



Personal Injury & Wrongful Death

YOUR RIGHTS

Herrling  Clark
LAW FIRM LTD.

When your future
is at stake.®

ADVERTISEMENT

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If you have been injured in an accident or lost a loved one as a result of an accident, this brochure may be a valuable tool in making important decisions about your rights. The information contained in this brochure should be viewed only as a general summary of the law and may not apply to a particular fact situation and it is not intended as a substitution for legal counsel.

When your future is at stake...

Since 1959, Herrling Clark Law Firm has collected millions of dollars for victims in northeast Wisconsin.

Clients come to us because of our reputation and are compensated because we use our expertise to fight hard for their rights. We encourage you to review this brochure and call if you are interested in scheduling an appointment, without cost or obligation.

The attorneys and staff of Herrling Clark enter into every client relationship guided by these principles:

We work for our clients.

Our clients are the boss.

Communication is critical.

We keep clients apprised of all developments in their case and meet with them regularly to discuss important legal issues.

We work as partners.

We only make decisions with your input.

We give objective, impartial advice.

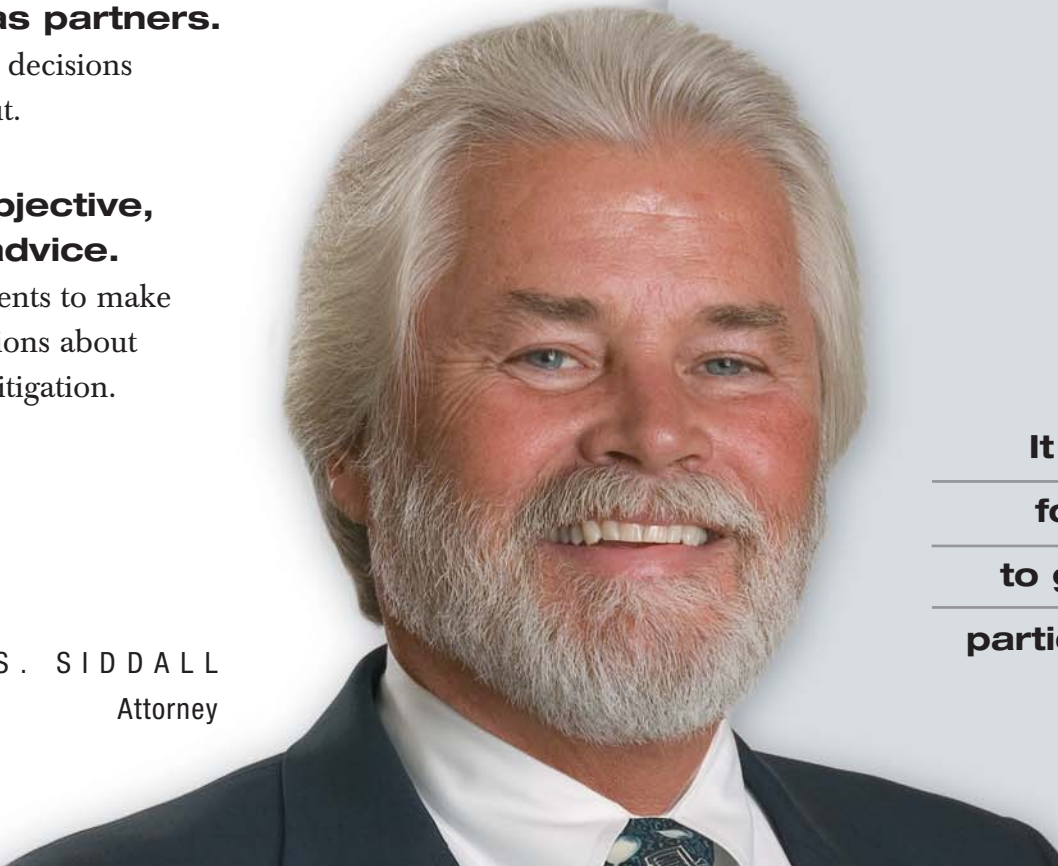
This allows clients to make the right decisions about settlement or litigation.

Do You Need An Attorney?

