

VIRGINIA CAR ACCIDENT GUIDE

*Helping You Make Sense
of a Personal Injury Claim*

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If you have been seriously injured in a car accident, you may be feeling overwhelmed and scared about how you are going to handle this. You might want to recover compensation for your damages and are looking for someone who can help you. Our Virginia car accident lawyers are here to help.

According to the National Highway Traffic and Safety Administration, more than 50% of car accidents happen within five miles of the home. When was the last time you were driving close to home and thought about the possibility of a car accident? It's not something that most people think about. Yet, being involved in one can result in missed time from work, damage to your car, and unexpected medical bills. If you're involved in an accident, call us for a free consultation with our Virginia car accident lawyer. You'll learn whether you have a valid personal injury claim, how you can protect your legal rights, and the legal process.

MOST COMMON CAUSES OF CAR ACCIDENTS IN VIRGINIA

By listing the most common causes of car accidents, it is our hope that you'll be able to avoid some of these factors. It's important because they can affect how your personal injury claim is handled. The most common causes include:

- » **Distracted driving.** This includes texting and driving. In Virginia, it is against the law for any driver to text while they are behind the wheel. Drivers under the age of 18 years may not use a cell phone while driving, including use of a hands-free device.
- » **DUI.** Drinking and driving is an extremely dangerous practice. If the plaintiff can prove that the defendant was drinking and driving under Virginia law, they may be entitled to punitive damages.

- » **Speeding.** Speeding can make it difficult to keep control of a vehicle. Depending on the speeds involved, there could be an allegation of reckless driving.

WHAT YOU SHOULD DO AFTER AN ACCIDENT

Unless you've been previously involved in an accident, it's likely that you don't know what to do. And, if you have been involved in one before, think back to that time. Did you know during that time what you needed to do? Probably not. The following items can help you directly after the accident and they may also help protect your claim.



1. Get emergency medical care if you or anyone else involved in the accident need it. This includes actual or suspected head injuries, neck injuries, back injuries, broken bones, serious blood loss, serious lacerations, or internal injuries.
2. Call the police. The police will take a report that provides objective information about what happened. They'll give you a report number. They can also help you exchange insurance information with the other party or parties.
3. See a doctor. Don't wait to get checked out. Lack of medical attention may cause minor injuries to get worse. You could also have injuries and not realize it because in times of stress, like when you're in an accident, your body releases adrenaline. You may not feel your injuries directly after the accident.
4. Contact our Virginia car accident lawyer. We can help you with your insurance claim, deal with the insurance company, and help you get the compensation that you deserve for your

injuries. We can also explain the steps involved in handling your claim.

5. Keep track of your expenses and missed time from work. Make copies of the medical bills you receive that resulted from your injuries. You should also make copies of any receipts for out-of-pocket expenses.

INSURANCE COMPANIES

It's the law for drivers to carry a certain amount of insurance coverage. Uninsured motorists and insured motorists will be treated differently under the law. If you were involved in an accident with someone who doesn't have insurance, call us. We'll talk to you about what happened and your next steps.

When an insurance company is involved, you'll file a claim. Insurance companies provide a product that we're all required by law to have. The goal of insurance is to put accident victims as close as possible to the position they were in before the accident happened. However, they are also for-profit companies. They're in business to make money.

We're sure you've heard story after story of how insurance companies try to low ball legitimate claims or outright deny them. Sometimes, they delay paying so that victims or their families feel obligated to accept smaller amounts. They may also push you to sign a settlement agreement. The agreement may take away your rights to sue or get help with any future medical expenses you have that resulted from the accident.

Before you sign anything, it's imperative that you have the document reviewed by an experienced Virginia car accident lawyer. Don't wait. You only have two years to file your claim. Call us now to schedule your free consultation.



FREQUENTLY ASKED CAR ACCIDENT QUESTIONS

What Should I Do If I'm Seriously Injured in a Car Accident?

We find that very often, people get confused and upset when they're involved in a crash. The most important thing to remember is, number one, don't get terribly upset at the scene of the crash. It's not going to make anything any better or make it go in your favor to be accusative or lose your temper at the scene of a crash.

