

New Jersey Car Accident Guidebook

by Howard P. Lesnik, Esq., NJ Personal Injury Attorney



An Insider's View of What You Need To Know and the Insurance Company Won't Tell You

Includes

- What to do if you're in an accident
- How to Deal With the Insurance Company
- How to hire a personal injury attorney
- Quick Reference checklist
- New Jersey motor vehicle accident FAQ's

New Jersey Car Accident Guidebook:
What You Need To Know
and the Insurance Company Won't Tell You!

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The New Jersey Car Accident Guidebook

provides an insider's view of what you need to know about car accidents in New Jersey, what you need to do, and why.

This Guidebook helps people who are injured in car crashes due to the negligence of another person to make sure they receive the medical treatment they need, their medical bills are paid, and they are compensated for any permanent injuries.

The Guide provides independent, unbiased explanations that are critical in states like NJ where insurance companies are protected by state statute from fault and profit from poorly structured car insurance policies.

About the Author



Howard P. Lesnik, ESQ

I have represented people involved in motor vehicle accidents for over 20 years. I don't handle wills, or real estate, or commercial transactions. I only handle injury and accident cases. You can learn more about me at LesnikLaw.com.

If injured in a car crash due to the negligence of another person, Howard Lesnik handles the insurance company, and other legal matters, giving clients time to heal from their injuries.

Among the country's most congested stretches of highways are those in NJ, such as the junction of I-95 and Route 4 in Fort Lee.¹ Yet NJ is rated as the fifth safest state for drivers² when comparing fatality rates using the number of vehicle miles traveled.

Yet serious car, truck, and pedestrian accident injuries still occur much too often.³

In 2020, there were 42,791 automobile crashes in New Jersey that involved injuries to drivers and passengers combined. Automobile crashes levy significant societal tolls, as reflected in fatalities, personal injuries, property damage, and traffic congestion.

Howard Lesnik is a Certified Trial Lawyer in New Jersey who brings his experience and knowledge of the laws of New Jersey to protect you and your family.

He has a Juris Doctor degree from the Seton Hall University School of Law, and a Bachelor of Arts, Economics from the University of Michigan, Ann Arbor. He is an active participant in legal professional associations, such as the New Jersey Association of Justice, the American Institute of Justice, 10 Best Attorney Client Satisfaction, and member of the District XII Ethics Committee. He is designated as a Certified Criminal Trial Attorney by the New Jersey Supreme Court.

1. <https://truckingresearch.org/2021/02/23/2021-top-truck-bottlenecks/>

2. <https://www.policygenius.com/auto-insurance/news/the-10-most-least-dangerous-states-in-america-for-drivers/>

3. https://www.state.nj.us/transportation/refdata/accident/crash_statistics.shtml

Mr. Lesnik has been accepted in the Million Dollar Advocates Forum based on his track record of significant verdicts and settlements. His cases and firm have been covered in national news outlets, including CBS News, Jury Verdict, New Jersey Law Journal, and Bicycling. Past clients give him high praise and endorsements on Google Reviews, Avvo, and Martindale, and he has an A+ Rating with the Better Business Bureau.

Among the country's most congested stretch of highways are those in NJ, such as the junction of I-95 and Route 4 in Fort Lee.¹

Contact NJ Injury Lawyer Howard Lesnik

Have questions? Need answers about an injury that occurred in New Jersey as a result of someone else's negligence, or need to consult a criminal defense attorney in Mountainside NJ?

Call Howard Lesnik at **908.264.7701** or email Mr. Lesnik at **howard@lesniklaw.com**.

In 2020, there were 42,791 automobile crashes in New Jersey that involved injuries to drivers and passengers.

Credentials include

- ➔ Battling insurance companies for over 20 years
- ➔ Board-Certified Criminal Trial Attorney by the NJ Supreme Court
- ➔ Member of the NJ Supreme Court Ethics Committee
- ➔ PAC Member, New Jersey Association for Justice
- ➔ Lifetime Member of the Million Dollar Advocates Forum
- ➔ Client Champion for Martindale Hubbell

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Scan and go

What Is a Personal Injury Claim?

