

No One Wakes Up Wanting a Lawyer

A Guide to Understand, Even Settle Your Own South Carolina Wreck Case Without a Lawyer



7 Biggest Mistakes to Avoid After Your Wreck

10 Mistakes in Dealing with Doctors After an Injury

David R. Blackwell

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Settle Your Own
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Without a Lawyer

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Introduction

The purpose of this book is to help you better understand your wreck and the process that you must go through to recover on your personal injury claim. After reading this book, you will be able to make more informed decisions and therefore, better decisions. Did you know when you are in a wreck and your car is damaged and you are injured, you have two (2) separate claims?

When you are involved in an wreck, you are going up against insurance companies and their attorneys whose job it is to minimize your recovery. When you have been injured you want to know:

1. Who will pay my medical bills after the accident?
2. How much is my case worth?
3. What if I am hit by someone who does not have insurance?

4. Should I talk to the insurance company?

5. Do I really need a lawyer?

We answer these questions and more for you. For additional information visit our website at www.davidblackwelllaw.com or call us at (803) 285-0225.

Disclaimer

The information in this book is general and is not intended to be legal advice. It is simply intended to share with you the process that you must go through to recover in a personal injury claim and what to look for as you begin this process. Our goal is that you will acquire enough information to make better decisions so that you get the maximum compensation that you deserve. If you want legal advice particular to your case, we would be glad to meet with you and answer all of your questions, even if you choose not to hire us. Please visit website at www.davidblackwelllaw.com for more information about this difficult process.

You Have Our Full Attention

We do not accept a high volume of cases so that we can give our full attention to the cases we do take. **We may not accept your case**, but if your case passes our test and we do accept it, we will communicate with you and always keep you informed about what is happening with your case. We will advise you on whether to settle or go to trial. When you hire us, you get us. We try our own cases because we know your case better than anyone, which means we can share your story better than anyone else, and the insurance companies know this too.

If you do not have a case, or if you do not need a lawyer, we will tell you. Sometimes we cannot tell you what you want to hear, but we will always tell you what you need to hear. Our goal is simply to offer you the best advice, period.

We know how the personal injury process works and we know how to protect you. We can help you obtain the maximum compensation for:

1. Hospital and doctor bills;
2. Wage loss while you cannot work;

3. Pain and suffering;
4. Rehabilitation and long-term care; and
5. Funeral expenses.

Please feel free to contact us and ask any questions that you might have of us. You may get more information by visiting our website at www.davidblackwelllaw.com. We can help you, period.

David R. Blackwell

7 Biggest Mistakes After An Accident, And More

MISTAKE #1: BELIEVING WHAT THE INSURANCE COMPANY TELLS YOU

Take whatever the insurance company offers as soon as possible, without consulting a lawyer, because the insurance adjuster is fair and if you hire a lawyer, you will get paid less money.

When you are in a wreck, you are now on an unfair playing field. You need help.

Insurance companies are not on your side and are not your friends. The main goal of the insurance adjuster is to save the insurance company money and that means less money for you. One way to save the insurance company money is to settle with you before you know the full extent of your injuries because once the case is settled, you *cannot* go back for more money. The insurance adjuster will give you a 'low ball' offer because you were not wearing a seat belt or because your car had defective equipment.

Insurance adjusters want you to make mistakes. They are well trained to ask you questions so that you will answer in a certain way that can be used against you. They may claim that you have to give a recorded statement before they can settle your claim. For example, the insurance adjuster will ask you “why didn’t you go to the hospital right after the accident?” You may answer that you “did not realize I was hurt.” The insurance adjuster may use this answer against you because it appears that you said you were not hurt when you were really saying, “I did not realize that I was hurt that badly.” Do NOT give the other driver’s insurance company a recorded statement without first talking to a personal injury lawyer.

Another common tactic for an insurance adjuster is simply to delay settling your claim if they know you need the money. At some point, they know because you need the money, you will settle for less. Also, disputing your medical bills is fairly common for an insurance adjuster. How are you supposed to argue about this when you simply received the medical treatment that the doctor said you needed? Do not be bullied. Get help.

MISTAKE #2: NOT TELLING YOUR LAWYER THE TRUTH

You should always disclose all of the information that you have with your lawyer. The lawyer’s job is to protect you, no matter what the facts happen to be, but the lawyer needs all of the facts.

Any **prior injuries** need to be shared with your lawyer, even if the injury happened a long time ago. This is part of your medical history and will likely be revealed anyway. Insurance companies love to find out that a person has not been truthful because

it hurts that person's claim. Good personal injury lawyers understand that they must know all of the facts. If they do, even bad facts can be dealt with. Oftentimes there is a reasonable explanation.

All **past wrecks** must be shared with your lawyer. The insurance company either already knows or can easily find out. Your lawyer can investigate these past wrecks to see if it may present a valid problem with your case. Finding out about past accidents at trial will certainly be devastating to your case.

