

**THE  
NORTH  
CAROLINA  
AUTO INJURY  
BOOK**





**THE  
NORTH  
CAROLINA  
AUTO INJURY  
BOOK**



***INCLUDING: 20  
SECRETS TO MAXIMIZE  
YOUR CLAIM***

**R. CLARKE SPEAKS**

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## **DISCLAIMER**

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This book contains important information regarding auto accidents and claims. However, it is intended to provide general information that will help the reader understand the legal issues common to most auto injury claims. It is not intended to be a substitute for legal consultation or substantive legal advice. If after an accident you proceed without adequate legal representation, you do so at your own risk.

I have represented thousands of people over many years. I perform research to find the answers to specific legal questions in almost every case. At this time I do not represent you, unless I have agreed in writing to do so. If you have questions about anything contained in this book or how the information contained herein applies to your claim, call me at (910) 341-7570 and I will do my best to help you.



## INTRODUCTION

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# TWENTY WAYS TO MAXIMIZE THE VALUE OF YOUR AUTO INJURY CLAIM

Have you ever seen something like this on TV? “Auto Injury Victim Recovers \$2.6 Million Dollars”? Have you read in a news story, “Family of Man Killed in Auto Accident recovers \$3.7 Million”? Your first reaction is probably one of grief and sorrow for those who have been affected. But then did you think to yourself, “How on earth did they recover that much money?” While auto injuries are usually the result of accidents, successful claims are not. A claim’s value varies from case to case. However, successful claims are very much the result of strong liability, real damages, sufficient insurance coverage, and informed decisions made by the claimant or the claimant’s family.

What you don’t read about or see on TV are the thousands of accident victims who make uninformed decisions. These people make mistakes immediately following an accident that can cost them thousands of dollars. **The actions you take in the days or weeks following an accident, are critical.** If you do the following things correctly, you are more likely to achieve a fair and reason-

able settlement. If you do not, your mistakes and omissions could cause irreparable harm to your claim.

By doing these twenty things, you can eliminate most of the mistakes that people make in dealing with their auto injury claims. The things that must be done are different for each case, and all of them are more fully described in the text that follows, but they include the following:

1. **DO** what is necessary to ensure your safety and the safety of everyone else involved. Safety is your number one priority.
2. **IDENTIFY** witnesses by name, phone number, address and email address.
3. **TAKE** photographs of the scene and of your injuries.
4. **PRESERVE** any evidence that can be used to demonstrate what happened.
5. **REVIEW** the information taken by the investigating officer for accuracy and completeness.
6. **THINK** before you answer questions posed to you by the investigating officer. For example, he or she will ask if you are injured. Before you answer, take a thorough and honest inventory of your physical condition.
7. **SEEK** medical attention if there is any possibility that you are injured.

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8. **PROVIDE** treating medical providers with accurate and complete information regarding *any and all* physical problems you have suffered as a result of the accident.
9. **CONSULT** with a qualified attorney as soon as possible. The best injury lawyers are willing to visit you in the hospital or at your home. Timely consultation is necessary in order to eliminate costly mistakes. The consultation should be free.
10. **REVIEW** the collision report for accuracy as soon as it is available. Also, have the attorney review it as well because he will see things in the report that may not be obvious to you.
11. **FOLLOW** recommended medical treatment diligently.
12. **SEEK** additional medical attention if your injuries are not getting better.
13. **DOCUMENT** your medical treatment thoroughly. Include all names and addresses, facility names, and phone numbers of all medical providers who treated you as a result of injuries following your accident.
14. **REVIEW** your own auto insurance policy to see if your insurance company is responsible for covering any part of your claim.

15. **NEVER** give a recorded statement to the insurance company without the advice and physical presence of a qualified injury lawyer.
16. **NEVER** sign any form provided by the insurance adjuster without first consulting with a qualified injury lawyer.
17. **RECOGNIZE** the fact that the insurance adjuster's role in the process is to save the insurance company money. He or she may be friendly, courteous, and sympathetic, but the adjuster's job is to save the company money.
18. **PROVIDE** your attorney with complete and accurate information.
19. **NEVER** exaggerate the nature, extent, or effects of your injuries.
20. **NEVER** minimize the nature, extent, or effects of your injuries.

# CHAPTER 1

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## WHAT IS PERSONAL INJURY LAW?

*“The most valuable commodity I know of is information.”*  
– MICHAEL DOUGLAS, *WALL STREET* (1987)

I believe that the best way to deal with any problem is face it immediately and directly. I’ll give you an example. I have three kids, and we are very close. I will never forget our first encounter with a schoolyard bully. My son was almost four. A bigger kid was picking on him, and he had already turned the other cheek. It was time for him to face his problem. Making the decision to face the problem was the first step in solving it.

We talked that night. “I don’t ever want you to start a fight,” I said. “But, you can’t let people push you around. Sometimes we have to stand up for ourselves, and this is one of those times. This time, when he comes to take your toy, stand up. Look him dead in the eye and say, ‘I am playing with this toy, now. Go find another one, please!’”

The next day, I took the kids to day care myself. My son was understandably nervous. I was terrified. His little sister (we called

her “Rattlesnake” at the time) was giddy with anticipation and could not wait for the confrontation.

We had a plan. I was sending him into the ring the way a trainer does his fighter. I remember laughing a little at the absurdity of the situation as we walked together three-wide and in slow motion toward the front door of the day care center. My daughter’s stuffed-sock monkey was dragging on the ground. I could tell my son was gaining confidence as we approached the school. He felt good about the fact that he had decided to face this problem. He understood and believed in our plan, and he appreciated the fact that he had my support. “This ends today!” I thought as I reached for the door.

Inside we discovered that the bully was not there. He was gone and he would not be back. He had been asked to leave because of his behavior. Apparently, my kid was not the only one he had bullied.

My son was vindicated and proud. I was relieved. My daughter was devastated. But really, we all felt good. Maybe we had been a little lucky, but we were ready either way. We had recognized a problem, decided to act, formulated a good plan, and faced it head on.

I have found this to be a productive approach to any problem. We can’t always control the outcome, but we can control our approach. When we approach our problems directly, we are usually going to solve them with greater success.



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Auto accidents cause physical and emotional pain. However, as we all know, the world doesn't just stop because we encounter difficult situations. Our bills and obligations continue to mount no matter how badly we are hurting. Those mounting bills and obligations create financial burdens. Sometimes those burdens seem too heavy for us to bear. But, we can't give up. We must go on. We have others who depend on us, and we can't let them down. The first step in solving our problems is to make the decision to act.

Your auto injury is a problem, and the best way to deal with it is directly and immediately. **The first step is deciding to act.** You have already taken that first step; you have made the decision to gather information so that you can make informed decisions. You've barely gotten started, and yet you are ahead of most people. You ought to feel good about that.

