



Best Guide to Car Accident Injuries in Virginia:

A Book Explaining What You Need to Know if you Are Hurt in an Accident

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Introduction

If you are reading this guide, chances are you are one of the many people who have suffered an injury or a death in the family on the roads of Virginia. I hope to anticipate your questions and give you the benefit of my knowledge acquired over more than 20 years handling car crash cases in the Commonwealth.

Timely Medical Care

The first thing to do if you are hurt in a car accident is to get the medical treatment that you need. If the injury from the car wreck was a serious one, you likely went to the emergency room of the closest hospital. The key is to get the appropriate medical care as soon as possible. Not only will you know what is wrong with you quicker, but you will have created the paper trail proving your case which is necessary for a successful outcome.

Insurance companies, in evaluating injury claims, act as if it did not happen if it is not in writing and medically documented.

If you did not go to the emergency room, then make sure to get into a doctor's office quickly if you are feeling any pain or symptoms from the car wreck. It does not matter if you go to your family doctor, a chiropractor, an urgent care facility, or an orthopedic specialist. What matters is that you get treated for your injuries. If you do not know who to go see, you can get a name from your doctor, a friend, or family member who has been in an accident or treated by a good doctor that they can recommend. If these sources are not available, look on the internet or ask your attorney.

If you do not get the treatment you need, the insurance company will argue that you must not really have been hurt. The insurer will claim that any gaps in treatment show that you were not really trying to get better, if you were even hurt in the first place. No amount of explaining the lack of treatment away will work. It will not be very effective to say, "I do not like to go to doctors," "I just toughed it out," or "I did not know where to go." Get the required medical care!

Finding the Right Lawyer Quickly

Hire the best attorney for your case as soon as possible. The hardest part of this process is to determine the top attorneys available for your case. One good source of information available today is the internet, which allows you to see the website presentation and qualifications of different lawyers. There are also rating services like Martindale-Hubbell which are used to rate Lawyers' reputations in the community. Another way to get a referral for an injury attorney is if you know a prior satisfied client who has used an attorney for personal injury services.

The Virginia State Bar does not allow for State certification of specialties like personal injury trial attorney for individual lawyers. So, there is no clear way through advertising for the most experienced attorneys handling cases for injured people to distinguish themselves from every other lawyer who is just wanting to get a car wreck case without really having a wealth of experience in that field. You should look for participation in plaintiff's specialty bar groups as one indication that an attorney really emphasizes car accident cases in their practice. In Virginia, we have the Virginia Trial Lawyers Association and on a national level, there is the AAJ which is the national plaintiff's trial bar (The American Association for Justice, formerly the American Trial Lawyers Association).

A lawyer's participation with these groups shows that he is joining in the highest level of education among personal injury lawyers and sharing ideas about best practices with other lawyers focused on helping the victims of car and truck accidents.

Just because an attorney is advertising for car accident work does not mean that they are experienced at it or very knowledgeable about the field. Sometimes, a person is really a general practitioner who does lots of different kinds of cases like criminal law and divorces, so they really are not as specialized as a lawyer whose practice is exclusively to help people who are involved in injury or wrongful death situations. Often, some of the best attorneys do not advertise on television because they do not have to, and do not want to, relying instead on word-of-mouth through satisfied clients. There is nothing wrong with talking to a couple of qualified attorneys by phone or in person to see how you feel about them. All personal injury lawyers will give you a free consultation. So, there is no harm in calling an attorney's office to ask about a personal injury case. You have no obligation to them until you decide to hire them and they agree to be hired. While you do this checking to see how you feel about them, consider how well they treat you. Do you speak to a real attorney or just a paralegal or legal assistant? How promptly do they get back to you? Do you feel like they are willing to take the time to answer your questions?

Do not wait too long to get a qualified, competent injury lawyer. There are often things that can be done by an attorney early in the case that will help bring about a successful settlement or jury result. For example, interviewing witnesses and taking pictures should be done immediately because the evidence may not be available later. Such securing of information can be done by the attorney, so that you can focus on getting well and taking care of yourself and your family. Such early collection of data and investigation is especially important in serious injury or death cases involving big companies like incidents involving a commercial truck driver or railroad company.