Not everyone needs an attorney in personal injury cases. If you have had an accident and experienced minor injuries requiring little medical care, your case may not warrant it. But if there is a dispute about how the accident happened, if your injuries or damages are serious or complex, if there are questions about how much insurance coverage is available, or if you do not believe what the insurance company has told you, then you should strongly consider hiring an attorney.

**It is unethical
for attorneys
to guarantee a
particular result.**

MICHAEL S. SIDDALL
Attorney





If you are uncomfortable with the idea of pursuing a claim, consider these facts:

- Insurance companies charge premiums for a reason; they anticipate that claims will be made. A person who feels awkward about bringing a claim probably needs an attorney. With an attorney representing you, it makes it more difficult for the insurance companies to take advantage of you.
- Often, people who are injured as a result of the negligence of a friend or family member are reluctant to pursue claims out of concern for the friend or family member. Remember that friends and family members have paid insurance premiums so that you can be properly compensated for your injuries. You have the right to direct your attorney to pursue claims against insurance companies only and make no claim directly against friends or family members.

What we do guarantee is

that we will work very hard

so that you can recover what

you deserve.

How Do You Select An Attorney?

Selecting an attorney can be one of the most important decisions you make. It is crucial to the success of your case that you select a highly qualified, experienced attorney, and one who understands and respects your wishes.

Herrling Clark has attorneys, paralegals and staff members who devote their time almost exclusively to cases involving injuries and deaths and have handled some of the most complex cases. Our expertise and familiarity with these types of cases can be a distinct advantage to you. As a firm, we have been rated as the top in the area, and our attorneys have been rated as among the top in the area and in the state. We have more board-certified attorneys located in northeast Wisconsin than any other firm.

Fee Agreements

The terms of contingency fee agreements can vary significantly from one firm to another, and from case to case. It is important that you compare the percentages of the various contingency fee agreements before retaining an attorney.

Herrling Clark does not charge for initial consultations, and our fee basis will depend upon the circumstances of the case and will often differ from percentages charged by others. We will only be paid if a case is won.



Who was at fault

Before you are entitled to be compensated for injuries and damages, you must first

for the accident?

establish that another party was at least partially at fault for the accident.

Neg

KEVIN LONERGAN
Attorney

...failure to meet a deadline can result in the loss of the right of compensation.

Important Issues

In many cases, more than one party is at fault.

A passenger who is not negligent may have a right to bring a claim against more than one insurance company, which may be particularly important if the insurance limits are inadequate.

If you are a victim, you have the right to bring a claim against any party whose negligence equals or exceeds yours. However, you should expect that the negligent party's insurance company will raise every conceivable defense available.

Once retained, [Herrling Clark](#) will take all necessary steps to prove your case.

- We will obtain police reports and citations, 9-1-1 telephone call recordings, vehicles' black box data, records, photographs, driving records, reconstruction reports and other important materials.
- When necessary, we will take statements of witnesses and photograph the accident scene and vehicles.
- At times, we will work with accident reconstruction specialists, biomechanical engineers, safety experts, toxicologists or other experts in order to properly develop or defend the claims in a case.

Time Limits

Time limits in personal injury cases can be critical; failure to meet a deadline can result in the loss of the right of compensation.

- In cases involving municipal, county or state governments and/or their employees, you must give notice of your intent to pursue a claim within 120 days.
- In cases where a party commits an intentional act, the case must be settled or a lawsuit must be commenced within two years.
- Cases involving claims of negligence must be settled or a lawsuit must be commenced within three years.
- If the victim was a minor at the time of the accident, the case must be settled or a lawsuit must be commenced at the later of his/her 20th birthday or the applicable statute for an adult.
- Cases involving contracts, such as claims for uninsured or underinsured motorist benefits, must be settled or a lawsuit must be commenced within six years. However, there are times when a contract may provide otherwise.
- In cases other than automobile accidents, other time limits may apply.

Because time limits are inflexible, it is important to retain attorneys, like those at [Herrling Clark](#), who are familiar with the law and can ensure that all deadlines are met.

“Working with Herrling Clark Law Firm, I knew I was in the hands of professionals. I was satisfied from start to finish – and I still am.”

