



THE TOP 5 MISTAKES THAT RUIN YOUR VIRGINIA INJURY CASE

**How to Protect Yourself Against
Insurance Company Trickery,
Unscrupulous Adjusters, and
Self-Sabotage**

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YOU DON'T KNOW WHAT YOU DON'T KNOW

The first thing you don't know is that hiring a personal injury attorney costs you nothing upfront out-of-pocket, so you should call an attorney for a free consultation as soon as possible after you have

been in an auto accident. Calling us up and answering your initial questions about your accident and injury is free. Seeing us in our offices if needed is free.

You're saying to yourself, "Nothing is free." And that's true, most of the time—but our consultation is always free and comes with no obligation. During that consultation, the attorney is listening to your story and evaluating whether they are a good fit to help you with your situation.

If a personal injury attorney takes on your case, then they will receive a fee—but that is paid out of your settlement dollars, which is the last step of the legal process for you. So you do not have to pay anything upfront. There is no fee retainer, no monthly bills, no hourly rate. (Not all attorneys are paid this way, through the settlement amount only. But personal injury attorneys are.)

Enough said. Eliminate "money" from the reasons blocking you from hiring an experienced personal injury attorney!

Consult one. Hire one.

In this short guide, I want to share ***the five main mistakes*** that people make in the case of a personal injury due to a car accident—because there are real, sometimes painful, sometimes expensive ramifications to making any one of those mistakes.

Please avoid these mistakes.

Tell your family and friends and everyone you know not to make these mistakes.

Making any one of them could totally wreck your chances of getting the legal and financial result you deserve.

IN THE HEAT OF THE MOMENT

Recently, I had clients whose adult son was killed in a car accident. Their child died after life-saving measures were attempted in the hospital.

When they retained me to assist them, I knew several things that were going to happen or would have to happen in order to resolve their wrongful death claim. I had to take them over to the courthouse to meet with the probate clerk to get both of them appointed as administrators of their late

son's estate. They hadn't known how to do that in order to "settle their son's affairs," or even that they needed to.

While I was helping my clients through the settlement negotiation process, the auto insurance carrier offered its policy limits to settle the case. I told my clients we couldn't accept it, yet. We couldn't accept it yet because—due to the type of health insurance their son had—I knew we would have reimbursement obligations to work through that would require time. I also knew that the hospital their son had been to is well-known for playing games with submitting bills to health insurance in a timely manner. We had to work through that issue for the parents.

The parents hired me as they were already in the process of dealing with their son's death and realizing they needed help.

I remember them saying to me at the probate clerk's office, "We didn't even know what we needed to know. Thank goodness we decided to consult you!"

When you have a car accident and an injury of any kind from it, calling a lawyer is usually the last thing on your mind. It is almost never, in my experience doing personal injury law, the first thing on anyone's mind.

Instead, "Where do I hurt?" is often the first thing on your mind. That is absolutely normal.

Second, your car is smashed up or worse, so you try to remember where you put your insurance guy's phone number. "What was his name, again?" Corollary to that is often, "Man, my premium is going to skyrocket after this!" Again, a normal thought to have.

Third, when the ambulance shows up and you're still standing, you decide you don't feel *that bad*. So you don't go to the ER then and there—only to be forced by your family to go to your doctor the next week when your shooting pains haven't gone away. This refusal to go right away to the ER is usually a "Should I – Shouldn't I?" game in your head, and that is because of the fourth thing on your mind: Money.

"How am I going to pay for this car damage? Yeah, I'm achy, but I can't get paid if I'm missing work!"

It could be a more anxious question: “I really do need to go to the ER, but I don’t have health insurance!”

Right there, in the first minute of the accident—without even second-guessing yourself—you have made most of the mistakes that could blow up a good resolution to your personal injury case. A good medical resolution. A good automobile resolution. A good financial solution.

