

In This Guide

What To Do If You're in A Car Accident



Accidents happen and they can be incredibly jarring as you rarely expect them when they do happen. This guide exists as a reference to take some of the stress out of such a situation by providing a step by step guide as to what actions you should take. Instead of concentrating on what to do or how to act after an accident you can follow the advice of this guide and instead focus your energy on your passengers' and your own mental and physical health.

Step 1 Seek Medical Treatment

The most important interest that you have following a car accident is not your or the other driver's car. Instead, the most important interest you have is watching out for your own health and potential injuries. It is for this reason that immediately following an accident the most important action for you to take is to seek emergency medical treatment for yourself or your passengers if necessary by calling 911.

It is incredibly important to immediately call 911 and seek medical treatment for multiple reasons. First, there are many injuries that if they are not addressed immediately then they could have significant long term ramifications. Second, if you do not seek immediate treatment then there is also a possible risk that your or the other driver's insurance company will deny any claim that you make for injuries on the ground that you did not suffer the injury as a result of the accident. It is for this reason too that you should get a medical evaluation as soon as practicable after an accident even if you do not need emergency medical treatment and also that when you are discussing your injuries with a physician that you inform the physician of all of the parts of your body in which you are experiencing pain and not just the parts which the accident most significantly injured. Smaller pains can linger for an incredibly long period of time and become more significant in the future so it is important to document them immediately.

Seeking treatment is the most important first priority after a car accident but it is equally important that you follow through with whatever treatment your medical provider suggests. If you follow the treatment plans then you have a better chance of full recovery and it will indicate to insurance companies or a jury that you are still in pain and still worthy of compensation.

Money can often replace a car or other property but bodily injury and pain can dramatically change the quality of your life forever without any chance for a change. It is for this reason that your immediate concern after a car accident should be the health of you and that of your passengers.

<p>Step 2 File a Police Report</p>	<p>You might not think a police report is necessary but it is extremely valuable to have a written record from a neutral third party to support any claim that you might make in the future. A police report is a great way to get such a report since the neutrality of a police officer is rarely in question and it is the duty of a police officer to document the circumstances of an accident as accurately as they can. It is important that you are as responsive and accurate as possible when answering a police officer's questions as any dishonest response can have significant repercussions if they come out later before a jury or insurance company. This being said, you should never admit fault. If the police officer asks you who was at fault in the accident just repeat exactly what happened without stating any conclusion.</p>
<p>Step 3 Take Photos of the Accident and Surroundings</p>	<p>If your cell phone does not have a camera feature then you should always keep a camera in your car. You should take as many pictures as possible to capture everything about the accident scene. This includes pictures of multiple angles of your car and the damage to your car, multiple angles of the other cars included and the other damage to the other cars, the people who were driving the other cars involved and their passengers, and the license plates of the other cars. Additionally, it is very important to get pictures of the surrounding conditions such as pictures of the road including any skid marks, any property that might have been affected by the accident, witnesses to the accident, road conditions, and nearby street signs. The more photographic information that you can capture the easier it will be in the future for you to prove any claims.</p>
<p>Step 4 Write as Much Information as Possible at the Scene of the Accident</p>	<p>Just as you should keep a camera in your car if you do not have the ability to take pictures with your phone, you should also always keep a writing implement and paper in your car if your phone does not have a note feature. It is important that you immediately write down the full names of all of the other people involved in the car accident and indicate which people were drivers and which were passengers. For each driver, you should gather their driver's license number, insurance information including the name of their insurance company, the phone number and address for the insurance company, and any policy information that you can get. You should also write down the make, model numbers, VIN numbers, and license plate numbers of all vehicles involved.</p> <p>One note that you should head when talking to the other drivers is that you should never discuss blame with the other drivers even if they were clearly at fault. The last thing you need after an accident is to be involved in a heated argument or in a physical altercation. Additionally, there is rarely anything productive that can result from a discussion of fault immediately after an accident. This being said, if the other driver admits that they caused the accident then when you have a chance you should write down exactly what they said in their admission. It can be hard to avoid</p>

apologizing if you feel you were at fault but it is very important that until you have some distance from the accident and the chance to evaluate the scenario either on your own or with the assistance of an attorney that you refrain from admitting fault or apologizing for an accident.

In addition to never discussing fault with the other drivers or passengers, you should never discuss whether you are injured or fine after the accident. This is the case even if you feel completely fine after the accident occurs. Many injuries do not manifest themselves until after an accident and you do not want another driver or their insurance company to use a statement that you make that you have no injury directly after the accident against you if you have an injury that becomes apparent only later.