Chad Schmidt
CLIENT

If you are a victim, you have the right
to bring a claim against any party.



After establishing your right to recover, the next step is to determine if there are insurance companies who are liable for payment of your damages. At times, more than one insurance company may be liable. If the negligent party carried no insurance, there may be other parties with a legal relationship to the negligent party who have insurance.

PAULA A. HAMER
Attorney

... laws and policies must be carefully analyzed to determine your rights.

INSURANCE COVERAGE

7

The laws pertaining to insurance coverages and the rights of insurance companies to be reimbursed can be quite complex:

- There are times when liability insurance companies rightfully or wrongfully deny that their insurance policies will cover negligent parties.
- There are times when your own insurance company will rightfully or wrongfully deny that your insurance policy will cover your claims.
- There are also times when a company's right to be reimbursed for any payment can be limited or extinguished.

Uninsured/Underinsured Motorist Coverage

- Sometimes the negligent party has no insurance, and no other party is responsible for the accident. In these situations, you may have the right to pursue claims against your own insurance company for uninsured motorist benefits.
- If the negligent party had insurance but its limits were not adequate to cover your damages, you may have the right to pursue claims for underinsured motorist benefits against your own insurance company.
- If you were a passenger in someone else's vehicle, you may have the right to pursue claims for uninsured or underinsured motorist benefits from the insurance company that insured the vehicle, and/or your own insurance company.

Health/Disability and Medical Pay Insurance Coverage

- You may have other coverage that provides benefits to you for damages caused by someone else's negligence. You should ordinarily send your medical bills to your own health insurance company first and

then use your "medical pay" coverage on your auto policy to cover your deductibles, "co-pays" and uncovered expenses. However, sometimes the language of the contracts dictate otherwise.

- If you have disability, mortgage or auto loan insurance, you should take advantage of those policies.
- Depending upon the terms of the above contracts and the laws that apply, a company making payments for damages caused by a negligent party may seek to be repaid out of the proceeds of a settlement. However, the right to be repaid is not absolute – it must be evaluated by an attorney.

Worker's Compensation

If your accident occurred while you were on the job, you may have the right to recover worker's compensation benefits. However, benefits under worker's compensation laws will rarely fully compensate you for damages caused by an accident. You also have the right to seek compensation from the negligent party and his/her insurance company, but your worker's compensation carrier may be entitled to a portion of that recovery.

Herrling Clark attorneys understand and deal with these types of complex insurance issues every day, and our team can help you work your way through the complexities of the laws and the contracts. Our paralegals can assist you in submitting medical bills to the appropriate insurance company.

"The staff and attorneys at Herrling Clark did a great job of making the process easy, and making me feel comfortable and confident."

Eileen Buchanan
CLIENT

Damages

Most insurance companies use computer programs to determine the amount they'll compensate accident victims, in effect reducing the amount they pay out. Insurance adjusters can no longer assess each case individually. Only an attorney with knowledge of these programs and how to work around them can get you the most reasonable compensation.



Property Damage – Vehicle

If your vehicle has been damaged in an accident, you have the right to recover the cost of repairing it, or if your vehicle has been totaled, its fair market value.

If your vehicle has been repaired, but the value of it, after being repaired, is diminished, an additional claim can be made against the negligent party's insurance company for the diminishment in the value. You also have the right to recover for all reasonable towing, storage and rental vehicle expenses.

In many situations, you have to choose between pursuing your claims against a negligent party's insurance company or your own. There are often advantages and disadvantages to each.

Property Damage – Personal

In addition to vehicle damages, you may also have sustained losses for lost or damaged property inside the vehicle, boat or trailer. Claims for damaged personal property must be properly itemized and proper evaluations must be made. Personal property damage claims, like vehicle damage claims, may be submitted to the negligent party's insurance company or your own, depending upon the coverages that might apply. Herrling Clark routinely assists clients in getting their car repaired and handling claims for property damages. If these claims are resolved without a suit being filed, we ordinarily provide this assistance to our clients without charging a fee. We also help clients in determining whether it would be more advantageous to pursue your own insurance company or the responsible driver's insurance company.