Have no doubt: If you go to the doctor a week later for those lingering pains from the collision, you have what are called “personal injuries” from a car accident.

Without further ado, the five mistakes that will ruin your claim:

MISTAKE #1. TALKING TO THE ADJUSTER

This is about talking—or rather, *not talking*—to any insurance adjuster yourself. Don’t do it.

The other driver’s insurance company adjusters are generally going to do one of two things:

1. Either, your case is going to get assigned to an adjuster who is completely overwhelmed and they're going to back-burner you and you're going to feel like nobody's paying any attention to you. Or (more likely)...
2. the adjuster for the case is going to be pestering the daylights out of you to work out a quick settlement so they can close your file.

Your well-being is not the insurance company's number one objective.

Their mission is not to protect you. It is to protect their \$\$PROFITS\$\$. The way they protect their profit margin is to identify if they're going to owe money in your case or not, and how much.

Here is a big No-No: The other driver's adjuster wants to hear from you how the accident happened in your own words. They're going to very kindly tell you they need to take a recorded statement from you before they can get started with helping you.

You've heard that legal phrase, "Anything you say *can and will be used against you?*"

That's what the other driver's adjuster is doing—getting you to say things they can use to

undermine your case. They look for a way to suggest that you were partially at fault for the accident having happened. That is their gateway to denying your case entirely.

In Virginia, D.C. and Maryland, we have *contributory negligence*, which can be an absolute bar to a successful personal entry claim. If you even said one word hinting you might have been at fault (whatever the reality was), you've potentially blown up your case.

We're generally hardwired to be fairly honest people. Someone asks, we answer. No! Don't talk to insurance people. In doing so, you will often say too much.

Without a personal injury attorney to intervene on your behalf, your case might be either denied or settled, the money in your bank account, and your case closed before you even had an opportunity to realize what you did: You talked too much.

Don't talk to insurance people without legal representation.

MISTAKE #2. NEGOTIATING WITH THE INSURANCE COMPANY

This goes back to not knowing what you don't know. You don't like to hear that because it feels insulting to your intelligence. You believe for whatever reason that you can negotiate with the auto insurance company yourself.

You tell yourself, "I don't need an attorney. It's my neighborhood auto insurance guy, for heaven's sake!"

I don't want people negotiating with the insurance carrier because as part of those negotiation tactics (like we just talked about), insurance companies are just waiting for you to talk. Anything you say, they're recording and taking down so they can undermine you and pay out as little as they can.

I remember a client who was rear-ended by a guy who was flying down an exit ramp and never hit the brakes. He hit her so hard that he pushed her car into the car ahead of her. She was clearly hurt.

English was not my client's first language, but she and her husband spoke English pretty well. Within

72 hours, the other guy's insurance carrier had gotten them to accept some money. The insurance adjuster said: "We'll pay you a little bit now. And we'll also take care of your medical bills for a few weeks." The carrier sent my client an electronic link to click on so that \$2,000 could be direct deposited into her bank account, which she accepted.

Fortunately for that lady, she contacted me the very same week and I was able to get the "settlement" they had offered to her reversed. This could happen only because she contacted me quickly and only because I was able to use the law to our benefit. I argued that even if she had agreed and the case was settled, we were still within a period of time that we could renege on the deal. The insurance carrier was forced to reopen the claim and actually pay everything my client was entitled to. We ended up resolving her case for \$35,000!

Do not negotiate with these large organizations!

All they want to do is be profitable. And the way they are profitable is to make you a pitifully low (or no) offer.

MISTAKE #3. HAVING GAPS IN YOUR TREATMENT

It is often right at the scene of the accident that you create (in all good faith) your first gap in treatment. Unless you are actually bleeding, have broken bones or are unconscious—there is a natural inclination at the scene of the accident to decline the ambulance to the emergency room.

Not everybody has to go to the emergency room. But as a natural result of not going to the emergency room, you've not had any assessment immediately following the collision, to know what your situation is right after the accident has happened.

