7 Costly Mistakes That Can Ruin Your Virginia Auto Accident Case

by Ken Gibson and John Singleton

Updated 2026 Edition

GibsonSingleton Virginia Injury Attorneys

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This edition was updated in 2026 to reflect Virginia law and statistics current at that time. Laws change, so please speak with a lawyer about how the law applies to your situation today.

About the Authors



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An experienced trial attorney, Ken earned a commendation from the director of the FBI for his work in prosecuting violent criminals. He is a former Assistant Commonwealth's Attorney in Norfolk and Federal Prosecutor at the U.S. Department of Justice in Washington, D.C. Ken brings his extensive trial experience to every client he represents.



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John learned his trial skills working for a large insurance defense firm. He knows how the insurance side works and uses that knowledge to give his clients outstanding insight and counsel. John enjoys a fight, and he puts his heart into every single case.

Introduction

You may have experienced these frustrations and more

> ***"Everything moved in slow motion. She just pulled out right in front of me!"***
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> ***"I can't believe this happened to me. I was just going to pick up the kids from school."***
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> ***"I'm so worried about my husband. He has been in the hospital for three days since the wreck, and the doctors still can't figure out what's going on."***
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> ***"I thought I was OK, but then the adrenaline wore off, and the pain in my neck and back became unbearable. I've missed four days of work, and I can't sleep at night because it hurts so much."***
>
> ***"I'm just tired of all this. The phone calls, dealing with the repair shop, medical bills, doctor's appointments ... when will it stop?"***

Does any of this sound familiar? If you've been in a serious car wreck, you may have experienced these frustrations and more. You are likely reading this book because you or a family member or a friend has experienced the pain and stress of having your day-to-day life turned into a mess due to a car wreck that wasn't your fault.

What started as a normal trip to the post office, a regular commute to work, or a carpool with the kids turned into a trip to the emergency room—with a CT scan, X-rays, medication, and in some cases, surgery. Next come the phone calls and inconveniences, not to mention daily pain and discomfort from your injuries. You've been on hold with your own insurance company for 20 minutes, only to get cut off just before it's finally your turn to "speak to a representative." Meanwhile, the other driver's insurance company is calling every three hours and pressuring you to make a recorded statement. What's that all about?

Your car is totaled, and it's like pulling teeth to get a rental car. On top of that, you drove an SUV—before it was totaled—and now the insurance company is trying to put you into a cramped compact car that smells like an ashtray.

Then, after getting your primary care doctor to squeeze you in for a follow-up appointment from your trip to the ER, she recommends months of physical therapy, and another follow-up appointment with an orthopedic surgeon to evaluate what might be a torn rotator cuff in your shoulder. Ugh ….

As you juggle doctor's appointments and painful physical therapy sessions, you desperately need new transportation because your SUV is a junk heap in a storage lot. Incredibly, the other driver's insurance company is insisting that the late-model SUV you bought for $26,000 three

years ago is worth no more than $9,750. You're thinking, "I can't buy another similar SUV with that amount!"

Next, the insurance adjuster for your injury claim calls and seems friendly. He talks about the Commanders game last Sunday and says he's sorry about what happened to you. He assures you he understands what you're going through and wants to help you get everything cleared up as soon as possible. Finally, you feel you might get some relief from all this chaos, right?

In fact, the adjuster says he really wants to take care of you and will send you a check right away. He tells you there's no need to get a lawyer involved. He happily tells you the insurance company will pay $2,000 for your medical bills, $500 for pain and suffering, and he'll even throw in another $500 for the time you've missed from work. The amount—$3,000—sounds good! You think, "I probably won't need surgery on my shoulder, and my physical therapist says I'm making progress. I don't want to be some greedy accident victim, do I?"

Don't do it!

If you think we have been reading your mind or have had a private investigator following you since your wreck, don't worry. We know what you're going through because not only do we represent victims of car, truck, and motorcycle wrecks every day, but we have been in your shoes before.

Ken's Story: "Is That Car Going to Stop?"

Looking back, I made a lot of mistakes in handling my own car wreck case

My first car cost $700. Nicknamed "the Blue Bomber" by my friends, she was a metallic blue, aircraft-carrier-sized Oldsmobile Delta 88, with a black vinyl top that I bought from a couple in a nursing home who could no longer drive. I scraped together enough money from my job as a lifeguard, and I finally had "wheels of my own" during the summer of 1984.

She wasn't much to look at, but that Oldsmobile carried me through the rest of high school before breaking down for good during my first year at the University of Virginia. A series of cheap used cars followed the Blue Bomber, providing transportation through college and then law school at the University of South Carolina.

After graduating from law school and returning to my hometown of Richmond, Virginia, I was hired by a local law firm. I finally had enough money to buy my first new car! It was 1995, and I picked up a brand-new, red, four-wheel-drive Jeep Cherokee. That Jeep was a long way from the nursing home special I picked up in high school, and I was enjoying driving to work and the local courthouses and breathing in the "new car smell" I had often heard about, but never experienced.

Well … that didn't last long. My pristine new Jeep and I were about to be in for a shock. It was about 9 p.m. on a weeknight, and I was returning home from an errand. I was approaching one of the busiest intersections in Richmond—the intersection of Patterson and Parham Roads at the top of a large hill. I came to a full stop at a red light as heavy traffic passed in front of me.

I happened to look in my rearview mirror and noticed a car coming up the hill towards the intersection at a high rate of speed. I assumed the car was going to slow down and looked away from my rearview mirror and back toward the red light. For some reason, I looked back at the mirror and could see the car was flying towards me and not slowing down. I couldn't go anywhere. The light was still red.

And … BAM! The car screaming up the hill slammed into the back of my brand-new Jeep. My head and neck snapped back and then forward, and my SUV lurched forward from the impact. My seat belt tightened sharply against my chest and prevented me from hitting my head on the windshield. Smoke started coming out of the other driver's car, and I worried that his car and my car might catch on fire. It happened so quickly, and I still couldn't believe the other driver hadn't seen me.

I was disoriented but knew I needed to get out of my vehicle quickly in case another car coming up the hill hit us. I made it out of my Jeep and stood on the side of the road and heard the sound of sirens from emergency vehicles heading in our direction. This was the era before cell phones, so a Good Samaritan from the Burger King or gas station on the corner must have called 911.

The other driver was a young guy like me, but he looked out of it, and he avoided speaking to me or making eye contact. Soon, two Henrico County Police cruisers arrived, and the officers began to interview the other driver and me. Lights were flashing, cars were flying by the accident scene, and the whole thing seemed like a strange dream.

The reason for the accident became clear. The officer interviewing the other driver was shining a flashlight in the other driver's face, and then he directed the other driver to perform "field sobriety tests" like walking a straight line, touching his nose, and saying his ABCs. Next, another officer arrived and began searching the other driver's car for drugs.

It turns out that I had been hit by a drunk driver who had a bag of marijuana in his car. The officers charged him with driving under the influence and possession of marijuana. They placed him under arrest and drove him away from the accident in a police car.

I was angry about the whole situation, but all things considered, I thought I was okay. His car had taken the worst of the damage, while my Jeep was okay to drive from the scene, although it did have a lot of damage. I declined a ride to the hospital in an ambulance and drove home.

I called my boss to let him know what had happened, and he could immediately tell that I was disoriented and likely more injured than I thought. My boss was a good guy, and he picked me up late that night and drove me to the local emergency room to get checked out. It's a good thing he did. I had severe whiplash from the rear-end collision, pain in my neck and back, bruising on my legs, and bruising from the seat belt.

From that night forward, I endured all the pain, frustration, and inconvenience involved with a serious car wreck. Doctor's appointments, physical therapy, car repairs, phone calls from the insurance companies, medical bills, and several continued court dates before I finally testified against the other driver as a witness in his criminal trial.

Looking back, I made a lot of mistakes in handling my own car wreck case. Although things worked out in the end, I tried to "tough it out" and cut off medical treatment too soon, among

other bad calls. I hope that this book will help you avoid making many of the mistakes I made after being hit by a drunk driver many years ago.

John's Story: "Broken Ribs"

I was lucky; but not everyone is so fortunate

I was in the backseat, passenger side. Our car was crossing through a large, four-way intersection when a drunk driver ran the red light and hit our car in the side—T-bone style.

I don't remember anything about the wreck. I was told much later that I was awake and aggressive to the emergency responders. I remember being on a gurney in a hospital and then falling asleep—probably passing out.

