Personal Injury Forms: Discovery & Settlement

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About the Authors

RONALD G. BANKSTON is a partner in the Houston, Texas office of the litigation firm of Godwin Pappas Ronquillo, LLP, and has been a practicing trial lawyer for 30 years. Mr. Bankston is Board-Certified in Personal Injury Trial Law by the Texas Board of Legal Specialization. He was first certified in 1985, and has been re-certified every five years since, most recently in 2005.

Mr. Bankston is admitted to practice by the State Bar of Texas and Supreme Court of Texas, the U.S. District Courts for Southern and Eastern Districts of Texas, U.S. Court of Appeals for the Fifth Circuit and the U.S. Court of Claims in Washington, D.C. He is a member of the American Board of Trial Advocates (ABOTA), a Life Fellow in the Texas and Houston Bar Foundations, a Sustaining Member of American Association for Justice and Texas Trial Lawyers' Association, a Member and Past Director of Houston Trial Lawyers' Association, and a Member of the Attorney-Mediators Institute and the Association of Attorney-Mediators.

In addition to his private practice, Mr. Bankston has also served as Special Assistant Disciplinary Counsel for the Texas Commission on Lawyer Discipline. He is also Academic Advisor and Lead Instructor at Rice University in the Rice University Paralegal Certificate Program.

A veteran as lead counsel in more than 100 jury trials, Mr. Bankston has spent his adult life counseling and representing individuals, families, small businesses, professionals, corporations and governmental entities. As a trained mediator, Mr. Bankston is often selected as a mediator by opposing parties and their attorneys, and he receives frequent appointments as a mediator by District Judges in Houston. He has provided mediation services to a wide variety of parties and attorneys, and his experienced "voice of reason" and patient persistence has facilitated the resolution of many especially difficult, complex disputes.

Mr. Bankston has served and been recognized as a Distinguished Faculty Member for the Houston Bar Association Continuing Legal Education Program, and a Guest Lecturer and Instructor in Trial Advocacy at the University of Houston Law Center. Mr. Bankston has also been an invited Lecturer on Personal Injury, Mediation, Product Liability, Premises Liability, Construction Liability, Water Park and Aquatic Safety Liability and Rental Equipment Liability.

Featured in Who's Who in American Law, Mr. Bankston is also AV-rated by the national Martindale-Hubbell Legal Rating System, the highest rating for legal ability and ethical conduct, and has also been recognized nationally by Martindale-Hubbell as a Preeminent Attorney in the fields of Personal Injury, Product Liability and Toxic Tort.

JOHN A. TARANTINO is a trial attorney and principal in the law firm of Adler Pollock & Sheehan P.C. with offices in Providence, Rhode Island and Boston, Massachusetts. He has served as Chair of the firm's Litigation and Executive Committees and presently holds the office of President. Mr. Tarantino lectures frequently on trial techniques in national, state and local bar and trial lawyer associations, from both the plaintiff and the defense perspective, and is the author of several legal texts including Litigating Neck & Back Injuries, Trial Evidence Foundations, Commercial Premises Liability, Premises Security: Law & Practice, Strategic Use of Scientific Evidence, Personal Injury Trial Handbook, Estimating & Proving Personal Injury Damages and Environmental Liability Transaction Guide. He has authored over 200 articles, columns, essays and reviews on discovery, procedure, trial strategy, product liability, liquor liability, premises security, forensic evidence, commercial law, criminal law, legal ethics, professionalism, environmental law and insurance coverage.