The other reason to hire an attorney early is that you will have an advisor to help you answer all of your questions that come up during the course of your recovery after an automobile accident with injuries. Once an attorney is representing you, they will write the insurance company a letter which prevents the insurance company's representatives from contacting you directly. You then have the peace of mind that you have your expert in injury law on your side to make sure that everything goes smoothly from there on out. This peace of mind is invaluable.

How Injury Lawyers Get Paid

An injury lawyer generally does not get paid unless you make a recovery. The standard method for how attorneys charge to do personal injury work is a percentage contract called a contingency fee. The benefit of this kind of fee arrangement is that you do not have to pay anything up front to your attorney for his help on your personal injury case. Rather, the attorney gets paid at the end of the case as a percentage of what is collected from the insurance company for the at-fault driver. The lawyer does not get paid unless you make a recovery.

Realize that there is a difference between costs and fees. Attorney's fees are the payment for the lawyer's time spent on your case. Costs are the expenses that an attorney pays out of pocket on your behalf to get things done in your case. At the beginning of an automobile case, the costs are typically quite low, involving things like the fee to get the police report or the search and copying costs to get medical records from your doctors. Only if the case goes into suit do these costs tend to be much higher. The decision will be made with the client whether to put the case into suit.

Costs after suit will include paying court reporter fees for transcripts of depositions of witnesses and expert witness fees to doctors to testify and render opinions about your case necessary to prove what is required in court. Most of the time, the personal injury law firm will advance these costs on their client's behalf and not require re-payment from the client until such time as their case is resolved. Most clients are not in a financial position to pay these expenses up front.

Negligent At-Fault Driver

To win an injury case arising out of a car accident you have to show that the other driver was at fault. All you have to show is that they were negligent, meaning that they failed to use ordinary care in their driving. In some situations, this is fairly easy to do, such as the rear-end collision. There are very few situations where a driver rear-ends the vehicle in front of him, and is not at fault.

However, the law in Virginia says that the mere happening of an accident does not mean that anyone was at fault. There can be situations where the potentially negligent driver is able to show that his actions were reasonable and that something other than his carelessness caused the accident. For example, if the defendant can show that he was faced with a sudden emergency, like his blacking out, he could not have known about this in advance or prevented it. So, your attorney will need to be able to prove the liability against the person who caused the accident. Sometimes there can be more than one person who caused the accident. If you are the driver and your carelessness caused the accident in part, then you may not recover for the injuries that you suffered against the other driver, even if they were more at fault than you. This is called the law of contributory negligence. Virginia is one of only a small number of states which keeps this old English law, which is really unfair.

Property Damage v. Injury Claim

When a car wreck happens with an injury, there are really two separate cases; one is the injury and the other is the property damage claim. The property damage claim involves getting the car fixed and getting a rental car during the time that your car is out

of commission. Property damage after a car wreck usually works itself out without the involvement of the injury attorney. Most personal injury lawyers do not represent people in the property damage part of their case. If your car is totaled because the value is close to the cost of repair, then the insurance company for the at-fault driver will pay you a check for the fair market value of your vehicle. In that event, you would be entitled to a rental car from the time of the accident until the time that they get you the check. Property damage issues work themselves out fairly easy, most of the time.

To the extent that you have a question or problem, your injury lawyer can help you sort through the issues. One of the most common complications of the property damage case is if there is some question about the fault of the other driver. In that event, there may be some delay in the insurance company handling your property damage case. In these circumstances, the best bet is to usually have your property damage handled by your own insurance company. They can then go and get their money back from the at-fault driver's insurance company at a later time.

Sometimes this creates a problem because you may not be carrying rental car reimbursement on your policy. In the event of such problems, the personal injury lawyer will typically try to point you in the right direction, even if they are not handling the property damage claim itself.

The thing to do when talking to the insurance representative about the property damage is to make sure that they know that you have a personal injury lawyer with respect to that case. If the insurance representative asks you any questions about the personal injury, you should decline to answer their questions and refer them to your attorney. Likewise, you should decline to give any recorded statement to any insurance representative without your attorney's permission and presence.