This book is designed to provide you with valuable information about auto injuries in North Carolina. This information will help you make informed decisions about your next steps and will discuss all the steps you take throughout this process. Making informed decisions is critical to achieving the outcome that is best for you and those who depend on you.

*"My mama always said, 'Life is like a box of chocolates. You never know what you're gonna get.'"*

– TOM HANKS, *FORREST GUMP* (1994)

### **WHAT IS PERSONAL INJURY LAW?**

Personal injury law is the body of law that relates to compensation for injuries that are caused by others. No one ever wants to be injured. We go through our lives trying to avoid injuries. We

tell our children “Be careful!” and “Look before you cross the street.” We put up signs. We try to follow the rules. We take every precaution. Still, sometimes injuries just happen.

Sometimes injuries are accidental: You might bump your head on a cabinet door that you left opened. And sometimes injuries occur because someone else makes a mistake. They did not intend to hurt anyone. They just made a mistake that resulted in an injury to another person. Under these circumstances, the body of law that relates to personal injury comes into play. It governs the rights and obligations of the parties involved.

The parties involved in a personal injury claim will vary from a few parties to many, depending on the nature of the claim. A claim will usually include those who caused the injury, as well as those who were injured. Also, insurance companies are involved in injury claims. In an auto injury case, for example, the insurance companies for the vehicle drivers, the vehicle owners, and the passengers may be included. In addition, the insurance company for the employer of the driver responsible for the accident may be involved. These are the usual suspects, but the parties involved may also vary from case to case.

The most common types of personal injury cases are auto injuries, premises liability injuries, and injuries caused by medical malpractice. Auto injuries typically occur when a person is injured because another driver makes a mistake. Premises liability claims involve injuries that occur because of dangerous conditions on someone else’s land. Claims for medical malpractice arise when a person is injured because a medical professional makes a mistake.

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For the most part, the same rules apply for all of these cases; however, the focus of this book is on auto injuries.

### **WHERE DID PERSONAL INJURY LAW COME FROM?**

Personal injury law comes from the law relating to torts in civil law. Tort law governs the rights and responsibilities of the unintentionally injured. Intentional or purposeful injuries are usually addressed by criminal law. Thousands of cases have shaped personal injury law. However, two cases combined to create the original concept that we are all responsible for the damage we accidentally cause to others.

Two cases establish the principles of modern personal injury law. The first case involved a stonecutter who was injured when the wooden wheel of his 1910 Buick automobile collapsed. Judge Benjamin Cardozo of the New York Court of Appeals wrote in *MacPherson v. Buick Motor Co.* (1916), “If he is negligent, where danger is to be foreseen, a liability will follow.”

The second case is *Donoghue v. Stevenson* (1932). This case arose in Scotland when a Miss Donoghue became ill after drinking ginger ale poured from a bottle. She later discovered the bottle contained a dead snail. Lord Atkin wrote in the resulting opinion, “You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbor.” His use of the “neighbor” principle comes from the Christian principle of loving your neighbor, found in the New Testament parable of the Good Samaritan.



## CHAPTER 2

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# AUTO INSURANCE AND AUTO ACCIDENTS

*“Face it girls, I’m older and I have more insurance.”*  
– KATHY BATES, *FRIED GREEN TOMATOES* (1991)

Auto accidents are very common in the United States. Research shows that driver error is the cause of about 93 percent of automobile accidents. The law requires those responsible for the accident to pay for the damage caused by it. The damage they may be required to pay for can include medical bills that accrue as a result of the accident as well as compensation for permanent injuries, pain and suffering, and lost income.

Most people who cause auto accidents do not have the money to pay for the damage they cause. That is why people purchase auto insurance. In fact, North Carolina law requires each of its drivers to purchase insurance before they operate an automobile. (North Carolina General Statute 20-279.21.) If you hold an automobile insurance policy, the insurance company pays when you cause an auto accident.

Auto insurance is big business. We see the advertisements for insurance companies all of the time, and everyone is familiar with auto insurance carriers such as Allstate, State Farm, Progressive, Geico, and Nationwide. Their ads assure us that they will protect us when we make mistakes that cause auto accidents: “You’re in good hands with Allstate.” “Like a good neighbor, State Farm is there.”

Insurance companies protect those who cause auto accidents in two ways. First, they pay to defend claims. When someone is injured in an auto accident, the insurance company employs an adjuster who is responsible for resolving the claim in the best interest of the insurance company. The adjuster may employ a law firm if he or she believes it would help to resolve the claim more favorably for the insurance company.

The other way that insurance companies protect those who cause auto accidents is by paying claims. Like all businesses, insurance companies try to minimize the amount of money they pay out. That is how they maximize profits. Profit maximization is the corporate objective for all companies, and insurance companies are not exceptions to the rule.

There are different types of auto insurance policy coverage. You may have liability, collision, uninsured motorist, underinsured motorist, or medical payments coverage on your policy. Often the responsible driver’s auto liability policy is the first source of funds out of which to pay a claim, but there may be other sources of funds available, as well. *Collision* coverage pays for the damage done to your own vehicle when you cause an accident. *Uninsured* policies pay in cases where the responsible driver has no insurance.

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*Underinsured* policies pay when the responsible driver does not have enough insurance. If the responsible driver was working at the time of the accident, his employer's insurance carrier may be required to pay. *Umbrella* policies sometime pay when no other coverage is available. *Med-pay* policies pay for medical bills that result from an auto accident.

**A word of caution:** After an insurance company pays for the damage caused by the responsible driver, the proceeds must be distributed according to the law. Medical providers and insurance companies may have *liens* against any settlement proceeds. For example, you may be required to pay back your health insurance company, Medicare, Medicaid, or some other third party if they have paid for some of your bills. Although repayment is sometimes subject to negotiation, failure to distribute proceeds lawfully can expose you to additional liability. In addition, you must consider these issues in determining whether the settlement offer is fair and reasonable.

*"Houston, we have a problem."*

– TOM HANKS, *APOLLO 13* (1995)

### **WHAT SHOULD I DO AFTER AN ACCIDENT?**

After an accident, you should first take inventory of those involved, including yourself, your passengers, other drivers, their passengers, and pedestrians. If anyone is injured, you must contact law enforcement. *Safety* is your first priority. Nothing is more important than that.

You can move your vehicle only if necessary to obtain assistance or to remove yourself or others from danger. If you leave the area

for one of these reasons, you must return within a reasonable period of time. If assistance is necessary or requested, you must render it if you are capable of doing so. This includes calling for medical assistance. No person who renders emergency assistance at the scene of an accident is responsible for any damages caused by their efforts to help.