I remember later being slid into an MRI machine, a long tube. As I went in, I couldn't breathe. I began banging my heels on the gurney. The nurse technician told me to calm down, and then she said, "He can't breathe. Get him out."

A team of people began working on me. A day or two later I woke up for a few minutes. My parents and sister were in the hospital room, and I had a tube down my throat, IV in my arm, and tubes in each side of my chest.

My lungs had collapsed at the moment I was being put into the MRI machine. I could not talk. I was swollen up like the Michelin Man, and everyone around me looked nervous and concerned. They could talk to me, and I could hear and understand; but I had to reply by writing notes. I could not see the pencil or paper, so I wrote blindly.

The nights in the hospital were bad. Although I was in a Level I trauma center, I was the healthiest of the ICU patients—because the rest were severe gunshot victims expected to die without a miracle.

Each night around 2 a.m., my lung tubes or something allowing me to breathe would begin to fill with fluid, and I would start suffocating. I would hit the call bell repeatedly; and finally, a nurse would come, assess me as having a nightmare, and leave the room. This usually happened three to four times before the nurse would realize I was, yet again, choking. She would clear the tube and move on to the other patients.

When the day came to remove the breathing tube in my throat, a young intern tasked with the job looked more nervous than I felt. I just wanted it out. He pulled on it in one fluid motion, and out it came. The supervising doctor was so proud of his young intern; he congratulated him over and over, but left me without a word of concern about my condition.

Two days later, the doctor determined my side chest tubes could be removed. By now (12 days post-wreck), the tubes had firmly attached to my skin and internal tissue. Taking them out was akin to pulling out a knotted rope that had been left in the ground all winter. A different young intern, again looking profoundly nervous, came in to take them out. Fortunately, I could talk now. He asked if I was ready, and I told him that I didn't count—he was the one doing all the work. He pulled them out, one at a time, smoothly and cleanly. A great relief to both of us.

Two days later, my sister asked me if I thought I was ready to leave the hospital—to go from the ICU to the street. I wanted to leave and knew she and my father couldn't stand it much longer, so I said yes.

The nurse took me to the front door in a wheelchair, put me in a rental car, and my sister pulled away into high traffic. My father was in the back seat, and we drove about seven hours toward our home in West Virginia.

That night at a hotel in Pennsylvania, my lungs filled partially with fluid again, and I could not breathe. Fortunately, I was able to clear the fluid, but I stayed sitting up in a chair the rest of the night.

I did not sleep lying down for another month. I spent the time recuperating and trying to avoid getting too comfortable with pain medication. I had six fractured ribs on the right (impact side), and three on the left.

Years later, I learned that most people die on impact from this combination of broken ribs, due to laceration of the aorta. I lost 75 percent of my lung capacity. My left lung looked like half of a lung on X-rays.

The pulmonologist had no plan for my rehabilitation. "Do what you think," he told me. I had two new scars on my side chest walls and could not move, bend, turn over, sneeze, or laugh without pain.

My seat belt (chest and lap) had saved my life and protected me from a severe head injury. I had good health insurance, which paid most of my medical bills.

The car in which I was a passenger had a separate insurance policy that paid the balance of my medical bills. The truck that hit us had a $25,000 limit policy, and I had underinsured motorist coverage on my own car. I knew I was lucky to be alive.

I missed two months of law school. I couldn't do much of anything for a month after I got out of the hospital, and not much more than go to class for two months after that. Eight months later, I could barely swim the length of a pool. Every day, I would try to do a little more, breathe a little more deeply, walk a little farther, and bend and twist somewhat.

For almost a year, I was a very cautious driver. My father always preached defensive driving, but for a long time, I took it to an extreme.

The man who hit us was drunk and the son of a retired police officer. I am told that a man stepped out of the crowd at the scene of the wreck and demanded that the responding police officer breathalyze the driver. The response from the crowd, I am told, was an overwhelming chant demanding the same.

Nine months later, the incident ended with a guilty plea and the driver being convicted of driving under the influence. I was lucky and have mostly healed; but not everyone is so fortunate, and I want to help everyone hurt in a wreck.

Mistake #1: Believing the Insurance Adjuster Is Your Friend

An insurance company's goal is to make a profit

The Allstate Insurance Company welcomes you to their website with the slogan, "You're in Good Hands with Allstate," and the company's commercials vow that they will protect you from "mayhem." Meanwhile, "Nationwide is on your side," and State Farm's jingle (written by Barry Manilow) croons, "Like a good neighbor, State Farm is there." It's quite a picture of warmth and caring that the insurance companies present to the public.

We agree that insurance companies do serve customers by generally compensating them when their homes are destroyed in a natural disaster or fire, their cars are damaged or totaled in a wreck, or when they are injured in an accident. However, the insurance industry has also done an excellent job—through public relations campaigns, commercials, and lobbyists—of creating the perception that our nation's justice system is "out of control," and that insurance rates are skyrocketing due to greedy people filing "frivolous lawsuits" aided by "jackpot justice" lawyers. These claims are not true.

Insurance companies mount their sustained and relentless campaign about frivolous lawsuits and the need for "tort reform" because it's good for their business. Insurance companies know that citizens who agree with their messaging will one day become skeptical jurors. These jurors will be cautious about believing that the young mother who filed a lawsuit in an auto accident case is truly experiencing "pain and suffering" and deserves to be compensated for her injuries. Insurance companies know that jurors who are inclined to question the truthfulness of anybody "greedy" enough to file a lawsuit are prone to award low-dollar verdicts or dismiss lawsuits altogether. Both results put more money back in the pockets of insurance companies.

Despite their message of being a beleaguered industry, plagued by a flood of frivolous lawsuits, insurance is one of the most profitable industries in America today. Here is real information about the wealth of the insurance industry:

- The U.S. insurance industry receives over **$3 trillion** in premiums each year.
- It has **$3.8 trillion** in assets, more than the gross domestic product (GDP) of most countries in the world.
- Over the last 10 years, the insurance industry's average profit per year was over **$30 billion**.
- The CEOs of the top 10 property and casualty insurance companies earn an average of **$8.9 million** per year.

Why do we provide you with this information about the huge profits of the insurance industry and their efforts to make you skeptical of the justice system? Because you need to know these facts before you speak with an insurance adjuster. You need to know that an insurance company is a business, and their goal is to make a profit. You need to know that the adjuster is highly trained, and his mission is to pay you, the victim of a car wreck, as little as possible, or even to deny your claim altogether.

A big mistake that injured victims make is believing that the insurance adjuster for the at-fault driver is their friend. The following are some of the tactics that insurance adjusters use to lower the amount of your claim or deny your claim completely:

Being Overly Friendly

"Did you catch that Commanders game on Sunday? What a great comeback for the Commanders! What? You mean you like the Cowboys? Come on, man!" If that sounds like two guys at the water cooler doing some Monday-morning quarterbacking, you're right. But it could just as easily be a conversation between an injury victim and the adjuster for the driver who caused the accident. Adjusters are trained to put you at ease, make you feel comfortable, and develop a bond with you, so that you will be more willing to accept a lower offer on your case or disclose information that's not helpful to your claim.

You don't want to disappoint a friend, do you? Keep your conversation businesslike and professional. Don't fall for the over-friendliness trick.

Applying Pressure

If you're not falling for the adjuster's effort to become your pal, she might use some pressure tactics to get a quick settlement of your claim on the cheap. She knows that once you sign a release and accept the insurance company's check, her job is done, and you cannot come back to her requesting more money, even if you develop a serious health problem that went undetected when you were treated in the emergency room.

The adjuster may create a sense of urgency to pressure you with something like this: "Hey, I know you're tired of all of this hassle, and it sounds like you're back on your feet already. I'm not able to do this very often, but my supervisor said that if we can settle your claim by Friday, close of business, we can add $850 to our last offer for your injuries and another $250 for the time you missed work. That would up our total offer to $3,500. What do you think?"

It's been just four days since your accident, and you ultimately may have $15,000 in medical bills once you complete all your treatment and physical therapy. The adjuster knows that your ER visit alone will be a $3,500 bill. If she can pressure you to take the money and run, she will be high-fiving her supervisor on Friday for all the money she saved her company.

Delaying

If the high-pressure method doesn't work, then some adjusters will intentionally delay your claim. Remember the $3.8 trillion in industry assets mentioned above? Well, all that money earns interest, and most of it is invested in the market to make even more money. The longer your claim sits on the books, the longer the insurance company keeps the money, earning interest or growing through investments.

