

WHAT TO DO (AND NOT DO) RIGHT AWAY IF YOU'VE BEEN IN A MOTORCYCLE ACCIDENT

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- Stay put, and get immediate medical attention. If you've gone down hard, don't make a move until help arrives. Feeling numbness in any of your extremities? If you've injured your spine or sustained internal injuries, any significant movement could put you at serious risk. Await professional help whenever you can do so safely.
- If witnesses can be identified, ask them to give you their names and numbers right away. If you are in no condition to collect that information, ask someone to do it for you, and don't be shy about it. You'd be amazed at how quickly caring witnesses can appear, and then fade into the woodwork and drift away once they see that medical attention and/or the police have arrived and that you are being taken care of. I believe in the goodness of my fellow humans, but in the end, lots of people who will eagerly tell you they "saw everything" often decide within a few minutes that they just don't want to get involved. Get their names and numbers RIGHT AWAY so that they can be found again if their testimony is needed. If you've been hurt, it will be!
- If you or other witnesses on the scene have a cell phone camera or even regular camera, use it! Take pictures of the scene, the vehicles involved, your bike, and you. Take as many as you can. Too many is not enough. I've handled many cases where one single photograph, taken at the scene or later at the hospital, made all the difference later on in establishing liability – an essential element of an injured person's claim for compensation. Once the vehicles are moved and the scene is cleaned up, you've lost an important opportunity to document what happened. If you can't do it, ask someone else to, and be sure to get their contact info so they can email you the pictures. Again, don't be shy about this. Your rights may depend on it, and once the opportunity is gone—well, it's gone.
- Once medical help arrives, if you find yourself in a hospital emergency room, cooperate fully with your doctors and attending nurses, but don't volunteer a lot of detail about how the accident happened unless they specifically ask you for purposes of understanding your injuries.¹ Quite

¹ Please use your common sense here. Obviously, if a doctor is asking you a specific question about the impact or anything else that bears upon treatment, I'm not suggesting for one second that you hold back information that could be vitally important to your proper diagnosis and treatment.

often, accident victims are in shock and details can be hazy – especially if you’re on an IV with strong painkillers. If you give confusing information and someone writes it down wrong in your chart, those statements can come back to haunt you later if they differ from more accurate, subsequent statements and accounts rendered later on. Even if you are clear headed when you arrive at the hospital, I’ve seen cases where ER personnel simply misunderstood a patient’s description of the accident and put the wrong information down on the chart. Avoid this by simply answering their questions and staying focused on your care and treatment. If you insist on telling anyone and everyone in that ER what happened over and over (as many people want to do when they’ve just been through a traumatic event such as a motorcycle wreck), the chances are someone is going to write it down on your chart in a way that is inaccurate, incomplete, or both.

- If you are transported to a hospital, call a friend or loved one. Have them take photos of you and your injuries at the hospital or as soon as possible in the days thereafter (at an appropriate time, of course, so you don’t interfere with treatment and you do respect the privacy of other patients). These photos can be valuable in thoroughly documenting the nature and extent of your injuries sustained. Don’t be embarrassed to do it. No one else will.
- Follow up with all recommended medical treatment in the weeks and months following the accident. I cannot emphasize this enough. Unexplained “gaps” in treatment may have a significant, adverse effect upon your case.
- If another vehicle caused your accident and took off, make sure you file an immediate report with the local police. If you are physically unable to go to the appropriate police station to file a report, call the police to report it – from the hospital if necessary. If you have uninsured motorist insurance coverage, your policy may cover your injuries regardless, but if you fail to file a timely police report, the odds are that your carrier will deny the claim. If that happens you may have to file a “John Doe” suit against your own insurance carrier to secure your recovery – an uncertain recovery that could take much longer than might otherwise be necessary.
- Don’t give statements to insurance adjusters - especially adjusters representing the other guy’s insurance company - unless you’ve at least spoken with an attorney. Typically, you will receive a phone call from an adjuster within a day or two – sometimes within hours – of the accident. These people will come across as the most caring, compassionate friend you’ve ever had. They just want to “ask you a few questions for the file” so they can “take care of everything for you,” etc. Typically, once they establish rapport with you, they will ask “if it’s okay to record a short

statement” from you just to “complete the file.” **DON’T DO IT.** They also may ask you to sign and fax over “a few simple forms” to begin the claims process and “make sure you are taken care of right away.” **DON’T DO IT.**

- I am not trying to make a blanket statement about all adjusters here because I have worked with a great many who were ethical, honest and straightforward. I have also worked with a great many who were none of these things, and who will do or say anything to get you to compromise your case. In some cases, adjusters may try to get answers to questions completely out of context, so they can use them later to make a case for contributory negligence, thereby making it potentially impossible for you to be compensated. Don’t fall victim to these practices. Tell them you will be in touch with them in a few days, get their name and phone number, and politely hang up. The longer you stay on that phone (and believe me, they will say anything to try and keep you on that phone), the greater the risk that you will say something that could jeopardize your claim.
- If and when a statement is made to an adjuster to the effect that no physical contact was made between your bike and the offending vehicle, rest assured that they will deny the claim. If contact was made, however, even a graze to the front tire, you may still have a compensable claim for negligence.
- Say little or nothing about how the accident happened to anyone unless asked directly by an officer, before and after you leave the accident scene (see Chapter 13 on Contributory Negligence). Despite their excellent training, plenty of officers unfortunately have an attitude towards motorcycles and speed and may try to get you to admit you were speeding without any objective evidence that you were doing so. Be aware that any admission at all on your part could spell the end of your claim due to the doctrine of contributory negligence if it applies in your jurisdiction.
- Keep a personal journal of your treatments, including related time away from work. (Note all doctor visits and dates, and treatment received.) You would be amazed at how quickly you can lose track of dates and specific types of treatment you received. Keeping track of it all may be tedious, but could be enormously helpful to your case down the road, and will be a tremendous help to your attorney should you decide to hire one.
- Track time off from work for injury treatments and recovery carefully, and document your reason for taking leave with your employer, including time taken for travel to and from subsequent doctor’s and physical therapy appointments if you have them. (Lost wages need to be thoroughly

documented with pay stubs and written statements from employers confirming that you were absent and why.)