If someone is injured or if the property damage appears to exceed \$1,000, *you must report the accident to law enforcement*. They must then report it to the Department of Motor Vehicles. If no one is injured and property damage appears to be less than \$1,000, law enforcement *recommends* that you report it, but you are not required to do so. Reporting the accident is important because law enforcement officers are capable of performing a thorough investigation and recording their findings in a reliable format.

### **THE COLLISION REPORT**

After a thorough investigation, the investigating officer will produce a collision report. He or she will usually assign blame or fault for the accident. In other words, the officer will identify the person or persons who he or she believes responsible for causing the accident. *This is the most important part of any collision report.*

In addition, the report will describe the accident, the conditions, any damage to property, and any noticeable injuries. It's important to keep in mind that following an accident, you may be stressed, anxious, and excited. These feelings can produce adrenaline in your body, and the adrenaline can make it difficult for you to determine whether you have an injury that is not visually obvious. *If you think you are injured or that you may be injured, it is important that you let the officer know.* If you indicate to him or her

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that you are not injured, the officer will record your statement in the report. It will be difficult to go back later and explain that you were, in fact, injured at the time you spoke to the officer.

The report should also accurately record the insurance and contact information for all parties. An accurate collision report is a very important part of any claim resulting from an auto accident. Moreover, it is critical in making sure that the correct auto insurance company pays for the damage. Keep in mind that the contents of that report are difficult to change once the report has been filed.

After you are certain that the injured are being cared for, you should make sure that the investigating officer has recorded all of the available information accurately. This recorded information will include your observations and those of any available witnesses. You will want to make sure that the officer has recorded the full names, addresses, and phone numbers of any witnesses, as well as their observations.

Keeping in mind that health and safety are your first priority, you may want to take photographs of the scene, the vehicles, and of your injuries, if you are able to do so. You will want to stay out of the way of medical professionals and be sensitive to your surroundings, but this may be your only opportunity to collect this important evidence. If you engage an attorney, he or she may later have to show how things appeared at the time of the accident, and a picture is indeed worth a thousand words. This practice is made easier through modern technology, as many people have cameras built into cell phones and other portable electronic devices.

As soon as it is available, you should obtain a copy of the collision report and give it to your attorney. You should review it for factual accuracy. If there is inaccurate information, explain the inaccuracy to your attorney. Although it can be difficult to get the investigating officer to change a collision report, your attorney may want to meet with the officer in an attempt to correct the inaccurate information. An investigating officer might consider changing a report if he is made aware of more accurate information, but the chances of changing a report diminish with the passing of time.

Your attorney should have extensive experience and familiarity with reviewing collision reports. There are hundreds of pieces of information contained in a collision report. He or she can see things in the report that you may not be able to see. An attorney should review the report in order to determine whether there are any problems that will prevent you from achieving your goal of a fair settlement from the insurance company.

### **SHOULD I GO TO THE DOCTOR OR “WAIT AND SEE”?**

There are two reasons why you should seek immediate medical attention after an auto accident if you think there is any possibility that you are injured. First, we should all do everything we can to protect and preserve our health. Second, the insurance company, through its claims adjuster, will exploit every opportunity to pay less money for your claim. If you do not seek medical attention, your case may be weakened.

My kids love sports. My daughter's favorite is soccer. She is pretty good at it. One day, I took her to buy new soccer cleats. She picked out a pair that she really liked. They were black, white, and pink,

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and I could tell she felt like Mia Hamm walking around the store. I paid for them, and we went home. After a few days, I noticed she had not been wearing them to practice. “Where are your new cleats?” I asked. “In my closet,” she said. “Why aren’t you wearing them?” I asked. She replied, “I want them to last forever.”

Now, that might be going too far, but we should be almost as protective of our bodies as she was of those shoes. We want them to last “forever.” Your health is your greatest gift, and taking care of your health is more important than almost anything else. I have never had a client who would voluntarily trade money for their health. **If you have any doubt about whether or not you are injured, I recommend that you get a thorough medical examination.**

Also, as an accident victim, you have a legal duty to mitigate (reduce) your damages. That means you cannot ignore injuries and leave them untreated. The insurance adjuster will immediately reduce the settlement value of your claim. Even if you have kept him informed of your ongoing pain, he will argue that (1) you did not mitigate your damages and (2) after the accident and before the treatment something else could have occurred that caused your injuries or made them worse. This is not a dirty trick, and it does not make him a bad person. It is what he is obligated to do to effectively do his job.

Although they are generally nice people, insurance adjusters are not objective. Some people think that adjusters are like school teachers or doctors who give an objective evaluation based upon all available information. Performing an objective evaluation is *not* the job of an insurance adjuster. Insurance adjusters work for

the insurance company. Their job is to pay *less* for each claim, not more. Two of the biggest mistakes people make in injury cases occur when they (1) “wait and see” and (2) misunderstand the insurance adjuster’s role.

## CHAPTER 3

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### AUTO INJURY CASES

*“Show me the money!”*

– CUBA GOODING, JR., *JERRY MAGUIRE* (1996)

We have all seen advertisements for personal injury attorneys that we thought were in poor taste. “We’ll turn your wreck into a check!” “See us for crash cash!” Personal injury lawyers are sometimes called “ambulance chasers.”

Most of my clients want to reassure me that they are not like my other injury clients. They are not trying to “get rich off of their case.” They just want to be treated fairly and to be reimbursed for the economic problems that have resulted from an accident that was not their fault. In reality, that makes them *exactly* like my other injury clients. It is the goal of all responsible injury attorneys to help accident victims recover fair compensation for the losses they experience because of someone else’s mistake.

When you are injured in an accident, you might be affected in different ways. You might be physically injured, in which case you might need to see a medical doctor, physical therapist, or chiropractor. You might have other injuries and have to see some

kind of medical specialist. If you do not know who to choose, your injury lawyer may be able to refer you to excellent medical providers. The point is that the medical professionals will be the ones who help you deal with these non-economic challenges. They have the education, training, and experience to help with these types of problems.

Accidents also present other challenges, and most of them involve money. Like you, physicians, nurses, and other medical providers do not work for free. They have to get paid, as do those employed by them. The facilities, equipment, and supplies used during the course of your treatment cost money. If you have not been to the doctor or carefully reviewed a bill from a health care provider, you may not realize how much good medical care costs. Suffice it to say that quality health care is very expensive!

**Injury lawyers are responsible for helping you and your family deal with the financial problems that are caused by accidents.** We help by getting money from the responsible party (or parties') insurance carrier to pay for medical bills. We get money to pay for the income lost as a result of time away from work after an accident. We get money to compensate those who have lost the use of a part of the body as a result of an accident. We get money to compensate a client for pain and suffering associated with the accident. Our objective is to get fair compensation for your injuries and to make you financially whole again.