In a worst-case scenario, you lose your ability to recover money from the other driver's insurance company because you did not file a lawsuit within the statute of limitations, the law that prohibits people from filing lawsuits if they do not do so within a specific time after an injury occurs. In Virginia, the statute of limitations for most injury cases is two years, but

different limits apply for different types of cases. So, it's extremely important that you speak with an attorney to ensure your case is handled in a timely manner.

Asking for Just One More Document

Resolving an injury claim can be time-consuming and frustrating. Sometimes you just want it to all be over and done with so you can move on with your life. Adjusters count on this frustration as a way to persuade you to take a lower offer than you should. Some do this by requesting an endless number of documents.

Adjuster: "I'm going to need your last three pay stubs to verify the time you missed from work." You track the pay stubs down after searching your desk at home and finding one of the pay stubs in your car.

Adjuster: "Thank you so much for the pay stubs, but I forgot to mention that I need your tax returns for this year and last year too." You have one return, but it takes you a week to locate a copy of last year's return.

Adjuster: "Fantastic, good job on the tax returns. You mentioned in your recorded statement that you injured your back last year playing volleyball. Would you mind picking up the medical records at your doctor for me about that injury? I just want to rule that issue out before we settle up with you."

We're getting worn out just writing this, so you can see how the adjuster could wear you down with request after request. The adjuster hopes that you will just throw up your hands and give up.

Acting as an Accident Reconstruction Expert

Although your adjuster was four states away when the accident occurred, this adjuster, possibly with little training or experience, starts talking to you as if he has the skills and qualifications of an accident reconstruction expert. In reality, such experts are, in some cases, paid thousands of dollars to examine the scene of the accident, take detailed measurements, photograph the area, collect any physical evidence, and prepare a detailed report summarizing their findings.

Adjusters simply don't have this type of training, but some will try to pass themselves off as if they do in an effort to intimidate you into agreeing with their assessment of the case.

Adjuster: "You know, I've handled hundreds of claims for this insurance company, and our insured driver did not have sufficient sight distance to your car. Our driver's view was obstructed, and he was confronted with a sudden emergency under poor stopping conditions. I'm sorry, but our evaluation of the accident scene just doesn't support a payout on your claim." Don't let an adjuster fool you with this strategy.

Using Embarrassing Information

Another technique used by some adjusters is presenting embarrassing information as a way to pressure you to settle for a low amount. As we will talk more about in Chapter 5, insurance companies routinely check the social media accounts of an injured person who makes a claim against their insured driver.

For example, the insurance company investigator may check your X (formerly Twitter) account and find a picture of you holding a glass of wine at your friend's birthday party, and another picture of you in a bathing suit at the beach holding what looks like a mixed drink. Even though both pictures were taken months before the accident, the adjuster mentions the pictures to you.

Adjuster: "Well, I always have to do my homework before I can settle a claim, and I have to tell you, I'm concerned about the pictures we've found on your X account. You're quite the party girl, aren't you? What was that, a bourbon and coke you were drinking at the beach that day? That wouldn't look good put up on a big screen before a jury, now, would it?"

What the adjuster doesn't tell you is that neither picture is likely to be admissible in court because pre-accident social activity has little bearing on your case. But all you can think about is a group of strangers in the jury box thinking you're a "party girl" and looking at you in a bathing suit on a big projection screen. Please be aware that an adjuster may attempt to embarrass you or pressure you with information that would not be admissible in court under most circumstances.

Disputing Medical Care

Along the same lines as the adjuster-turned-accident-reconstruction-expert is the adjuster who presents herself as a medical expert, despite the fact that she has no formal medical training. Following are some of the examples of what we will call the "Doctor Adjuster."

Saying Diagnostic Care Doesn't Count

You were sitting at a red light waiting for it to turn green when BAM, another driver crashed into your vehicle. Your head snapped forward and back and then hit the window. Your knee slammed into the dashboard, and now your left shoulder aches from where the seat belt dug in.

Emergency rescue personnel transported you to the emergency room, where ER doctors and nurses examined you and ran tests to evaluate the extent of your injuries. They conducted a computerized tomography scan, or CT scan, of your head to make sure you didn't have a traumatic brain injury (TBI), and took several X-rays of your shoulder and knee to determine if you had any broken bones. Fortunately, the tests came back negative for a brain injury and broken bones, but your primary care doctor prescribed physical therapy to treat your neck and back strain.

What Dr. Adjuster, without any medical training, may say about these facts is this: "I've taken a close look at your medical records and bills, and I'm ready to make an offer on your case. What jumps out to me is that the majority of your total bills comes from your ER visit. As you know, the CT scan and the X-rays were just diagnostic testing and not really treatment; so, we're not going to be able to give you the full value of those bills."

Amazing, isn't it? The CT scan and X-rays were vital tests and clearly medically necessary to rule out a TBI and broken bones, yet Dr. Adjuster casually dismisses these important tests in an effort to undercut your claim.

Saying You're Overtreating

But wait, Dr. Adjuster isn't finished. Using the previous example, add four months of physical therapy and several follow-up appointments with your primary care doctor.

At some point, the adjuster will use this line: "I see you're on your fourth month of physical therapy; and according to the therapist's notes, you're making a lot of progress. What I don't understand is why you need therapy appointments every week. Plus, you're seeing your primary care doctor once a month. I've seen a lot of back-strain cases, and your claim should really have been wrapped up a few months ago. To me, it looks like you're overtreating, and we're not going to be able to pay for unnecessary treatment moving forward."

Even though you're still not fully recovered, and you are simply following your doctor's orders, Dr. Adjuster acts as if he knows better than a medical professional who completed college and medical school and has years of medical experience.

Highlighting "Too Many Gaps" in Treatment

Despite your best intentions, unavoidable events may happen that prevent you from attending a few medical appointments. You may be sick with the flu for a week, or your job may require you to go out of town for a 10-day project. Unfortunately, some adjusters will seize on this information to try to weaken your claim.

Adjuster: "I'm looking over your records, and you missed two appointments in the beginning of October and another two appointments in mid-November. I can only assume that if you're not going to your appointments, you must be feeling better and ready to settle."

Even though you had legitimate excuses for your missed appointments, it's possible that an adjuster will use your absences against you. Absurd.

At the same time, however, know that extended breaks in treatment and repeated missed appointments will weaken your claim substantially. So, do try to attend all medical appointments as best you can.

Using Preexisting Conditions

Dr. Adjuster goes into overdrive when a claim involves an injured person who had a preexisting medical condition at the time of the car wreck. The preexisting medical condition may have no relation to the areas of the body injured in the wreck, but that won't stop some adjusters from claiming that all the pain you're experiencing in your neck, for instance, is related to the surgery you had on your lower back two years ago.

In another example, the adjuster may claim that your rotator cuff injury in your shoulder is simply the result of wear and tear over the years and that football injury in high school, and not due to the violent impact of your car wreck.

Only medical professionals can give opinions on the nature and causes of your injuries following a car wreck, and how your injuries may or may not relate to a prior medical condition. Don't let the adjuster play doctor.

In summary, always remember that an insurance adjuster is highly trained—but he's highly trained to complete his mission: to pay you, the victim of a car wreck, as little as possible, or even to deny your claim altogether.

Mistake #2: Not Getting the Medical Treatment You Need

Your goal should be to resume your normal life

Painful injuries and, sadly, loss of life, are unfortunate results of car wrecks daily throughout our nation. Check out some of the alarming statistics from the National Highway Traffic Safety Administration (NHTSA) on the human cost of car crashes:

- In 2024, 39,254 people died in motor vehicle crashes, and an estimated 2.42 million people were injured in the United States.
- In 2024, there were an estimated 6.18 million police-reported traffic crashes.
- U.S. motor vehicle crashes in 2010 cost almost $1 trillion in loss of productivity and loss of life.
- In 2024, an average of more than 6,600 people were injured each day in motor vehicle crashes in America.
- About 107 people died each day in motor vehicle crashes in 2024.

Looking at these statistics, you can see that you and your loved ones are not alone in the pain and suffering you have experienced after a wreck. If your loved one has lost his life in a traffic accident, you are left, amidst your grief, wondering what to do next and whether you should pursue a claim. The injuries and deaths resulting from car crashes take a huge toll on health, family life, and the ability to work.