Mr. Tarantino is a member of the United States Supreme Court, Rhode Island and Massachusetts bars, the ABA, ATLA (Defense Member), DRI, American Judicature Society, the National Association of Criminal Defense Lawyers, the American Inns of Court (holding the rank of Barrister), the American Law Institute, the Defense Counsel of Rhode Island, the National Italian-American Law Society, the Justinian Society and the St. Thomas More Society. He is also a member of the Trial Practice and Litigation Sections of the ABA, serves on the ABA’s Subcommittee on Organizational Sentencing Guidelines and has served as Vice Chair of the ABA Committee on Scientific Evidence.
From 1984 through 1993, Mr. Tarantino served as Chair of the Public Relations Committee for the Rhode Island Bar Association. From 1997 through 1998, during the Rhode Island Bar Association's Centennial Year, he served as President of the Rhode Island Bar and previously served as that Association's President-Elect, Vice President and Treasurer. He is also a former Chair of the Rhode Island Bar Association's Ethics and Professionalism Committee, has served as Chair of the Bar Association's Ad Hoc Committee on Lawyer Advertising, and served as Co-Chair of the Committee on Judicial Independence. He continues to serve in the Rhode Island Bar Association's House of Delegates. He served as President of the New England Bar Association from 2002 through 2003, and served as President of the Defense Counsel of Rhode Island from 2003 through 2004. He is a member of the National Conference of Bar Presidents.

Mr. Tarantino was named “Lawyer of the Year” for 2002 by Lawyers Weekly USA, one of the ten lawyers in the United States to receive this honor and recognition. He is also recognized in Best Lawyers of America in the fields of personal injury litigation, as well as commercial and business litigation; and he is recognized in Chambers USA America's Leading Business Lawyers in the field of litigation. Additionally, his peers have honored him, selecting him as one of the “Best Lawyers in Rhode Island” in the field of litigation. He is a Fellow of the American College of Trial Lawyers and a Fellow of the International Academy of Trial Lawyers.
Introduction and Acknowledgements

While many in the public do not think of the legal profession as a helping profession, those who handle personal injury cases know that it is exactly that. Few professional accomplishments are more personally gratifying than successful representation of injury victims and their families.

However, preparation, evaluation and trial of a personal injury case are complex, time-consuming and expensive undertakings. Achieving success requires thorough preparation and objective, realistic evaluation. Often, cases fail in court or are settled for far less than their true value because the attorneys have not properly prepared and evaluated their cases.

This book provides a carefully selected and prepared set of forms, checklists, questionnaires, sample complaints, and sample memoranda to enable the attorney to streamline, organize and manage these phases of personal injury litigation efficiently and economically. More importantly, the result is a far higher likelihood of a fair settlement and a potentially larger judgment if the case is tried.

Whether you handle new and unusual fact patterns and circumstances, or more familiar and traditional ones, this practical, easy-to-use guide will assist you in your day to day practice. PERSONAL INJURY FORMS: DISCOVERY AND SETTLEMENT contains model interrogatories, deposition checklists, interview questionnaires, case and settlement evaluation checklists, client, witness and expert letters, sample complaints, memoranda, and many other practical materials—over 300 practice tested forms and checklists in all. Accompanying the forms are practice guides and text material that explain how, why, and when the forms are used.

The first half of the book contains forms applicable to all personal injury cases. The second half contains forms covering ten specific types of cases: (1) automobile accidents, (2) medical malpractice, (3) construction accidents, (4) police assault and battery, (5) product liability and toxic tort, (6) SUV rollover, (7) slip and fall, (8) dram shop/liquor liability, (9) insurance bad faith litigation, and (10) premises security. With the appropriate forms and the accompanying text and practice guides, you will know in advance which questions to ask a potential client during the initial interview, which details to instruct your investigator to look for, and which issues you will need to develop during discovery to prove liability and damages at trial. You should also review the sample complaints that accompany each specific area of law to help determine which legal theories may apply to the facts in your particular case.

When properly used, and with appropriate supervision and review by the attorney, these forms and checklists allow the attorney to delegate to clerical staff, paralegals, and associates much of the paperwork involved in personal injury cases.

Use of the forms in this book for your personal injury cases will result in your doing a better job for your clients in less time, in a more managed and cost-efficient manner coupled with higher client satisfaction and superior economic results. These forms work in my personal practice, and I am confident that they will work for you as well.

I want to thank my secretary, Katrina Stevens, for her invaluable assistance in the organization and preparation of the manuscript for this text. I also want to thank my partner Kevin Riley for his continued friendship and advice. Finally, I want to express my deep gratitude to my dear wife Susan for her unflagging support and encouragement in this project and in all aspects of my life.

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