### **HOW DO I KNOW IF I HAVE A GOOD CASE?**

After an auto injury, it can be difficult to know if you have a good case or a bad case. You are probably not familiar with many of the words and concepts that are involved in an injury claim. Attorneys

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and insurance adjusters throw around terminology that can make you think they are speaking a foreign language. But **behind every unfamiliar word and concept is a logical principle. As a result, you probably know more than you think you know.**

Here are some of the words and concepts you will hear, along with explanations that will help you connect them to their logical principles.

First, you have to look at the big picture. Insurance companies only pay when they must pay, and they must pay when three things are present: liability, damages, and coverage.

1. **LIABILITY** exists when an injury is caused by another person. Liability has two components. First, liability requires a legal duty. In the case of an auto injury, the injured party must establish that the other driver owed him a duty of care.

For example, North Carolina law imposes a **legal duty** on all drivers to decrease speed as necessary to avoid collisions. In addition, North Carolina law requires all drivers to operate his or her vehicle on a public highway at a reasonable speed under the existing conditions. Drivers are required to maintain proper equipment, keep a proper lookout, and keep their vehicles under control. When we drive, these are our legal duties or legal responsibilities.

Second, liability requires a **breach of duty**. For example, if you are stopped for a red light, drivers behind you have a legal duty to “decrease speed as necessary to avoid collisions.” If another driver ploughs into the back of your car, then the other driver has breached his duty. The other driver is legally responsible for the

damage to your vehicle and to your body. His or her insurance carrier must defend or pay your claim.

A person who breaches a legal duty by accident is negligent. Negligence does not mean he or she caused the accident on purpose or intended the result. In fact, those who injure others on purpose are usually charged with a crime. Rather, negligence occurs when someone is injured because another person makes a mistake. We all make mistakes. The law requires us to pay for the damage caused by our mistakes. This concept will be covered fully under (3) below.

2. **DAMAGES** exist when one person suffers loss as a result of a mistake made by another. For example, a person who has suffered a broken leg because of a careless driver has damages. The law is designed to “give back” what was taken from the injured person. Therefore, the law will require the insurance company for the responsible driver to pay for the medical expenses, lost income, and pain and suffering incurred by the injured person.

In our example, if the injured person never regains complete use of his leg, that person has suffered a permanent injury. The insurance company will be required to compensate the injured person for the partial loss of the use of a part of his body. Since in this case there is no way to “give back” what was taken, our legal system requires the insurance company for the responsible driver to compensate the injured person for the loss. The calculation of this monetary amount is more art than science, and the analysis is different in each case.

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3. **COVERAGE** is an essential component of most successful injury claims. Liability and damages will get you an A on a law-school exam but the real world requires an additional practical analysis. Even if liability and damage are present, who will pay the claim? Injury attorneys have experience in identifying insurance policies which will cover or pay for damages. Sources of coverage may include the vehicle owner's auto insurance policy, the vehicle driver's auto insurance policy, the at-fault driver's employer's insurance policy, your health insurance carrier, your own auto insurance policy, a medical payments policy, or an umbrella policy.

Insurance adjusters and insurance companies have an important advantage in North Carolina. North Carolina is one of the few states that still utilizes the concept of **contributory negligence**, usually a complete and total bar to any recovery. In order to understand contributory negligence, we first have to understand negligence. **Negligence**, as we saw earlier, is different from intentional conduct. In an injury case, negligence occurs when someone makes a mistake that results in injury to another person. But the injury is still their fault.

For example, consider two kids on bicycles. Johnny gets angry and runs into Susie with his bike on purpose. That is an **intentional act**, not an accident or a mistake. It is a crime to intentionally injure someone, and those kinds of cases are prosecuted in criminal court by the district attorney's office or the United States Attorney's Office. The legal goals of the criminal process are to punish, deter, and rehabilitate and to protect the community.

If Johnny takes his eyes off of the path to look at a bird and runs into Susie on his bike, that is an accident. It is a mistake made without the intent to injure. It is a **negligent act**, not a criminal act. Under civil law, a similarly negligent person would be responsible for paying for the damage he caused, but would not face jail or probation. The focus is on making the injured party whole, not punishing the person who made the mistake. However, if the mistake maker was engaged in especially reckless behavior, then punishment becomes a part of the process.

If Johnny is not looking at the path and Susie is pedaling too fast for the conditions when the wreck occurs, then they both may be partially responsible for the accident. They are both engaged in behavior that could be considered dangerous. If Susie is injured, Johnny might be able to assert the defense of **contributory negligence** because she was pedaling too fast for the existing conditions. In North Carolina, that means she is not entitled to receive any compensation *at all*. This holds true no matter how severe her injuries are. There are rare exceptions to the rule of contributory negligence. If Johnny is grossly negligent or has the last clear chance to avoid the collision, then she still may be able to recover.



*"Always do the right thing."*

– OSSIE DAVIS, *DO THE RIGHT THING* (1989)

### **I DON'T WANT TO SUE ANYONE. IS FILING A CLAIM THE RIGHT THING TO DO?**

As a kid, I spent a lot of time on the water. I remember seeing a sign at a local marina that read, "DO RIGHT." Simple and to the

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point, the message was clear. It was a message worth remembering. It is true that some folks want to do whatever they can get away with; but most of us want to do what is right. Most people who are injured in auto accidents want to do the right thing.

Filing a claim with the insurance company of the driver responsible for causing the accident is the right thing to do. First, **filing is what the injured person is legally required to do**. Second, it is the law, for fair and logical reasons.

Someone has to pay for the damage when a driver makes a mistake and injures another person. Someone has to pay for the medical bills, lost wages, and permanent impairment. Who should pay? Should it be the innocent driver—the person who was minding his own business and obeying all of the traffic laws? Should it be the state or federal government? Should the doctors, nurses, chiropractors, and other medical professionals have to volunteer their time, their resources, and their effort? No. It only makes sense that the insurance policy purchased by the responsible driver should pay for the damage.

Here are some things we often hear: “That is what is wrong with this country. Everybody wants to sue everybody else” or “People are always looking for a handout” or “People should take responsibility for their own actions and handle their own responsibilities.”

The law in North Carolina that relates to auto injuries is built on the premise that people should take responsibility for their own actions. As a civilized society, we have rejected archaic systems of justice and accountability such “as an eye for an eye.” We don’t form a mob and go to the responsible driver’s home and break

his leg in retaliation. We simply require that driver to purchase insurance and then require their insurance company to pay for the damage that they have caused.