Your Personal Injury Case

A personal injury claim is a type of tort, which is a civil "wrong" that is the basis for a lawsuit. This happens when someone has suffered an injury due to the actions or inaction of another, and the injured party is entitled to receive compensation.

When this occurs, you may seek just compensation from another person or party for causing your accident. In most cases, a personal injury claim seeks monetary recovery from an individual or company's insurance policy.

Bringing A Personal Injury Claim

If you or someone you love has been injured due to the negligence of another, you may have the ability to bring a claim for damages to offset the costs associated with the injury and compensate the injured victim for their pain and suffering, economic damages, property damage, medical costs, lost wages, and other costs you or your family incurred as a result of the injury.

Plaintiff

The plaintiff is the person or organization that initiates a lawsuit. In a personal injury claim, the plaintiff is the person who was injured. In the case of someone who is unable to act for themselves or a wrongful death claim, the plaintiff is the person legally entitled to act on that person's behalf, the deceased's behalf, and/or the estates behalf.

Defendant

The defendant is an individual and/or an organization that may be in some way responsible for causing the injury. Based on the circumstances of the case, there can be more than one defendant.

Requirements and limitations are placed on filing insurance claims and legal actions.

Any recovery for damages to which you might be entitled will be at risk if you do not take the steps necessary to fully protect your rights.

What is Negligence?

Elements of a Personal Injury Claim

Personal Injury cases arise out of an area of law called negligence. When you sue someone for injuries from an accident, you are bringing a cause of action, or claim, for negligence. Negligence is the failure to exercise reasonable care under the circumstances. There are several important elements that must be established in order to prove negligence.

- **The Defendant Had a Duty**

To show a defendant was negligent, there must be a duty owed towards the plaintiff. A duty means a level of care. In general, everyone has a duty to use reasonable care. Courts typically measure whether something was reasonable based on how an ordinary prudent person would have acted under the same circumstances.

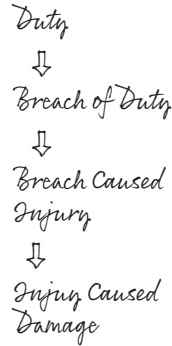
- **The Defendant Breached the Duty**

Secondly, the defendant must have breached the duty owed to the plaintiff. In other words, the defendant either acted, or failed to act in the same manner as a reasonable person. If an action taken by an individual was not what an ordinary prudent person would have done under the circumstances, then that individual may have breached the duty of care.

- **The Defendant's Breach Caused an Injury**

A breach of a duty is not enough for a successful personal injury claim; the breach itself must have been the proximate cause of an injury.

Proximate causation deals with foreseeability as the duty of care required in a particular circumstance. A proximate cause means that negligent conduct necessarily set other causes in motion and was a substantial factor in bringing about an injury. To be a proximate cause, the negligence of a defendant must be a substantial factor in bringing about or causing the injury.



• The Injury Resulted in Damages

Finally, the injury that occurred due to the breach of the defendant's duty must have resulted in some type of harm, either physical or emotional. There are a variety of different categories damages can fall into, including medical expenses (such as hospital stays, medical procedures, and things such as rehabilitation and/or psychiatric services), lost wages (time you were unable to work due to an injury) physical pain and suffering (experts use a variety of formulas based on the severity of the injury to come up with a monetary sum), disability/disfigurement (for example, if an injury left you with a permanent loss of motion), and many more.

Dealing with Insurance Companies

In a vast majority of personal injury cases, insurance companies will come into play. Depending on the nature of the injury, these could be auto insurers, property/site inspectors, medical adjusters, and many more. At times insurance claims adjusters can appear incredibly empathetic, but remember that they are never acting in your best interests. Their primary goal is to limit the financial payout or delay any future payment.

Remember that the insurance company is a for-profit business.