Letting your lawyer know up front if you **did not file tax returns or filed them incorrectly** could be vital. One of the factors of recovery is lost wages. If you have been out of work because of a personal injury claim, your tax returns may be important. Even a good personal injury lawyer needs accurate tax returns to prove your lost wage claim.

Let your lawyer know the truth about your injuries. Often, insurance companies hire private investigators to conduct videotape surveillance on people making claims. If you claim you **cannot do certain activities**, be accurate and truthful with your lawyer about it. You cannot tell your lawyer your back hurts to the point of making you cry and then get videotaped playing 36 holes of golf.

MISTAKE #3: LETTING YOUR LAWYER DIRECT YOUR MEDICAL TREATMENT

Letting your lawyer send you to "his" doctor because the doctor is a "plaintiff's" doctor can severely injure your claim. Jurors are highly suspicious of lawyers and doctors who have a frequent referral relationship. The jury, as you would, will be skeptical of the testimony from a doctor who was referred 50 patients from

a lawyer. They simply will believe that the doctor is exaggerating the injuries for the lawyer who referred the patient.

There are exceptions to this rule. You may have a special need for a doctor with particular expertise or you may not know a doctor. In such cases, it is perfectly legitimate for the lawyer to refer you. For example, you may need to see a particular type of surgeon and you may not know where to go. The lawyer may know several.

MISTAKE #4: WAITING TO GET MEDICAL TREATMENT OR STOPPING TREATMENT TOO SOON

Even if you think you may not be badly injured, get treated so that you will know for certain. Also, if you are injured, you have an immediate record of treatment that will later help your case. If you wait too long, the insurance adjusters will claim that your injury was not caused by the wreck.

Once you begin treatment, follow the treatment plan and do not stop until you are released by the doctor. Any “gaps” in treatment will appear to the insurance adjuster that you were okay, but just kept going to make your claim seem better. Your personal injury claim will be evaluated in part on your medical treatment.

MISTAKE #5: NOT CALLING THE POLICE

Even if the wreck is very minor, it should be documented by the police. When you report the wreck to the police, there is a record of what happened that could make it easier to prove your case. It is possible that in an unreported wreck the insurance company or the person who caused the wreck may disagree with the facts.

MISTAKE #6: HIRING THE WRONG LAWYER

If you wait until the last minute to hire a lawyer or go to a lawyer who does not practice personal injury law, you may end up hiring the wrong lawyer.

You should devote the time to find the right lawyer for you. Make sure the lawyer handles personal injury cases and has experience with your particular type of case. You must also feel comfortable with the lawyer because the personal injury process can be long. Ask questions about who will handle your case, how will they communicate with you, and what is the entire process you will go through so you know what to expect. If a lawyer cannot make you comfortable answering these questions, do not hire him.

MISTAKE #7: TALKING TO THE OTHER DRIVER'S INSURANCE COMPANY

Do not talk to the other driver's insurance company until you have spoken with an experienced personal injury lawyer. Do NOT give a recorded statement to the other driver's insurance company. The insurance adjuster is well trained to direct you in a way that could hurt your personal injury claim.

Here are three more mistakes wreck victims commonly make:

MISTAKE #8: DISCUSSING FAULT WITH ANYONE

Do not tell the other drivers, witnesses, or passengers that the wreck might be your fault. Even a simple apology may be taken the wrong way. This probably seems harsh, but you must protect

yourself. This information may be used against you, even in a police report.

MISTAKE #9: SIGNING ANY INSURANCE COMPANY FORMS

Do NOT sign any insurance company forms until you have spoken with an experienced personal injury lawyer. The insurance adjusters are well trained and experienced. You do not know what these forms mean and they could hurt your case.

MISTAKE #10: HIRING A LAWYER WHO CONTACTS YOU AFTER THE WRECK

Lawyers who contact you or have someone contact you and tell you to call that lawyer after a wreck usually cannot get cases any other way. That should be a sign that you should stay away from them. Also, 'runners', people who contact you on behalf of a lawyer are usually getting paid very well by the lawyer to get you to sign with them. Stay away from these people because they cannot help you.

What You Should Do After A Wreck

There are certain actions that need to be taken after any wreck in order to protect you both medically and financially. Making sure that you and others around you are medically okay is always the most important thing you should do.

GET TO SAFETY

If you are able to do so, get to a safe place away from danger. If you can, help others to safety. If you can safely move your vehicle out of danger, do so. Make sure everyone is okay and if not, get immediate medical attention for them.

SEEK MEDICAL ATTENTION

If you had any injury, you should be medically examined, even if you do not think you are badly hurt. Do not try to tough it out. First of all, you want to be sure that you are okay. Secondly, lack of medical treatment and documentation can hurt your case.

When you are given advice by a doctor, follow it. If you are referred to another doctor, go see him. If you are prescribed medication, take it. Do not miss any doctor's appointments, if so, immediately reschedule the appointment. Make sure that you understand the doctor's notes and can read them. If you cannot read them, neither can the insurance adjuster. This not only ensures your recovery, it helps to ensure your ability to be fairly compensated for your injuries.

