



8 COMMON MISTAKES MADE BY PERSONAL INJURY CLAIMANTS

Personal injury lawsuits can be complicated and time-consuming for all parties involved, regardless of which side of the “v” they’re on. If you’re considering bringing a personal injury action for the first time, be sure to avoid these common pitfalls.

1) DECLINING TO PURCHASE UNDERINSURED OR UNINSURED MOTORIST INSURANCE

Underinsured or uninsured motorist insurance (sometimes known as “UM” insurance) is an optional type of insurance that can supplement your liability insurance. It may end up coming in very handy in the event of a collision with another vehicle, if the driver of that vehicle happens to lack insurance coverage of his own.

But wait... aren't drivers required by law to carry liability insurance? Why spend money on UM insurance when you just get the other driver's insurance company to cover your claim? Well, the short answer is this: if you were severely injured in that collision due to the other driver's negligence, but the other driver happened to be driving around without liability insurance and has no money to pay your damages, you might simply be out of luck (even if you've racked up thousands in medical bills and expenses). Another scenario is this: let's say that at the time of the accident, the other driver was carrying liability insurance, but he was only carrying the minimum coverage required under state law. If the amount of compensation needed to make you whole for your injuries exceeds that minimum amount, then you may not be able to get fully reimbursed. In both scenarios, UM insurance can help you get the full compensation you deserve.

Notably, depending on what state you live in, UM insurance may be available for both bodily injury and motor vehicle property damage. In addition to injuries to the driver, the bodily injury portion of uninsured and underinsured motorist coverage may also cover injuries to your passengers. In some situations, it may even cover family members who were driving your car when the collision happened.

2) COMMUNICATING EXCESSIVELY AT THE SCENE OF AN ACCIDENT

Car accidents can be stressful and emotionally-charged experiences. In the moments immediately following a collision, there's a natural urge to get out of your vehicle and speak to the other driver regarding what just transpired. There's nothing wrong with this per se, but it's important to be aware of the legal ramifications. All statements made at the scene of an accident have the potential to be admitted as evidence at a trial. Choose your words carefully when speaking to the other driver, and try to limit your interaction to the exchange of insurance and contact information.

3) FAILING TO SEEK MEDICAL ATTENTION AFTER AN ACCIDENT

Insurance companies know that people may sometimes have strong financial incentives to exaggerate bodily injuries stemming from an accident. One of the key ways insurance defense lawyers catch on to this is by examining the timeline of your medical treatment following the accident. Any unreasonable delay between the time of the injuries and the time you first sought medical treatment is usually considered a red flag. This is especially true where the plaintiff claims to have suffered serious injuries but failed to go to the emergency room or seek immediate medical attention after the accident.

Inexplicable gaps in treatment and missed doctor's appointments are also viewed with suspicion. Many personal injury claimants fail to appreciate how these seemingly minor inconsistencies can hurt the overall strength of their case. The moral of the story is this: if you've sustained injuries in connection with an accident, or you suspect that you may have

sustained injuries, your safest bet is to call 911 right away. It will ensure that you receive prompt medical attention for your injuries, including a trip to the ER if necessary.

If it turns out that your injuries do not require emergency hospital treatment, and you decide to go directly home from the accident scene, be sure to at least follow up with your primary care doctor or seek other medical evaluation within the next few days. Your failure to do so will make it tougher to bring a successful personal injury claim in the event it turns out that you were hurt more badly than you initially thought.

4) GOING PRO SE

Many people assume they can handle their personal injury claim on their own without the assistance of a lawyer. While this might be true in some situations, it is usually much wiser to hire professional legal representation. This is especially true if you will be suing for serious or complicated injuries involving significant damages. Personal injury litigation can be highly technical in nature, with major consequences for failing to follow proper procedure.

For example, all personal injury cases involve a statute of limitations, which is a mechanism that restricts the amount of time one has in order to take legal action. Generally speaking, this “clock” begins running the moment you are injured. Someone who is unaware of the statute of limitations (or is mistaken regarding its length or when the “clock” began to run) may end up waiting too long to file their claim. In addition to the statute of limitations, there are several other types of procedural “pitfalls” that can derail a pro se plaintiff’s case if he or she lacks the proper expertise. Hiring an experienced personal injury lawyer is your best bet because that lawyer will be well versed in the procedure of a given case.

Be sure to do your research before actually deciding on a particular lawyer. Opt for someone with a proven track record of success and experience in the field. Don’t make the mistake of calling the first number that you see advertised on TV. Instead, ask friends and family members for recommendations, or go online and read reviews posted by clients who were represented by that lawyer. Once you have a list of names of potential lawyers, arrange to meet with each of them at their office to discuss your claim. And be prepared for possible rejections. Many lawyers do not take cases if they fall below a certain potential recovery amount, or if the merits of the claim don’t seem strong enough to warrant pursuing litigation. Don’t be discouraged by this; eventually you’ll find a lawyer who likes your case and wants to handle it.

5) FAILING TO COOPERATE WITH YOUR LAWYER

It’s important to follow your lawyer’s advice and directions at all times regarding your case. It’s also important to be candid with your lawyer. Some clients are hesitant to disclose all details about their medical history to their lawyers because they feel this will hurt their case. Do not make this mistake! It is crucial to disclose everything about your medical history to your lawyer so that he can be fully prepared to represent you properly. The more your lawyer knows in advance, the more prepared he will be when opposing counsel raises a particular issue. Transparency is a must!

6) FAILING TO GATHER IMPORTANT EVIDENCE

You must collect contact and insurance information from all parties involved in an accident. Obtaining contact information of witnesses is also essential. As time passes, evidence can disappear and witnesses' memories can fade. Therefore, be sure to preserve as much evidence as early as possible. Take photographs of the accident scene and any bodily injuries as early as possible. Continue to take photos as your treatment progresses over time. Take photographs of all damage to all vehicles.

7) TRUSTING INSURANCE COMPANIES

Once an accident claim is submitted, insurance adjusters usually begin contacting the drivers and injured parties in an effort to obtain recorded statements or written reports from them. As most personal injury lawyers know, adjusters hope to use these statements and reports against claimants as the claim progresses. The problem is that many claimants are unaware of this. Never make the mistake of agreeing to give a recorded or written statement to an insurance company before consulting an attorney. Likewise, don't allow yourself to be tricked into signing any written acknowledgement, admission of fault, or document wherein you "adopt" someone else's recorded or written statements.

8) LYING

The importance of being honest cannot be stressed enough. This rule applies at all stages of the case. Whether you're communicating with an insurance company over the telephone, speaking with your doctor about your injuries, giving a live deposition, or testifying at trial in the presence of a jury, you must not misrepresent the truth.