How To Hire a Personal Injury Attorney

The Truth About Hiring a New Jersey Personal Injury Attorney

Do you know how to spot a FAKE AWARD an attorney may have purchased instead of earned? If you sat down with an attorney, would you know what questions to ask to ensure his/her law firm is the right match for you? And do you understand the common terms that may be used in your legal issue?

It doesn't help that most law firms like to operate with a cloak of secrecy. This behavior isn't helpful to YOU, the potential client, so I just don't understand why law firms do it.

I find my clients appreciate a down-to-earth, relatable approach to "The Law." Some even encouraged me to create more materials like this book and record more online sessions — as a matter of fact, you can thank my own clients for what I want to reveal to you!

Honestly, finding the right attorney can be hard.

Think about it...

You will probably work with one or two attorneys over your entire life — at most!

Secrets I Would Use To Hire an Attorney for My Family Members

Right now, you may be entering a weird world with its own language and customs. That's how most people view the legal profession. I admit, the whole thing can appear strange. After all, most people don't worry about things like Personal Injury Protection (PIP) benefits and Uninsured or Underinsured Motorist (UM/UIM) in their day-to-day lives!

Before you hire a NJ Injury Law Attorney, you absolutely must know:

1. What does it mean when an attorney calls himself "aggressive"?
2. Can attorneys actually evaluate your case right on the spot in a first meeting, or could they be duping you by giving you false hope?
3. Is there a difference between a "board certified trial attorney" and other attorneys? How could that affect the outcome of your case?

4. What are the critical things should you ask a law firm before signing any forms?
5. How can you quietly double check the reputation of an attorney you're thinking of hiring (without him or her even knowing it's happening)?

If any family member of mine was thinking of hiring an attorney, I would make sure he or she was equipped with this information.

How to Choose an Attorney for Your New Jersey Personal Injury Case

If you or a family member have been a victim of an injury resulting from an accident or the negligence of another person or entity — you may be entitled to compensation. In order to assess your potential claim, you will need to consult with a personal injury attorney — but how do you know where to begin? Relatives and friends may offer you recommendations of attorneys they've used in the past.

You may also be inundated with letters and brochures from injury lawyers who obtained your accident report and used that information to solicit you for your case. Attorneys all offer “aggressive” and “experienced” representation. A difficult task when selecting a lawyer for your NJ personal injury case can be whittling down the large number of attorneys competing to represent you. Most attorneys will offer a free consultation to get you in the door. It is difficult to pick up the phone to make the call, and sometimes even more intimidating to walk through the door at an attorney's office to discuss your situation.

Once you are face to face with an attorney to discuss your case, there are some pressing questions you need answered right off the bat.

1. What Does It Mean To Be Aggressive?

Any attorney can say “I fight for you.” But what does that actually mean? The true definition of an “aggressive attorney” is someone who actively pursues your case and your best interests. An aggressive attorney has committed to thoroughly representing your NJ personal injury case. Your

Once you are face to face with an attorney to discuss your case, there are some pressing questions you need answered right off the bat.

attorney also needs to be aggressive in communicating with you about the progress of your claim. You should receive regular updates about the status of your claim and your attorney should not let your case languish. A sure sign your attorney is not aggressive is if he is not communicating with you about your case. If he is not communicating with you, there are no updates and he is likely not doing any work on your case.

Insurance companies constantly want updates about your claim, your medical bills, and your treatment so if your attorney is not communicating with you, he is likely not responding to the insurance companies in a timely manner. Once a lawsuit is filed, there is constant discovery, depositions, medical examinations and reports. Your attorney must keep you updated during every step of your personal injury lawsuit.

2. What are their credentials?

Is your attorney a certified trial attorney, and what does that mean? The New Jersey Supreme Court awards this designation to lawyers who have demonstrated sufficient levels of experience, education, knowledge and skill in litigation and trial practice. The New Jersey Supreme Court and the Board on Attorney Certification, designates as certified trial attorneys, only those lawyers who apply for certification, pass a vigorous board examination and who are able to meet the standards set by the Board and approved by the court. A New Jersey attorney that has been certified by the Supreme Court as a Certified Trial Attorney is a member in good standing of the New Jersey bar for at least 5 years, been favorably evaluated by judges and other attorneys, fulfilled ongoing continuing legal education requirements, passed a written examination covering various aspects of trial practice, and demonstrated a significant level of trial experience in handling litigated matters, including numerous jury trials.

