

# I've Stood In Your Shoes

An Attorney Is Forced To Change Roles And Finds Himself  
A Client *Like You* After His Son's Horrific Injury



**By Attorney Charles E. Boyk**

Contributions By

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# introduction

What is your worst nightmare? What is the one thing on Earth that you would never want to have happen? For those of us with families, the answer is probably the catastrophic injury or death of a child. Many of us go through day-to-day life believing that such a terrible thing might happen to other people but “could never happen to me.” I believed the same thing for a long time, until the summer of 2010, when it did happen to me. This is my story.

I’m attorney Charles Boyk. I have been practicing law in Ohio for over 29 years and I have handled over 5,000 personal injury cases ranging from small dog bite cases to catastrophic wrongful death cases. Although I work in downtown Toledo, I live in rural Bowling Green, Ohio with my Wife, Joann, and our four school-age children, Sarah, Emily, Jacob, and Joshua. Sarah and Emily are our biological children, while Jake and Joshua were adopted as infants from Korea.

While I have always been sympathetic to the difficult times that my clients often go through, I had never actually been in their shoes. In other words, neither I nor my family had ever been seriously injured as a result of someone else’s negligence. That all changed on August 9, 2010 when a local swimming club’s violation of ~~important yet basic safety rules led to one of my~~ children being critically injured.

This is the story of how I learned what it’s like to be in your shoes as a client. I am going to tell you a story that is difficult for me to tell – it is about how my eight-year-old son, Joshua, landed on his head after falling from a negligently maintained 10-foot-high diving board that did not comply with Ohio code. Joshua had bleeding on the brain, spent twenty-one days in the hospital, underwent two emergency brain surgeries, contracted meningitis along the way, and ended up with a traumatic brain injury that will affect him for the rest of his life. I have felt many, if not all, of the emotions that you may be feeling right now.

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As if the injury and accompanying emotional toll were not enough, I had to put up with an insurance company that refused to accept liability for my son’s injuries. I had to sit back and listen to unremorseful defendants insist they did nothing wrong. I had to witness teams of defense doctors and neuropsychological experts evaluating my son for days on end in an effort to try and say that he was fine. I had to deal with defense lawyers that tried to have my son’s case thrown out of court and then made insultingly low settlement offers.

Some of this may be happening to you right now, or, unfortunately, it

may happen to you in the future, because all too often this is the twisted “game” that insurance companies and defense lawyers play. One of the most important and difficult things that I had to learn to do throughout the course of the case sounds so simple, but was sometimes very difficult to do: I had to trust my attorneys. I can relate to what you are going through. It is tough. I have been ~~there. I can~~ empathize. I am going to tell you my story in the hopes that you can find some comfort during your journey through the legal process and know that you are not alone.

As you read through this book, I will show you how my son’s case was a perfect example of 16 lessons to be learned when you are seeking out an attorney to handle a serious personal injury case on behalf of you or a loved one. These lessons are just as applicable to your case as they were to my son’s case.



## II. The Story Of August 9, 2010

Lesson To Be Learned #1: I Can Personally Relate To That Moment That Changed Your Life – That Surreal Moment Where You Couldn't Believe This Was Happening.

### A. The Phone Call I Will Never Forget



You probably have that moment where you were injured (or when you got the news that your loved one had been injured) stuck in your memory forever. No matter how bad you may want to forget, the memory is there like a scar that will never go away. I know this because I remember August 9, 2010 like it was yesterday, and it is a day I will never forget. It was your average Monday afternoon and I was sitting in my office talking with my legal staff when the meeting was suddenly interrupted by an urgent phone call. It was the mother of a woman whose child was friends with my oldest son, Jake. She went on to tell me that she was at a local swimming pool and that my younger son, Joshua, then 8, had fallen from the three-meter high dive, had hit his head on the concrete pool deck, and was bleeding from his skull. As I was speaking with the woman, I heard in the background a blood curdling scream. It was Joshua.

While I took some slight comfort in knowing that Joshua was conscious, the woman could not answer my questions about how badly he was hurt. She simply did not know. All that she could say was that there was blood, that the ambulance was on its way, and that they would be taking Joshua to the hospital. His older brother, Jake, age 10, who was also at the pool, would ride in the ambulance along with Joshua. I had to hang up not knowing how bad Josh's injuries actually were.

I headed to my car and started driving in the general direction of Toledo Hospital and The University of Toledo Medical Center – I knew the ambulance would head to one of those places. But, I had no idea how bad this was: was it a cut on his head, a fractured skull, could it be worse? All I knew was that he was conscious and I called my wife, Joann, from the road.

When clients or potential clients such as you come into my office for the first time to discuss their case, I am in a unique position to be able to relate to that moment when their life changed and empathize with them. I think that is one of the things that makes my firm different from the other firms in town. While there are several Toledo law firms that are capable of handling large and complex personal injury cases, my firm not only has a proven track record, but also has been through the personal struggles of handling a tragic case involving the boss's own son. When clients tell me their story for the first time, I can relate, and I know what it is like to be in their shoes.