Isn't that how it should be? For example, let's say a father and his son are playing baseball in their yard. The son overthrows the father. CRASH!—the ball goes through the neighbor's window. Does the man pull his cap down tightly over his eyes and escape quickly to the garage? Does he say to the neighbor, "Your window is in the wrong place!" or "Your window was already cracked." No, of course not.

The man would go next door and ring the doorbell. "I am sorry. We broke your window. We will pay to replace it and we apologize for the inconvenience." That is what most of us would do, and what each of us would want in a civilized society. Each of us is responsible for paying for the damage we cause. That is what the law requires. That principle is the foundation for personal injury law in North Carolina.

And, since most of us don't have a pile of money lying around in case we make a mistake that injures another person, lawmakers and judges have made sure that owners and operators of automobiles are legally required to purchase liability insurance. The liability insurance exists to pay when we make a mistake and injure another person. The liability insurance company employs adjusters to handle claims brought by injured people. In fact, it is the adjuster who calls the injured person immediately after an accident.

## CHAPTER 4

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# AUTO INSURANCE ADJUSTERS AND THE INSURANCE COMPANY DEFENSE TEAM

*“Follow the money.”*

– HAL HOLBROOK, *ALL THE PRESIDENT’S MEN* (1976)

### THE INSURANCE ADJUSTER’S JOB

Without a doubt, the adjuster can help you resolve your claim. The adjuster may be nice, moral, ethical, responsible, concerned, and friendly. Most adjusters are all of those things. However, remember that *the adjuster works for the insurance company*. He or she does not work for you. The adjuster is under no obligation to explain to you your legal rights and responsibilities, takes no responsibility for seeing that your rights are protected, and has no duty to make sure that your legal responsibilities are met. The adjuster has no responsibility to get you a “fair” settlement.

As noted earlier, it is the adjuster’s job to save the insurance company money. The more money the insurance company saves, the less money you get as compensation for your injuries. The insurance adjuster is evaluated based upon how effectively he or she performs that job. In other words, the adjuster is evaluated

based upon how little the insurance company pays you for your claim. For the adjuster, doing the right thing is saving her employer money by paying you *less* money.

You are not entitled to a windfall profit after an accident. An injury from an auto accident is not like a winning lottery ticket. It is painful, depressing, frightening, expensive, and inconvenient. It is difficult for others to imagine, when they are perfectly healthy, how physically, emotionally, and financially devastating an injury can be. It is hard for others to walk in your shoes. Even your closest friends and family members may grow tired of hearing about the difficulties you face subsequent to an injury.

Your injuries may not entitle you to a life of luxury, but you are entitled to fair and reasonable compensation for your injuries and for your losses. There are two ways to achieve fair compensation. The first is for you to educate yourself on all of your legal rights and responsibilities and then to work diligently to enforce and comply with them. The second is for you to obtain the services of a knowledgeable and trustworthy lawyer to do those things for you.

### **THE INSURANCE COMPANY DEFENSE TEAM**

My first job in a law firm was with an insurance defense firm. We defended insurance companies daily. We got involved when the drivers insured by these companies injured other people in auto accidents. I am sure you are familiar with some of the companies that we represented.

Typically, the insurance adjuster was our contact. We worked closely with the adjuster to accomplish the objective of the

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insurance company, which was always the same: save the insurance company money on the claim.

The insurance defense lawyers that I worked with were smart, talented, creative, and diligent. They were also professional, courteous, compassionate, and polite. They were then, and they are now, friends of mine. They are good people. But, make no mistake. They understood their objective, and they intended to meet it.

In every case, the pattern is the same. The insurance adjuster assigned to the claim is responsible for saving the insurance company money on the claim. The lawyers for the insurance company have the same responsibility; all have been hired to act in the insurance company's best interest. The adjuster and the lawyers assert every possible defense, position, and argument in order to minimize the payout.

“It was not our fault.”

“It was your fault, too.”

“You were not hurt.”

“You were not hurt that badly.”

“You were already hurt.”

“We don't cover that loss.”

The list goes on and on. The lawyers and adjusters assert these positions professionally and courteously—but they do what they

are paid to do. And because it is their job, it is their moral, legal, and ethical responsibility to do it to the best of their abilities.

But sometimes they take a different tack: the check.

### THE SETTLEMENT CHECK

“Mr. Jones, you are exactly right. This accident was our insured driver’s fault. What he did was inexcusable. I am just sorry that you were affected by it. We want to make it right and settle this claim quickly and out of court so that you can get on with your life. We will cut you a check in the amount of \$XXXX.XX today. Would that be okay with you?”

Know this: That check will come with a release of liability form, a legal document. **If you sign the release or accept that check, your case is over.** Your acceptance of the terms of the release will block you from *ever receiving another dime for any reason whatsoever as a result of the accident.* So before you accept the offer, you should make sure that you know the answers to some very important questions.

- Are you finished with your medical treatment?
- Have you reached maximum medical improvement?
- Was the treatment diagnostic in nature?
- Should you expect future medical bills?
- Do you have any permanent injuries?

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- What is the degree of your permanent impairment?
- What are the amounts of your medical bills?
- Is it the opinion of your medical providers that the medical bills are related to the auto accident?
- Do you have any pre-existing conditions?
- Do you have any particular susceptibilities to injury?
- Have any of the bills been paid?
- By whom have the bills been paid?
- Are there valid liens against the proceeds?
- Have you accounted for lost wages?
- Are there other sources of recovery?

There are *hundreds of issues in every personal injury case* and each of these issues will have an impact on the settlement amount. In addition, some of these questions relate to what you are required to do with the proceeds from an insurance settlement after you receive them. Your failure to comply with the requirements will subject you to personal liability.

Whether or not the insurance company or the lawyer representing them has extended a reasonable offer depends on many different factors. Remember, their job is to save the insurance company money. They save money by paying less money to resolve each claim. They have no responsibility to educate, inform, or protect

you. Generally, they will caution you by saying, “I cannot give you legal advice.” Then, they watch in silence as you make critical mistakes that cause irreparable harm to your case. The more mistakes you make, the less money they pay.

## CHAPTER 5

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# HOW MUCH IS MY CASE WORTH?

*“I’m going to make him an offer he can’t refuse.”*

– MARLON BRANDO, *THE GODFATHER* (1972)

In determining the value of your claim, we take the facts of your case and look ahead. We project what a jury will award after a trial in the specific geographic region where we would try your case. This is true in every case, even though most cases never go to court.

In general, more serious injuries with greater medical bills produce higher settlement values. However, the value of a personal injury case is based upon many factors. Some of the questions that determine case value include:

1. Was the accident clearly the other person’s fault?
2. Was the injured person responsible in any way for the accident?
3. Were there any delays in treatment?