One of the biggest mistakes an auto accident victim can make is failing to get the medical treatment he needs. Following are some tips to help you ensure that you or your loved one gets the proper medical treatment after a wreck:

Remember That Your First Job Is to Get Better

When a new client comes into our office, one of our first pieces of advice for her is to focus on treatment and "getting better." When you're injured in a car wreck, it's easy to get bogged down by all the phone calls and forms and forget that you need to focus on your health. Your goal should be to resume your normal family life, get back to work, and eliminate the pain you're experiencing.

When in Doubt, Go to the Emergency Room

By the time you're reading this book or finding yourself sitting in a lawyer's office to discuss your wreck, the decision of whether or not to go to the emergency room has passed. But the key point to remember, if this situation arises in the future, is this: if you have any doubt about going to the emergency room after a car wreck—go and get checked out.

Beware of Unseen Injuries

One of the key reasons that you should seek medical attention after a car wreck is that many auto accident victims suffer "unseen" injuries that do not become apparent right away without a thorough examination by medical staff and specialized testing to detect problems. We list below some of the most common "unseen" injuries we see when representing injury victims:

Traumatic Brain Injuries

A traumatic brain injury or "TBI" occurs when there's been a violent jolt or blow to the head or body, according to the Mayo Clinic. Car crashes are a common cause of TBIs, due to the speed and force of impact when cars collide. Even with the protection of seat belts and airbags, it is possible for car accident victims to hit their heads on hard surfaces within their cars.

Injury to the brain may be limited to the brain cells directly below the point of impact. Or if the blow is severe enough or the head is jerked sharply enough, the brain may move back and forth within the skull, causing multiple areas of damage.

TBI symptoms include loss of consciousness, headaches, nausea, dizziness, blurred vision, sleep problems, sensitivity to light and sound, memory problems and confusion, and mood changes. If you experience any of these symptoms following a car wreck, seek medical attention immediately.

To diagnose a TBI, medical professionals often use the Glasgow Coma Scale, which is a 15-point test to evaluate the possible presence of a brain injury by assessing the patient's ability to follow directions and move his eyes, arms, and legs.

Imaging tests are also used to diagnose a TBI. A computerized tomography scan, or CT scan, uses a series of X-rays to create a detailed view of the brain to identify possible skull fractures, bleeding in the brain (hemorrhages), blood clots (hematomas), bruised brain tissue (contusions), and detect brain tissue swelling.

Another imaging test that may be used after the patient's condition is more stable is magnetic resonance imaging or MRI. An MRI uses powerful radio waves and magnets to create a detailed view of the brain or other area of the body.

Herniated Disc

Another "unseen" injury that may occur in a car crash is a herniated disc. Your spine is made of individual bones, called vertebrae, which are stacked on top of each other. Between each vertebra is a rubbery cushion or disc that is similar to a jelly donut. Each disc has a soft center with a tougher outer edge.

A herniated disc (also called a slipped disc or ruptured disc) occurs when the "jelly" center pushes out through the tougher outer ring of the disc. The disc rupture may cause irritation and pinch the surrounding nerves and tissues, which results in pain, numbness, tingling, and weakness in an arm or leg. Most herniated discs occur in the lower back (lumbar spine), but in some cases, they occur in the neck (cervical spine).

The violent impact of a car crash and the twisting of the spine that often happens to occupants may cause herniated discs. However, a car accident victim who feels pain and tingling in an arm or leg may not think her injury is related to her back.

To uncover this often-unseen injury, a doctor will conduct a physical examination and test the muscle strength and reflexes of the patient. The doctor may also order imaging tests such as a CT scan or an MRI to diagnose a herniated disc. A myelogram is a third imaging test often used, in which a dye is injected into the spinal fluid, and then X-rays are taken. This test shows any pressure on the patient's spinal cord or nerves as a result of a herniated disc.

Shoulder Injuries

Another "unseen" injury that often results from a car wreck is a shoulder injury. Often caused by the intense pressure of the seat belt draped over the shoulder of a driver or passenger, the true extent of a shoulder injury may go undetected and worsen over time.

One of the most common shoulder injuries we see in a car wreck is a torn rotator cuff. The "rotator cuff" is the group of muscles and tendons that surround the shoulder joint. A car accident victim may have no bruising or apparent injury visible on the outside of his shoulder, but a tear to the rotator cuff muscles and tendon is inside, causing significant pain and limited motion of the shoulder and arm.

Other symptoms of a torn rotator cuff include radiating pain down the arm, a popping or clicking sound in the shoulder, swelling, difficulty sleeping on the side of the affected shoulder, and overall weakness of the shoulder area.

Car wreck victims who are experiencing persistent pain in their shoulders should get a thorough medical evaluation.

To determine if a patient's rotator cuff is torn, a doctor will conduct a physical examination and maybe order X-rays and an MRI of the patient's shoulder. Treatment for a rotator cuff injury includes physical therapy, anti-inflammatory medication, cortisone injections, and in the most serious cases, surgery.

Psychological Injuries

The physical injuries you suffer in a car wreck, in the form of bruising, lacerations, neck and back strain, and in some cases, broken bones or worse, are the visible effects of another driver's negligence. What often get completely overlooked are the effects of the car wreck on the victim's mental health. A car crash is traumatic and emotional, and it leaves many victims fearful and anxious about getting in a car again.

In more serious wrecks, these difficulties—such as post-traumatic stress, depression, and anxiety—may develop, according to the National Center for Post-Traumatic Stress Disorder. Mental health symptoms following a car accident may include:

- Anxiety
- Mood swings
- Fearfulness

- Crying
- Sleep issues and nightmares
- Loss of appetite
- Loss of interest in usual activities

If you or a loved one exhibits any of the symptoms above, seek help from a mental health professional. The anxiety and distress you may feel are just as real and debilitating as physical injuries to your body and can be added to your claims for compensation following a car wreck.

Dos and Don'ts During Your Medical Care

If you or a loved one has been injured in a wreck, the following tips can help ensure that you get better as quickly as possible:

Do:

- **Follow through with all medical appointments and tests, such as CT scans and MRIs, and attend all your physical therapy sessions.** Missed appointments and unexplained gaps in your treatment will reduce the value of your case and hurt your claim.
- **Be honest about your current and past medical conditions at all times.** For example, it is better for the attorney representing you to know now about the back injury you suffered in an accident four years ago than to be confronted with it at trial without warning. A defense attorney, representing the at-fault driver, can seriously damage your credibility in front of a jury if prior injuries are hidden or if you exaggerate your current symptoms.
- **Keep a journal of your medical condition and treatment in a school notebook or daily calendar.** Details win cases, and your journal over time can yield specific facts about your injuries and medical care that will help an attorney win the day at trial or in negotiations.

Don't:

- **Don't try to "tough it out."** You must get the medical treatment necessary to heal your body and help you recover from your injuries.
- **Don't rush your recovery.** We have seen too many cases in which clients push too fast to complete their medical care. What can happen then is that their injury doesn't fully heal, or a serious medical problem related to the wreck is not discovered until months afterward. A lingering medical problem left untreated, or a new diagnosis late in the game, can be used against you by an insurance company.
- **Don't sugarcoat your treatment progress during medical appointments.** People want to please their doctors or therapists and often make their medical condition sound better than it is. Statements like, "I'm feeling great today, Doc!" in an effort to express a

positive attitude can be used by the insurance company to argue that you were not really that injured.

- **Don't skip an appointment because you can't pay.** Ask your healthcare provider to consider working with you on a payment plan. Doctors and therapists understand you may not be able to pay the bill in full when you have been hurt in a wreck. They may agree to hold the bill until your case is resolved.

Always remember that the No. 1 goal of an accident victim should be to get the medical treatment needed to return to a normal life. Doing this can also help you be fully compensated for your losses after a wreck.

Mistake #3: Failing to Document Your Claim

What we collect when representing personal injury clients

Obtaining fair compensation in your injury case requires a significant amount of work and preparation. A key mistake that injury victims make in trying to handle cases on their own is failing to thoroughly document their claims. As far as the insurance company is concerned, "If it isn't written down, it didn't happen."

Here are the documents, information, and other evidence we collect when representing personal injury clients:

Crash Report

Under Virginia law, a law enforcement officer who investigates a vehicle accident must file a crash report with the Department of Motor Vehicles when a person is injured or killed, or property damage is $3,000 or more. We request a copy of the crash report and all associated diagrams, notes, and photographs, as soon as a file is opened. Although the report and diagram are inadmissible at trial, they contain vital information that helps in our preparation for settlement negotiations or trial.