In addition to information about the other people involved in the accident, it is also important for you to collect information about witnesses who saw or heard the accident such as drivers who were not involved, pedestrians, and nearby residents. You should gather the names, contact information, and statements of such witnesses.

Step 5
Create a
Written
Diary of the
Incident

Sit down and write a complete record of everything that occurred as soon as you possible. This will usually be when you return home from the accident. This way you can capture relevant information when it is still fresh in your mind. You should make sure to include in your diary the time, date, and exact location of the accident. You should also include from where you were driving and to where you were driving when the accident occurred. You should write down what the weather was like and what the road conditions were like. You should of course include how the accident began and what actions you and the other drivers and passengers too immediately after the accident.

In addition to drafting a diary of the incident you should also start a diary of how the accident has affected your life. You should begin by describing all of the damage to your property and then moving on to describe how it has caused you physical pain and injury. You should be very thorough and explain in detail all pains that arose out of the accident and how these pains have restricted you. You should include how the accident has affected your ability to work or any lost business that you suffered as a result of the accident. You should list all of the things that you previously could do but which you cannot do subsequent to the accident. Be thorough and explain how daily activities have changed or become embarrassing due to injuries arising out of the accident. You should continue to update this journal frequently as such information is crucial for a court award and for when you negotiate with other drivers or their insurance companies.

Step 6
Collect All
Records

The next step that you should take is to gather records of every kind that are related to the accident or damage arising out of the accident. This means that you should collect all medical bills for treatment or examinations you received as a result of the accident. You should collect such bills even if your insurance company is paying them. Similarly, you should collect all bills for medical equipment and medication that you needed as a result of the accident. If you no longer need the medical equipment or finish off all prescribed medication then you should make sure to keep the equipment and empty bottles as well as such physical evidence can be useful. You should also collect copies of your medical records and all correspondence and notes that medical providers have made to you after examining or treating you for injuries caused by the accident.

Similarly, you should collect all letters, emails, or notices that the other people involved in the accidents, any of their representatives, or their insurance companies send to you. You should similarly collect all writings that your own insurance company sends to you. Further, you should acquire or find a copy of your insurance policy.

Step 7
Collect All
Records

Once you have a collection of facts and records, you should contact your insurance company and report the accident. Whenever you contact your insurance company you should keep a record of the time, date, and the name of the person with whom you are speaking. Even though many people are loathe to involve their insurance company in minor accidents for fear their premiums will rise it is important that you always take such a step as even minor accidents can result in significant injuries that might not present themselves until later in time such as soft tissue damage and traumatic brain injuries. If you report the accident to your insurance company immediately then if you need coverage later it will be easier for you acquire it and if you end up having to raise a suit in a court to recover damages for such injuries then it will be important to have a record of a report concerning the accident to your insurance company.

Step 8
Take Your
Car to a
Mechanic for
Evaluation

Your next step should be to drive or tow your car to a mechanic. A mechanic can give you a quote so that you have some understanding as to how much damage your car suffered in the accident. The mechanics appraisal can also be useful in helping determine how the accident occurred as many times the damage to a car can indicate the way that your car and another car connected and at what speed.

Step 9
Contact a
Lawyer with
Experience
in Personal
Injury Cases

Even if you are not sure who was at fault in the accident or if you it will be worth suing for your damages you should contact and consult with a lawyer who has experience in handling personal injury matters. Generally, personal injury lawyers will not charge you for a consultation or charge you anything to evaluate your case. Additionally, even if the lawyer does not end up representing you then their advice as to how to approach the other drivers involved in the accident and their insurance companies can be invaluable and save you or help you get a substantial amount of money.

Finding an experienced personal injury lawyer is not an easy task but there are multiple resources upon which you can rely. You can talk to friends and family to see if they have experience with a lawyer who specializes in personal injury cases. You can also talk to other lawyers who do not practice personal injury law to see if they have trusted referrals for personal injury lawyers in your area. You can also search the internet and look at individual lawyers' websites to see if they advertise themselves as practicing personal injury law and practicing it in your area. It is important that you find a lawyer who is local or has experience with practicing in your local as each jurisdiction is different with different rules and regulations.

Once you get a referral for a lawyer in your area that specializes in personal injury law you should call or write the lawyer to interview them and make sure they are a person with whom you are comfortable. Questions that you can ask are how many cases they have taken to trial; How many of those were personal injury cases; How long they have practiced; How long they have practiced in your locality; Why they practice personal injury law; How often they communicate with clients; What they believe the value of the case is; and How many other cases they have, among other questions. You can also ask to speak with past clients to get their impressions of the lawyer.

