Five steps to take if you are injured in an auto accident

# Know Your Legal Rights is a bi-monthly column distributed by the State Bar of Wisconsin. It is written by members of the State Bar of Wisconsin’s Lawyer Referral and Information Service (LRIS), which connects Wisconsin residents with lawyers throughout the state. Learn more at [wislaw.org](http://www.wislaw.org/).

# By Attorney Robert J. Kasieta

The crash takes an instant. You stop at a red light and suddenly a car strikes you from behind. Your airbag deploys as you are pushed into the car in front of you. You’re thrown backward and forward. Your neck hurts immediately. Then you get a headache. What should you do? Here are five easy steps to guide you through this difficult time.

**Step 1: Cooperate with law enforcement**

You must report crashes involving possible personal injury or significant property damage to the police. Decline any request by a driver who struck you to simply exchange insurance information and go about your day. Sometimes the police will not come to the scene of the crash but call them anyway.

Cooperate with law enforcement. The police investigation can help your potential personal injury claim. This includes possibly citing the other driver for violating rules of the road.

Get a crash report from the police department. Request all statements and photos, too. It can take several days or even weeks to receive these. Read the report for possible errors. If the officer got anything wrong, contact the officer promptly to request corrections while he/she might still recall events. If the officer is reluctant to correct the report, write the police department to ask for a corrected report. This might result in your request at least becoming part of the report, even if they won’t change the report.

**Step 2: Cooperate with your auto and health insurers.**

Your health and auto insurance contracts likely require you to cooperate with your insurance company. After any crash, promptly notify your auto insurance agent about the crash. Provide health insurance information to medical treaters.

Agree to interviews and any other reasonable requests by those insurers. Failing to timely report a crash to your insurer and failing to cooperate with them could result in you not being covered for the crash.

**Step 3: Don’t give a statement to the opposing insurance company.**

The other driver’s insurance adjuster might phone you a few days after the crash to question you about it. Don’t give an interview to this person.

Cooperating with the other drivers’ insurer at this point will not help you. You might still be on medication as the adjuster asks detailed questions about the crash.

You might give inaccurate estimates of important issues like time, speed, and distance. Your estimates will later be used against you.

If the other driver’s insurer phones you, respectfully decline to answer questions. Tell the adjuster that you will call him/her when you feel up to it.

This won’t hurt your claim and it assures that you don’t talk until you feel well enough (and perhaps not until after you have consulted with counsel – see step 5 below).

**Step 4: Don’t settle the personal injury case until you heal.**

Insurers generally require a release in exchange for payment on personal injury liability claims. Don’t settle with the other driver’s insurer until you’ve reached maximum medical improvement (MMI). That is, wait until your crash symptoms are gone, or doctors tell you that you are not likely to improve.

If you settle with the liability insurer and your condition worsens, you won’t receive additional compensation if you signed a release.

So, wait until you’ve healed as much as possible before you settle. This might take one year, or more. Ordinarily, this does not present legal problems because statutes of limitation on negligence claims generally give you three years to file suit (except in cases of death in car crashes and claims against governmental entities).

**Step 5: Hire counsel if you are not familiar with insurance and subrogation.**

No law requires you to hire an attorney to help with a personal injury claim. Many people resolve claims without counsel. This requires some understanding of subrogation (the obligation to reimburse health and disability insurers who paid money to or for you because of a crash). In simple cases with modest injuries that resolve completely after minor medical bills, a lawyer might not add value to the claim.

Where, however, there is substantial injury with possible permanency, and where medical bills are significant, a lawyer will typically add value and take the burden of the claims process off the injured party.

If you hire a lawyer, do so early. It typically doesn’t cost any more to hire a lawyer early because most personal injury lawyers accept a percentage of the recovery as their fee. There is value in the peace of mind that comes with an advocate who knows insurance and provides good counsel to maximize your compensation.

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