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Anatomy of a Good Personal Injury Case ---Part 2

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Woodland Hills Personal Injury Attorney Barry P. Goldberg was recently hired to represent an 18 year old traffic collision victim who was violently rear ended on the freeway---A very serious accident to be sure. During the initial interview, discussion about expectations with the victim and her family, it occurred to Mr. Goldberg that the topics addressed may give important insight to other injury victims. Moreover, the discussion gives some insight about how an attorney analyzes and evaluates a case.

Mr. Goldberg's initial installment dealt with immediate concerns, medical condition, and client expectations. In this "Part 2," Mr. Goldberg goes through his thought process after receiving an in-depth Traffic Collision Report. This was the next critical piece of information given that our client was knocked unconscious and had antegrade and retrograde amnesia---we had no information on who caused this accident and even whether there would be liability insurance available.

Fortunately, the Traffic Collision Report was generated by the California Highway Patrol. Generally, these reports are available within in about 7 to 10 days. Other local law enforcement departments have similar turnaround times. But beware; the Los Angeles Police Department Traffic Collision Reports take between 8 to 12 weeks to obtain! During this time period, victims are often left with no information and no viable remedy for property damage and medical care.



As we suspected, the fault for the accident was placed entirely with the Large Chevy Silverado King Cab. He was cited for driving at an unsafe speed for the conditions. When traffic stopped in front of him, he could not stop in time, tried to swerve and virtually ran up the back of our client's Honda Accord. That angle caused the Silverado to flip and either pushed our car or his car into another vehicle which sustained minor damage.

From a personal injury attorney's standpoint there is some good news. The Silverado was a relatively new model from 2011. Newer and more expensive vehicles usually have more liability insurance coverage. Often financed or leased vehicles are required to maintain a certain level of insurance as a condition of the financing. Also, a good sign was that the Silverado was insured by a well-known major auto liability insurer. Generally, this particular insurer does not regularly issue "minimum" limits of 15/30/5.

Also from a personal injury attorney's standpoint these is some possible bad news. The driver/owner of the Silverado was from Visalia---a small town south of Fresno. From a quick look on "Zillow," we were able to determine that the driver/owner lives in a house valued at only about \$150,000. Why is that bad? Well, people who do not have large amounts of equity do not insure for high amounts as a rule. The opposite is also true---if people have large equity in their property, they should insure at least to the amount of that equity!

In the report, it is listed that the driver has a "work" number. This could be good because he may be employed by a big company and be in the "course and scope" of his employment at the time of the crash. Further, the fact that he was far from home means he may have been on a job of some sort.

However, a quick reverse directory inquiry confirmed that the so-called "work" number was nothing more than this individual's personal cell phone number. The Traffic Collision Report form has not really kept up with the times. There is no space for "cell phone" only for work number. A quick "Google" search



of the individual did not reveal any self-owned Construction Company, or anything for that matter. Essentially, we have no idea what this driver was doing or why. We do not know what he does for a living and we do not know if he was on a job at the time of the accident. Without a reasonable answer to these questions in the future, we will not be in a position to recommend any resolution of the claim.

Because the client needs transportation desperately, we need to contact the adverse driver's insurer, send a letter of representation and maneuver to obtain policy limits information. We say "maneuver" because the insurers try not to part with this information voluntarily. Worse, there is a case which states that an insurer is under no obligation to disclose that information pre-litigation. The insurers will, however, request permission from its insured to disclose that information.

Truthfully, I cannot think of a case where I have not talked the insurer out that information. If the insured and the insurer refuse to provide that information, I have the insurer put it in writing to the insured that failure to provide that information will result in an immediate lawsuit filed for the express purpose of obtaining the policy limits information. Further, they should explain to their insured that the information must be provided once a lawsuit is filed. There are no recognized legal objections to requiring a defendant to provide this information. Guess what? They always provide the information at that point.

In addition to insurance contact, it is absolutely critical that the client receive expert medical care. With at least an initial indication of coverage, our office arranged for the client to get some immediate physical therapy for her very sore neck and back. In the mean time, her next big appointment at Kaiser is almost 2 weeks away. At that appointment, she will be referred to a neurologist for post-concussive symptoms, an orthopedic doctor for neck and back symptoms, and a plastic surgeon for her facial laceration.



It will be very important for our office to consult with the client immediately before her appointment to make certain that she properly articulates her symptoms and requests the correct referrals. Why are we concerned? Well, this client suffered at least a moderate level concussion with amnesia. When I asked her for her mother's phone number, she gave me her own number. She is forgetting things and, as her mother said, getting things all mixed up.

The next installment will detail analyzing available insurance, resolving the property damage and loss of use claim, and initial bodily injury evaluation thoughts. Because the NEXT PART of this "Anatomy" is unknown to us, we will provide an update as soon as we learn more. Stay tuned!

For more information about blog author and attorney Barry Goldberg's civil litigation expertise, please visit his web page, [Woodland Hills Civil Litigation Attorney](http://www.barrygoldberg.com/Practice-Areas/Civil-Litigation.aspx). <http://www.barrygoldberg.com/Practice-Areas/Civil-Litigation.aspx>

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Call Mr. Goldberg today for a free consultation. (818) 222-6994

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