Insurance Information

The "value" of a case, or how much money you can receive in a settlement or trial, is usually determined by how much insurance coverage is available. Our first job is to obtain the "declarations page" of your insurance policy to see if you have uninsured/underinsured motorist coverage. If you do, we determine how much is available to you. Your policy may also have "medical payments coverage." We will talk more about the types of insurance coverage that may be available to you in Chapter 4.

It's also helpful for our firm to find out how much insurance coverage the defendant driver has on his policy. Fortunately, Virginia law gives us the authority to obtain the other driver's insurance information if your medical bills and lost wages are $12,500 or more. If your medical bills and lost wages aren't that high, we can obtain the insurance information for the other driver if we file a lawsuit.

Witness Statements

Witnesses can be crucial to the success of your case, and it's important to gather witness information while memories are fresh. Helpful witnesses include you, your passengers, witnesses identified in the crash report or law enforcement files, names from the investigating officer's notes, and family and friends familiar with your injuries and recovery. If needed, our law firm will hire an investigator to track down vital witnesses and report the information they provide.

Visual of the Accident Scene

In certain cases, we need to visit the accident scene as early as possible to determine all the physical factors that may have affected the collision, including sight lines, topography, relevant street signs or absence of signs, speed limits, traffic signals, weather conditions, and other factors. It is often helpful to visit the scene with our client to better understand how the collision occurred.

Photos of the Accident Scene

Photographs are critical to telling the story of the car crash. It is important to take photos of the crash scene from all angles and include shots of skid marks, damage to the roadway, and signs or foliage. The accident report will often include helpful photographs taken by the investigating officer.

Photos of the Vehicles

Photos of the vehicles involved in the accident are often vital in explaining the cause of the accident, the speed of the vehicles, and the force of the impact of the crash. Paint marks and dents provide clues to each vehicle's direction of travel and the points of impact during the collision.

Photos of Medical Treatment and Injuries

"A picture is worth a thousand words"—that's a fact. A medical expert or ER doctor can testify for an hour about your treatment and medical condition following the wreck. However, photos of heavy bruising on your chest and neck from the seat belt, a laceration on your knee, and stitches closing the wound on your arm have far more impact on a judge and jury at a trial than two hours of dry testimony.

We collect any photos our client has taken of her injuries and medical treatment, and if necessary, we request permission to take additional photos of scars, abrasions, bruising, braces, casts, and other representations of the injuries suffered by our client.

Medical Records and Bills

Medical records and medical bills are the primary evidence of our clients' injuries and costs in an automobile negligence case. We work with our clients to identify all known medical providers, which could include ambulance services; emergency room staff or diagnostic

providers (X-rays, CT scans, MRI); our client's primary care physician; specialists such as orthopedic surgeons, plastic surgeons, and neurologists; and physical therapists.

Injury victims are entitled to recover the full cost of their treatment in a personal injury case, even if their health insurance covered part of their costs. As a result, our firm requests records with the total billing amount for the medical treatment received by our clients.

Lost Wage Records

Car wreck injuries often result in hospitalization and lengthy absences from work. Even a few days of missed work can have a major financial impact on you and your family, particularly if you have no paid sick leave at your workplace. You don't deserve to lose money from your job due to the negligence of another driver. With your help, we will collect your pay stubs and sick leave records to establish your lost wages and ensure that you are fully reimbursed for the money you lost.

Media Reports and Photographs

If a car accident was reported by the media, we print a copy of the articles and photographs and collect any video coverage from news and TV websites. Media reports may contain leads for additional witnesses to the collision, reveal additional evidence about the accident scene, and help us identify other potential defendants and sources of insurance coverage.

Weather Reports

If weather conditions are at issue in your case, we obtain relevant records from the National Weather Service. Rain, snow, ice, sun glare, or fog may have had a significant impact on your accident; so it's helpful to obtain official reports on the weather conditions at the time of your wreck.

Other Agency Reports

In certain personal injury cases, other government agencies may also have investigated the accident. We determine whether any agency, from the Federal Motor Carrier Safety Administration or National Transportation Safety Board to OSHA (Occupational Safety and Health Administration), is involved, and we obtain a copy of their reports.

Law Enforcement Records

In addition to the crash report, other law enforcement and government reports may be related to a personal injury case. We request all relevant official documents that may apply to your case, whether an autopsy report from the medical examiner, toxicology results from the Virginia Department of Forensic Science, hospital records, blood alcohol testing, or more.

Court Records

In most cases we handle, the negligent driver is issued a traffic ticket. In some cases, he is charged with a criminal offense for causing the wreck that injured you. If the negligent driver pleads guilty or nolo contendere (no contest) to the traffic ticket or criminal offense (such as

driving under the influence—DUI), this plea is admissible as evidence of negligence in a personal injury civil trial. We request a certified copy of the court order reflecting such a plea to use in negotiations and, if necessary, at trial.

In some cases, the driver who caused the accident and your injuries has a prior criminal record that would affect her credibility at trial. Prior convictions involving lying, cheating, or stealing can be introduced at trial to damage the credibility of the other driver, and we obtain certified copies of the other driver's convictions for use in negotiation and trial.

In summary, there are numerous documents, information, and other evidence that can help us represent personal injury clients to their fullest advantage, and we don't rest until we have collected all of it.

Mistake #4: Not Maximizing Available Insurance Coverage

Understand the different types of insurance coverage

It's heartbreaking for us to see injured people come into our office after a car wreck who are drowning in medical bills, who have missed too much time at work and are burning through sick and vacation leave, and who are being harassed by collection calls for unpaid bills. We search for every source of insurance coverage we can find to help our clients through this tough time.

Without our specialized knowledge of the insurance industry and the laws relating to insurance coverage, many people who try to handle their auto claims on their own make the mistake of leaving insurance money on the table. They don't maximize all the coverage available to them. In some very sad cases, our client or the at-fault driver simply doesn't have enough insurance to pay all the bills piling up and for the medical treatment that our client needs.

To ensure that you receive the most compensation possible for your case, it's helpful to understand the different types of insurance coverage available to you:

Liability Insurance

Liability insurance provides coverage if you are "at fault" in causing a car accident that results in property damage or injuries to the occupants of another vehicle or pedestrian.

When we analyze what insurance coverage is available for our client, who is not at fault for the accident, we always start with the vehicle that the at-fault driver was using at the time of the crash. We check if the other driver has liability insurance to cover our client's injuries. If the driver who is at fault does not have his own liability insurance, but was driving someone else's vehicle at the time of the accident, we next determine if he had permission from the owner of that vehicle. If the at-fault driver had permission to use the other vehicle, we can seek compensation from the owner's liability insurance coverage.

If there is enough liability coverage to pay our client's full claim, then that's the end of the hunt for coverage. However, if there isn't enough liability coverage on the vehicle that the defendant

was operating to cover our client's medical bills, lost wages, pain and suffering, and other damages, then we look for other liability coverage.

The first place that we look for excess liability coverage is the defendant's own car, if the defendant was driving someone else's car. For example, if a son was driving his mother's car at the time of the accident, the primary insurance would be the liability insurance his mother had on the vehicle. If the son also had his own separate automobile insurance coverage on his own car, then that coverage on his car may be available as excess liability coverage. An "umbrella" insurance policy is another source of excess liability insurance, but this type of coverage is not common.

Uninsured Motorist Coverage

You might be surprised to learn that many drivers on the road today have absolutely no insurance coverage whatsoever. What happens when a driver with no insurance coverage rear-ends the car you're driving, and you're injured?

If the driver who hit you has no insurance, we check your insurance policy for uninsured motorist coverage. Uninsured motorist coverage or "UM" pays you for your injuries and other losses if you are in an accident with an uninsured driver.

UM may apply in several situations. Sometimes it will turn out that the negligent driver did not have any automobile liability coverage at all. Other times, the negligent driver may have voided her coverage by failing to cooperate with the insurer.

UM may also apply in what is called a "John Doe" case where a hit-and-run occurs, and the driver who flees the scene cannot be identified. He is therefore called a "John Doe" driver.

Finally, in some accidents, the driver who caused the accident is a government employee who has "sovereign immunity" from liability. In a case where the at-fault driver is immune from liability, UM may provide coverage for our client. In all these circumstances, the uninsured motorist coverage on our client's own policy acts as if the at-fault driver had an insurance policy of her own.

There is a Virginia law that provides a huge opportunity to increase the amount of insurance coverage available to a victim in a car accident by permitting the "stacking" of insurance coverage. If you imagine stacks of bundled cash, one on top of the other, it will help you understand how stacking works.