You might go see your primary care doctor, you might go to urgent care, or more likely, you'll sit at home and say to yourself, "I think I'll be okay. I feel a little stiff. I'm going to feel a little stiff tomorrow, but it's fine."

Then a week later: "I'm still not fine!" By then you've created a week-long gap. Instead of the emergency room, you go to urgent care. The people there might

say, "This is normal; let's watch things for another week or so."

That creates a longer gap.

A week later, you're still not fine. Your family makes you go to the doctor, who sends you for physical therapy, or to a chiropractor, or maybe for an MRI to rule out concussion. Those are referrals that create another gap in care due to schedule availability.

It becomes very difficult to prove that you suffered any injury at all.

You have to be proactive and close those gaps in treatment. Gaps kill your case because the insurance carrier will argue that you failed to take proactive steps to mitigate your damages.

The best course of action whenever possible is to get a medical exam at the emergency room directly from the accident. If that isn't possible, then make it a point to get evaluated by either the ER, an urgent care provider, or your trusted medical provider ASAP in order to get a thorough evaluation.

Follow through with all medical appointments and care.

MISTAKE #4. MISHANDLING YOUR MEDICAL BILLS

Don't give the hospital any insurance information other than your medical insurance information.
Don't do it.

Generally speaking, your financial bottom line is best protected by using your health insurance every step of the way for every medical need you have.

If you have health insurance, you pay a premium to have your health insurance pay the providers whenever you need medical care. Your health insurance will pay. Sure, you'll have co-pays and/or deductibles according to the plan you have, but the health insurance pays your medical bills.

Here's the rub from the hospital/doctor perspective:

Your health insurance is going to pay your medical providers some pre-negotiated—and usually very reduced—contract rate. It won't pay the full price of their bill for your care. But the two organizations made that discount deal and they're stuck with it.

So let's say the full price emergency room bill is \$622. Health insurance may pay the ER 25 cents on the dollar. That's their pre-agreed amount.

However, the hospital would like more! No secret there. They might ask you for your auto insurance information. If the auto insurer is actually ever on the hook for paying that bill and they pay it, they will most likely be paying the full \$622—and hospitals know it.

The downside for you: That extra money paid out by the auto insurance carrier is going to come from a pot of money that would otherwise be allocated to you. You don't want that to happen, especially when you are already spending your money for health insurance!

Earlier I mentioned some parents whose adult son was killed in a car accident. He was airlifted from the scene and taken to the emergency room where life-saving measures were undertaken. He had good health insurance—a federal employee health plan. But even so, the hospital billing department's immediate knee-jerk response is to try and figure out how to get to the auto insurance policy for payment, instead of the health insurance policy. It

took three months of effort to get them to finally submit their bill to health insurance.

The hospital didn't need any auto insurance information at all. The hospital needed (and had) his health insurance card. I reminded (or taught) them that the Virginia code says they are obligated to submit the bill to his health insurance. If they didn't, they might be waiving the right to be paid on his bill at all! Yes, they played a game that could have backfired on them.

In a case where you don't have health insurance, your personal injury attorney will look for alternatives so that you get medical care without having to fork out money upfront.

That option, however, is based on having an informed conversation with you—so the bottom line is to talk with an attorney as your first action.

Bottom Line: It's almost always best to insist that medical providers submit their bills to your health insurance!

MISTAKE #5. FAILING TO CONSULT A QUALIFIED PERSONAL INJURY LAWYER WITHIN THE FIRST 30 DAYS

There are two parts to this mistake.

1. Not consulting an attorney within the first thirty days (the sooner the better), and
2. Not choosing and hiring only a *qualified* personal injury lawyer.

The first part of the mistake refers largely to evidence and causation.

In order to have a successful personal injury claim, you (and your attorney) carry the burden in all respects. That means that you have to prove liability—that the other driver was at fault for causing the collision.