CALL LOCAL LAW ENFORCEMENT OR 911

Call law enforcement or 911 to report the wreck. Cooperate with the police when they arrive. While you wait on law enforcement, do not admit fault to the other driver or anyone at the scene of the wreck. Fully cooperate with the police.

WRITE DOWN AND PHOTOGRAPH WHAT HAPPENED

You will best remember what happened at the scene of the wreck by writing it down. What happened just before the wreck, during the wreck, and immediately after the wreck? What did you see, hear, or feel? If you have a camera or cell telephone, take photographs of the wreck scene, the vehicles in the wreck, and the injuries to you and to others. You can document more or less depending upon the severity of the wreck and if liability is clear. Read the section on documentation.

NOTIFY YOUR INSURANCE COMPANY

You should notify your insurance company after a wreck. Report to them as accurately and truthfully what happened. It

is important to put your own insurance company on notice. The other driver may not be insured or have enough insurance. The other driver's insurance also needs to be notified. When talking to the other driver's insurance company, give your name, your insurance information, and a brief version of what happened. When they ask for more, tell them you will get back with them after you have been able to speak with a personal injury lawyer.

TRACK YOUR INJURIES IN A JOURNAL

Being treated fairly is truly dependent upon good record keeping practices. You must account for everything that is important in your medical treatment and recovery. Write down how you feel and what is different in your daily life because of the wreck. Take pictures at the scene and of your injuries. Keep receipts for medical bills, rental cars, and any other expense caused by the wreck. Record the time, date, weather conditions, road conditions, conversations, and any other information about the wreck. Also read the section on documentation.

HAVE MEDICAL PROVIDERS TO FILE ON YOUR HEALTH INSURANCE

This will ensure that your bills are paid and that your credit does not get damaged while you wait to settle your case. The other driver's insurance company generally will not pay you until the case is settled. Your health care provider will want to be reimbursed from what you collect; however, this amount may be less than what you would have to pay the health care provider because the health care provider may write off part of its bill. There is no guarantee that you will collect and you do not want a bill with a medical provider hanging over your head.

GO TO TRAFFIC COURT

Sometimes, a traffic ticket issued at the wreck scene will be dismissed in Traffic Court if you do not show up to make sure it is prosecuted. It is harder for a ticket to be dismissed if you are there. Other times the person charged with the ticket may contest the ticket and if you are not there then no one can dispute it. Why is this important to you? If the driver who caused the wreck is not found guilty, it makes it easier for the driver to say the wreck was not his fault.

CONTACT A PERSONAL INJURY LAWYER

Not all lawyers represent people who have been injured in a wreck. And not all lawyers who represent people who have been injured in a wreck handle your case personally or go to court if necessary to protect your interest. Find a lawyer who is qualified, deals with you directly, and is willing to try your case if that is what it takes to fairly compensate you.

Do You Need A Lawyer?

You may not need a lawyer, but it does not hurt to discuss your case with a lawyer. For cases that only involve minor property damage, it is unlikely that a personal injury lawyer can offer much assistance. In more serious cases, it is certainly more likely that a good personal injury lawyer can assist you.

Although I would always recommend that you consult with a lawyer and can say with certainty that you should have a lawyer review your case under the following circumstances:

1. The other driver was intoxicated;
2. Bones were fractured;
3. Medical bills and lost wages together exceed \$5,000;
4. You experienced extensive medical care;
5. Pre-existing medical conditions are aggravated by the wreck;

6. The at-fault driver does not have insurance or enough insurance;
7. A Tractor trailer was involved in the wreck;
8. Medical liens were filed by your health insurer.

The basic information that you need to share when you speak with a personal injury lawyer are the answers to the following questions:

1. When was the accident?
2. Where was the accident?
3. How did the accident happen?
4. Did the police come to the accident and issue any tickets?
5. Were you or was anyone else hurt and what were the injuries?
6. What kind of medical treatment have you received?
7. What damage was done to your vehicle?
8. Do you have insurance?
9. Does the other driver have insurance?

What A Good Personal Injury Lawyer Will Do For You

1. The insurance company has hired an experienced adjuster trained in negotiation. The adjuster's job is to make sure the insurance company saves as much money as possible. You need someone equally as experienced and well trained in the law, including negotiation, to represent you.
2. A good personal injury lawyer will first gather all of the information needed to evaluate your case. You will be the key to provide much of the relevant information during the initial interview where you will also be educated about personal injury claims and told what to expect in your case.
3. Continue to gather all of the documents needed to prove your case, including the police report, medical records, bills, photographs, and employee records.

