

WHAT TO DO IF YOU HAVE A MOTOR VEHICLE ACCIDENT

by Maurice J. Recchia

Motor vehicle accidents are, unfortunately, a too common occurrence in our fast-paced mobile society. We in the New York-New Jersey metro area suffer particularly from a poorly managed and outdated road transportation system plagued by choke points and traffic jams which increase the chances that an accident will occur. How you act when you are involved in an accident can significantly affect whether or not you will receive proper compensation after any accident. What follows is a checklist of things you should do to remain safe after an accident and to help increase your chances of receiving a proper monetary recovery if you're involved in an accident.

- **Help Injured Persons First**

If anyone is injured, call an ambulance immediately. In calling for help, it is important to communicate your location as precisely as possible so aid can reach you without unnecessary delay. While help is on the way, make the injured person as comfortable as possible. Ordinarily, you should not move an injured person. Keep them warm with blankets or coats until help arrives.

- **Move Uninjured Persons Out of Danger**

Get uninjured persons out of your vehicle to the side of the road, safely away from your vehicle and from oncoming traffic.

- **Protect the Scene**

Do your best to prevent further accidents. You may be liable for damages suffered by approaching motorists unless they are properly warned. Vehicles should not be left in a dangerous place on a highway if they can be moved safely, and passengers should not remain in a vehicle left exposed on a roadway in a dangerous position. Activate the flashers on your vehicle. If it's nighttime, have someone with a flashlight warn approaching motorists. If available, put out flares or reflectors at least 300 feet from your vehicle facing oncoming traffic.

- **Call Police Immediately**

When police arrive, give the officers the basic facts of the accident. The official report may help you later either by supporting your claim against someone else or protecting you against a claim made by another motorist. Remember to get the name and badge number of any police officers who appear at the scene.

- **Take Photographs**

If you're able, take photos of the accident scene and damage to your and other vehicles. These photos will be helpful to you both for any claim you may make and if any claim is filed against you.

- **Exchange Information With Other Drivers**

Always keep pen & paper in your vehicle so you can record the names and address of all other drivers involved in the accident. If possible, also note the names and addresses of other passengers. Note the license number, make, and model of all cars involved in the accident.

- **Identify Witnesses**

Witnesses will be a significant help to you in any court action arising from the accident if there is a dispute about the cause of the accident. Get the names, addresses, and phone numbers of as many witnesses as possible. If witnesses refuse to identify themselves, at least note the license numbers of their vehicles. Do not discuss the accident with the witnesses. Do not give witness names to anyone but the police, your insurance company, or your attorney.

- **Make Short Notes about the Accident**

Note of the details of the accident as soon as possible. Memories tend to fade over time and litigation may not occur until several years after the accident, so keeping a record of the details while they are fresh your mind is critical to your success in any future court action. Make your notes at the scene or during the same day as the accident. Your notes should include the date and time, road conditions, weather conditions, and speed of all other cars involved. Also note anything unusual you may have noticed about the drivers of the other vehicles involved just before the accident took place, such as someone talking or texting on a cell phone, eating or drinking, fixing makeup or shaving (I've seen that!), reading maps, or anything else which would hamper a driver's ability to drive safely. If possible, draw a diagram of the accident showing the position and direction of the cars just before and immediately after the accident.

- **If You Are Injured**

If you or a family member is injured, seek medical attention *immediately* after the accident. Potentially serious and costly injuries may seem trivial at first. New York State's "No Fault" law requires that automobile insurance policies of all involved vehicles make payments to any injured drivers and passengers, as well as to pedestrians, for medical expenses, lost wages, and other expenses, regardless of fault up to \$50,000.00, so don't worry about the medical expenses for the emergency room treatment which may follow from an accident. If emergency room doctors give you recommendations for follow-up treatment such as contacting your own doctor, or contacting for example, an orthopedist or neurologist, be sure to follow these instructions.

- **Report the Accident to Your Insurance Company or Agent Immediately**

This means immediately after the accident - within the hour - after the situation has calmed down. If you fail to notify your insurance company, this could be grounds for the company to deny any responsibility to protect your interests if a claim is made against you. In addition, New York State law requires that the driver of each vehicle involved in an accident in which a person is killed or injured, or one in which property damage to any person exceeds \$1,000.00, must file a written report with the Commissioner of Motor Vehicles within 10 days of the accident. The law further requires that if an operator cannot make this report, the owner of the vehicle must do so within 10 days after learning of the accident. Failure to comply with the law is a misdemeanor and can be grounds for suspension or revocation of the operator's driver's license, or the owner's vehicle registration. Your local police station or insurance agent will help prepare the necessary paperwork; there is a standard Report of a Motor Vehicle Accident form - called an "MV-104" which your insurance company or agent will usually supply to you.

- **Don't Speak to *Anyone* About the Accident Except the Police and Your Insurance**

Company Until You Consult an Attorney

Frequently, the person who caused the accident, or the insurance company for that person, contacts an accident victim and tries to pressure or persuade the victim into a quick settlement, telling the victim that the time and trouble of court proceedings and the cost of lawyers can be avoided. Don't fall into this trap. No matter how friendly the person calling may sound, their job is to save their insurance company money. They are looking out for their company's best interests, not yours. If you are contacted before you consult with an attorney, refer the caller to *your* insurance company; do not provide the caller with any information about the accident. Once you have an attorney, refer all calls to your attorney. Moreover, all attorneys take accident cases on a *contingency fee* basis. This means that the client does not have to pay any legal costs unless and until the lawyer gets a money award for the client. So if a representative tries to persuade you into taking a quick settlement to avoid the costs of attorney fees, you know they're using a questionable argument.

If someone contacts you demanding payment, make no payments, or promises to pay to anyone. Refer all such calls to your insurance company or agent. Immediately send all legal papers delivered to you to your insurance company.

If you follow these guidelines after an accident, you will have a much easier time during all the events that occur after the accident and you will be maximizing your ability to recover a monetary award.