What is most important when you're involved in a crash on the highway is, number one, to be sure that you and those that you care about, and even the other party that's involved in the crash with you, are out of harm's way as quickly as possible. This means get out the car, move to the side of the road. If the car can be moved, make sure it gets moved out of the way into a safe position on the side of the highway. The worse thing that could happen is to have a second crash after your first crash because the cars weren't safely moved away from the scene. That being said, sometimes it's safe to leave the cars where they are.

The next most important thing is to get information on who was driving the other car. Make sure you look and see who that person was and that you verify their identity by getting their driver's license as well as their information on insurance on the vehicle they were driving. The next most important thing is to take a couple of minutes to assess your own body, how you feel, and by all means call 911. The most important thing you can do to preserve the evidence at the scene of a crime or an accident is to summon the police because they will do a relatively thorough investigation.

Finally, the next most important thing you can do is retain counsel after you get immediate medical care. The reason for that is because sometimes the police don't do the thorough job they should. Make sure you follow those steps

immediately after an incident that you might be involved in. If your family happens to be involved in it, give them those steps to follow as well.

Do I Need a Car Accident Lawyer?

I would tell you, first of all, that oftentimes in a smaller case where it's just a fender bender type crash, that if you see an attorney to get the basics of how to pursue a claim and read thoroughly on the subject, you might be able to handle the case on your own without their assistance, particularly if you have your own coverage for MedPay or PIP to help you pay for your medical expenses no matter how the case goes.

If you don't have those resources, and particularly if you don't have a way to pay for your healthcare to help you get better or recover from the crash, you need an attorney. Don't make the mistake of trying to handle things on your own in that type of case. In Virginia, it's very important to rely on your attorney to find resources for getting treatment, whether it be through deferred billing arrangements for you for healthcare providers or finding other resources, such as medical expense loans that you can take out to get the care you need for full recovery. Usually, only an attorney can help you do that because the provider doesn't trust individual consumers to pay the bill at the end without getting paid along the way. In those cases in particular, you must get an attorney for your Virginia car crash case.

What Mistakes Should I Avoid After a Car Accident?

The most frequent mistake that I see is not seeking counsel quickly enough after your crash. It's important to retain counsel quickly in a serious car crash. The more severe the injuries, the quicker you need to hire the attorney, simply to document the case by determining what happened in the accident, recovering black box information from the vehicles or trucks involved in the crash, talking to police officers, finding witnesses, and preserving their testimony. The more severe the accident or the more complex the accident, whether it be a three, four, or five-car collision, you have to get an attorney early.

Other mistakes are not following your doctor's advice for care following the crash. If you don't take the doctor's advice and follow the treatment plan, you're not likely to recover as much as if you had done that, nor are you likely to recover fully as if you had followed that direction. Please, always remember to follow the doctor's advice.

The last thing I would say is that trying to do it on your own is probably the worst mistake that any person could make following a Virginia car crash case. Insurance companies are very adept at minimizing the value of the case and taking advantage of people's lack of knowledge or experience in handling these cases. Always seek advice from a competent attorney following your car crash case in Virginia.

Should I Talk to the Insurance Company After the Accident?

People often come to me for the first time after they've been contacted by an insurance company following a Virginia car crash. In those cases they ask, is it really important that I speak to this insurance company, and provide the details they're asking me about, following my car crash in Virginia? The simple answer to that is, there's no need to contact the insurance company or respond to their questions at that stage in your case.

Usually right after the car crash is when they're calling and trying to take what they call a recorded statement to verify what happened in the crash. Sounds reasonable enough to most people, but unfortunately, insurance companies have learned a variety of techniques to try to sneak in questions that are designed to find ways to defeat your claim without you even knowing they're trying to contest the claim, by asking you certain questions in a certain way. For that reason, you need legal advice before you take any kind of recorded statement, in front of an insurance adjuster or by phone, following your Virginia car wreck case.



I might add, also, that in Virginia, we have a protective statute of prohibition against introducing recorded statements at trial of a personal injury case if they're intended to contradict the statement of the injured victim. However, in many cases, those statements can be introduced when they're intended to show the nature and extent of your injuries. It's always best you simply decline the invitation to give a recorded statement after your car crash and allow your attorney to make the evidence available as it's fully developed, whether it be waiting until your doctors have made a thorough analysis of your injuries, or until your treatments are completed and you know what the final outcome of your case might be.