Damages for Injuries

If you have been injured as a result of someone else's negligence, you have the right to be compensated for damages that flow from those injuries. Many people assume that the insurance company will take responsibility for accumulating and evaluating those damages for them. On the contrary, the burden of proving each and every item of damage lies with you, the victim - and insurance companies are pleased when the victim does not meet this burden.

Damage claims can include but are not necessarily limited to:

- Past and future healthcare expenses;
- Wage losses or diminishment of a capacity to earn;
- Pain, suffering and disability;
- A spouse's loss of love, society and companionship;
- Nursing care provided by others; and
- Adaptations to homes, vehicles or work settings to accommodate disabilities and other matters.

Damages

Research shows that victims who hire professional legal counsel receive more compensation than those who do not. Remember, insurance companies work hard to pay as little as possible – this is how they make a profit. Retaining an attorney allows you to protect all your rights, and keeps the insurance companies from taking advantage of you.



RICHARD T. ELROD
Attorney



D A M A G E S - I N J U R Y

It is important that an insurance company understands that you are willing to exercise your right to have your day in court if necessary. Otherwise, the insurance company has no reason to pay a fair settlement. Often, hiring an attorney sends the message to an insurance company that you are willing to stand up for your rights.

Past and Future Healthcare Expenses

A victim has a right to be compensated for past healthcare expenses (including medical, hospital, chiropractic, therapy, mileage, nursing care and others) and for expenses that will be incurred throughout your lifetime. However, without the appropriate substantiation from a doctor that past or future healthcare expenses are both reasonable and necessary for treatment for injuries caused by the accident, there can be no right of recovery for these expenses.

Pain, Suffering and Disability

In many cases, the largest claim in a personal injury case is the claim for pain, suffering and disability, called “general” damages. In order to develop the claim, it is important that the full extent of the physical and emotional impact of an injury is evaluated. Medical and employment records, client summaries, photographs, x-rays, doctor reports and statements of spouses and other witnesses can be helpful in demonstrating the pain and suffering that a victim endures.

Wage Losses and Loss of Capacity to Earn

Injuries can impact a person’s employment in many ways. If you have missed time from work, your claim should include not only your loss of base pay but also lost overtime, fringe benefits, promotions, incentives, etc. In most instances, you are entitled to be compensated for time missed from work because of your injuries whether your employer has paid you or not.

Business owners, including farmers, can lose profits and incur additional expenses; for example, hiring others. Relatives, friends or neighbors may volunteer their time to keep the business afloat. In a small business, the loss of an owner or partner may also slow the growth. If you have sustained these types of losses, you are entitled to be compensated for the expenses, lost profits and the time that volunteers have donated to keep the business running. Often, accountants, economists or vocational experts must be used to value these claims.

At times, a person will sustain impairment of his/her ability to earn income in the future; an injury may delay a student’s graduation date; a worker may be forced to accept a lower paying job or lose opportunities for promotion because of work restrictions placed on him/her by a doctor. These types of claims ordinarily require an analysis by a vocational consultant or accountant.

Claims involving a future loss of capacity to earn may require the use of an expert who can make economic loss projections.

“Having Herrling Clark Law Firm handling everything for me totally took it off my shoulders. I felt as if everybody was taking care of me, and they were.”

Donna Pleshak
CLIENT

Insurance companies know that Herrling Clark attorneys are ready, willing and able to take your case to trial. While we have a reputation for being aggressive courtroom attorneys, we also understand that most clients want their cases settled without going to trial.

appropriate documentation is absolutely essential.

We work hard to assemble all appropriate documentation and substantiation; this way, the insurance company will know that your case is ready to go to trial before beginning negotiations for a settlement.