Once you are satisfied with the temperament and qualifications of a lawyer that has agreed to represent you and you have signed a retainer agreement, it is important that you provide the lawyer with as much information and physical evidence as you have collected. This means that you need to send the lawyer all of the pictures you have taken, all of the notes you have created, all of the bills you have collected, and all of your medical records. As time goes by and you gather more documents and information, it is important that you continue to share such information and documents with your lawyers.

There are some cases in which the damage that you suffer is insignificant enough that it is not worth the use of an attorney. An attorney should let you know if this is the case in a timely manner so that you can proceed to seek compensation for your minor damages yourself. Generally, cases that will have minimal relative damage are those which purely involve property damage, i.e. damage only to your car, and do not involve injury to your person, the other driver, or other passengers. However, as explained above, it is very important that you have your case assessed by an

experienced lawyer before you decide that your case has minimal value or decide that you can handle the case on your own. A lawyer who is experience can quickly let you know if this is the case and do so for free but if you attempt to handle your own claims without an attorney then you put yourself at risk of missing deadlines to file a lawsuit if necessary or improperly valuing your case and settling with insurance companies or other drivers for a fraction of what you are truly entitled to. A lawyer is also incredibly helpful as they can recognize when an insurance company with whom you are negotiating is acting in bad faith and understand how this can “bust” coverage limits that might be restricting you from recovering more than the insurance companies’ policy when your damages are greater than the policy amount. This is a complex issue that can be addressed and explained further by a specialized lawyer. Additionally, insurance companies and individuals are more likely to negotiate seriously if a lawyer with sophistication is involved in the negotiation. This means that just by involving a lawyer, you can be adding a significant amount of value to your case.

Once you retain a lawyer it is very important that you do not discuss your accident or the actions that you or your lawyer is taking in relation to the accident with anyone else. This means do not discuss anything with your girlfriend or boyfriend, your best friend, your mother, your neighbor, or anyone else. Such discussions are not privileged and something you say to these people may end up coming around to hurt you later. You should also completely avoid all contact with any insurance representatives, investigators, anyone involved in the accident, and even witnesses to the accident. Even if the statements are not recorded they can only harm you and will never benefit you.

Step 10
Negotiate
Any Claims
You Have
Through
Your Lawyer

When negotiating with the other drivers or their insurance companies it is first important for your lawyer to determine how much your case is worth. A lot of lawyers depend upon their past experience to determine what your case is actually worth and for what amount an opposing party is likely to settle. Outside of past experience, there are some factors upon which you and your lawyer can rely to determine a proper settlement amount. First, you must consider the amount of your quantifiable monetary damages. This includes medical bills, lost income resulting from the accident, lost vacation time or sick leave, lost insurance benefits, and other such injuries. Second, you should examine how your everyday life has been negatively altered by the injuries you sustained as a result of the accident. For example, if you are an avid runner who regularly ran but no longer can as a result of the accident then this is one way that your daily life has been negatively affected.

Third, you should consider whether the injuries are treatable or whether they include afflictions with which you will have to deal with for your entire life. This includes lost limbs, disfiguring scars, and other such injuries. If the injuries are persistent and they will require future medical treatment then you should consider how much treatment you will need and the intensity of that treatment. Fourth, you

should consider the facts of the incident and whether the law in your locality will ascribe liability to the other drivers completely or whether the laws will make you partially responsible for the accident. Fifth, you should consider the amount and quality of evidence that you have to support your version of how the accident occurred. For instance, if you have no witnesses and there is no visible physical damage to any property then it will be harder to prove who was at fault in an accident. Finally, you should consider how much pain you have suffered as a result of the accident. All of these factors together can help you and your lawyer reach a range for which it would be reasonable to settle your case. Once you have such a range, you can begin to discuss settlement with the other parties to see if they are willing to settle the case for a price within your range.

It is important to know that many cases do not settle and that there is no surefire way to predict what cases will settle and which will not. The best you can do is rely upon your lawyer's experience to present the case during negotiations in a way to maximize settlement and to appropriately value your case so that it will be within the range of settlement if that is your desired result. Ultimately, it will always be the other party and your decision, not your lawyer's, as to whether the case settles or not. If a lawyer pressures you into settling when you do not want to or for an amount that you think is improper then you should consider finding another lawyer.