## B. Getting In Contact With My Wife



When I called my wife Joann from the road, I learned that it just so happened that she was already at a doctor's appointment with one of my daughters at Toledo Hospital. Because my wife was actually in the appointment, it took me a few calls before I was able to get a hold of her and tell her what had happened. Once we got off the phone, Joann called over to the pool and was told that Joshua, who we often called "Josh," was not hurt that bad, but they needed to know which hospital to take him to. Seeing as how Joann was already at Toledo Hospital which is known as having an excellent pediatrics unit, the decision was made to have the ambulance take Josh there.

Of course, I would later learn that in fact Josh was hurt very badly. Maybe this happened to you in your case? Maybe at first you were told that your injury or your loved one's injury was not that bad, only to later be told that it was life threatening. It is like a terrible roller coaster ride, and it is awful. I can relate to my clients who have been in that situation. I know what it is like, and I understand.

### C. Arriving At The Hospital



When I arrived at the emergency section of the hospital, I met up with Joann. My son, Jake, met us too. He had seen Josh fall, was shaken up from riding in the ambulance with his injured brother, and he was crying and distraught. Even though Jake had been down on the pool deck and Josh fell from way up on the high dive, Jake believed it was somehow his fault that his brother had fallen. Joann and I tried to assure him that there was nothing he could have done.

I believe that it is a common thing for other family members to feel as though the accident was their fault, like they could have or should have done something to prevent the injury. Maybe you are even feeling that way right now. Oftentimes speaking with an attorney can help to relieve those concerns, especially when the attorney's investigation reveals that the cause of the injury was in fact a drunk driver, a dangerous product, or (like in Josh's case) a piece of recreational equipment that did not comply with Ohio code.

After waiting for a moment at the hospital, a nurse came and told us that Josh was in intensive care and was unconscious. The doctor then came out and told us that Josh had a brain injury, that there was probably bleeding on the brain, and it was an emergency situation. This caused a flood of emotion for both me and my family. Josh did not have a simple bump on the head – not even close. This was serious, potentially deadly. It was very tough news to hear.

## D. Seeing My Eight Year Old Son In Intensive Care



We were eventually allowed to visit Josh in his intensive care room. He was unconscious (and would remain unconscious through most of his hospital stay). He was hooked up to what seemed like hundreds of tubes and wires. His head had been shaved. To say it was a terrible sight is an understatement. Josh was hooked up to a brain wave machine, and the nurse explained that the machine's screen had to show certain numbers or else it was dangerous, i.e. brain damage. We stared at the machine hoping and praying it would stay in the acceptable range. Time ticked by so slowly, and all we could do was wait.

This brings me to another point, which is that often the family and loved ones of the victim go through nearly as much mental trauma as the victim. I know what it is like to stand in an intensive care hospital room and look at a loved one that I would do anything for, but at the same time feel so helpless, like I can do nothing. Perhaps you have been through this same situation and can relate all too well with what I am talking about. This is one of the reasons why Ohio allows for what are referred to as "loss of consortium" claims. This allows the victim's close family members to make claims against the at-fault party to seek compensation for all of the stress and heartache that they went through along with the victim. Both my wife and I decided to make these claims against the pool owners when we filed suit. I make these claims for my clients regularly, and I can make one for you as well.

**Lesson To Be Learned Recap: I Can Personally Relate To That Moment That Changed Your Life – That Surreal Moment Where You Couldn't Believe This Was Happening.**

I hope the above has been helpful to you in learning about something that is special about my firm: the ability to personally relate with our clients.

### III. The Hospital: The Story Of What Happened As Time Went On

Lesson To Be Learned #2: Your Road To Recovery Can Be Bumpy, Long, and Difficult. I Know Because I Have Been Down The Same Road With My Child.

#### A. Emergency Brain Surgeries



On the day after Josh was admitted to the hospital, he had his first emergency brain surgery. The goal was to stop the bleeding on the brain. But when Josh came out of surgery and was hooked back up to the brain wave machine, the monitor was giving us bad news: there was still a bleed. The surgery had not solved the problem and the situation was actually getting even worse.

The doctors did an MRI scan and determined that they needed to do an emergency second surgery to stop the brain bleed, or else there was going to be irreversible brain damage.

It all seemed so surreal, like this could not be happening. Not to me. Not to my family. The emotion became unbearable at times. I don't think my wife had a dry eye throughout the first two days.

After the second emergency brain surgery Josh was still unconscious. They had to keep him in an induced coma in order to keep the brain safe and avoid damage. It was so difficult not to be able to talk to him. We all held our breaths as we waited to hear whether the second surgery had been a success or yet another failure.