- We gather and review all appropriate medical records, consult with doctors regarding the need for future care and substantiate claims for adaptive equipment or modifications of your environment.
- We gather all records necessary to develop claims for wage losses or loss of earning capacity.
- We will work with employers to obtain appropriate documentation to support claims for lost wages, lost benefits and/or lost overtime opportunities.
- We will work with your healthcare providers to obtain the appropriate medical restrictions and make decisions about appropriateness of utilizing a vocational consultant.
- In cases involving business losses, we gather all appropriate documents and records, and select experts who can best evaluate business and farm losses.
- For claims involving permanent injuries or disabilities, we obtain the appropriate opinions from healthcare providers.
- In cases involving claims for professional or volunteer nursing services, we gather

JOHN D. CLAYPOOL
Attorney

Personal Injury



Loss of Society and Companionship and Other Miscellaneous Damages

When a victim is married and/or has minor children, Wisconsin law allows for claims to be brought for “loss of society and companionship.” When someone is injured, his/her spouse usually suffers; physical and emotional relationships are affected. In addition, the spouse often provides services in caring for the injured person.

The value of those services, which can include nursing, therapeutic, household, transportation or other services, are included as a part of the claim for loss of society and companionship. If the victim has minor children, the minor children may have claims. If the victim is a minor, his/her parents may have similar claims. In most cases involving serious injuries, friends or other relatives often provide services to assist the victim. A victim is entitled to include the reasonable value of those services as a part of his/her case.

Punitive Damages

In a case where a wrongdoer acts intentionally or with intentional disregard of the rights of others, such as in a drunk driving case, claims for “punitive” damages may be available. Punitive damages are not designed to compensate victims but rather punish the wrongdoer. Many insurance policies exclude coverage for punitive damages. However, the wrongdoer can be personally liable to pay these claims. In cases where the facts are so flagrant to warrant a claim for punitive damages, juries often react more passionately and are more inclined to increase the compensatory damage awards. For this reason, even if there is no insurance available to pay for punitive damages, it may still be appropriate to bring the claim. Each case must be fully analyzed to determine what claims may apply. In every case,

“The team at Herrling Clark treated me professionally and courteously, and always dealt in an honest, forthright manner. It was clear that they had my best interests in mind.”

Chuck Janssen
CLIENT





The attorneys of Herrling Clark are sensitive to the needs of families who have lost loved ones. Most importantly, we assist our clients through these difficult times and work with them at a pace that they feel most comfortable with.



Wrongful Death

Cases involving deaths differ from injury cases because Wisconsin laws define what damages can be claimed, and identify the person(s) who have a right to pursue the claims. Only certain people have the right to collect for the loss of love, society and companionship, and for economic losses. In addition, statutes also cap the amount a person can recover for a loss of love, society and companionship claim.

Because economic claims are not capped, it is essential that these claims be carefully analyzed. Because of the complexity of these claims, it is usually necessary to employ the use of economists and/or vocational experts to evaluate losses of income. Experts can also value the loss of household and other services that the deceased person would have provided (homecare, childcare, etc.).

Wisconsin statutes also allow the estate of the deceased to bring a claim for medical expenses incurred prior to death. The estate can also collect for funeral, burial and other incidental expenses. If the deceased experienced conscious pain and suffering prior to death, the estate has the right to be compensated for this.

The attorneys of [Herrling Clark](#) are sensitive to the needs of families who have lost loved ones.

- When we handle these cases, we carefully analyze all damages and all laws applicable to such damages;
- We gather appropriate background information about the victim and the victim's relationship with the survivors. The insurance company needs to know who the victim was and why the survivors have suffered; and
- We gather appropriate materials and retain the appropriate experts.

Most importantly, we assist our clients through these difficult times and work with them at a pace that they feel most comfortable with.

Litigation

Most cases settle without a lawsuit; even in cases where a suit must be filed, very few proceed all the way to trial. Litigation itself, however, is quite complex and can often last a year or more.

At [Herrling Clark](#), we work with you every step of the way. We prepare every case as if it were going to trial, increasing the odds of receiving a good offer from the insurance company. Once a suit is filed, we:

- Manage all of the paperwork and court filings;
- Assist in the preparation of responses to written discovery demands;
- Prepare each of our clients for depositions, medical examinations and court appearances; and
- Take all appropriate depositions of defense experts and witnesses.

If a case is mediated, we submit the appropriate documentation to the mediator and prepare our clients for mediation. If a case is tried, we will work long and hard to ensure that every last detail necessary to present all facts and laws is properly addressed.

"Herrling Clark was very helpful and professional. I was very satisfied and would recommend them to anyone."