4. Talk to your doctors to ensure that they keep accurate, well documented, and legible records, so that everyone better understands your injuries.
5. Let your medical providers know that they are handling your case and not to send you collection letters or report you to any credit agencies. This does not mean that they will not try to collect, but many times they will work with you.
6. Interview witnesses, if any.
7. Gather physical evidence, including going to the scene and taking photographs.
8. An experienced personal injury lawyer will know how to locate and analyze all sources of possible compensation for you so that your medical bills and other expenses are properly paid. For example, should your claim involve an uninsured or underinsured motorist, do you know what must be done? In addition, obtain payment of any personal injury protection coverage or PIP to pay your medical bills.
9. Evaluate your case based upon the facts and the legal issues involved so that you know where you stand at all times.
10. Help you decide whether to settle or file suit.
11. Hire the experts or other professionals to assist in your case, if needed. For example, an accident re-constructionist may be needed in some cases.

12. File the Summons and Complaint to begin your lawsuit.
13. Locate the defendant and necessary witnesses.
14. Conduct discovery to obtain information from the other side.
15. Prepare you for a recorded statement or depositions.
16. Mediate your case for you.
17. Go to court and try your case.
18. Determine valid liens and claims against you.
19. Negotiate any reduction in medical bills or liens for you.

This is not an exhaustive list of things that a good personal injury lawyer can do for you. One of the most underestimated benefits of a good personal injury lawyer is that you have a peace of mind that things are being properly handled and you do not have the aggravation of dealing with the claim yourself.

How We Decide To Accept A Case

WHY SHOULD YOU CHOOSE US?

Our firm does not accept every case that comes through our door. We are selective in the cases we handle and this allows us more time to focus on the cases that we do accept. In other words, we *guarantee you personal attention, in writing.*

If a case that we handle does not settle, we try it ourselves. A lawyer who handles your case from beginning to end knows your case better than anyone else. Insurance companies know this to.

We do NOT take the following cases:

1. Cases with medical bills and lost wages less than \$5,000.00. Our experience is that generally we can not offer any assistance in cases like this that will help you. Once you pay our fee, you generally end up where you would have been without a lawyer. There are exceptions so talk with a lawyer.

2. Cases that involve a minor impact. A minor impact is where your car was barely hit and there is little or no damage to the car or to you. There are lawyers who will take these cases and we will provide you with their names.
3. Cases with significant pre-existing injury to the same body part. Again, we cannot offer much assistance in such a case. Sometimes the pre-existing injury may be aggravated by the wreck and we may be able to help you.
4. Cases where the statute of limitations is about to run. You have 3 years to bring a lawsuit in South Carolina so if you have less than 4 months before that time runs out, we will not accept that potential liability.
5. If you have been in several wrecks in the near past, we will not accept your case. The jury looks unfavorably upon people in this situation.
6. We generally will not represent you if you were charged by the police, unless the charges are being disputed. I once defended a case because our client was wrongfully charged and the ticket was later dismissed.
7. If you did not receive medical treatment or there was a delay of more than three (3) weeks before you received medical treatment we generally will not accept your case.
8. If another attorney or you have filed an action, we will not accept your case. Usually, if another attorney has been involved for an extended period of time, even if a lawsuit has not been filed, we will not take your case.

ARE THERE ANY CASES LEFT?

Yes, of course there are cases left or we would not be in business. We accept a limited number of cases. We give very personal attention to our clients and focus on legitimate claimants with good claims so that we can do our best work for these good, hard working people. When you hire us, you have our full attention.

Documentation

In order to receive the fair compensation that you deserve, documentation of your claim is critical. Your case may not settle for some time and you might be asked to remember very important facts at a later date. You cannot rely upon your memory to be as clear and accurate as it was the day of your accident, so you need to record the events that occurred that day and everyday until you settle your case.

The first thing you need to do is start a journal and record the things you recall before, during, and after the wreck until you settle your case. Only you can describe the way you feel, the pain you experience, and the things that have changed in your daily life because of the wreck.

At the wreck scene, get the other driver's name, telephone number, address, driver's license number, car make/model, and insurance company information. Next, get the name, telephone number, and address of anyone else in the vehicle. Find out the nature of any injury that they might have as a result of this wreck.

Also, get the name, telephone number, and address of any witness to the wreck. Get the witness to share with you what they saw, heard, or were told about the wreck or about any injury to anyone else.

Next, as soon as you can, take photographs of the scene of the accident and of any vehicles or people in the wreck. Draw the scene of the wreck if you do not have a camera or cell telephone with a camera. Ask someone at the scene to take photographs and write down their name, number, and address.

Next, take time to write down all of your injuries and describe how you feel. Be specific. For example, if your shoulder hurts, describe it and how it affects you. If your leg also hurts, describe it separately. Track all medical visits and the treatment that you receive, including all medications prescribed and taken. Keep all of your receipts. It is important that your Doctor be willing to communicate with your lawyer and write good reports that support your case.

During this personal injury claim process, you will want to keep a record of all missed work and the activities that you can no longer do, perform to a lesser degree, or perform with some amount of pain. Also, keep a record of how it affects your spouse and children.

The last thing you should do is to write down the damage to your vehicle. Describe what you had to go through to get a rental car and to get your car repaired. If anything stands out, describe it in detail.