For example, you may have uninsured motorist insurance coverage up to $50,000. Your $50K in coverage is the first stack of money available to you. Suppose that the driver who caused the accident has no insurance, and your medical bills and lost wages are $60,000. You're worried that your settlement won't even pay for all your bills and expenses. Fortunately, the law permitting "stacking" of insurance coverage can be a lifesaver.

If you live with a family member who has a separate automobile insurance policy, it may be possible to "stack" her UM on top of your UM. Example: if your elderly mother lives in your house and has a separate auto insurance policy with UM coverage of $100,000, you can stack her $100,000 of UM coverage on top of your $50,000 of UM coverage for a total coverage of $150,000.

If you were driving your best friend's car when the wreck happened, and she has $50,000 in UM coverage, you can stack your $50,000 of UM coverage on top of your friend's $50,000 UM coverage, for total UM coverage of $100,000. You can still stack your mother's $100,000 of UM for a total coverage amount of $200,000. As you can see, "stacking" UM coverage can be a huge benefit to our injured clients. However, the process can be complicated and requires a careful reading of the law and a review of all the relevant insurance policies to confirm the correct amount of total coverage.

Sometimes our clients or their family members are reluctant to allow a claim to be made under their uninsured motorist policies for fear that it will have some negative effect on their insurance rates. Be assured that, by law in Virginia, an insurance company is not allowed to raise insurance rates for an accident that was not the insured person's fault.

Underinsured Motorist Coverage

Underinsured motorist coverage (UIM) can be a great benefit to an injured person when the driver who caused the accident doesn't have enough liability insurance to cover the injured person's medical bills, lost wages, and other losses.

For example, a high school student is seriously injured when a pickup truck runs a red light and crashes into her compact car. The student has two surgeries as a result of the wreck, and her medical bills alone are more than $65,000. Unfortunately, the driver of the pickup truck was carrying the minimum level of liability coverage in Virginia, $50,000—an amount that can't possibly cover all the damages suffered by the student.

Fortunately, the student's parents thought ahead and paid for underinsured motorist coverage of $300,000 as part of their auto insurance policy. With this additional coverage available, the student can settle her claim with the pickup driver's insurance company for $50,000 and can then seek compensation from her UIM policy to cover her remaining damages.

We hope this scenario will drive home the point that you should purchase as much uninsured and underinsured motorist coverage as you can possibly afford. Doing so will protect you if the driver who causes an accident in which you're injured has no insurance or minimal coverage that won't cover your medical bills, time lost from work, and other losses. And usually, the cost of increasing your UIM is minimal.

Medical Payments Coverage ("Med Pay")

Medical payments coverage or "med pay" is a great type of insurance that is often overlooked. In Virginia, med pay is an optional coverage on your auto insurance policy that will pay you, dollar for dollar, direct reimbursement of your medical bills. Because med pay is such a good deal for the consumer and not as good of a deal for the insurer, many companies don't try too hard to sell it to their customers. On top of that, med pay is inexpensive to purchase.

Often, our clients won't even know if they have med pay on their insurance policies, but it is one of the first things we look for when reviewing a client's insurance. Med pay is typically sold in increments of $2,000, $5,000, or $10,000. In Virginia, you get to "stack" the med pay limits for each vehicle on a given policy. If our client has two cars on his State Farm family auto policy, with med pay limits of $5,000, there is actually $10,000 available in med pay coverage.

Med pay requires the insurance company to pay up to the available coverage limits for "reasonable medical bills incurred for necessary treatment" as the result of an injury suffered by the insured in his vehicle, or when he is an occupant in someone else's vehicle. It also covers passengers hurt in the insured's vehicle.

It's important to note that med pay is paid even if the accident is your fault. It's only necessary to show that the medical bills and treatment were reasonable and resulted from a car accident. Proof of another driver's negligence is not needed.

As a service to our clients, our firm helps collect their medical records and bills and submits requests for med pay reimbursement to their insurance companies. This process can be a huge hassle for clients; so, we welcome the opportunity to help our clients collect this money. And we take no fee for collecting med pay funds payable to our clients.

A common question we receive about med pay is, "Does the other driver's insurance company get to reduce my settlement by the amount I receive in med pay?" The simple answer is "no." You paid your insurance company a premium for your med pay coverage, and you get the full benefit of the premium you paid. The driver who caused your wreck doesn't get a bonus or offset your settlement just because you thought ahead and paid for this very important coverage.

Collision Coverage/Property Damage Claim

Collision coverage helps pay for repair or replacement if a driver's car crashes into an object or another car, or if it is rolled over. Collision coverage is designed to fix or replace your car after a collision.

Virginia requires insurance companies to pay for a comparable rental car during the time that their client's car is being repaired, as well as during the time it takes them to provide the client with an offer for the total loss of his car. Many car insurance companies assign one claims adjuster to handle the personal/bodily injury claim, and a different claims adjuster to deal with the car damage/property damage/total loss of a vehicle.

First, if your vehicle is a total loss, you should check the J.D. Power value (formerly NADA Guides) to determine, at the month and year that your damage occurred, the retail value of your vehicle with its mileage, options, and accessories. Virginia law accepts NADA as a source of a car's retail value for the purposes of a property claim. A second source is www.Edmunds.com, which is another site that allows our clients to enter the appropriate data to assess value. Note that the insurance company must pay the retail value, not the trade-in or wholesale value.

Rental Car Coverage

During the time car repairs are underway, car insurance claims adjusters must arrange to provide a comparable rental car for you. Although you may have rental car reimbursement on your own policy, it generally does not need to be used. Virginia law requires that the insurance company for the driver who caused the damage pay for you to have a comparable rental car.

It is an added benefit to have rental car reimbursement on your own policy if the other insurance company is dragging its feet or delaying a decision on paying for your rental car. We

often tell our clients to go ahead and get the rental car using their own insurance if they need a car right away; and then several days later, if the other insurance company recognizes it has a duty to pay you, it can simply take over the bill for the rental car that you have.

It's important to know and search for every source of insurance coverage if you or a loved one has been hurt in a wreck—to help you get through a tough time. We get great satisfaction from helping our clients get every dollar they are entitled to receive from all available types of insurance.

Mistake #5: Ruining Your Case on Social Media

One ill-advised photo or post can destroy your case

One ill-advised photo or post on Facebook, or on another social media site like Instagram or X, can destroy your personal injury case. Whatever you post goes online, and insurance companies hire investigators to scour the Internet to dig up whatever information they can to damage your case. Even if the insurance adjuster or investigator doesn't examine your Facebook or other social media, an attorney for the at-fault driver can request that you provide information from your social media websites if your case goes to court.

Greatly reduce your use of social media, or stay off of it altogether while your case is pending. Do not post any photos or words about your accident. Even photos or posts that seem harmless to you could be used to suggest to a jury that you were not injured or that you are exaggerating your injuries.

Why do insurance adjusters and investigators poke around on your social media sites? Because odds are that you have one or more accounts on which you are regularly posting photos and videos, not to mention what you had last night for dinner at the new restaurant in town.

Consider that a 2025 survey found that 84 percent of U.S. adults use YouTube, 71 percent use Facebook, 50 percent use Instagram, 37 percent use TikTok, and 21 percent use X (formerly Twitter). [Source – Pew Research Center, 2025] So, chances are that if insurance adjusters do some simple checking, they can uncover a great deal of personal information about you, which you may have believed you were sharing only with "friends."

Here are some "dos and don'ts" when it comes to social media:

Do:

- **Stop using social media sites while your case is pending.**
- **Be as private as possible.** If you can't break away from social media altogether, make sure your sites have the highest privacy settings possible.
- **Be cautious about what you post.** Insurance adjusters, investigators, and other attorneys still may be able to read your posts and see your photos.

Don't:

- **Don't post anything about your accident.** A statement like, "I've got to be more careful out there on the road," could be interpreted as admitting you were at fault in your wreck.
- **Don't post anything about your medical condition.** It's natural to put our best foot forward and try to keep a positive attitude. However, a post like, "Feeling better today," could be used to undercut your injury claim. You may be feeling better because you just got your stitches out, or your cast was finally taken off, or you are on heavy pain medication.
- **Don't post your location.** Posting that you're having fun at the bowling alley doesn't tell the full story: that your leg was propped up on a pillow while you attended your grandson's birthday party at that location. But that doesn't matter to an adjuster.
- **Don't be too "friendly."** Only accept friend requests from people you are confident that you know. Insurance investigators may use fake social media identities to friend you and gain more access to your life.
- **Don't delete your social media websites.** Deleting your accounts opens you up to a claim of "spoliation," which is the legal term for destroying evidence.