How Do I Choose the Best Attorney for My Case?

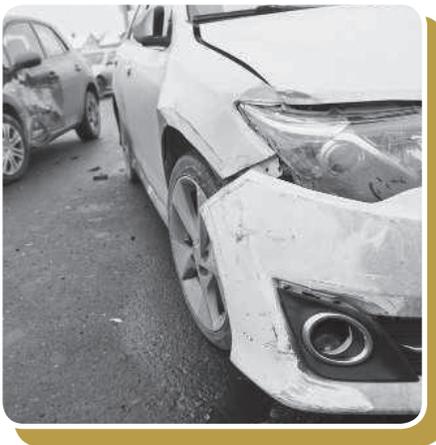
There are over 14,000 attorneys practicing in this state, so it's a real hard choice to make between one attorney or another for any given case. In a personal injury case, you can often rely on client reputation. That is what kind of reputation or awards have been received by that attorney, either by past client reviews or industry awards.

The other thing to look for is somebody with a lot of experience, because any time you're involved in a personal injury case, it has a high-probability of going forward to litigation, and you want an experienced attorney who knows his or her way around the courthouse in order to be able to represent you as well as possible in a complex case. Certainly the more serious your injuries, the more specialization you need in the attorney that you choose in doing personal injury work, because the case becomes far more complex to present. Always look for experience, client reviews, and awards to make sure that you're hiring the right attorney for you in your personal injury case in Virginia.

Should I Take a Settlement Offer from the Insurance Company?

Normally, insurance companies are sophisticated enough to know that if they offer a quick payment for a low sum, that it's far more likely an injured person will accept that offer without understanding the consequences. For example, when you take that offer, that is the only money you get from the case, regardless of what happens to your injury or your recovery process after that date.

More importantly, the offer is usually extraordinarily low. It probably only covers your medical expense and a few hundred dollars for what they call compensation for other things. They don't go into the details of all the days that you suffered with headaches, back pain, or neck pain as a result of the crash, or explain to you what the value of those components might be, because they're harder to value than the actual dollar amount of your bills or lost wages. Don't take the first offer. It's far better for you to retain an attorney and thoroughly evaluate your case, because it may be worth much more than what any insurance company is willing to offer you within a week or two after the crash.



What Are the Steps in a Car Accident Claim?

I'm often asked by my clients what all the steps are that you have to take to get from the beginning to the end of a Virginia car crash personal injury case. These types of cases are usually a long, drawn out process. It's relatively rare that somebody can resolve their case within three or six months of a car crash. The reason is because there's an ongoing

period of medical care to help in the recovery process, and normally you have to wait until the end of that to make your claim in order to be sure that you have accounted for and presented all of the injury-related expenses in the case in order to maximize the value of your settlement.

In any given case, it will take a very careful evaluation and presentation of all of the details of the injuries, the cost to recover from those injuries, the ancillary losses such as wage losses and orthotic aids, therapies that you went through, prescription medications that you've had to purchase for pain relief and other kinds of recovery efforts. The efforts are very difficult to generalize in every single case, but the most important thing to remember is to get started early, document all of your losses, and work closely with your attorney to present the best case for the best value in your recovery.

What is Personal Injury Protection Insurance?

You may be wondering after you've been involved in an accident, what are the benefits of having PIP insurance, and what is PIP insurance anyway? In Virginia, PIP insurance is actually known as MedPay. MedPay coverage is an optional coverage you can buy on your own car that protects you and the people in your car by payment of medical expenses related to the injury that you've sustained in an auto accident. In D.C, there is a PIP statute, but the PIP statute is an elective statute that says it's your exclusive remedy, so normally you would not want to use that unless you do not intend to pursue the other party for any additional injuries, such as pain and suffering, or expenses beyond the coverage limit in your PIP insurance. If you have a claim that severe, you should not use your PIP insurance. Instead, you should talk with your attorney about finding other sources of coverage to help you pay for your ongoing medical expenses and wage loss.