This is not intended to be an exhaustive list of things to document, but a guide for you to go by. Anything that changes in your daily life as a result of a wreck is important and should be documented. Visit our website www.davidblackwelllaw.com for more information.

Do I Have A Case? What Is It Worth?

If you were not at fault and you were injured, you probably have a personal injury claim. The answer to how much your case is worth is very hard to answer because every case is truly different.

First, I want to clear up any misunderstandings that you might have about the value of your case. Insurance companies do not pay large sums of money for a minor injury just to avoid litigation. The value of a case is not determined to be 1.5 to 2.0 or more times your medical bills. The insurance company will not pay you just for the hassle and aggravation you experience.

Now, let's look at some of the factors that control the value of your case although it is not an exhaustive list:

THE SERIOUSNESS OF THE INJURY

The more serious your injury, the more value your case is likely to have in front of a jury and insurance adjusters like to know what a jury would think of your case. The amount of medical treatment

and expense has some relation to the amount of settlement that you may receive. For example, if you are given x-rays and MRI scans but they do not show any injury, your case typically would have less value than had these exams revealed a more serious injury.

Did you miss work because of the wreck? You are entitled to be compensated for work missed because of the wreck. If the doctor has taken you out of work and you can prove through your employer that you have lost wages, this will be considered in any settlement amount.

It is hard to place a value on pain and suffering. This is generally shown by the extent of medical treatment, doctor opinions, statements from family and friends, photographs, and your own account of what happened to you because of the wreck. For example, what could you do before the wreck that you cannot do now? How has your daily life changed since the wreck?

Permanent scarring and injuries have value. A permanent injury may cause you to forever alter your lifestyle and may have substantial value. Photograph these injuries to make certain that they are preserved. For example, a large scar to the face of a young girl generally adds value to a case.

THE SEVERITY OF THE WRECK

The more severe the wreck, the more likely a jury will be able to understand how the injury occurred. For example, if your car is totaled and you broke your leg, the jury will be able to understand and make sense of how that could happen. If you are bumped from behind at a stop light with little property damage

and yet have a massive amount of medical bills, is a hard sell when common sense says otherwise.

THE AMOUNT OF LIABILITY INSURANCE COVERAGE

Your case is only worth the amount of money that you can actually collect. Usually, the amount you can collect is the amount of available insurance coverage. In South Carolina, a driver is only required to have \$25,000.00 per person of insurance coverage. In such a case, unless you have underinsured coverage, you may not collect more than the \$25,000.00, even if your personal injury claim is worth more. Your medical bills could be hundreds of thousands of dollars and you could have sustained permanent injuries, but you may not be able to collect more money than the available insurance coverage, if the person who caused the wreck does not have any money. *You cannot get blood from a turnip.*

THE CLIENT'S PERSONALITY

If the jury likes you and can relate to you, you may receive more money. It works the other way as well. Jurors like people of good character who work hard and are responsible for their actions. A person who appears to be kind and forgiving is also well liked by the jury. The jury likes people who do not exaggerate their injuries or pain.

WHERE DID THE ACCIDENT HAPPEN?

Some counties in South Carolina are more conservative than others. This means that they are likely to award a lesser amount in a personal injury case.

6. SOME ADDITIONAL FACTORS

- A. Did you contribute to the wreck?
- B. Are there any pre-existing injuries?
- C. What insurance carrier is it?
- D. Who is the adjuster?
- E. Was the injured person wearing a seat belt?

The valuation of a case is an art, not a science. It must be dealt with in a very deliberate manner to ensure that you get the maximum compensation that you deserve. Keeping up with the events as they happen, such as medical treatment, is crucial.

10 Mistakes People Make In Dealing With Doctors

1. FAILING TO GET IMMEDIATE MEDICAL ATTENTION AFTER AN INJURY

You are responsible for proving that you were injured. Insurance companies and juries often believe that if you did not immediately seek medical attention that you were not really hurt. Don't ignore signs of injury, even small ones.

2. NOT DISCLOSING YOUR HEALTH HISTORY TO YOUR DOCTORS

A health care provider will generally ask you if you had any sickness or injury before your current problem. It is important to be honest with them. Doctors' use past health issues to help diagnose and treat you. Providing incomplete information can impact the quality of the medical care that you receive. Concealing past illnesses or injuries can negatively impact your legal case.

3. TALKING WITH YOUR DOCTOR ABOUT YOUR LAWSUIT OR LAWYER'S ADVICE

A doctor's job is to focus on your medical condition. In order to do that job, a doctor does not need to know about your lawsuit or lawyer. Sharing this information could impact your doctor's willingness to reach certain medical conclusions important to your case because they are fearful of having to participate in a lawsuit.