## B. Back from the Brink: Slow Improvement



Fortunately, the second surgery was successful at stopping the brain bleed. That was absolutely wonderful news. We had been at the hospital for two and a half days and Josh had already had two brain surgeries – we were ready for someone to say something positive. Several days went by and Josh remained unconscious in intensive care, but there was still no new brain bleed. While we knew there was still a long, difficult, and uncertain road ahead, we were at least somewhat relieved to know that the risk of imminent death from a brain bleed had passed.

But then a week after Josh's admission to the hospital, just as we began to think that the worst might be over, Josh started to show signs of distress and we did not know why. Then the doctors confirmed what they had feared: Josh had come down with meningitis, which again threatened irreversible brain damage. This required him to be put on untold amounts of medication and once again caused my family and me to fall back into a terrible state of uncertainty and constantly changing emotion.

Fortunately, Josh fought his way through just as he had with the two prior brain surgeries. He beat the meningitis, and after a 21-day hospital stay, two brain surgeries, and a severe meningitis complication, Josh was allowed to return home. While of course we were happy to have Josh home, there was a bittersweet component because we knew that he had suffered a traumatic brain injury and would never be the same again. I will tell you more about this a little bit later in the book. In fact, I will quote my wife's emotional testimony that she gave during her deposition while being interrogated by a defense attorney.

**Lesson To Be Learned Recap: Your Road To Recovery Can Be Bumpy, Long, and Difficult. I Know Because I Have Been Down The Same Road With My Child.**

I have been through a long, painful, and difficult recovery process with my son. I understand how you may be feeling as you make the trip home from the hospital or doctor's office knowing that your world will never be the same again. You likely have a million things on your mind, but I am here to tell you: one of those things should be contacting a personal injury attorney, and it

should be right up at the top of your list. Read on to learn why even though I am a lawyer, one of the first things I did after the dust settled from Josh's injury was to sit down with my colleague, attorney Mike Bruno, to discuss the beginning of what would be a long and complex personal injury case.

#### IV. Grieving and Reflecting: How Did This Happen To My Son?

Lesson To Be Learned #3: While Grieving Is Normal And Important, It Is Also Important For You To Start Asking The “Who, What, Where, Where, Why, and How” Questions.

##### A. The Grieving Process



Right now you may be going through a period of awful grieving. I know how this feels. Backing up for a moment to the three week time span that Josh was in the hospital, either my wife or I were at Josh’s bedside the entire time. We slept there, ate our meals there, and essentially lived our lives out of the hospital. During this time I learned that from a grieving perspective, you go to sleep, wake up, and you can’t believe that this is really happening. None of my kids had been injured before. You may be experiencing some of these feelings right now as you are going through your own personal struggle.

Another issue that I struggled with was being a part of a terrible situation that was completely out of my control. I admit that as an attorney I am a bit of a “control freak.” I want to know everything that is going on with any situation that I am involved in so that I can intervene and fix any problems. In the situation with Josh, I felt completely helpless, like there was absolutely nothing I could do. It was an awful feeling that I hope I never have to experience ever again. I did not even want to accept that Josh’s injury had happened, let alone accept that there was nothing I could do to fix it.

The first step in the grieving process for me was accepting that it really had happened. I was like most folks: I thought that “things like that happen to other people, they don’t happen to me.” You hear a bad story and think it’s horrible, but you can’t relate because “it just doesn’t happen to me.” Well, now it had happened to me, and as I sat in the hospital week after week, it caused the attorney in me to come out and start thinking: why in the heck did this happen? How in the heck did he fall off the diving board? Was something not structurally correct with the board?



Although you may not be an attorney, you may be asking some of these questions too relative to your case, and that is important. Sometimes the only way to get real answers to these questions is to employ the services of an experienced personal injury law firm and have knowledgeable attorneys look into the matter. Sometimes there is a need to have a team of seasoned lawyers perform an investigation of the facts of the case in light of the law. If you read on, you will learn that is exactly what I ultimately did, and it is something you should seriously consider as well.

## B. The Three Meter (10 Foot) Diving Board



Joann and I had the membership at this pool for my boys to be able to play with their friends during the summer. I had been to the pool on only a handful of occasions to watch my children's swim meets. I had seen the board in passing, but I never paid any sort of particular attention to it. I had no idea what the requirements were for diving boards in Ohio and had never really considered whether the board was dangerous or not dangerous. I just knew it was up really high.

Also, like most people, I previously assumed the pool and the diving board were safe because the facility was in business and presumably was subject to safety inspections. Perhaps you have assumed this about certain places that you visit or products that you use. Take it from me: just because a place is open to the public or just because a company makes a product does not mean that the place or product are safe.

I wanted real answers about this diving board and whether it was up to snuff. So, I did the same thing that I have done for my clients in the past and would do on your case. I started going through my lawyer checklist: what does the Ohio Revised Code say about diving boards? How about the Ohio Administrative Code regulations? Are there any national and industry standards? What does the case law say? Has the Ohio Supreme Court addressed this type of an issue or just the lower district courts? Who are the top experts in this field? What is the best way to find them? What would they say about this situation?

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