PIP insurance, in essence, is a combination of medical cost reimbursement for your accident-related injuries, plus a wage loss component for the time you're out that the doctor's say it's medically necessary you not work because of your injuries. Maryland has a slightly different coverage than D.C. It's much more like Virginia's in that it reimburses your medical expenses regardless of who's at fault. It doesn't matter if you caused the crash or the other party caused the crash; you still get the benefit. It includes a wage loss component as well as a medical expense reimbursement, so that's the difference between Maryland and Virginia.

Who Will Pay for My Car Accident Medical Bills?

This is a very troubling question because many people today still don't have health insurance, and as a result, if a crash happens and they're injured, they do not have health insurance to pay for expenses for this kind of an injury. Oftentimes, the only recourse that a person without health insurance has is to go after the other person who hit them to get paid for medical expenses, wage loss expenses, as well as pain and suffering.

The difficulty of those types of claims is simply that you have to wait until the very end of your case, after all of the medical care has been provided and you

have been released from care from the doctor, in order to know that it's safe for you to make a claim against the other party's insurance, because it's a one-time payment and after that, you're barred from any future payment or recoveries. If you don't have health insurance, or if your health insurance requires that you pay them back at the end of the case against a third-party, ultimately your best source of recovery is against the other party's insurance, the party that caused the crash.

How Long Do I Have to File a Car Accident Claim?

In Virginia, we have a very short statute of limitations, and that's simply the time deadline that the law states you must file a lawsuit within in order to preserve your claim. The claim doesn't have to be resolved in that two-year time; a lawsuit, however, must be filed in writing, in court, within that two year time frame from the date of the crash. Even though you didn't start hurting until two weeks or four weeks later, even though you haven't fully recovered, even though you haven't completed your treatment, you must file that case within two years of the date of the accident.



What Should I Do If I Was Involved in an Accident with a Drunk Driver?

Virginia has very strict drunk driving laws. They're not the strictest in the nation, but they're evolving to become more protective of people who've been injured in these types of crashes. Notice I don't call them accidents. Drunk driving is no accident.

It's a choice that's been made by a driver who's been irresponsible enough to drink far beyond his or her ability to control their actions properly and get out on the highway in a way that's very likely to cause serious injuries to other parties. Those injuries can be aggravated or made worse by the fact that when a drunk driver is operating a car on the highways in Virginia, they're going faster, they're not abiding by the lane markings, they don't follow the traffic signals, and they're much more likely to cause far more

serious injuries than ordinary mistakes that could be made on the highway by other drivers.

How Do I File an Accident Claim with an Uninsured Driver?

Frequently, I have clients come to see me and say, “We don’t think the other person had any car insurance. What are our rights to recover if the other person has no car insurance?” We call these case in Virginia “uninsured motorist cases.” They apply both to cases where you know the other party did not have insurance, but they also apply in cases of hit-and-run where you don’t even know who the other party was and have no way of finding them to determine if they had insurance or not.

In both of those cases, Virginia has a special statute for uninsured motorist coverage that requires that you be provided the opportunity to purchase that insurance at a reasonable cost to add onto your own car insurance policy. In the event that you have a claim that involves someone who had no insurance, or you don’t know who the other party was, you can make a claim against your own policy’s uninsured motorist coverage for that benefit.

There’s another part to that statute that allows you to recover extra money from your own policy, if your policy exceeds the coverage limit on the other person’s policy. Even if they had insurance, just not enough insurance to pay the value of your full case, you can make additional claims against your own insurance for what’s called under-insured motorist coverage. It’s often the case, in the most severe crashes, that the injuries are bad enough to have to tap into that additional coverage. In that case, you must see an attorney because there are many technicalities that could bar you from making that claim and getting the most value out of your case for your injuries.

How Much is My Car Accident Case Worth?

There is no simple formula for evaluating what any particular car crash case is worth. Virginia cases tend to be more difficult than most states to evaluate because we have what’s called a “contributory negligence” statute in Virginia that bars any recovery for an injured person if they were at all at fault in causing

the accident or not taking reasonable care for their own safety. That can translate into a lot of reasons why your case may have complications that cause it to be worth somewhat less.