Only 2% of the 75,000 registered NJ lawyers meet the stringent standards of experience, education and knowledge, to be recognized and achieve board certification by the Supreme Court of New Jersey.

Being "aggressive" means your attorney keeps you informed about the status of your case and is available to discuss your case and answer your questions both on the phone and at the office.

Only 2% of the 75,000 registered NJ lawyers meet the stringent standards to be recognized and to achieve board certification by the Supreme Court of New Jersey.

Will your attorney explain the facts and present you with choices about how to proceed, or will he make a recommendation and expect you to go along with it?

3. How do they approach injury cases?

Every attorney develops their own "playbook" of ways to handle a typical case. Find out what your prospective lawyer's approach is in the courtroom or at the negotiating table — as well as how he interacts with his clients. Does the lawyer in question prefer to take injury cases to court in the hope of winning higher damages, or does he/she specialize in leveraging advantageous settlements for clients without going to trial? When a decision needs to be made about your case, will the attorney explain to you the facts and present you with choices for how to proceed, or will he make a recommendation and expect you to go along with it?

What are four things you should ask an attorney before you sign anything?

All lawyers and law firms do business differently. All attorneys handle cases in their own way. You should hire an attorney who will represent you in a way that makes you most comfortable. In order to decide, you must ask the following critical questions:

1. Who will be working on your case and appearing in court for you?
2. How often will you receive updates on the progress of your claim?
3. How much information will these reports contain?
4. If you have questions or concerns, how soon should you expect a reply?

How would they evaluate your NJ Personal Injury case?

As the client, you should have reasonable expectations about the outcome of your claim from the beginning. Your attorney should be able to provide a realistic outcome for your matter and should not exaggerate the value of your case just to convince you to hire his office. Your attorney should be upfront with you and be able to assess how long your case may take, how much your potential award may be, and any potential problems or weaknesses with your case. You should know right from the start if there are any pitfalls that can negatively impact your claim. This is part of your attorney being “aggressive.” The more you know about your case, the more you know about hiring the right attorney for your NJ personal injury claim.

Your attorney should be upfront with you, and be able to assess how long your case may take, how much your potential award may be, and any potential problems or weaknesses with your case.

Do your homework!

How can you quietly double-check the reputation of an attorney you’re thinking of hiring (without him or her even knowing it’s happening)? Thanks to the internet, attorneys are easily searchable on the web. You can google any attorney and immediately see their website and Google reviews. There are many other free attorney review websites such as Yelp, Avvo, Martindale, Lawyers.com, and Findlaw.com. Also, many attorneys post their reviews and testimonials right on their website.

Remember to make notes and ask for reviews after the meeting. Make your choice based on who you are the most comfortable with.

Motor Vehicle Accident Cases in New Jersey

New Jersey motor vehicle accident FAQs

Being involved in a car accident can be a very traumatic experience. The start of your day can be delayed, your commute home can be interrupted, or your plans to get away for the weekend can be ruined in an instant. No one likes to be stuck on the side of the road waiting for police or a tow truck to arrive. However, these examples are just inconveniences. Motor vehicle accidents can involve more than just property damage to your car. A motor vehicle accident can tremendously impact your life if you or a family member are injured in a car crash.