Al Kaddatz
CLIENT



Michael S. Siddall

Mike, the President of the firm, limits his practice to personal injury cases. His trial experience includes a wide range of claim types, from winning a jury verdict against Ford Motor Company for manufacturing a defective car, to obtaining a punitive damage award against a national insurance company. He has been certified as a Civil Trial Advocacy Specialist by the National Board of Trial Advocacy since 1982. He has been named a “Super Lawyer” by a prominent statewide magazine, placing him in the top 5% of all attorneys in Wisconsin.

Mike has argued many cases before the Wisconsin Court of Appeals and the Wisconsin Supreme Court. He is licensed to practice in all State and Federal Courts in Wisconsin, the U.S. Court of Appeals and the United States Supreme Court. He is Regional Director and member of the Executive Committee of the Wisconsin Academy of Trial Lawyers, an organization devoted exclusively to protecting the rights of victims.



Richard T. Elrod

Richard has a litigation based practice, focusing on personal injury cases, as well as representing those individuals injured at work. He was rated a “Premium Pick” in personal injury law and worker’s compensation law in a survey of lawyers conducted by *Fox Cities* magazine.

Richard has handled complex litigation matters in front of both the Wisconsin Supreme Court and Court of Appeals, including oral arguments in front of each court. He has been appointed by the Wisconsin Supreme Court to serve a third term on the District Committee of the Office of Lawyer Regulation, which oversees the ethical and professional conduct of all the attorneys within the State of Wisconsin, and is a member of the Wisconsin Academy of Trial Lawyers.



Kevin Lonergan

Kevin has a reputation for handling complex litigation matters for clients with catastrophic injuries and for clients who have lost loved ones. He has been named the best personal injury and products liability attorney in the Fox Cities. He has also been named for the second straight year, a “Super Lawyer” by a prominent statewide magazine, placing him in the top 5% of all attorneys in Wisconsin. A board certified civil trial specialist, Kevin has received the highest possible national ratings for legal ability and ethics by an international service.

Kevin was elected and served as president of the Wisconsin Academy of Trial Lawyers, the most prominent organization of personal injury lawyers in the state. He was also elected president of the Outagamie County Bar Association and a member of the State Bar Litigation Section. He has authored numerous articles and been a frequent lecturer at seminars designed to educate lawyers about the handling of personal injury cases.



John D. Claypool

John concentrates his practice in the area of personal injury litigation. He is board certified by the National Board of Trial Advocates. John has been named a “Super Lawyer” by a prominent statewide magazine, placing him in the top 5% of all attorneys in Wisconsin.

As a specialist in personal injury litigation, John is frequently asked to serve as a mediator and arbitrator in personal injury cases. He has tried more than 50 cases before juries and has settled cases in excess of \$1 million. John was rated by an international service as having “high to very high” legal ability and “very high” ethical standards as established by confidential opinions of members of the Bar in Northeast Wisconsin. He is on the Board of Directors for the Wisconsin Academy of Trial lawyers.



Paula A. Hamer

Paula’s practice includes personal injury litigation. She has represented a variety of victims including those injured in automobile accidents and in “slip and fall” situations. Paula also practices in the areas of municipal law, real estate and family law. Paula attended Gustavus Adolphus College where she graduated *magna cum laude* and completed her education at Marquette University Law School, where she earned her Juris Doctor degree, *cum laude*.

Her understanding of the unique issues women face makes Paula a trusted advisor to those who may want insight and guidance from this perspective.

**We use our
expertise to
fight hard for
your rights.**

Biographies

The attorneys of Herrling Clark Law Firm
have the right experience – more than
200 years combined – to manage your
case. We will aggressively negotiate with
insurance companies and get you the
compensation you're entitled to.



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A respected national publication has given Herrling Clark Law Firm a Legal Ability/General Ethical Standards rating of "A/V."

"A" is the highest possible rating in this category and denotes legal abilities of "from Very High to Preeminent." "V" is the highest rating in this category also, denoting "Very High general ethical standard." Ratings are developed by soliciting confidential opinions of members of the Bar; members of the judiciary are also queried.

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