Most of the negotiations will occur between lawyers or between your lawyer and a representative of an insurance company. Such negotiations will either be formally through letters or informally through phone calls. Often times, your lawyer will present the other side with a substantial amount of evidence so that they can accurately assess the seriousness of the case and the severity of your injuries to understand that the amount you seek during negotiations is appropriate. This process has no prescribed amount of time and can often take weeks or months in more complex situations. Even if you and the other party agree to a settlement it can still take multiple weeks to complete the process since the parties need to work out a precise and appropriate document in which you agree to let go of all claims that you have against the other party and to coordinate how to exchange money.

Step 11
Bring a
Lawsuit

Sometimes settlement negotiations do not result in any settlement as the other side will not take your claim of injury seriously or they are gambling that you and your lawyer will not proceed to trial for your claim. In such cases, your only option for seeking relief for your injuries is to file a lawsuit. Even if settlement negotiations are progressing in a promising matter then it still makes sense to file a lawsuit to put pressure on the other side in certain circumstances.

A lawsuit begins when your lawyer files a legal document known as a "Complaint" with the appropriate court. Your lawyer will pick the best court based on the facts of your particular case. The Complaint will set out all of the legal theories that support your claims for recovery and will put forth the reasons that you are suing

for the damages arising out of the accident. Once the lawyer has filed the Complaint, the lawyer will then serve the complaint to the people that you are suing. At that point the other party or parties will have at least 30 days to file an answer in which they put forth defenses and admit or deny the claims you make in your Complaint or attack the Complaint on the ground that it is unclear or insufficient.

After this time period passes, the parties will enter into a period in which they try to find as much evidence and information about each other and about the accident. This period is known as “discovery.” This phase can last for months depending on the complexity of the case and how cooperative the parties are with each other. Some parties will attempt to evade or stall the discovery process and it is necessary in such cases to involve the judge to resolve such issues. When that is necessary it can often take months just to have a grievance heard by the judge. Tools that parties use during discovery include requests for admission, in which parties ask each other to admit or deny particular facts, interrogatories, in which the parties ask specific open ended questions, requests for the production of documents and/or inspection of property, and depositions, which are documented and recorded formal interviews by the lawyers with the opposing parties. Such requests will not only be sent to the other parties but also to witnesses, family members, mechanics, treating doctors, and experts.

Judges will often order the parties to attend a mediation either during discovery or immediately after discovery. A mediation is a face to face gathering with a neutral third party, normally a retired judge or neutral attorney, who can guide the parties through settlement discussions. Everything discussed during a mediation is confidential and allow both sides to see a lot of the evidence that they have gathered to use at trial. Some cases end up settling at the mediation because it is clear to both parties only at that point how strong or weak a case is and how much or little a case might be worth. If the parties do not settle the case then the parties will prepare for a trial.

A lot of lawyer preparation is necessary prior to the trial to assemble and properly label exhibits, to coordinate and prepare all necessary witnesses, to draft and file mandatory paperwork and various other activities. Once the preparation is done, the trial will begin with the selection of a jury. This process is often referred to as “voir dire” but what it will look like is simply the lawyers and sometimes the judge asking people in the pool of potential jurors various questions to see if the people can be impartial and fair jurors. This process can take a half hour or can take several days. It is a very particular skill to question and select juries and it takes time to perform adequately. So much care is put into selecting a jury because regardless of how good your case is, a bad and biased jury can ruin all chances for a recovery.

After a jury is selected, the parties will each make an opening statement in which they can tell the jury about the various evidence and facts they will present during the trial. This process will not include any argument but merely serve as a

roadmap for how the trial will proceed and as an introduction to what the case is about. When the opening statements are finished, the parties will present evidence to prove their case. Evidence will include witnesses, exhibits, photographs, videos, documents, and even pieces of the cars. The parties will have a chance to ask questions of witnesses that the opposing parties present in an attempt to show a bias in the witness or show that they have no basis to testify to the things they claim they saw, said, or did. After the parties have finished presenting evidence and attacking the other parties' evidence, the parties will get a chance to give a closing argument. During these closing arguments, you and your lawyer will summarize the case and explain why you should get the money for which you are asking. The other parties will argue that you have not shown enough to evidence to merit the money you seek. After the parties make their arguments, it will be up to the jury to discuss the case with each other and decide whether you are entitled to a recovery or not and if so then to how much of a recovery you are entitled.

