

Safety First, Justice Always

LAW OFFICES OF KENNETH BERGER JUNE 2024 NEWSLETTER

“The Greatest Threat to Civil Justice in America Today”

Lawmakers in the pockets of corporations and special interest groups are dangerous. They push bills that incentivize bad corporate behavior and devalue human life. It's nasty stuff.

For as dangerous as these politicians and special interest groups may be, there is an equally pervasive and even more potent threat to civil justice in America today: advertising settlement mills.

This isn't to say that every law firm who advertises is bad. It is, however, to say that in my 15 years of experience, many of the worst results, injustices, and clear examples of malpractice have come from these advertising settlement mills. What do I mean by “settlement mill?” Simple, a law firm that churns and burns settlements as if they were working on an assembly line. No thought, no innovation, no real work – just sign ‘em up, see how much we can make off ‘em, and out the door. It's disgusting.

The firms who operate this way advertise “big settlements” and how much they've “won” for clients all over TV, billboards, and social media. What they don't tell you is how much they've actually lost for clients by failing to properly investigate cases, learn their client's human story, meet with witnesses, and take depositions – let alone prepare for trial. When you add up the amount of money these settlement mills have left on the table by operating as factories rather than as professionals, it's mind-blowing.

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Disclaimer: Any result I may achieve on behalf of one client in one matter does not necessarily indicate similar results can be obtained for other clients. In addition, some of these results were obtained in connection with other firms. I am a South Carolina injury lawyer, not a miracle worker. I evaluate every case on its own merits and only accept a limited number of new cases every year.

For Referring Attorneys

If you are one of our many referring attorneys, we want to thank you for allowing us to serve. Your trust means a great deal.

We seek to strengthen your relationship with the client by providing him/her with a great experience, as well as a great result. Additionally, we always make it a point to emphasize that you are truly the person to thank, as it was your good judgment that allowed us to take part in their representation.

If questions arise in the coming month concerning a life-changing injury or wrongful death case, we are here to help. From simply answering your questions to being associated on or referred the case, please let us know what we can do to benefit you and the client. Likewise, if you have a potential client call us directly, be sure to have him/her say who made the referral so we know who to thank.

Navigating Legal Turbulence - Attorney Symone Kimelman

A few weeks ago, my husband and I flew to Miami. Although neither of us have ever had a fear of flying, there always seems to be a little anxiety that comes with airline travel. Shortly after take-off, I turned on a movie and *tried* to make myself comfortable in the middle seat.

I was about 20 minutes into the film, when the plane suddenly dropped several feet. My husband and I tensed up and tightly held hands. I felt very nervous but tried to keep myself calm. Then, the pilot's voice came through the speakers saying (1) not to worry, (2) he's experienced with turbulence, and (3) he has a plan to get us past this storm and back into calm air. I felt my anxiety melt away.

Many of our clients often have a similar experience at the start of their case. When clients step into our office, they are usually going through one of the worst points in their life. They're often scared and may have never seen a courtroom or consulted with a lawyer before.

Like the pilot, a good lawyer will be familiar with your legal issues and have a plan to navigate the obstacles you'll face on your path to justice. At our firm, we work to earn our clients' trust to alleviate their anxiety. I have personally seen clients initially walk into our office so stressed about their case, medical bills, or pain,



that their shoulders are literally clenched up to their ears.

Like the pilot's announcements, the more updates and information we give to our clients about their case, the more at ease they feel. We pride ourselves on staying in habitual communication with our clients. By helping minimize the amount of time they spend worrying about their case, our clients gain more time to heal and get back to the person they were before their injury.

Ultimately, it's our job to skillfully navigate our client's case to its final destination—justice.

The Greatest Threat to Civil Justice in America Cont'd

Ironically (and sadly), many advertising firms value cases exactly like the insurance companies they supposedly fight. They use the same criteria, language, and approach to come up with a settlement number, then close the file and advertise for more business. The insurance company calls their employees "claims adjusters." Settlement mills should call their lawyers the same thing because that's all they're doing.

When I first started practicing, I heard lawyers were bad businesspeople. Now our profession is filled with businesspeople who are bad lawyers. They're greedy, deceitful, and arguably more dangerous than the lobbyists and politicians who are trying to rob people of civil justice from the other side.

So, what can we do about it? Exactly what I'm doing here. Lawyers can call it out, non-lawyers can advise friends to hire attorneys who actually know where the courthouse is, and potential clients can ask the attorney how many cases they're currently handling and whether they're willing to go to trial if that's what full justice requires.

The good news is that our country is still full of amazing trial lawyers who care about human beings, work relentlessly in pursuit of justice, and view our vocation as a calling. We simply have to help people in need find these true professionals while avoiding the Pied Pipers who are trying to lead them to the mill.

The Practice of Law

Your Most Knowledgeable Co-Worker

What if you could hire a team that brought forth all the knowledge from all of history? What if they worked faster and more efficiently than anyone you'd ever met? What if they were constantly improving and seeking to be the best? And what if they cost you less than anyone on your payroll?

You'd say, "It sounds too good to be true. What's the catch?" The catch is it's called artificial intelligence, and those words scare people. They scare me. I remember watching Terminator on HBO and seeing the sequel at the movie theater. However, if the machines do rise up against us, it's not going to be a result of the help they're providing me on everything from legal research to deposition prep to meeting summaries.

My friend, Danny Cornell, a fantastic trial lawyer in Iowa, changed my mind and opened my eyes to AI a few months ago. I quit thinking of it as a threat and began utilizing it the way I would a brilliant collection

of new hires. As I've heard repeatedly over the last few months, the only limitation on AI's capability is my own creativity. If I'm not getting the right output from the AI tool, it's because my input needs to improve. The research and prep tools I use are a great example of the answer only being as good as the question I ask.

It's important to acknowledge that the answers and suggestions AI provides are imperfect. They don't get you all the way there, but they are an amazing start point and resource.

Much like email and the Internet 25 years ago, law firms that fail to utilize AI are at an ever-increasing disadvantage. So stop thinking of it as Skynet and start recognizing the potential to have the most brilliant, efficient, inexpensive set of co-workers in the world right at your fingertips. AI won't replace good lawyers, but it can make us better.

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You can find all four seasons on Apple Podcasts, Spotify, or on our website, with new episodes coming out every other week.



New Season 4 Podcast Episodes

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- Getting to the Truth with the Miller Mousetrap | Phillip Miller
- From Good to Great: The Road to a \$26MM Settlement | Kenny Berger & Brian Ward
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