4. MISSING OR SHOWING UP LATE FOR MEDICAL APPOINTMENTS

Insurance companies and juries get to see your medical records. When you skip a medical appointment, your record just says "DNS," which means "did not show." Excuses, no matter how valid, usually do not make it into the record. A couple of these make it look like you were not committed to getting better or were not hurt that badly. Showing up late could irritate your doctor whose cooperation is much needed.

5. FAILING TO GET YOUR PAIN PROPERLY DOCUMENTED INTO THE MEDICAL RECORDS

Insurance companies and juries will not believe that you were in pain just because you say so. They need to read about your pain in the medical records. They want to know how soon you reported pain and how long it lasted.

6. FAILING TO INFORM YOUR DOCTOR IF YOUR INJURY IS AFFECTING YOUR ABILITY TO WORK

Insurance companies and juries will not believe that your injury affects your ability to work unless it is noted by your doctor. For

example, a doctor may note that you are only able to perform light work.

7. FAILING TO TAKE MEDICATIONS AS PRESCRIBED

There is a reason why doctors prescribe a particular type of medication for a particular time period. It may be hurtful to your case not to follow the advice of your doctor or not to take the medicines that your doctor prescribes for you.

8. STOPPING MEDICAL TREATMENT TOO SOON

Insurance companies and juries often believe if a person stops seeking medical treatment for an injury, the injury must be healed. They also believe that significant gaps between treatments suggest that you healed from one injury and must have suffered a new one unrelated to the first. If you have an injury that is affecting your ability to function, you should seek medical treatment until you are healed or until a doctor tells you that there is nothing more that can be done to improve your condition.

9. FAILING TO FOLLOW TREATMENT RECOMMENDATIONS RELATED TO DEPRESSION OR ANXIETY

Often pain and/or disability can trigger depression and anxiety. Psychological conditions like depression and anxiety are just as real as broken bones. They cannot be overcome without proper treatment. These conditions need to be treated in conjunction with your other treatment.

10. FAILING TO KEEP A FILE

It is important that your lawyer knows every medical care provider that you see after an accident. It is important that you keep track of all doctor orders, treatment referrals and/or work restrictions.

Questions to Ask Your Adjuster, If You Go It Alone

Insurance adjusters know how to get information from you without telling you why they need this information and without ever really answering any of your questions. The adjuster will be nice and professional. It is time for you to level the playing field. Insurance adjusters are very well trained, but you are entitled to certain things to. Here are some questions for you to ask the insurance adjuster. Do not expect them to give good answers, if they answer at all.

1. Why do I have to give a recorded statement?

The insurance company will try to use your statement against you. If a police report has been filed, the insurance company should have easy access to it to get much of the information that they need from this report.

2. If I give a recorded statement, can I get a copy of the one you already got from the driver who caused the wreck?

It will not happen. And it is for the same reason that you should not give a recorded statement.

3. Why do I have to sign a form giving you access to all of my past medical records before I can settle my case?

The insurance adjuster is trying to see if there is anything in your past that can be used against you. They can easily get the records of your accident when it is time to settle your claim. So, let them get their own records.

4. Why do I have to sign a form giving you all of my employment records?

You should get these records yourself. You need your rate of pay, time missed, title, and job description. This form needs to be signed by your employer. If you need a form, contact our office at (803) 285-0225.

5. Why didn't anyone talk to me about uninsured or underinsured motorist coverage?

Not many people understand that they may have additional insurance coverage under their own policy. If the at fault driver does not have insurance or not enough insurance, you may need to file a claim on your insurance policy.

Visit our website www.davidblackwellllaw.com for more information about insurance coverage.

6. If you think I am getting excessive medical treatment, will you pay my doctors to write a report about why I have needed the treatment and that it is related to the accident?

The insurance company will not want to help you prove your case. You will not get this.

7. How do I know that your offer is reasonable?

The insurance adjuster will only claim that it is fair and that is what they would pay anybody else. Ask them to show you what they paid someone with a similar injury. The truth is that they cannot show you that it is fair and because you do not do this for a living, you will not know whether it is fair.

8. Why do you suggest that I not hire a lawyer?

The insurance adjuster knows that if you hire a lawyer, you will level the playing field and take away their unfair advantage. A good personal injury lawyer will have the information and knowledge that you need.

9. Will you put in writing that the accident was not my fault?

Let me know if you get this one.

10. How much insurance coverage does the other driver have?

There is a certain way you must request this information.

Try getting answers to these questions. If you get the answers, please contact me and let me know what the answers were. While going through this process, you may soon realize the value of a good personal injury lawyer. Whatever route you decide to take, I wish you well should you decide to go it alone

Answers to the Most Commonly Asked Questions

1. How long will it take to settle my case?

It depends upon your case. One thing is for sure, you never want to settle your case before you receive all of the medical care that you need. When your medical care is completed, all of the proper documentation and evidence is submitted to the insurance company and your case is reviewed. This is one of the reasons why it is important to document your case and to collect all relevant information so it is available when you need it and you will need it. It generally takes one to two months to hear back from an adjuster once a demand is made.