In Virginia, car crash cases are normally evaluated by the cost of medical care to recover from the injuries you had in the crash, plus your wage loss, and plus a component for pain and suffering. There are other claims that you can make in more complex cases, for example, permanent disabilities or orthotic aids, or inconveniences in life, such as the inability to take care of your children or inability to engage in activities or pastimes that you used to do, or other types of inconveniences and difficulties that you encounter in life.

There are so many different ways of evaluating what your case is worth. You must seek legal attention to make sure that you get the most value out of your case.

What Type of Compensation is Available for a Car Accident Case?

Usually, the first question people want to know when they come to see me about a Virginia car crash case is, what are the different things that I can recover for in this case? Of course, we always start with the medical issues. We focus on the cost of medical care and the cost of future treatments or disabilities that may arise because of the injury that you had in this crash. The other things that you can recover for are wage loss, loss of earning capacity, which simply means what your future earning capabilities are or how they're restricted because of the injuries that you've had.

Other types of injuries that you can recover for would be scarring or permanent disabilities, which would mean limitation or loss of use of part of your body because of the car crash injuries. The other things that you can recover for in Virginia are pain and suffering and inconveniences of life for things that you're no longer able to do, whether they be recreational activities, family activities, or charitable work that you might have done that you no longer can do because of your injuries. In each of those cases, you can make claims for those inconveniences or problems that you will have to suffer as a result of your Virginia car crash case.

How Long Will My Car Accident Case Take?

Sometimes I'm asked by people who have very serious injuries from a car accident in Virginia, "How long is it going to take to resolve my case?" This usually means that this person has reached a point in their case where they've run out of patience with the delays or the ongoing course of treatment. I always tell those people that it's very important that you be patient and allow your doctors to do their jobs, and get to completion of what we call maximum medical improvement before we try to finalize or wrap up your case through settlement or litigation. It is difficult to tell, in the most serious cases, how long it may take to resolve your case, but we never want to wrap your case up before you've completed treatment because there could be hundreds of thousands of dollars in medical expenses ahead that will be sacrificed if you don't wait for a full evaluation of the extent of your injuries.

Part of the recovery process that every person must go through after a car crash is to follow the protocol or the instructions and directions from your doctor. Once that process is completed, it's relatively quick to resolve the case by simply presenting all of the medical history, and all of the ancillary losses that you've sustained, and put together a written package called "the demand." Usually within 60 to 90 days of doing that, a reasonable offer is made.

In some small percentage of cases, the insurance company will try to lay off your medical history to some preexisting accident, or some other kind of condition that you have that is unrelated to the crash, and therefore they shouldn't have to pay for it. In those cases, we have to go to litigation and present medical evidence to prove that that insurance company's claim is bunk. It is increasingly frequent in Virginia car crash cases that insurance companies will try to play that game to minimize the value of the most serious accident cases. In those cases, it usually takes a year to three years to resolve your case. To wait that length of time means that you could recover five, ten, or even fifteen times more in the costs that are associated with your ongoing care than if you were to try to prematurely wrap up the case within six or nine months of the crash.

CALL OUR OFFICE FOR A FREE CONSULTATION

We offer free consultations with our Virginia car accident lawyer. Please call our office today to schedule that consultation or feel free to contact us with any questions you may have and we would be more than happy to answer them.



ABOUT THE AUTHOR

Michael R. Strong has handled complex auto accident, trucking accident, and products liability claims for over 38 years. He has achieved many six-figure settlements and verdicts for his clients involving highway accidents, products liability claims, and medical malpractice claims.

A true litigator, Michael Strong is licensed to practice law in Virginia, Maryland, and the District of Columbia. He has been licensed to practice law since 1980. Mr. Strong earned his law degree from the University of Dayton School of Law. He handles cases involving personal injury and business litigation, including catastrophic injuries, serious accidents, business contracts, business transactions, and more. As a dedicated advocate, he is well-known for his client-focused representation. He has secured favorable results for many of his cases and is passionate about serving his clients.

Mr. Strong is the author of several articles involving personal injury recovery advice, development of sources of insurance coverage in complex accident cases, and creative solutions for compromise of medical provider and subrogation liens. He is also a Number One Best Seller on Amazon.com on Insurance Issues.