Damages You Can Claim

The damages that can be claimed in a Virginia personal injury matter are a combination of economic and non-economic losses. Economic losses are things such as your medical bills and your lost wages which have a clear dollar value. In a permanent injury situation, they would include any provable future medical bills or loss of earning capacity. In terms of non-economic damages, we are talking about things that do not have a clear preset dollar value, such as pain and suffering, anguish, disfigurement or deformity, inconvenience, and loss of quality of life. Virginia does not recognize loss of consortium, which is a separate claim of the injured spouse of a person to damages. I often describe what you are allowed to claim as saying that the Defendant and their insurance company have to pay for everything that has happened to you caused by the accident from the time it happened until whenever the case is resolved, including any future events that are expected to happen.

In car wrecks that result in death, there is a separate Virginia statute which sets out the damages awardable in a wrongful death case. They include economic damages, like the funeral expenses, medical bills to treat the person before they died, and the loss of their future earnings and services to family members who depended on those future earnings and services. Services include all of the tasks that the person did for the household, like cleaning, yard work, and home repairs. Typically, the earnings and services are calculated by an economist for presentation to the insurance company and

jury as necessary. The non-economic damages in a wrongful death case include those damages to the surviving beneficiaries, which would be the spouse and children of the person who was killed, such as loss of guidance, companionship, comfort, solace, advice, and all of the other things that one family member does for another.

Determining the Worth of Your Claim

The client is entitled to know what the lawyer thinks their case is worth, but the lawyer should be careful to not make assessments until they have full information. Normally, at the beginning of a case, it is difficult for the attorney to know with any certainty what the actual value of the case will be. The main factors determining the fair value include the total amount of the medical bills, the extent and permanence of the injuries, the amount of lost wages and other things which cannot be determined until later in the case. Beware of lawyers who promise you the stars and the moon to get you to sign up. It really is difficult to know exactly how strong or weak the case will be after it is fully developed.

There are so many different factors that go into the value of a given case that it is often hard to compare the value of one case to another. Factors that are quite specific to the individual file include the likability and credibility of the Plaintiff. This factor can make a huge amount of difference in how the insurer, the doctors, and the jurors respond to the claim. Rest assured that the lawyer should give you a frank estimate of the value of the case at the soonest appropriate time, and certainly prior to beginning any negotiation with the insurance company. Just because the attorney has an idea of the value of your case does not mean that you have to accept their number. Sometimes the client will perceive something that the lawyer did not and wants to go to trial, even though the attorney recommends the settlement on the table. That is the client's right.

The lawyer's role is first to give good advice about settlement, but also to be ready to try the case as necessary. Usually, I find that if the lawyer has done their homework, they should be able to convince most clients about the correctness of their estimate of the value of the case as most clients, having picked an attorney they trust, will defer to their experience and case evaluation. The main need is for the attorney and client openly discuss the issues, including the client's own goals and needs. Settlement, if any, must always be the client's, not the lawyer's, decision.

Your Auto Insurer

Contact your automobile insurance company and report the incident to them immediately. First, by your insurance contract with the company that you have your insurance with, you are required to notify them. If you do not tell your car insurance company, they may try to void your coverage. Normally, there is no down side to reporting the event to your own company. If you are not at fault, then the insurance cannot raise your rates because of an accident.

Also, there are important coverages that may be available from your own insurance company when you get hurt in a car accident in Virginia. The first of these coverages is an optional one called medical payments coverage, or med-pay for short. If you are not from Virginia, the rules may be different on med-pay. Med-pay, if purchased as of the time of the injury, says that your insurance company will pay for medical bills up to a

certain amount regardless of fault. Med-pay usually is sold in increments of \$1,000, \$5,000, or \$10,000. Medical payments coverage on your vehicle will cover you if you get hurt in your car, or even if you get hurt in someone else's car. Additionally, there are other tricks of medical payments coverage in Virginia that a veteran injury lawyer knows about. For example, you get to stack, within your own policy, the medical payments coverage.

So, if you have two cars, you have twice the amount of coverage. For example, if you have two cars on your insurance policy and \$5,000 in med-pay coverage, you actually have \$10,000 med-pay available under that policy.

Many people do not even know if they have medical payments coverage or not. The insurance companies do not try very hard to sell it to you because it is such a good deal for the consumer and not that great a deal for the insurance company. It is always better if you have this coverage because it means your personal injury attorney will be able to put more money in your pocket at the end of the case. The medical payments coverage covers medical bills even if they were paid for by your health insurance company. Using your medical payments coverage does not negatively affect your injury case against the at-fault driver, because the at-fault driver's insurance company is still responsible for the full original amount of medical bills, even when you use your med-pay. Most lawyers do not charge anything to collect medical payments coverage. The rules of ethics covering Virginia lawyers do not allow them to charge anything more than an administrative fee to collect uncontested medical payments coverage. Most of the time medical payments coverage can be collected easily using the same bills and records used to present the case to the at-fault driver's insurance company.