4. How severe were (or are) the injuries?
5. What is the total amount of the medical bills?
6. Have any of the bills been paid by a third party, such as health insurance or Medicaid?
7. Is there any permanent injury or loss of use of a particular part of the body?
8. Did the injured person have any pre-existing injuries?
9. Did the injured person have any particular susceptibility to injury?
10. Who is the injured person's lawyer?

### **IS THE INSURANCE COMPANY'S OFFER FAIR AND REASONABLE?**

Securing a fair settlement offer is not magic. You don't get fair compensation because of who you know. Fair compensation is not the product of intimidation, "smooth talking," or "bull-dogging." It is the result of hard work, knowledge, experience, organization, and determination. It is both an art and a science. It is about using the right combination of sticks and carrots at the right times. The objective in every injury case is to demonstrate to the insurance company that

1. You can pay us now, or
2. You can pay us later.

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Your lawyer must show the insurance adjuster, without arrogance or ego, that the company is going to have to pay this claim. He must show that the way that the adjuster can best do her job and save money for her company is by paying now instead of paying lawyers to defend the case and then end up paying you later.



## CHAPTER 6

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### DO I NEED A LAWYER?

*“May the force be with you!”*

– HARRISON FORD, *STAR WARS* (1977)

**You are not legally required to use an attorney to settle an auto injury claim.** And, after an auto injury, you have more bills and less income. The last thing you want is to pay for something you don't need. If you can get the same result without an attorney, it would be foolish to employ one.

I will never forget an experience I once had with my son. He was about a year old. He had been crying all night. At about 2:30 a.m., it got worse. My wife and I took turns picking him up, patting him on the back, and reassuring him that he was all right. The truth is, we were beginning to wonder. All babies cry, but this was ridiculous.

His crying was intensifying and we had run out of ideas. He would not eat. We had already changed his diaper. It was too late to call anyone. We decided that we needed professional help. We got in the car, feeling guilty that we had not made this decision sooner. On the way to the hospital, we were both really scared.

We pulled up to the emergency room door. We had been trying to think of possible causes. Had he swallowed a piece of a toy? Was he having an allergic reaction? Had something bitten him? I ran inside with my insurance information and put my name on the list. Again, we held and patted our son.

Suddenly and without warning, I heard a sound. It was a sound I never thought a one-year-old was capable of producing. It was loud, it was long, and it was welcome. Our fear melted away and we laughed so hard we cried.

His gas pains gone, our baby fell fast asleep. Since we were there, we went in for confirmation that everything was okay, and it was. We all went home happy and relieved.

As it turned out, my wife and I could have handled that situation all by ourselves. We did not need professional help. But, the problem is that we did not know whether we needed it or not, and it was too important for us to take a chance. If we had waited, it may have been too late. The doctor may not have been able to undo the resulting damage.

**Not every injured person needs an attorney.** If your case is small and uncomplicated, you may be able to represent yourself effectively. If you are careful, organized, and diligent, you might be able to settle your case on your own. If you do, you will have to be very careful with how you handle your health insurance, Medicaid, Medicare, and Med-pay. Insurance companies and providers can have liens on your case, and failure to properly address these liens can cost you a lot more money than a competent attorney would cost.

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For another example, imagine that you are having trouble with your car. If you have a headlight that has burned out, you might be able to change it yourself. If you are good with cars, you could probably change the headlight as easily as a mechanic could. At the same time, if you are less familiar with cars, you could cause more damage in the process of trying to change the damaged headlight. You might consider consulting with the mechanic before you get started, especially if the consultation is free. If you are having more serious problems, for example, with your brakes or a transmission, you may need professional assistance. Like everything else, injury settlements have grown increasingly more complicated. **We see a lot of people who are not able to recover a fair settlement because they tried to do it themselves but lacked the experience and training to proceed effectively. Sometimes the damage cannot be undone.**

Here is a common example of how you can get into trouble by trying to do it yourself. Sally is rear-ended at a stop light. The accident is clearly the other driver's fault, and the collision report is accurate. Sally is in pain. She is tough and has worked through pain in the past. Sally does not like to go to the doctor, and she does not think she needs a lawyer. Sally goes home. She is sore, but thinks she'll feel better in a few days. She takes ibuprofen and suffers through work for a while. It is a little better, then a little worse. Three months pass. She speaks with the insurance adjuster throughout this process, consistently describing her experiences and her efforts to obtain relief. One night the pain becomes unbearable. She goes to the emergency room. There, the doctors diagnose an injury that will cause her to have chronic pain and limited mobility for the rest of her life. The insurance company

refuses to pay for the injury, citing causation, intervening cause, and failure to mitigate damages.

The insurance company is perfectly justified in maintaining this position. They should never pay full value for this case. They have a duty to their shareholders to pay valid claims, and valid claims are those that can be proven. This case gives the insurance company several opportunities for defense. First, as we said earlier, **an injured person has a legal duty to mitigate (lessen) damages.** In this case, that means obtaining medical treatment quickly. Quick medical treatment could have prevented the injury from becoming permanent.

Second, the **delay in treatment will make it difficult to prove causation**, a necessary component of any successful injury claim. In order to prove legal causation, the treating physician must be able to say with a reasonable degree of medical certainty that the accident caused Sally's injury. The burden of proof is on the injured person to show that her injury resulted from the accident. How do we know that it wasn't something that happened at work that caused it, or at least made it worse? This is a good example of how a good, hard-working person can ruin their injury claim by doing what we are all taught to do from the time we are children: just tough it out. An injury lawyer can help you address these issues responsibly as they arise.



### WHAT SHOULD I BE LOOKING FOR IN A LAWYER?

*“Louis, I think this is the beginning of a beautiful friendship.”*

– HUMPHREY BOGART, *CASABLANCA* (1942)

Choosing a professional can be difficult. For example, before an NFL team selects a quarterback, they gather reliable information. They watch hours of film. They conduct interviews. They ask the player to submit to rigorous physical and psychological evaluations. They talk to former coaches, teammates, teachers, and friends. And still, lots of times they get it wrong.

Choosing a legal professional can be even more difficult because we have much less information upon which to base our decisions. Should we choose the one with the biggest office? He looks like he is successful. That could be because he does a good job for people. Ms. Jones said that ABC Law Firm did a good job on her case. Attorney Smith looks distinguished on his billboard advertisements. Maybe he has a lot of experience.

Trying to make a good decision with limited information is very difficult, and that is why I wrote this book. I want you to have more information so that you can make better decisions. I also want you to have a chance to get to know me and what is important to me. I want you to know how I approach cases and how I deal with clients.

**I have devoted much of my professional life to helping injured people.** I like to see people treated fairly. It bothers me to see big companies take advantage of ordinary people like my mother, an elementary-school teacher for thirty-five years, or my father, a commercial fisherman. I don't like to see injured people suffer

a second time simply because they lack familiarity with the rules and with the process.