In a world in which social media is the norm, you need to know the right precautions to take following a wreck. Otherwise, what seems like the innocent sharing of your life's news could be the downfall of your personal injury claim.

Mistake #6: Settling for Less than You Deserve

How do you determine how much your case is worth?

Settling for too little money is perhaps the easiest mistake to make out of all the mistakes we have shared. Why? Because it's difficult to get a clear picture of how much you should be paid after you suffer injuries in a car accident.

It's much easier to tell ourselves to take the money and be done—particularly when our lives are busy and demanding and we are frustrated by how long the insurance process is taking.

Let's talk about money. People are uncomfortable talking about money. We understand their discomfort. After talking with hundreds of folks injured in accidents, we'll tell you some of the most common statements we hear: "I don't want to look greedy." "This case is not about money to me." "I'm not the type of person who files lawsuits or sues people."

These are all valid points, but in our system of justice in the United States, the only way an injured party can be "made whole" is through the payment of money. An apology will not pay your medical bills. A jail sentence and driver's license suspension are rarely options, unless the accident is extremely serious, or the other driver has an awful driving record.

That leaves us with money, and the two ways an injured person is paid money are either through a settlement negotiated with the insurance company or attorney for the at-fault driver, or through a trial in court.

Since money is the primary way injury victims can get justice following a car wreck, how do you determine how much your case is worth? Virginia law provides our guide. In a civil lawsuit, the injured party, called the "plaintiff," may recover money from the at-fault driver, called the "defendant." The types of losses a plaintiff may recover in a lawsuit or through a settlement are called "damages."

Virginia law permits injured parties to recover the following damages:

Bodily Injury

Bodily injury is the cornerstone of personal injury damages because it has the greatest effect on the person hurt in the wreck—and is most easily understood by a jury. Common wreck-related injuries include back and neck strain, cuts, bruising, and broken bones. In more serious cases, permanent injuries include paralysis, brain injuries, and sadly, in some severe wrecks, death. The battleground in a personal injury case, fought between lawyers and the insurance industry, covers lots of terrain.

Here are some key questions we need to answer when determining the extent of bodily injury damages:

1. Was the injured person transported to the emergency room?

2. What testing and treatment did doctors provide at the ER?

3. Did doctors prescribe medication, and did the injured person fill the prescription?

4. Is this a minor impact collision with soft tissue injuries (muscle strain, bruising), called a "MIST" case?

5. Did the injured person require extended hospitalization or surgery?

6. Did the injured person require in-home healthcare, specialized medical equipment, or physical therapy?

And here are challenges when proving the extent of bodily injury:

1. The injured person has a preexisting medical problem in the same area where she suffered injury during the wreck.

2. The injured person was receiving "maintenance care" before the wreck, such as regular visits to a chiropractor, pain management specialist, or physical therapist.

3. The injured person exaggerates the extent of his injuries or is dishonest with medical professionals. Information found on social media or through insurance investigators can reveal these falsehoods.

4. The injured person fails to follow his doctor's orders, and has significant "gaps in treatment" due to missed appointments.

5. The injured person tried to "tough it out" and cut off treatment early, only to have a serious medical issue related to the wreck that was discovered months after the initial treatment ended.

Pain and Suffering

The insurance industry has done an excellent job of causing people to believe that the phrase, "pain and suffering," is a way that greedy car accident victims line their pockets dishonestly.

If you're reading this book and have been injured in a wreck, you know that pain and suffering are the real results of the traumatic impact of cars colliding on the roadway. It might be the back strain that locked down on you like a vise the day after the accident and hasn't let up since. Or it could be the shooting pain you felt in your right shoulder for weeks after the accident and the six months of painful recovery after surgery to repair your torn rotator cuff. You know that pain is real, and you wouldn't have had to endure it if the other driver had kept a proper eye on the road and not run into the back of your car.

The pain and suffering you have experienced because of a negligent driver also has a real and profound impact on your daily life, and our law firm works hard to make sure the other side knows what you have been through, and understands why you deserve compensation.

Disfigurement or Deformity

In a serious wreck, a victim may suffer extensive lacerations that leave permanent scars, or have emergency surgery that requires stitching or stapling to close the surgical site, which can also result in scarring. If the scars are on the injured person's face, or on areas exposed in the warmer months, it may be unsightly and embarrassing.

Traumatic and life-altering injuries, such as the loss of a finger, toe, arm, or leg, also qualify as disfiguring permanent injuries.

Embarrassment over scars and the serious visual and functional effects of the loss of a body part are a significant component when calculating damages in a personal injury case. Having medical records, photographs of the injuries, and information about the injuries' impact on our client is key in proving disfigurement and deformity damages.

Medical Expenses

Although it's difficult to put a price on "pain and suffering," the total in medical bills accumulated by an injury victim gives us the clearest and most concrete number in calculating an injury victim's total damages.

Medical bills pile up quickly following a serious accident, and our law firm's job is to identify every medical professional our client has seen for treatment and request copies of all records and all bills related to the visits. In serious injury cases, the records alone can fill multiple boxes and come from many sources.

Looking at a case chronologically, we often see records and bills from the following types of medical professionals: emergency rescue personnel who transported our client to the hospital; helicopter transport if our client was flown to the hospital; emergency room personnel; emergency room testing specialists who conducted X-rays, CT scans, or an MRI; primary care physicians; physical therapists; orthopedic doctors; neurologists; chiropractors; and other medical specialists.

In addition to these medical providers, expenses for prescription drugs, medical devices (crutches, walker, wheelchair), and in-home healthcare are also common in personal injury cases.

Once we have compiled all of our client's medical bills and medical records, we painstakingly review the documents to better understand the nature of our client's injuries and treatment, and to help us respond to arguments made by insurance adjusters and attorneys trying to weaken our client's case.

Fortunately, medical records and bills are prepared by objective medical professionals, and they provide us with outstanding evidence in proving damages. It's one thing for our client to tell us that she was in severe pain following her accident and that her shoulder hurt terribly. It's another thing when we can point the insurance adjuster or attorney to medical records stating that our client reported pain in the ER of a "10" on a 1-to-10-point pain scale, and that a subsequent MRI revealed a rotator cuff tear to her shoulder.

Inconvenience

Inconvenience damages are often overlooked and undervalued by insurance adjusters and attorneys. However, when presented effectively, the major inconveniences that injury victims experience can be a powerful component of damages, and a persuasive argument to a jury, most of whom can easily relate to these terrible hassles.

Think about the inconveniences that flow from an auto accident that results in injuries: let's take the example of "Megan." Megan was driving her Honda minivan to pick up her two children from their elementary school when a reckless driver blew through a stop sign a few blocks from the school and "T-boned" the side of Megan's vehicle.

Although her knee was bleeding from slamming into the dashboard, and her back and neck were aching in pain, Megan frantically called the school to let them know what happened and then called her husband to come from work to pick up the kids. The inconveniences continued for Megan with an eight-hour stay at the ER, many follow-up appointments with her doctor, and months of physical therapy appointments which disrupted her schedule. Not to mention the pain she was experiencing.

Megan seemed to live on the phone, waiting out long hold times to speak with her insurance office and the other driver's insurance company. Getting a rental car and dealing with her property claim to replace her minivan took another dozen calls and a few trips to the local rental car business. On and on, the inconvenience of all these calls, appointments, and trips wore Megan down. And none of this inconvenience and drudgery would have happened had the other driver just followed the rules of the road and stopped at the stop sign.

Without a doubt, the real time and money costs of the inconveniences and disruptions to Megan's daily life were a significant part of the overall damages she suffered due to another driver's negligence.

Lost Earnings

A serious auto accident injury can keep you out of work for weeks and sometimes months. Without enough sick leave or disability insurance, a serious injury can put your family in severe financial distress quickly. Some victims even lose their jobs if they can't get back to work fast enough.

Our law firm works diligently to collect employment records and pay stub information. Fortunately, most employers keep detailed records of employee pay and benefits, and those pay stubs and tax returns help us prove a clear amount of lost earnings to the insurance adjuster or other attorney.