In New Jersey, it is a violation of the traffic laws if you leave the scene of an accident or fail to report an accident, even if you are not at fault

Q. Should I call the police and report the accident?

- A.** In New Jersey, it is a violation of the traffic laws if you leave the scene of an accident or fail to report an accident, even if you are not at fault. You can be issued a summons and face a mandatory court appearance and potential fines and penalties. If you or your passenger are injured, your insurance company will require a copy of the accident report. If you are injured, make sure you tell the police dispatch whether you need an ambulance and wait for police to arrive. If you are able, exchange license and insurance information with the other driver and take a picture of the other car's license plate. When the police officers arrive, make sure you describe all the details about how the accident unfolded. Do not leave out any important details. The officers were not there, so do not assume they will know what happened. If you don't include something in your version, it won't be included in the report. Make sure you tell the other officer if the other driver said "sorry" or apologized for the accident. If the police

accident report is wrong, you should contact an experienced NJ Injury Lawyer to help you make corrections or file an addendum to the accident report. Ask the officer for his card and an incident number so you can obtain a copy of the accident report. State Police motor vehicle accident reports can be requested online here: <https://www.njsp.org/information/crash-report.shtml>

Q. Should I go to the hospital or see a doctor?

- A.** When someone is involved in a car accident, some injuries manifest right after the impact from the collision with the other vehicle. If this happens you should request treatment at the accident scene or accept a ride to the hospital from an ambulance. Do not refuse treatment if it is offered to you. Some injuries do not manifest until hours, days or even weeks after the accident. Many people wait to see if their aches and pains will go away, but often these injuries become worse. If this is the case, you should always seek medical treatment if needed. Also, if you file a claim for personal injuries from the accident, you will need the medical records to document the injuries, the course of treatment, and the diagnosis from the doctors and treatment providers. Remember, insurance companies will always try to fight your claim for personal injuries. If you delay too long to seek treatment for your injuries, the insurance company may argue that the treatment was too long after the accident and the injuries weren't caused from the crash. An insurance company may try to say that if you were really injured, you wouldn't have waited so long to see a doctor. Another important reminder is to always follow the advice, treatment plans, and therapy if it is recommended by your doctor. Again, if you do not follow-up with your doctors or miss appointments, you will not have the medical records

Do not refuse treatment if it is offered to you. Some injuries do not manifest until hours, days or even weeks after the accident.

to support your claim, and the insurance company can argue that if you were really injured, you would have gone to the doctor as recommended.

All New Jersey automobile insurance policies (except dollar-a-day policies) are required to provide Personal Injury Protection (PIP) coverage.

Q. Who pays for all my medical bills?

A. All New Jersey automobile insurance policies (except dollar-a-day policies) are required to provide Personal Injury Protection (PIP) coverage. You must notify your insurance company and apply for PIP benefits if you are injured in an accident — even if you were a passenger in another car. If you do not own a car but reside with a relative who owns a car, you must apply for PIP benefits under their policy in order for your medical bills to be paid. If you do not own a car and do not live with anyone who owns a car, you must apply for PIP benefits under the car that you were a passenger in. Many people are nervous to ask a relative or owner of the car for insurance information when they are injured in an accident. Because NJ law *requires* PIP coverage, this should not affect their rates.

Applying for PIP coverage through the state

Finally, if you have no available insurance and you meet certain statutory requirements, you can apply for PIP coverage through the state. An application and notice of claim must be filed within 180 days of the accident or you will not be considered for PIP coverage. PIP laws and coverage can be complex, and you should consult with a knowledgeable NJ Injury Lawyer.

If you or a loved one was injured in a car accident, you might have been taken from the accident scene by ambulance to the emergency room. After being examined, you may be admitted to the medical center. Car accidents can happen in a flash. Medical bills can pile up just as quickly.

You will receive medical bills from the ambulance, emergency room, hospital, doctors, MRI facility, and

other physicians who treated you. If you required surgery or were admitted to the hospital for an extended period, these medical bills can seem astronomical. Who pays for your medical bills after a car accident in New Jersey?

Most people automatically assume that the insurance company for the other car will pay the medical bills. However, in New Jersey, this is not the case.

Personal Injury Protection (PIP) Covers Your Medical Bills in NJ

In New Jersey, insurance companies are required to provide Personal Injury Protection (PIP) coverage. PIP coverage will cover your medical bills if you are involved in a NJ car accident regardless of who's at fault for the crash. But wait, there's a whole lot more. . .