Step 12
Bring a
Lawsuit

If your case is not one in which it makes sense to involve a lawyer due to the minimal nature of the damage then there are many helpful considerations that you can keep in mind when negotiating with the other drivers or more likely their insurance companies. Before you even attempt to negotiate with another driver or their insurance companies, you should still take the steps advised above in numbers 1-8. Once you have taken these steps to prepare you will be substantially better suited to negotiate or proceed with any claim that you might have.

After you have completed the above mentioned steps, you should track down the statute of limitation for a car accident in California. The best places to look are a local law library or through a cursory internet search. The applicable statute of limitation will most likely be two years in California for personal injury pursuant to California Code of Civil Procedure Section 335.1 or three years for injury to personal property pursuant to California Code of Civil Procedure Section 338(c). However, the statutes of limitations can be different for children and other circumstances and these statutes, like all laws, can change. It is very important to do your research and discover the correct statute of limitation before contacting the other party or their insurance company to discuss settlement as you need to know how long you can discuss settlement without losing your right to bring a court action if necessary.

Once you have done your research, you can write out a demand letter to the other party or their insurance company. In this letter you can explain your injuries, claim, and the amount of money you think they should pay to you for the injuries arising out of the accident. Try to make the letter and clear and organized as possible and attach relevant documents and evidence that you have collected that will support your claim. If you have no idea how much to ask for in your letter you can contact an experienced lawyer or you can just allow the insurance company or other party to make you an offer. However, if you allow an insurance company to make the first offer they will most likely make an offer that is laughably low.

Two things to consider when determining the amount that you request for the damage to your car is the diminished value of the care and the value of aftermarket parts versus original parts ("OEM" parts). When a car is in an accident it loses value even if it is fixed back to near perfect condition. This means you will be able to sell it for less money than you would have been able to sell it for the day before an accident. You are entitled to recover the lost money and you should always ask for such lost money when you make your demand. Additionally, you should seek compensation not just for replacement parts for your car but "OEM" parts. OEM parts generally cost more money but they help hold the value of your car. You should not allow the other party and insurance companies to compensate you merely for aftermarket parts.

Usually when an insurance company or the other party receives your demand letter they will then contact you to try to negotiate a settlement, make you a low offer for settlement or completely ignore you. If either of the last two options occurs your only chance for recovery will be to file your own lawsuit. If the first option occurs then there are multiple tactics that the insurance companies and other parties employ during negotiations of which you should be aware. First, insurance companies can try to stall and overwhelm you by asking for a burdensome amount of unnecessary documents and information. This tactic is designed to make you feel overwhelmed and make you feel as if your case is weaker than it is. Insurance companies love delay because sometimes they can get the other party to give up or miss their statute of limitation to file a case and lose all leverage. Second, insurance companies will try to pay you a large fraction of your medical and car repair costs with a hope that you will not fight over the lost fraction. Third, the insurance companies or other drivers might act like your best friend in order to guilt you into settling for a low amount or to try to gain your trust so that you accept a bad settlement offer from them.

CONCLUSION

Car accidents can be traumatic and confusing. If you follow this guide then you will be able to know what to do to preserve your rights and have the best chance to get fully compensated for all injuries that arise out of the accident.

About Scott Glovsky

You've been harmed, injured or abused: call, it's free, and it might just change your life.

<i>I fight for the justice you deserve</i>	We may live in a “David vs. Goliath” world, but my firm is here to hold major corporations accountable for putting their bottom line profits ahead of peoples’ lives. I am a skilled trial lawyer on a mission to make a real difference in my clients’ lives, and change the system so that others will not needlessly suffer similar fates. My practice emphasizes civil trial law, including insurance bad faith, catastrophic personal injury, and health-related cases. Our insurance cases include fighting a wide range of battles with health, life, disability, property and liability insurers. We get justice for our clients and hold the wrongdoers accountable.
<i>Cases & People That Make A Difference By Helping Others</i>	Scott Glovsky is a nationally recognized victim's rights advocate. His cases have been covered by Oprah Winfrey, People Magazine, The Los Angeles Times, CBS Evening News, Michael Moore (Sicko) and hundreds of other media outlets.
<i>Awards, Recognition & Achievements</i>	Multiple multimillion Dollar Settlements & Awards President’s Award of Merit – Consumer Attorneys’ Association of Los Angeles California’s Street Fighter of the Year – Trial Lawyer’s Award Graduate of Gerry Spence’s Trial Lawyer’s College Southern California SuperLawyer (2006 – Present) Board Member – Consumer Attorneys of California



Law Offices Of
Scott Glovsky

Scott Glovsky J.D.
Cornell University Law School Graduate
Pasadena | Claremont | Los Angeles
Practicing locally since 1993