2. If I settle my case and later have to go back to the doctor, can I get more money?

No. Once you settle your case it is over. This is why it is important to make sure that you are medically cleared by your doctor. If you are not satisfied, get a second opinion.

3. *The other driver said it was his fault at the scene, so why has his insurance company not accepted my claim?*

The insurance company may not be bound by what the other driver said to you.

4. *What is a contingency fee?*

A contingency fee means that a lawyer only gets paid if you get paid. The lawyer will take a percentage of what he collects for you. You do not pay anything upfront. Usually, a typical fee is one third of the settlement amount.

5. *What does "statute of limitations" mean?*

In South Carolina it means that you have three (3) years from the date of the wreck to file a lawsuit. If you do not, you have forever lost your right to collect for your injury.

6. *Will I have to go to court?*

Most personal injury cases settle before a lawsuit is even filed. Sometimes you must file a lawsuit because the insurance company will not be reasonable. Even after a lawsuit is filed, most cases still settle. It is to your advantage to have an experienced personal injury lawyer to represent you should a lawsuit need to be filed and especially if your case goes to court.

7. *Should I just pay the traffic ticket?*

The police do not always get the liability decision right and sometimes ticket both parties. If the liability is

disputed and there are significant injuries, you will want to get a personal injury lawyer involved early on to go to court with you.

8. *Who pays the medical bills after the accident?*

The short answer is that your health insurance provider or you pay the bills. The other driver's insurance company generally will not pay the bills until the case is settled. In addition, your policy may contain personal injury protection or PIP coverage. This coverage helps pay for medical bills.

9. *Once I get a check from the insurance company, is that it?*

Maybe not. There are several instances in which you must repay others out of the money that the insurance company has sent to you. You may have to reimburse Medicare, Medicaid, health insurance companies and of course, unpaid medical bills.

Understanding the Personal Injury Process

After an accident, it can be a very long and difficult journey. This chapter is meant to help you to better understand the personal injury process so that you can make well informed decisions along the way.

First, if you are injured, you will want to get the proper medical treatment so that you can make a complete recovery. It is always important to properly document your injuries, including how you feel and how you have been affected by these injuries. You will want to continue your treatment until you have reached what the doctors call “maximum medical recovery.” Getting the right medical treatment and having it properly documented is crucial to your recovery and to your case. The doctor you select should communicate with your lawyer and keep detailed notes about your injuries. Share with your doctor everything about your injury and your pain. Do not try to just “live with it.” I understand that some people fear missing time at work and possibly losing their job. Others worry because they do not have health

insurance. A good personal injury lawyer should be able to advise you on this.

Second, and at the same time you are being medically treated, your lawyer should contact the other insurer and obtain the accident report. In addition, he should interview witnesses, gather and preserve any other evidence, like photographs, statements, 911 calls, and physical evidence. He should help coordinate your medical care without directing you on where to go for treatment. Finally, he should be researching any law that might be needed and getting ready to prepare your demand package to the insurance company.

Third, once you have completed your medical treatment and all of the evidence has been gathered, a demand package is prepared and submitted to the insurance company. The demand package contains your medical records, lost wage reports, and a detailed summary of your accident and injury, including photographs and other evidence that might help. You are compensated in a 'lump sum' settlement. This means that all of your damages must be accounted at the time that you settle. You will be paid for past and future medical expenses, past and future lost wages, and pain and suffering. Your personal injury lawyer will make sure that all of your damages are covered.

Once the demand package has been submitted to the insurance company, the insurance company will review the demand and respond, usually with a counter-offer. The process now is to negotiate the best settlement possible. Sometimes the insurance company will request additional information. Sometimes we will submit additional information to better explain our position which might help your case and offer you a larger settlement.

Fourth, should the insurance company be unreasonable with its offer, a lawsuit must be filed. You have three (3) years from the date of the accident in South Carolina to file a lawsuit. The driver who caused the accident is the person that you will have to file the lawsuit against. The other driver's insurance company will hire a lawyer to defend him.

As part of the litigation process, each side will conduct discovery. This is the process of gathering more information from the other side. Your lawyer will submit written questions to them that they must answer. They will also be asked to produce whatever documents they have about this case. The other driver and the witnesses may be asked to give a deposition. A deposition is where the lawyers get to ask questions of these people under oath before the trial.

Another part of the litigation process is to prepare for trial. One method of resolution might be to mediate the case. This is where a neutral third party, called a mediator, will try to bring the parties together to settle the case. Again, most cases settle before they go to court.

Fifth, if the case does not settle, then it must be tried. All of the witnesses, including you, must be located and prepared to testify. You must first prove that the other driver caused the accident. Next, you must prove that you were injured and that the accident caused your injuries and you must convince the jury that all of the medical treatment that you received was necessary. If you have any permanent injuries, you must also prove this to a jury.

This is a very broad view of the personal injury process. Let me give you a little more detail on just one aspect of this process.