In addition to medical payments coverage, you may need to look to your own insurance company to collect the kind of coverage called uninsured or underinsured motorist coverage. Uninsured motorist coverage (UM) is essentially mandatory in a Virginia automobile insurance policy. The insurance company has to offer it to you. In some rare circumstances, it can be waived in writing. Uninsured motorist coverage kicks in if the person who caused the accident has no insurance or if he is an unknown "John Doe" driver. In that circumstance, you look to your own insurance company under the UM provision of the policy to collect for the fault of the other driver. The UM coverage is in the same amount as the coverage that you have for the liability part of your policy. The liability part of your policy is that amount which covers other people if you harm them with your car. The UM insurance carrier may try to get back from the at-fault driver some of the money they pay you on the case.

Likewise, underinsured motorist coverage (UIM) covers you if the at-fault driver does not keep as much coverage on his auto policy as you do on yours. If the at-fault driver has only minimum coverage in Virginia, which is \$25,000 per person per accident and you carry \$50,000 per person per accident, you have potential coverage under your UIM policy of a second \$25,000. This assumes that your case is in fact worth more than the \$25,000 minimum coverage of the at-fault driver. There are many different combinations that may apply to figure out exactly how much UIM coverage you may have. For example, family members who live with you and have separate insurance policies may be able to use their insurance to provide you additional UIM coverage in a serious injury situation. Knowing exactly how these coverages work is part of the specialized knowledge that an experienced personal injury lawyer should have.

When you try to tap into your own medical payments policy or UM/UIM, you are actually adverse to your own insurance carrier. Therefore, it is important to have a personal injury lawyer on your side to balance the power. Even though it is your insurance company, they may not be looking out for your interests in these complicated insurance matters.

Honesty Matters

It is essential that you be honest with your lawyer and with any healthcare provider treating you for your injuries from the car accident. With respect to the lawyer, there is an attorney/client privilege which means that the lawyer can never reveal what you say to him about your case. It is critical that you be totally honest with your personal injury lawyer so that they know everything that they need to properly represent you. Hiding anything from your attorney could jeopardize your case.

Similarly, you need to be very honest and accurate with your doctors. Remember that your doctors will attempt to write down everything that you say when you are seeking treatment. So, you need to make sure to give them an accurate history of the cause of the injury. You should not exaggerate or understate your symptoms.

One of the main defenses in personal injury cases is if the insurance company can make it seem that the person hurt is faking or malingering for the gain of getting money from the insurance company.

Insurance companies have done a great job in recent years of pretending that there is a lot of insurance fraud. They spend millions of dollars on advertising campaigns to convince the public that anyone making a claim out of an automobile wreck is probably a liar. What you can do to protect yourself is make sure that you are being exactly honest about what hurts you, how long it has hurt you, and where you believe it came from. Any mistake in what you say to your doctor may be blown into a supposed lie by the insurance defense lawyer at trial.

Realize that once the case goes forward, they will have the right to get every record of every doctor you've ever seen since you were a baby. If they can find any inconsistencies in what you have said before, it will mean real trouble in getting a satisfactory result in your case. For example, when the doctor asks you if you have ever had a similar injury from a previous accident, you need to answer correctly. It will not be good enough later to simply say that you forgot something. In today's computer world, the insurance companies also have files on each of us showing every accident we have been involved in during the past.

So, as your attorney, I need you to be very careful to be clear with all of your doctors about the injury in question and your past medical history. It is much easier for me to deal with a preexisting condition before the accident and distinguish what was going on then, from what was going on after the wreck, than it is to try to explain away the fact that you did not give the doctor a complete picture of your medical situation. It will also undermine the doctor's confidence in you so that they may not be as willing to help at the time of any trial in explaining what happened to you in the car wreck.

