

What Should I Do After I have an Auto Accident?



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Jerry L. McCullum, Esq., CPA

I am honored that you are considering me to represent you and will tell you a little bit about myself. Since graduating in the top 10% of my law school class in 1990, I have chosen to create and manage my own solo law practice. After a career including work in the executive office of a Fortune 50 company for a decade, and as an attorney at one of the largest and most prestigious law firms in Kentucky, I have the capability to personally serve individuals, and small and medium sized businesses using my outstanding law school academic credentials, and considerable experience in the legal and business world.

I decided to start a small boutique law office after serving in very large law offices and corporations so that I can bring my unique experiences to bear on providing a complete and comprehensive legal approach to solving your problems and concerns. I am the first line of contact when you call my office or set up an appointment. I do not assign your case to a lesser experienced attorney or a staff member. I work with you directly to ensure that you get the best individualized and personal treatment that I can provide.

My focus is on automobile accidents and personal injury, and equally as well on estate planning and probate, criminal law, corporate matters, and limited liability LLC formation and operation.

Hiring an attorney is a big commitment, but it is one that you will be glad you made. Your attorney is a valuable asset who helps you navigate the legal world, which can be confusing and frightening to the uninitiated.

I welcome the opportunity to work for you, with confidence that you will be pleased with the level of dedication, passion and personal attention that I will serve you with, as well as my reasonable legal fees.

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What Should I Do After I Have an Accident?

1. Get Medical Treatment and Don't Admit Fault

Immediately after an accident, the first order of business is to make sure that EMS and an ambulance is called to care of any injured parties. If you or someone at the scene sees a need for you to go to the emergency room, you should go. Ambulances are routinely called because it is quicker and it protects you from further injuries by moving improperly. If the attending police officer asks you if you are injured, don't be afraid to say what is bothering you, hurting you, or broken, or swollen, or cut, and even if your symptoms are minor you still may simply have some tightness or anxiety or stiffness or soreness. Many times symptoms become progressively clearer several hours or days following an accident.



Once the injured are taken care of, be sure to NOT make any statements to anyone that the accident was your own fault because that statement can be held against you and impede your attorney's representation and prosecution of your case. This is important because in legal terms you may not be at fault, although you think that to be so in the aftermath of the flurry of activity involving an injury accident. Additionally, fault may be apportioned because more than one party can be at fault.

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Your first priority for the next few days or weeks is your health And well-being. Depending on the extent of your injuries, you might have numerous doctor appointments, surgeries, physical therapy appointments, and the things that you need in order to get your body healthy again.

If you have a camera and you are able, it is always helpful to take several photos of the vehicle damage and accident scene.



The attending police officer should give you the name and address for the drivers of the other vehicles involved in the accident, as well as their insurance company and policy number. The officer may provide you with a card identifying the accident report number and instructions on how to obtain an accident report. It is very important to obtain a copy of the accident report because it will include statements made by the drivers and the witnesses. My clients usually give me the accident report card and I then obtain a copy of the accident report as this alleviates some stress for my client.

If the attending police officer does not give you the above information for some reason, then you should ask the officer about it, or obtain the information directly from the other drivers in the accident. If your cell phone has a camera, a photo of their insurance cards would be helpful.

2. Don't Respond to Insurance Company Calls and Call Your Attorney

Chances are that you will receive an early call from the at-fault insurance company requesting to take your statement or even making an offer to settle. It is rare when it is beneficial for you to do either. The insurance company knows that an early settlement means that they get to pay less for your injuries and that they can get you to sign away your rights before the full ramifications of your accident are completely known.

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Insurance companies have lawyers advising them and so should you.

Once you are able, you should call your own insurance company to report the accident, regardless of whether you think that another person is at fault or you are at fault. This is important because you will likely have insurance coverage on your automobile policy that will pay for your medical bills, and possibly loss wages, depending upon whether your accident happened in Indiana or Kentucky. Your insurance company will ask you questions about the accident and the other persons' names and insurance companies, and it will then assign the accident a claim number. This claim number is important and you will need to give it to your attorney, so write it down along with the adjuster's name and contact information.



Sometimes my clients call me before calling their insurance company, and I will make the initial call to my client's insurance company to obtain a claim number as a courtesy. This is preferable in many situations.

Remember that you will be charged nothing unless there is a recovery, so my firm does everything to secure just compensation for you. I always want to reach a settlement on your case, because if the settlement covers the medical bills, lost wages, pain and suffering and your future medical treatment costs, then the sooner you can get the money in your bank account, the better off you are.

Usually, the damages to your vehicle are readily settled. However, I get calls to assist from time to time to build support for a higher and better vehicle settlement. In many cases involving a new or newer car, there is a concept called "diminution in value" that can be significant. This reflects that your new vehicle has lost value, even after it is repaired, because buyers prefer a new vehicle that has not been wrecked and because the severity of the accident is immortalized and reported on CARFAX and other reporting agencies.

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3. Get Treatment and Let Your Attorney Handle the Legal Process

After the accident, you should comply with all medical treatment recommendations of the emergency room physician and your treating physician, who may be neurological, surgical or orthopedic, or even your primary care family physician. You may require surgery and significant medical attention, and you may miss work for a lengthy period of time. If you suffered whiplash from a more minor accident, then you may be ordered prescriptions to relax your muscles or pain medication, and you may be ordered off work or to limit your lifting, or physical therapy or chiropractic treatment.



As your attorney, I begin work on the accident case immediately, so that all necessary and helpful evidence and statements can be preserved. I immediately send out formal letters of representation to all appropriate parties and obtain all contact information for the parties that I will be working with regarding the accident.

You must keep in contact with your attorney during the time of your treatment and convalescence and recovery. I document in your file where you are treating and how your progress is going during this time.

4. Keep Involved in The Legal Settlement

Once you hire an attorney, the attorney will control and guide the direction and timing of the settlement process based on your treatment, recovery and prognosis. Once an attorney is involved, many cases will settle satisfactorily because the Insurance Companies know that the

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attorney has recourse and can take action if they do not act in good faith with regard to the settlement.

Upon completion of your treatment, e.g. surgery, physical therapy, manipulation, I start sending formal letters, along with the proper releases to all medical service providers in order to obtain all treatment records and bills relating to the accident. This helps me understand the extent of your injuries, the diagnosis and the prognosis, as well as any lifelong problems or limitations that you might expect.

I draft and submit a formal demand letter to the at-fault parties' insurance companies with all appropriate documentation for the accident, the injuries suffered and damages to your vehicle, along with proof of causation that the injuries were caused by the at-fault party, possibly due to the other party's negligence, aggressive driving, intoxication, or inattention. I demand a sum certain to settle the case, but only after a full discussion of the specifics of the accident and settlement demand with my client, and only with my client's approval and consent.

Negotiation follows and this can take days to several months. My client always will have final approval on the terms of a settlement.

If no agreeable settlement can be reached, then after full consultation with my client, I will file a complaint in the appropriate court with proper jurisdiction to initiate a lawsuit.

At this point, it can be anticipated that a jury trial will be in order and discovery, expert witnesses and evidence production will resume. However, not all cases where a complaint is filed will end with a jury trial. Many cases still settle after filing a complaint, either by the agreement of the parties or through court ordered mediation.

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