PIP may cover family members who reside with you if they are involved in a car accident and do not own their own car. This is true even if the family member was injured in a car accident and wasn't in your car at the time of the accident. You read that right: *if a family member resides with you and doesn't have his/her own car and is in an accident in someone else's car, your PIP pays for their medical bills.*

PIP may also provide medical coverage to passengers in your car who are injured in a car accident, if they don't have their own car, and don't reside with someone who has PIP coverage.

Because the law requires PIP coverage, your insurance rates should not be affected. Many people simply abandon their personal injury claim because they don't have their own car and are afraid to ask a relative they reside with for the car insurance policy.

Therefore, if you do not own a car and are injured in a car accident, you are still entitled to PIP benefits for your

If a family member resides with you, and doesn't have his/her own car, and is in an accident in someone else's car, your PIP pays for their medical bills!

But because the law requires PIP coverage, your insurance rates should not be affected.

You can purchase the minimum PIP coverage, however, if you are involved in a serious accident and require extensive medical coverage and surgeries, this limit will not fully cover your medical expenses.

medical expenses. Your PIP benefits will be covered by the policy of someone you reside with or the policy of the vehicle you were riding in.

And yes, there is still more. If there is no PIP coverage available to anyone where you reside and no PIP coverage for the car you were in, you can apply for PIP coverage through the state. NJ has set up a fund through a program called NJ PLIGA — which may cover your medical benefits if you are injured in a car accident and there is no PIP coverage. But you must notify NJ PLIGA within 180 days or you will not be eligible to apply.

How much will my PIP coverage pay?

PIP benefits are available to you through your automobile insurance policy if you own your own car. You can elect how much PIP coverage you want to purchase. You can purchase the minimum coverage; however, if you are involved in a serious accident and require extensive medical coverage and surgeries, this limit will not fully cover your medical expenses. Even if your personal injury attorney settles your claim against the other driver, your bills will have to be paid out of the settlement. In other words, your settlement amount may be greatly reduced to satisfy the outstanding medical bills.

On the other hand, if you elect to purchase full PIP benefits, you are entitled to \$250,000 in medical coverage. If you are the victim of a traumatic car crash and require substantial medical care and surgeries, your medical bills will be fully covered. And your settlement will not be reduced by reimbursing the doctors for outstanding medical liens. Finally, the insurance companies don't want you to know that full PIP coverage, which provides an additional \$235,000 in medical benefits, is just a hair more expensive than the basic minimum coverage. This small increase in your premium provides full medical coverage to prevent against astronomical medical bills that can affect not only your settlement, but your financial freedom going forward after the accident.

Personal Injury medical bills and the Collateral Source Doctrine

A serious accident can leave someone with serious injuries. No one should be saddled with medicals bills on top of injuries after a serious personal injury accident. However, the medical costs from a significant accident case can pile up and become astronomically high — especially if the medical care required hospital stays, surgical procedures, or long rehabilitation. When the incident that caused personal injuries was due to someone else's negligence, you may seek compensation from that party or the insurance carrier to reimburse the medical expenses — in addition to damages for the pain and suffering caused by your personal injuries. An important factor to consider in personal injury claims is the health insurance for the victim that was injured. Many people have their own insurance that will cover medical bills incurred from an accident. If you are injured in a personal injury accident, how does your insurance come into play with the compensation you receive from your accident case? The legal concept called collateral source doctrine answers this important and complicated question.

What is the collateral source rule?

The collateral source rule dates back to the 1800s. This doctrine was first established so that the party responsible for someone's injuries could not avoid compensating the victim just because the injured party's health insurance covered the bills for the injuries. In other words, the party that caused the accident could not benefit because the person they injured had insurance. This doctrine prevented insurance coverage for medical bills from being introduced at trial. Insurance companies complained that this allowed injury victims a "double recovery" because they could be compensated for medical expenses that were already covered by medical insurance.

This rule was finally changed in New Jersey and the collateral source doctrine now prevents an injured person from recovering costs for medical bills that were already

Now in NJ, the collateral source doctrine prevents an injured person from recovering costs for medical bills that were already paid.