Insurance Company Tricks

The insurance company for the at-fault driver will do everything in its power to keep you from hiring a competent personal injury lawyer. If you fall for this, they will lead you along, promising that they will pay your medical bills and lost wages, only to force you to take a low and unfair settlement amount after you have lost some of your rights by not getting an attorney early on. They expect that if they can get you to delay hiring an attorney for long enough, that problems will develop in your case and no attorney will want to take your matter on. The insurance claim representative will sometimes try to get you to settle immediately, before you seek counsel. You do not ever want to settle your personal injury case before you know exactly what is wrong with you and that you are 100% well or as good as you are going to get.

If your case results in a permanent injury, you need to know that before you sign a release with an insurance company. Once you sign a release, you are saying that you will never sue them or the at-fault driver ever again about the incident. If the insurance company can fool you into giving up your rights before you finish your medical treatment, then they have done themselves a big favor, so they will often dangle some quick money before you to try to get you to close the case before an appropriate time. The recorded statement is another common ploy used by insurers before the person hurt in a car wreck has an attorney. The idea is to get a statement from you where you admit something that they will later use against you. You do not want to ever give a recorded statement without first talking with an attorney and thinking through what exactly the facts and legalities are in your case.

Do Not Release Until Maximum Medical Improvement

An injury case should not be settled until the client is as good as they are going to get medically. It is important that the client have some idea about how long a personal injury case typically lasts and what they are expected to do to cooperate with their lawyer for a successful outcome. Once medical treatment is completed and the doctors have released you as having reached maximum medical improvement, the case begins to heat up. At that point, the attorney will order all of the bills and records and then analyze and organize them to send to the insurance company. The insurance company needs some time, typically thirty days, to begin settlement negotiations. If settlement negotiations are successful at that time, the case is then resolved without filing suit. That point is reached typically about two to four months after all of the medical care is done. However, it can take more or less time depending upon certain factors. Sometimes it can be surprisingly difficult to get all of the medical records quickly from the healthcare providers. This has become more difficult in recent years with certain privacy laws that require specific detailed forms to collect the records.

To the extent that the case does not get resolved prior to filing suit, then it is typically about a year from the time of filing suit to a jury trial in most jurisdictions in Virginia. However, it is not uncommon for the case to be resolved within six or nine months of filing suit, after some initial discovery is done so that both sides know more about the case. A good personal injury attorney is always trying to figure out how to most quickly and efficiently get the case resolved in a way favorable for the client.

The main thing the client needs to do to help make the case go quickly and smoothly is to keep in touch with the lawyer, updating the medical information as the case

progresses. For example, you need to let your lawyer know that you have gone to see a new doctor or therapist, including providing their phone number and address. This way the injury lawyer knows where to get the records from. The client also needs to let the lawyer know how treatment is progressing and when the doctor has released you as having reached maximum medical improvement. There may be certain documents that are easier for you to obtain for the case than for the lawyer to get them, such as prescription drug records from your pharmacy.

Most Claims Settle

Most personal injuries from car wrecks get resolved by way of settlement of the claim prior to filing suit. There is a difference between making a claim for automobile accident injuries and filing a lawsuit. Even cases that require filing a lawsuit usually get resolved before going all the way through to a jury trial.

If the case gets resolved before it goes into suit, this means the parties have agreed to a settlement before filing suit is necessary. This often makes the most sense for the person who is hurt in the car wreck. No claim should ever be settled without the clear express agreement of the client. The lawyer is simply acting as your representative, but the decision of whether to settle for any given amount stays with the client. The attorney's role is to make sure that any settlement amount is the most possible and advise the client whether an offer from the insurance company is fair or not.

Sometimes settlement before filing suit is not preferable for the client. For example, in a large case where there is a serious and permanent injury, the insurance company may not be willing to pay top value for the case without the matter going into suit. The lawyer for the injured person should be ready, willing and able to take the case into suit if that is the best thing for the client.

Unfortunately, some law firms have a reputation with the insurance companies and defense lawyers as someone who really cannot and will not try a case to jury verdict. Those lawyers' clients are at a disadvantage because the insurance company may low-ball the case knowing that the lawyer cannot call their bluff because they lack the trial experience and confidence to go forward if necessary. Some of the lawyers who advertise on television as being the meanest and nastiest lawyers, who the insurance companies supposedly fear, are really just the opposite. The insurance companies know that many of these law firms are mere factories that do not have trial lawyers prepared to get full value for their clients. If you have chosen a good personal injury lawyer to handle your case, filing suit is not always necessary, however. The lawyer should discuss with you the pros and cons of going into suit.