Your testimony will be important to your case. In order to better prepare you for your testimony, here are some things you need to consider:

1. *Review all of your statements, depositions (if taken), and any discovery that you answered.* This includes knowing your medical history. Your testimony at trial cannot be different from what you have already said without a very reasonable explanation.
2. *You cannot talk about insurance during your testimony.* If you or anyone does mention insurance, the judge can stop the trial and make you wait for another trial date.
3. *When giving testimony, answer only the question that is asked of you.* Do not ramble or attempt to answer more than the question asked.
4. *Be respectful.* Do not argue or become frustrated with the lawyer on the other side. He is just doing his job. Do yours.
5. *Dress in a proper manner.* I ask that my clients dress in business attire. For gentlemen, this means a coat and tie. For women, a dress or pantsuit.
6. *Be calm, but be aware that the questions that are being asked are meant to get you to say something that could damage your case.*
7. *Always tell the truth.* It is okay to say that you do not know how to answer a question if you truly do not know.

Last of all, the jury will return a verdict (Decision) either for you or against you. If the jury returns a verdict for you, they will determine how much money you will receive. If the jury determines that you were partly at fault, your recovery will be reduced by your percentage of fault. In South Carolina, this is called comparative negligence. If you are over 50% at fault, you cannot recover anything. If you do not agree with the decision, you may appeal. To have a case overturned on appeal is rare. For smaller cases, usually the verdict returned by the jury is the “final decision.”

Putting Together A Demand Package

In order to settle your claim, you will need to present a settlement demand package to the insurance company. You are ready to settle a case when:

1. You have completed your medical treatment
2. You have all of your medical bills, even if your health insurance paid them
3. You have a signed wage verification form from your employer
4. You have a copy of the police report
5. The at fault driver's insurance company has given you the coverage limits

6. You have the bills for other expenses you paid as a result of your injury

You will then submit a demand package with the above information to the insurance company. In addition, you should consider submitting the following:

1. Photographs of your injury and your wrecked car
2. Complete medical records about your injury, including doctor's notes
3. Any written statements from witnesses
4. Written statements of any friends, relatives or co-workers who can say how your injuries have effected you
5. The official court record where the at fault driver pled or was found guilty

Make a demand that is reasonable, but leave room to negotiate. If your case is small and you are satisfied with the money the insurance company offers you, take it. If not visit www.davidblackwell-law.com.

Your Property Damage Claim

Once the insurance company has accepted responsibility for the accident, they will assign an adjuster to assess the damage to your vehicle. If the vehicle can be repaired:

1. You may be entitled to compensation to rent a vehicle to get around while your vehicle is being repaired.
2. You are entitled to have your car repaired to the extent of the damages caused by the accident. Sometimes the auto repair shop may find other damage after they begin to repair your car and the estimate should be changed to reflect these additional costs that should be covered by the insurance company.
3. The insurance company may not be liable for the quality of the repairs.
4. You could be entitled to the diminution in value of your car. This means that a wrecked or repaired car is usually worth less than the same car that has not been wrecked. A wrecked car will generally sell for less. You should be entitled to this difference.

5. Make a list of items damaged in your car and submit this list to the insurance company.

If the vehicle is going to be totaled:

1. You may buy the vehicle back from the insurance company, but they will usually take out the payment they normally get for the “salvage value” of your car. This is what a salvage yard pays them for the vehicle.
2. It is up to the insurer to decide if the vehicle is totaled, but you should question a decision to repair if it appears that the vehicle could be totaled.
3. Check the NADA value online or with an automobile dealership to ensure that you are getting the proper value for your vehicle.
4. If the vehicle is worth less than what you owe on it, you are stuck unless you have insurance that covers the difference.

Conclusion

Thanks for taking the time to read this book. I am hopeful that you have gained information that will help you make better decisions and help you to better protect yourself with your personal injury claim.

I know that you have just taken in a lot of information and you may still be confused about the whole personal injury process and about what you should expect. For more information, visit our website at www.davidblackwelllaw.com.

You may want to share your story with us at no upfront cost to you. We get paid on a contingency basis which means we do not get paid until you get paid.

The last thing I want to say is that if you have any suggestions that might improve the information that we offer to people, please let us know. If you become a client and think of ways we can improve upon our relationship with you or others, again, please let us know.

Feel free to pass this book along to others and keep safe.

WA

No One Wakes Up Wanting a Lawyer

A Guide to Understand, Even Settle Your Own
South Carolina Wreck Case Without a Lawyer



About the Author

David Blackwell takes care of the right people for the right reasons which helps make our community a better place. For those others, someone else can represent them.

Visit www.davidblackwelllaw.com for updates, tips, and news that may offer help to you or a friend.

Inside This Book Find:

- ✓ What NOT to do after a wreck
- ✓ What you need to do after a wreck
- ✓ The answers to your wreck questions
- ✓ Steps to take that will help protect you
- ✓ A full review of the personal injury process
- ✓ How the advocacy of a lawyer can help you
- ✓ Mistakes injured people make in dealing with doctors

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