In 1997 I started a law firm. The goal was to help people who needed help. My motto ever since then has been, “Every client is our most important client!” I got that from a federal judge I greatly admire. The judge was old, wise, and tough. He had learned all he knew through experience and the school of hard knocks. He was hardened by battle but softened with time. I had worked for him in law school. When it was time for me to leave and get a “real” job, he asked me for which firm I was going to work. I told him I was not going to go to work for any firm. I told him that I was going to start my own law firm. He smiled and reflected for a moment. That is what he had done.

A second later he snapped out of it and said, in a gruff voice, “You have to be like the guy in that movie, *Jerry Maguire*. You have to take care of each client that walks in your door like they are the only client that you are ever going to have.”

I have tried to live by that advice every day. I try to make sure that the people who work with me share in that commitment.

## CHAPTER 7

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# HOW TO FIND THE BEST AUTO INJURY LAWYER

*“What we’ve got here is failure to communicate.”*  
– STROTHER MARTIN, *COOL HAND LUKE* (1967)

**Communication** is an important component of any attorney-client relationship. Great lawyers communicate openly with their clients. That does not mean that they sit by the phone, waiting to answer any question you have the moment it pops into your head. Great lawyers are busy because many people seek their advice and assistance. They cannot answer your question while they are arguing in court, taking a deposition, writing a brief, or participating in a trial. But they can and do call you back. They listen to your questions. They understand your problems. They help you evaluate alternative solutions. They help you select courses of action. They implement a strategic plan designed to help you solve your problems. They execute the plan in order to resolve your problem in the way that is best for you. And, they are available to discuss these issues with you over the course of the attorney-client relationship.

Your lawyer must have genuine concern for your legal problem and your general well-being. He must be approachable. He must endeavor to understand your particular situation. He must walk in your shoes, and you must feel comfortable with him. You must be confident that he is not judging you and that his only interest is in helping you. You must feel like your case is the most important case he has, not because you get a bottle of water or a soda when you come into the office but because he genuinely cares about solving your problem and wants to solve it in the way that is best for you and your family.

Because personal injury law is getting more and more complicated, each case presents hundreds of decisions. If you decide that you need a lawyer to help you with your claim, you should look for these additional characteristics when employing an injury attorney.

Your lawyer must be **competent**. He must possess an extensive knowledge of the law that relates to personal injury cases. He must know civil procedure and other areas of the law, as well. He must know the people who are involved in these types of claims, such as adjusters, lawyers, medical professionals, law enforcement officers, experts, judges, and court personnel.

Your lawyer must be both **experienced and sharp**. He must also be up on the latest developments in the law and technology. Benjamin Franklin once said, “Never hire a young doctor or an old barber.” In other words, the professional you employ must have the proficiency that comes with age and the acuity that comes with youth.

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He must have been in similar situations before in order to know what to do and what not to do. He must have experienced success and failure, and he must have learned from both. He must have **training and experience** in collecting evidence, evaluating liability, calculating damages, valuing claims, presenting arguments, dealing with insurance companies, negotiating with adjusters, working with other lawyers and communicating with medical-care providers, and settling injury claims.

He must have a **competent and professional staff**. If your attorney is competent, then by definition he is currently actively engaged in the practice of law. If he is currently actively engaged in the practice of law, then he must have a competent, diligent, and experienced staff of professionals who are trained to help with one case while he works on another.

*“Say hello to my little friend!”*

– AL PACINO, *SCARFACE* (1983)

### **I JUST WANT TO SETTLE MY CASE. WHY DO I CARE IF MY ATTORNEY GOES TO COURT?**

If you have been injured, you want a fair settlement, quickly. The last thing you want is to go to court. Most cases never go to court. If you don't want to go to court, why should you hire a lawyer who does go to court?

My kids take karate, for several reasons. They take it for exercise, flexibility, and self-confidence. Also, they take it for self-defense. It is not that I want them to fight. In fact, they take it because I don't want them to have to fight. The idea is that if they know how to defend themselves, they will never have to defend themselves.

This is called the **principle of deterrence**. Bullies will leave my kids alone.

The same is true for lawyers. You want your injury lawyer to know how to fight so that you don't have to fight. Trials are expensive, time-consuming, and risky. No injury lawyer wants to go to trial. But, sometimes you have to go to court because it is the only way to achieve fair compensation.

Also, **think about it from the insurance company's point of view**. Imagine the following exchange at an insurance company:

**Mike (to the adjuster):** "Mr. Jones, we just got a new case."

**Adjuster Jones:** "Who is the lawyer involved?"

**Mike:** "It is Smith from XYZ Law Firm."

**Adjuster Jones:** "Smith? He never goes to court. He couldn't find the courthouse with a map. What is he going to do if we don't pay? Offer half of what we offered last time."

For these reasons, you want a lawyer who can and does go to court. Otherwise, why would an insurance company ever agree to a fair settlement? After all, if they do not give you a fair settlement, what is your lawyer going to do about it?

## CHAPTER 8

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# SHOULD I USE A FIRM THAT HANDLES PERSONAL INJURY CASES EXCLUSIVELY?

*"It's not the years, honey. It's the mileage."*

– HARRISON FORD, *RAIDERS OF THE LOST ARK* (1981)

Your lawyer's skill can have a direct impact on the amount of your settlement. Skills necessary for effective representation in injury cases include listening, organizing, negotiating, arguing, and communicating. There is no better place to develop those particular skills than in the courtroom. **Constant courtroom experience is crucial.** In the courtroom we listen to evidence, organize facts, negotiate with other lawyers, argue for our clients, and communicate with judges. We identify, examine, and solve problems. These skills improve with practice and deteriorate without it.

The lawyers at the Speaks Law Firm are in court daily. Just as in your business, the only way to maintain your skills is to use them every day. We are all either getting better at what we do, or getting worse. We consciously choose to get better every day.

Also, your lawyer must have the legal knowledge to present your case. Most injury cases have some connection to criminal court. The other driver may have been charged with Driving While Impaired, Following Too Closely, or Unsafe Movement. Those charges are resolved in criminal court. If the other driver has admitted responsibility in criminal court, your lawyer will want to have that information when he is communicating with the insurance company. A working knowledge of the people and process involved in criminal court can be important in achieving a fair settlement.

In addition, even though traffic accidents may start in criminal court, your claim is civil in nature. **Your lawyer must also have comprehensive knowledge of civil procedure and the local rules of court.** He must be familiar with the judges and their preferences. He must consider the demographic composition of the area in order to select the best venue for your case.