Going into suit will typically involve further time and expenditure of costs to achieve a result. The lawyer should discuss with you the advantages and disadvantages of that decision as it is being made. Importantly, just because a lawsuit is filed, does not mean that the case has to go all the way to a jury trial. Cases can be settled, and often are, at different points, including at mediation sometime before a jury trial. This is usually to the client's advantage in that a trial can be an emotionally difficult ordeal for a client to have to go through. The outcome is uncertain in a jury trial and a settlement helps the client to take the risk out of putting the case in the hands of seven strangers.

Why You Should Use Your Health Insurance

A person hurt in a car wreck should use their regular health insurance whenever possible to pay for the bills associated with the injury. The reason for this is that the bills will then be paid in the short run without the doctor or hospital suing the patient and trying to add attorney's fees and court costs onto the bill. This is particularly an issue for hospitals which sometimes fail to properly bill the health insurance company for emergency room care after a car wreck. If you receive a bill from the emergency room that was not properly sent to your health insurer, contact the hospital and ask them to bill that health insurer.

Generally, the rule in Virginia is that your health insurance company does not have to be paid back out of the settlement of any case. There are exceptions to this rule, including federal law for something called a self-funded ERISA plan which is often used for large employers. In this event, the health insurance company may have to be paid back at the end of the case, but likely not dollar for dollar. Your personal injury attorney should negotiate any such claims for reimbursement down to the lowest possible amount as part of the settlement process. Even where the health insurance company does have to be paid back, it is still to your advantage to use it because they usually will not have to be paid back the full amount. The at-fault driver will not get any benefit from your using your health insurance to pay the medical bills from the car accident. Rather, the defendant will remain responsible for the full amount of the medical bills as if health insurance had not paid. The reason for this is that you paid for your health insurance through your work and they should get no advantage from the fact that you are smart enough or lucky enough to have health insurance.

Only Two Years to File Suit – Virginia Statute of Limitations

The statute of limitations in Virginia for car accident injury cases is generally two years. Two years is the time within which a lawsuit must be filed in order to pursue the claim. If suit is not filed within two years, then you lose whatever rights you may have had to pursue the matter. There are some limited exceptions to this rule.

One of those exceptions is for infants, meaning people younger than 18 years old. They generally have two years from their eighteenth birthday to file suit for injuries in a car wreck. However, there are some complications even of this rule as the parental claim for medical bills related to an infant's injury in a car wreck has to be pursued within five years of that wreck. The main thing to remember is that you do not want to wait anywhere near to the two years before hiring an attorney. If you come to a busy plaintiff's injury lawyer with only a few weeks or months left on the statute of limitations, they may well decline to take your case because they do not want to have the pressure and risk of something going wrong in filing the claim in a timely manner.

Passenger Cases Are Different

Passenger cases are somewhat different than cases where the injured person is the driver. First, the passenger may have a claim against both drivers (their own and the other car's) if they were both negligent. Except in unusual circumstances, the passenger is not going to be at fault in causing the collision. So, the defense of contributory negligence does not apply in passenger cases. They are typically stronger than cases

where the injured person is the driver, who can potentially be blamed for being a partial cause of the wreck.

If the passenger's claim is against their own driver, it is typically some family member or friend who was at the wheel. The personal injury attorney can work through with you how this affects your case. The main thing to understand is that the settlement is going to be paid for by the insurance company, not the individual at-fault driver. Therefore, even in a case where the potential at-fault driver is a friend or family member, the attorney can assure you that the claim will never involve asking for money from your friend or family member driver, themselves, just the responsible insurance company. Often, this is not even an issue because the passenger does not believe that their driver was at fault in any event.

Low Impact Cases

Insurance companies have been making a big deal out of the car's property damage in recent years where the amount is minimal. The basic claim by the insurers is that the person inside the vehicle cannot have suffered injury if there is not significant property damage to the car. This is really not true. There are a lot of factors that go into whether a person is hurt inside the vehicle that matter more than the amount of property damage shown on the outside of the vehicle. However, it is a superficial argument that has worked well with jurors. Many lawyers are afraid to take cases where there is low or no damage to the car. There are challenges to these kinds of cases.