That makes the day of and early days after the accident key to collecting evidence.

We need to collect evidence, and the earlier the better. It's "fresh" and still out there for us to look at and find things such as:

- witnesses in order to prove that the other driver ran a red light;
- a statement that somebody made to the police officer that was captured on body cam video;
- a dash cam video or photos from a witness.

This and more can help, but with time all that becomes (1) hard to identify and (2) harder to access.

We have to have enough evidence to withstand any argument that the opposing party might raise that you were partially at fault, too. Then once you get past liability, you have to be able to prove injuries and causation.

Some people might be saying, "I got rear-ended; clearly, it's all the other guy's liability." STOP. Even in a case where you got rear-ended, that doesn't always mean you have a clean and provable case on liability, because we have contributory negligence in Virginia, DC, and Maryland. If there's any argument to be made that there was a small percentage of your fault that led to the accident having happened, that can be a complete bar to your case being successful.

Consult your attorney quickly.

The second part of this mistake is about needing a *qualified and experienced* personal injury attorney—a lawyer that does this type of law all day and all year long and has litigated cases (argued them in court).

Your personal injury attorney must have litigated cases and not be just a settler. The reality is that very few cases actually go into litigation, but an experienced attorney is going to know the difference between when a case needs to go to court and when it doesn't.

My team and I are auto personal injury specialists. It is what we do and you get to talk to me for free. A general practice attorney won't get you the best outcomes. That's all I'll say here about this!

WORKING WITH YOUR PERSONAL INJURY ATTORNEY

When you call us up about a car accident, it might be the first time you have spoken to any type of lawyer ever. We know that making the phone call is nerve-racking to you because you don't know what to say, ask, or expect.

Again, let me reassure you: It is free to speak to a personal injury attorney. Attorneys don't take all cases. They aren't charging you upfront, but they do need some reasonable assurance that a monetary settlement is possible for your case so that a portion of that settlement money will pay them for their time investment.

To determine if you have a case and a possible settlement, before the attorney agrees to take your case, they will ask you questions. It can be done on the phone. My team asks questions from a form in front of them so they don't miss any important facts.

You should expect to hear questions such as these from your personal injury law office. They are designed to help us know if you have a case:

- Where did it happen?
- When did it happen?
- How did it happen?
- Who was with you?
- Was it in Virginia, D.C., or Maryland?

- Where specifically did it occur (city, county, street name, intersection)?
- Where were you coming from and where were you going?
- Which way were you headed on the street?
- Did you have passengers?
- Did the other driver have passengers?
- Do you have a dash cam?
- Did the other driver have a dash cam?
- Were you driving a Tesla? (Teslas have built-in dash cams.)
- Did you have any conversation with the other driver? What did they say?
- Do you know of any witnesses?
- Did you call the police?
- Did the police come?
- Do you have any information from the police officer?

- Did you get information from the other driver regarding who they're insured with?
- Do you know the make and model of their car?
- Do you have their phone number, email, or address?
- Do you know if the police wrote a report or just gave you an exchange of information form?
- What happened to your body during the collision?
- Did you hit anything inside the car?
- Did the airbags go off?
- Were you able to get out of your car, or did you need assistance?
- Who are you insured with?
- Do you know what kind of coverage you have on your car?
- Was your car drivable from the scene, or was it towed?
- Do you know if you have rental car coverage on your policy?

- Has the other driver's insurance company been in touch with you?
- Did you give them a recorded statement, or have they just tried to reach you?
- Tell me about your injuries.
- Tell me about any medical care you've had so far.
- If you haven't had any medical care, why not?
- How are you feeling at this point in time?
- Do you have health insurance?

That's a lot of questions! But they all play into whether you have a strong case we can help you with.

BONUS STORIES

Here are two stories about the benefits of working with a personal injury attorney after your auto accident.