Moreover, experience is critical in determining the value of your case. For example, imagine you are a contestant on *The Price Is Right*. Drew Carey (or Bob Barker if you are my age) asks for your bid on an automatic dishwasher. If you are closest, you win the dishwasher and get to compete for more prizes. Would it be helpful if you had bought a similar dishwasher last week? Would it be helpful if you had bought slightly different dishwashers every day for the last fifteen years? If you had, you would have a pretty good idea of how much this particular dishwasher is worth.

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**Most injury lawyers don't go to court. We do.** And because we do go to court, the chances are that you will *not* have to go to court when you are with us. We believe that this daily courtroom experience gives our lawyers a decided advantage in every case.



## CHAPTER 9

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# I'M READY TO CONSULT A LAWYER— WHAT'S MY NEXT STEP?

*“Carpe diem. Seize the day!”*

– ROBIN WILLIAMS, *DEAD POETS SOCIETY* (1989)

### **A FREE CONSULTATION WITH US**

This is an opportunity for you to address your problem directly, immediately, and with confidence. You don't have to guess anymore. You don't have to depend on appearance, opinion, or speculation. You can call and speak to an experienced professional who is dedicated to achieving your goal: a fair settlement within a reasonable period of time. **You can get the information you need to make informed decisions** and develop a legal strategy that will produce the best possible result for you and your family by calling us now at (910) 341-7570. The call and the consultation are absolutely free.

We cannot take every case. We take only those cases for which we can make a meaningful difference. If we review your case and feel that we cannot make a real difference for you, we will tell you that we cannot help, and we will tell you why.

**The next step toward accomplishing your objective is a phone call.** When you call, you will speak to our firm's receptionist. She will connect you with the appropriate paralegal for your case. You might say, "I was in a wreck and I have some questions." You might have read this book and have a specific question. The paralegal will gather some information so that we can answer your question efficiently. We will speak right then or she will set a time for us to talk later that day.

If it appears that we can make a difference in your case, we will agree on a mutually convenient time for our conference. We will ask you to bring or send all the documents connected with your accident and injury. If you don't have them, we will obtain them prior to our conversation. We will ask you, "What happened?" We will ask you to describe the nature, extent, and effect of your injuries. We will determine what additional information or evidence we need, such as photographs, video recordings, audio recordings, witness statements, police reports, or medical opinions. We will collect that information and evidence. Together we will put together a plan designed to address the problems that have resulted from the accident.

**We will go over paperwork** that will authorize us to operate on your behalf. The paperwork will include a fee agreement which will spell out clearly that you do not have to pay any fee for our services unless we recover money on your behalf. It will spell out exactly what percentage of your recovery will be paid to our law firm. The paperwork will also include medical releases that will allow us to request and receive medical bills and medical records that we will need to obtain a fair settlement for you.

### **AFTER THE CONSULTATION**

After the meeting, you focus on following the instructions of your medical providers and recovering physically, and we go to work. We gather the evidence, statements, photographs, documents, bills, and medical records necessary to present your most effective case. **We develop the legal arguments necessary to secure a fair settlement.** We anticipate counterarguments the insurance company may advance. We prepare a damage calculation. We put this information together into an information package that demonstrates (1) that they owe you money and (2) how much money they owe.

**We identify everyone who was at fault.** All those who were at fault may share the legal responsibility to pay for the damage that they have caused. We contact each of those responsible parties and ask that they contribute to the settlement. We also look for insurance coverage to make sure that there is enough money available to fund the settlement.

We send the package to all of the responsible parties or the insurance companies that may provide coverage on their behalf. **We identify properly documented liens** from medical providers and insurance companies. These are the entities with whom we will negotiate in order to maximize your recovery.

Insurance companies use experienced adjusters and complex computer programs to determine what they consider the value of your claim. The value of your claim is determined by the strength of your liability claim, the amount of your damages, and the advocacy of your attorney. If the insurance adjuster identifies legitimate evidentiary deficits, we will provide additional proof of your

claim. We may have to give them additional legal research, as well. We negotiate. **We do what is necessary, legally and ethically, to obtain a fair and reasonable settlement offer.**

Once we have achieved our objective and secured a fair and reasonable settlement in your case, we turn our attention to the medical providers and health insurance companies. We satisfy properly documented liens. There are sometimes opportunities to negotiate with these lien holders in order to reduce the amount paid from settlement proceeds.

## CONCLUSION

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Now that you have learned important basic information about the legal principles, the parties, and the process of auto injury claims, you have the power to take the next step. The next step is to set up a consultation with a qualified attorney. The consultation is free. However, you owe it to yourself to take the information you have learned here and apply it. Consult with a capable injury attorney and ask what, if anything, he can do to help you achieve your goal. You can call me at (910) 341-7570 for a free consultation or a referral to a qualified injury attorney in your area.



## ABOUT THE AUTHOR

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**R. CLARKE SPEAKS** was born in Raleigh, North Carolina, on October 9, 1969. He resides with his wife and three children in Wilmington, North Carolina. Mr. Speaks attended East Carolina University, where he received his undergraduate degree in economics in 1993. After attending MBA School at East Carolina University, Mr. Speaks received his JD from the Norman Adrian Wiggins School of Law at Campbell University in 1997. While in law school, Mr. Speaks received the North Carolina Academy of Trial Lawyers Award. Also in law school, he clerked for the Honorable Malcolm Howard, United States district judge for the Eastern District of North Carolina. In addition, he completed an internship with the district attorney's office for the Fifth Judicial District. Mr. Speaks has also worked for the insurance defense firm of Anderson, Daniel and Coxe and the injury law firm of Foster and Bradsher.

In 1997, Mr. Speaks started R. Clarke Speaks, Attorney at Law. Since then, his practice has grown into Speaks Law Firm, P.C. He has devoted his entire professional career to the practice of litigation, including personal injury, criminal defense, and family law. Mr. Speaks has represented thousands of individuals, businesses, and organizations all over North Carolina as well as Virginia, South Carolina, Georgia, and Florida. He has submitted briefs to the North Carolina Court of Appeals and the United States Supreme Court. He has argued before the North Carolina

Supreme Court and the Fourth Circuit Court of Appeals in Richmond, Virginia.

Mr. Speaks is in court on a daily basis and has been since 1997. He has written articles and co-authored a guidebook for young lawyers for the North Carolina Bar Association. In addition, he has been a presenter at continuing legal education seminars for the North Carolina Bar Association and other legal organizations.

# R. CLARKE SPEAKS

**NEW LOCATION:**

2808 MARKET STREET  
WILMINGTON, NC 28403

**PHONE:** (910) 341-7570

**FAX:** (910)341-7571

**CLARKE@SPEAKSLAW.COM**

**WWW.INJURLAWYERWILMINGTON.COM**

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