However, some of the questions that a good personal injury lawyer should ask include how much damage was there to the other vehicle in the wreck. And, is there property damage that is not visible, such as frame damage, on the client's car? Most doctors, if they are being honest, agree that there is no direct correlation between the amount of property damage to the vehicle and the harm caused to the occupants of the vehicle. For example, sometimes, there can be a huge amount of damage to the vehicle and minimal or no injury to the occupant. The neck is a particular part of the human body that is at risk during a car crash, even at relatively low speeds. In the environment of today's personal injury law, however, this issue will be something to be considered.

Lawyer Duties to Client

The lawyer in a car accident case owes various duties to the client and must be ethical in his dealings with the client. The personal injury lawyer has to always be looking out for the interests of the client and to work competently and diligently to get a satisfactory outcome for the injured person.

The lawyer should communicate what is going on in the case with the client and be accessible to answer any questions. Good injury lawyers have experienced and knowledgeable staff members who assist them to competently handle cases and win in court when necessary. A good injury lawyer should always return phone calls the same day or within 24 hours at the latest. If for some reason they are not able to return the call, for instance, if they are in a multi-day trial or other obligation, they should have a staff member or fellow attorney in the firm ready to be responsive to the client's calls. A good injury lawyer should help the client reach the goal to obtain the most money

possible for the case, but meanwhile realize that this is a very difficult event in the life of the client.

Changing Lawyers

The client has an absolute right to fire their personal injury attorney at any time. I do not recommend changing attorneys in the middle of a case except in unusual circumstances. Typically, if a client calls me wanting to have me take over a case from another attorney, I will try to encourage the client to get straight with the old attorney first. If there is any way that the old attorney can regain the client's trust and finish the case, this is usually better. One reason for a client to stick with the original attorney is that the original attorney may have a right to claim an attorney's fee lien against the case when the client changes lawyers. Although there is some uncertainty in this, if the old lawyer fires the client or the old lawyer is fired for cause, meaning they objectively did something wrong in their representation, then no fee for the old attorney is normally required.

However, if the client is simply changing lawyers for something other than "for cause," then the original attorney may be asked to be paid back some reasonable hourly rate times the number of hours they spent on the case. One question in this situation is who is going to pay for the old attorney's time at the end of the case, the client or the second attorney. Often, if the case is a serious enough injury, I will agree, if I am being hired as the second attorney, to deal with the old attorney's lien for his time out of my fee. The main take-away on this point is that if you are going to change lawyers because you do not like or trust your first lawyer, then do so as soon as possible. It is always hard as the second lawyer to try to undo some of the things that were done by the first lawyer that were not the same as the way the new attorney would have wanted it done. You can save yourself the aggravation of this situation by choosing the "right" lawyer on the front end.

About Our Law Firm and Taking Action

Thank you for downloading and reading through this guide. We hope it was helpful and provided answers to some of your questions. Now that you've read through the guide, the next step is to contact our firm to set up a free, confidential consultation so we may evaluate your potential case. We cannot legally state we are the best personal injury law firm. However, we can tell you that many of our lawyers have been selected for the highest honors in our area of injury law and two of our lawyers are listed in the "Best Lawyers in America" (since 2011; Shapiro, Lewis). In addition, our firm has been listed as one of the "Best Law Firms" for personal injury law by U.S. News & World Report (since 2011). Furthermore, three of the attorneys at our firm possess the "AV" Preeminent rating from Martindale-Hubbell, one of the best known lawyer rating services in the country. Three lawyers with our firm have been designated Virginia "Super Lawyers" ('06 Lewis; '10 Shapiro, '11 Appleton).



Super Lawyers®



In October of 2000, our law firm and co-counsel obtained a record-setting verdict, which was the largest in Virginia's history, for an injured person suffering a traumatic brain injury (\$60 million, with interest). If you have checked our firm's website, you understand that we have handled complex cases successfully, and our track record of million dollar settlements and verdicts speaks volumes.

Our firm has represented thousands of accident victims. In fact, our firm motto is "All We Do is Injury Law." That means all day every day we focus exclusively on personal injury cases. In fact, our attorneys have over 100 years of combined legal experience.

We have offices in Virginia Beach, Hampton, and Norfolk, VA along with an office in Elizabeth City, NC, and importantly, on faulty product injuries or deaths, dangerous drug and medical device cases, we accept and work on cases nationwide. If you cannot travel to any of these offices, we will come to you. Contact our office at 1-800-752-0042.