Future Lost Earnings

Some injuries are so severe that the victim is never able to return to work, or is unable to perform the same type of job he held before the wreck. In that case, it is often necessary to seek the help of medical and occupational experts to confirm that the injury victim is permanently disabled, or that he is restricted from resuming his former work duties and must find alternative (and often lower-paying) employment.

Property Damage

The repair or replacement of your wrecked or totaled vehicle is another component of damages in a personal injury case. Generally, the insurance company for the at-fault driver assigns one adjuster to the bodily injury part of a case, and another adjuster to deal strictly with the property damage claim.

It's okay to move ahead and settle your property damage claim before your bodily injury claim. After all, you're going to need transportation to carry on with your daily life and attend medical appointments to help you recover.

As discussed in Chapter 4, it is important to do your homework and not just blindly accept what the insurance company offers to replace your vehicle if it is a total loss. Check out the J.D. Power (formerly NADA), Kelley Blue Book, and Edmunds websites to get an idea of the fair market value of your car. Don't be afraid to negotiate with the property claim adjuster; our firm is willing to help you if negotiations break down.

One aspect of a property damage claim that most people don't know about is that you may be compensated for property that is damaged within your vehicle.

We know that "Fluffy" is a member of your family and your best friend, but under the law, Fluffy is considered personal property. If your pet is injured during an accident and requires veterinary care, we can seek compensation for that.

Property damage might also include valuable personal property you were transporting that was damaged or destroyed in a wreck. Such property might include expensive housewares, artwork, musical instruments, tools and equipment, firearms, or similar items.

Punitive Damages

Punitive damages are used to "punish" a defendant who has engaged in egregious conduct—these are designed to deter the defendant and others from engaging in similar conduct again. Punitive damages are available only when the wrongdoer's conduct is intentional or "willful or wanton." Virginia law imposes a cap of $350,000 on punitive damages.

"Drunk driving" is the most common type of personal injury case in which punitive damages may apply. Virginia law permits an award of punitive damages in a DUI case when: the drunk driver had a blood alcohol concentration of .15 or higher; the driver knew he was going to drive when he was drinking alcohol; and the driver's intoxication caused the accident. Understandably, insurance companies take drunk driving cases very seriously because they are aware of the risks of putting this issue before jurors, who are well informed about the dangers of drunk driving.

Because money is the primary way that injury victims can get justice following a wreck, it's important that we consider every factor in determining how much your case is worth.

Mistake #7: Failing to Hire a Lawyer

Six questions to help you decide if you need one

At our law firm, we are honored to represent many good people in our community who come from all walks of life and from many different lines of work. From the stay-at-home mom, the construction worker, the teacher, the mechanic, to the member of the military, the waterman, and the farmer, we respect the work our clients do and the expertise they have. We don't have the training to build an office building, teach chemistry to high school students, or make complex repairs to your SUV. Our area of expertise is the law, and our specialty is representing people who have been injured.

You may be surprised to learn that we believe there are car wreck cases you can handle on your own. We don't want to take money out of your pocket if you're in a minor accident with minimal injuries, and you can easily deal with the insurance companies.

Answering these six simple questions can help you decide if you should call a lawyer:

- **Do you have expected medical bills and lost wages of $2,000 or more?** While insurance companies may help with some expenses, they are businesses seeking to spend as little as possible. If you have large bills that are affecting your current lifestyle and your future success, you may need more help.
- **Is there visible damage to your vehicle?** Minor "fender-benders" can result in little actual damage to your car. In these instances, you may not have to deal with many insurance hassles. But when there's major damage to your car, you may have grounds for a larger insurance claim.
- **Was the accident someone else's fault?** When someone else was at fault for what happened, it's important to make sure that person (or his insurance company) pays for

the damages appropriately. Keep in mind that you may not be able to answer this question by yourself. Depending on the accident, there may be factors you do not know about, such as the behavior of the other driver before the collision.

- **Did you get immediate medical treatment?** Always get medical treatment promptly to take care of yourself, and also for legal reasons. If you delay treatment for even a week, then insurance companies or other lawyers could argue later that those injuries occurred later, rather than as a result of the collision.
- **After treatment, have you followed your doctor's instructions?** Not following your doctor's treatment plan can have negative consequences on your physical recovery, and affect any insurance claims or lawsuits you may file. Additional medical costs incurred because you further injured yourself are not likely to be covered. If you fail to listen to your doctor, it can be used against you.
- **Did the accident happen within the last 24 months?** There's a timeline when filing an insurance claim or lawsuit in Virginia. It's important to act immediately after any accident, not only to preserve evidence, but also to meet the deadlines. Calling a lawyer right away can help ensure your rights are protected and prevent you from unknowingly signing away options for additional damages.

Why Hire a Lawyer?

If you answered "yes" to most of the questions above, you should give serious thought to hiring an experienced injury lawyer, such as the lawyers at GibsonSingleton Virginia Injury Attorneys. Here's why:

No Upfront Fees or Costs to You

We do not charge you any fee to meet with us to discuss your case, and we do not require you to pay any money up front to hire us or pay for any costs related to your case. We are only paid if we recover money for you. Our "no fee" guarantee gives you the peace of mind that you will not have to bear a greater financial burden just to have an experienced accident lawyer help with your case.

You Can Focus on Getting Better

Multiple phone calls back and forth with insurance companies? Waiting on hold listening to elevator music? Dealing with the repair shop and rental car companies? Haggling over the payout for your car that was totaled? All these inconveniences keep you from focusing on your No. 1 job—getting better. When you hire a lawyer to help you with your case, we deal with the insurance companies directly. We stop the phone calls, so you can focus on your medical treatment and recovering from your injuries.

We Do the Legwork

In Chapter 3, we talked about the importance of documenting your claim to achieve the best possible result in your case. As your legal counsel, we take that burden off you and do the legwork for you. We request the important information we need in order to help you, such as

the police crash report, your medical records and bills, and insurance coverage information. You can trust that we will thoroughly search for, obtain, and organize all the necessary information to help you get the best result possible.

We Are Trained Negotiators

Injury victims who are represented by lawyers receive 40 percent larger settlements than injury victims who attempt to handle their claims on their own, according to a study by the Insurance Research Council. Because we handle injury cases every day and we have specialized training in negotiation, we are prepared to handle the arguments and tactics used by insurance company adjusters and opposing lawyers.

We Know the Rules of the Game

Have you ever tried a new sport, or been asked to play a board game with your kids that you've never played before? If so, you know how frustrating it can be to struggle to learn the ins and outs while watching others play the sport or the game with ease. It's not fair because you're trying to compete with experienced, expert players while you're just learning the rules and the skills for the first time.

Personal injury claims involve extensive laws that a lawyer must know to effectively represent his client. For someone not experienced with the legal system (and personal injury law in particular), the process can be bewildering, confusing, and frustrating. We know the rules of the game, and we play to win.

We Are Experienced Trial Lawyers

Although most personal injury cases settle at some point before trial, other cases end up before a jury because the insurance company refuses to offer a fair settlement amount. When that happens, you need experienced trial lawyers on your side who have the skills to effectively present your case to a jury. Ken and John have 64 years of combined legal experience, including abundant trial experience. If and when your case must go to trial, we are prepared to fight for you to get the best result possible.

The decision to hire a lawyer after you or a loved one has been in a wreck is not easy. We hope that the questions and factors we've given you to consider have helped make your decision easier. But if you still have questions, don't hesitate to call us for a free meeting. There is no cost or obligation to you. We will tell you honestly if we can help you, or if we believe you would be better off handling your case yourself. Sadly, with bad crashes happening regularly in our area, we do not need to take cases in which we can't significantly help the person and her family.

In short, if you have been in a wreck, we don't have to tell you how frustrating all that happens afterward is. What we can tell you is this: don't make your situation—and your future—even worse by not taking the time to find out your options and make the best possible decisions.

We hope that this book helps YOU avoid the most common mistakes that most people make after being in a wreck. But again, if you still have questions, call us for a free meeting. There is no charge to meet with us and to get more information and answers.

When a serious accident happens, **GibsonSingleton Virginia Injury Attorneys** consider it a calling to help.

Nothing gives us greater satisfaction than to use our experience to help our neighbors. If you or a loved one has been injured in a wreck, we stand ready to help you.

About GibsonSingleton

GibsonSingleton Virginia Injury Attorneys serves our community, and we care about our neighbors. We share safety information to help prevent accidents. But, when a serious accident does happen, we consider it a calling to help those who are hurt. If you or a loved one has been injured, we want to help you recover your losses and make sure that your future expenses are paid for too.

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