The stories demonstrate the need and the beneficial outcomes a personal injury attorney can create

when you avoid all five mistakes I have discussed and consult your attorney immediately.

These are two stories about obliging the insurance carrier to reverse their decision on liability.

Route 50

My female client was alone in the car, traveling to work, and stopped at an intersection with Route 50, which is one of the main highways in Arlington County. She stopped at the light behind another car.

When the light turned green, the car ahead of her went through the intersection and she started to proceed through the intersection too. Suddenly, she was nailed by a car flying down Route 50. The driver never hit the brakes but hit her so hard that the impact pushed her down the road.

There was a major intrusion of her driver door into the car cabin from the force of the impact.

While the other driver stated that my client ran the red light, my client stated the defendant ran the red light. An officer arrived at the scene.

This was a major accident during rush hour. There were all kinds of emergency responders at the scene and it blocked traffic for a long while. When I got the police report, the police officer's narrative was that the incident was a "word versus word" case, and there were no witnesses.

The defendant driver's insurance company denied liability.

I started first with a Freedom of Information Act (FOIA) request to Arlington County 911. I got all the 911 calls and found out there were actually three eyewitnesses.

Then I got all the body cam video so that I could see exactly what the scene of the accident looked like.

I saw my client on video in the back of the ambulance.

I saw all of the interaction with the at-fault driver and I saw the witnesses at the scene.

Then I subpoenaed the 911 calls, because when you only get them by FOIA, they usually bleep out the phone numbers and names. But with a subpoena, I could actually get the unredacted information.

I located the witnesses and I called them. I found one eyewitness who truly was sitting at the light, saw the whole thing happen, agreed that my client had the green, and that the at-fault driver had the red but blew right through it.

Not only that, this witness had also sent a text message to her friends that same morning about this terrible accident that she had just seen at this intersection where this driver never hit the brakes, flew into the intersection and so forth.

The witness had even sent a text saying, "Thank God that lady was in a strongly-built car." The witness thought there was no way my client could have survived such an impact. She had thought that my client was most likely killed by the impact..

As a result of the injured driver coming to me within the first 30 days, I was able to find all the eyewitnesses and collect evidence. Not only was I able to find an eyewitness who could clear up the liability dispute, but also one of the best damages witnesses you could ask for who could speak to how badly injured my client was.

As a result of the injured party coming to me quickly, having evidence and several witnesses, I was able to get the insurance carrier to reverse their liability denial and agree that they were on the hook for this case.

5 in the Morning

I recently had another very similar case where my client was driving to work. He was a construction worker and driving to work at 5 in the morning on a Saturday.

There were no eyewitnesses at 5 a.m. as an oncoming car made a left turn directly in front of my client as he was coming through the intersection.

Given there were no witnesses, it was another “word versus word” case on who had the green light.

For this client, I acquired the 911 calls and got the body cam videos—even though those really didn’t help me very much other than to establish the true timeline. From this combined evidence, I could narrow it down to exactly what time this accident happened.

Then I sent a FOIA (Freedom of Information Act) request to the Virginia Department of Transportation for the traffic engineering reports to figure out what the traffic light signal sequencing is at that intersection. As a result of that, I got in touch with a traffic engineer who explained all the raw data to me so that we were able to prove, based on data, that my client had the green light and the other guy ran the red. The other driver was in the wrong, in other words.

In spite of all evidence, it still took about a year to get the insurance company to agree to reverse their position on liability and accept liability. They did finally accept, however.

One Final Tip:

Get a dash cam and learn how to use it!

YOUR NEXT STEPS

My firm, Jennifer Porter Law, is a small law firm that is invested in you and your recovery from personal injuries resulting from auto accident

involved events. We work primarily in the state of Virginia, but also the greater Virginia-D.C.-Maryland region.

If personal injury from an auto accident is your case—or the case of someone near and dear to you—get in touch at (571) 532-9070 or on our website at <https://jenniferporterlaw.com/contact/>

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