Boston. The firm in Boston was plagued by clients who never paid their bills and scores of salary cuts that made it all but impossible for me to survive.

In January of 2012, I received a phone call from my former law school roommate, who told me that his cousin wanted to hire an attorney to run his MVA practice in Atlanta, Georgia. Like many young lawyers, I quickly pictured ambulance chasers superimposed on cheesy billboards that you’d see on the side of the highway.

Despite my reservations, I swallowed my pride and moved down to Atlanta for the $95,000 job. Within one year, my salary nearly *doubled* and my conception of the MVA lawyer drastically changed. I quickly realized that litigating MVA claims presented a slew of unique challenges and required great legal and other acumen. Within weeks, I found myself taking and defending depositions, entrenched in motion practice that I was previously not accustomed to, and I was afforded a kind of unbridled freedom to manage my cases that was absent in my prior practice.

**About This Book**

This book is different from other legal guides. The major differences are:

- It’s all about an MVA practice. It deals only with what you need to process MVA claims. Some of the concepts apply to personal injury practices in general, but the main subject is MVAs.
- It’s all about *practical* activities. It looks at problems you might deal with every day and the skills you need to handle them. Other legal books are often filled with abstractions.
- It’s *not dull* (I hope), as other legal books often are. It’s easy to read and has touches of humor. Save your struggles for studying codes.
- It’s *readable*. I’ve done my best to use words used by most people. That makes reading easier. Further, it’s the kind of language that you’ll need to communicate with clients and juries.
How This Book Is Organized

This book has seven chapters. It takes you step-by-step from setting up your practice to settling claims. The introductory chapters explain setting up the practice, the initial client meeting, contingency fee agreements, the intake form, and so forth. There are sections about marketing and certain and do’s and don’ts regarding important subjects, such as client solicitation (the use of case runners), managing IOLTA accounts, settling without authority, and champerty (client loans). Later chapters move into client communication during the process, the insurance demand letter, the negotiation process, filing suit, and settlement.

Along the way, I provide sample forms and letters that correspond to each step of the process. They come from myriad jurisdictions. There are also a few case-study samples involving the most common types of MVA—the soft-tissue accident, the fractured bone accident, and cases that involve punitive damages (for example, DUI cases).

This book doesn’t capture every detail concerning MVA claims. It’s also not jurisdiction-specific; rather, it’s intended to be a general guide. It should be supplemented by your jurisdiction’s rules and cross-checked with your jurisdiction’s applicable ethical codes of conduct at every stage of the MVA process.

I have intentionally omitted certain subjects. For example, this book provides only a cursory review of insurance stacking with respect to overlapping policies, and no mention of personal injury protection (PIP).5

Of course, you don’t have to read the chapters in the order they appear, but generally that’s the best idea. Even if you’ve completed a process (setting up your practice, for example) you may still want to review that chapter.

While the center of my practice is in Atlanta, Georgia, the forms provided herein will give you a great starting point. A simple cross-check with your jurisdiction’s applicable ethical code of conduct and rules of civil procedure will likely enable you to modify the sample forms with minimal effort, so that you’ll be “up and running” in no time. You also benefit in that a number of the insurance companies you’re likely to deal with are national. Companies such as State Farm, Geico, the Hartford, Nationwide, USAA, Progressive, and Allstate operate in almost every state and will thus likely be the adverse party with whom you’ll be dealing, no matter what your jurisdiction.

5. Many refer to PIP as no-fault insurance. Unlike liability, PIP will pay for the insured’s medical costs up to the policy’s limit even if the insured’s mistake caused the car accident. Currently, PIP is required in 13 states and the District of Columbia. In all other states it’s either offered as an option or it’s not offered at all. Medical payment coverage is similar to PIP but more limited in compensation. Unlike PIP, which also covers lost income, funeral expenses, and loss of services, medical payment coverage only pays medical bills. See http://www.dmv.org/insurance/auto-insurance-settlements-involving-personal-injury.php.
Conventions

This book uses the following conventions:

- Case citations follow the common syntax of report title, volume number, page number, and year of decision. For example:
  - Sounds v. Good, 123 F. Supp. 423 (9th Cir. 2013).
- *Italic type* highlights new terms. Occasionally you’ll see italics used for emphasis.
- Web addresses are in a monotype font. They rarely break across two lines of text, but if they do, there are no extra characters to indicate the break. Just type what you see into your browser.
- There are *icons* (images) in the margins of this book. I use them to call out special kinds of information. The icons are similar to those in popular “how-to” books.

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**Tip**

A tip is a suggestion or a recommendation. It usually points out a quick and easy way to get things done, or provides a handy piece of extra information.

**Warning**

A warning alerts you to conditions that require extra care and thinking. A warning icon appears when the task you’re about to do may have major consequences if anything goes wrong. Be careful!

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**Closing Argument**

Running an MVA practice can be both intellectually challenging and financially rewarding. Those are the biggest benefits.

Another benefit of having an MVA practice is that clients often present with a multitude of legal needs. Consequently, handling MVA claims will provide you with the opportunity to branch out into different types of law. Within three months of handling MVA files, I began to represent clients who were in need of divorces. I also took a fair share of premises liability cases, child support cases, and debt collection defense cases. For cases I didn’t feel comfortable handling, I engaged co-counsel or referred my clients to other lawyers in the community. This exchange provided me with ample networking opportunities and allowed me to obtain reciprocal cases from lawyers to whom I had referred my clients.

I believe you have excellent prospects litigating MVA cases, and I hope you will find the book truly helpful.