Motor Vehicle Accident Cases In New Jersey

The collateral source doctrine only prevents the injured party from compensation for medical costs that were already paid.

It does not prevent the injured party from compensation for medical bills and expenses that were not covered.

paid for by a **collateral source**, such as health insurance or disability insurance. Now, in New Jersey, court rules require the injured party to reveal any insurance coverage from a collateral source health insurance that covered medical expenses from the accident. If any of the victim's health insurance was included in damages awarded at trial, those amounts are deducted from the jury verdict amount. This rule prevents the injured party from being compensated for expenses that were already covered. In NJ, the negligent person responsible for causing the accident does benefit when the injured victim has health insurance.

How collateral source may impact settlement

Note: the **collateral source doctrine** only prevents the injured party from being compensated for medical costs that were already paid. It does not prevent the injured party from being compensated for medical bills and expenses that were not covered. Also, the **collateral source doctrine** does not apply to health insurance plans that have to be reimbursed after the personal injury settlement. Health insurance plans that are fully funded under federal law, such as ERISA plans, must be reimbursed from any settlement recovered from the accident case. Similarly, Medicare, Medicaid, and worker's compensation must be reimbursed for medical bill payments they paid out. The amount that must be reimbursed to a health insurance plan is admissible at trial. This lien amount is not deducted from your recovery. Instead, the amount that must be reimbursed is included in your settlement amount. However, since it must be paid back to the health insurance plan, it is deducted from *your* final settlement amount. This is why it is important to **calculate the bottom line on your settlement** for your personal injury case before agreeing to any settlement offer.

In New Jersey, the rules covering the collateral source doctrine may have a significant and unexpected impact on your personal injury case. An injured person who suffered damages due to another party's negligence should focus on healing, not medical bills. If you were seriously injured due to someone else's negligence, you should

contact a NJ personal injury attorney who is familiar with details of how the law that applies to your medical bills.

How Can Health Insurance, Medicare or Medicaid Effect My NJ Personal Injury Settlement?

When you file a personal injury claim, a portion of the settlement helps pay for your medical expenses. Your medical bills may be paid by your company health plan, Medicare or Medicaid. It can take a while to resolve your personal injury claim, even years, if your case goes to court. In the meantime, your health insurance provider generally covers the cost of your medical treatment. After an auto accident, however, your own auto insurance must pay your medical expenses subject to some limitations.

What health insurance plans must be reimbursed?

If you successfully obtain compensation for your injuries, your health insurance company may demand reimbursement from your settlement for the cost of your treatment. If your health insurance is an ERISA-based self-funded health plan, the law requires that it be reimbursed. If your medical benefits are provided through Medicare or Medicaid, this process can become complicated. Worse, until all claims and liens against your settlement are resolved, you will be unable to recover your entire net settlement. In New Jersey, there is a statute prohibiting straight medical insurance plans from imposing a lien on your personal injury recovery or asserting reimbursement rights. It is up to your attorney to determine whether a health plan is really entitled to reimbursement.

Since health insurance plans such as Medicare, Medicaid, and Worker's Compensation must be reimbursed from any settlement recovered, it is important to calculate the bottom line on your settlement for your personal injury case before agreeing to any settlement offer.

Your personal injury attorney should continue to contact Medicare or Medicaid until they produce the information you need. In fact, an experienced personal injury attorney should notify Medicare and Medicaid from the very beginning.

What is a health insurance lien?

Health benefit plans are usually prompt in responding to requests for a calculation of their asserted lien. But Medicare and Medicaid can be rather slow to provide information. The more time it takes to obtain details and get questions answered about the Medicare or Medicaid claim against your settlement, the longer you have to wait to receive your full compensation and put the injury claim process behind you. Your personal injury attorney should continue to contact Medicare or Medicaid until they produce the information you need. In fact, an experienced personal injury attorney should notify Medicare and Medicaid from the very beginning.

How much money can a health insurance plan demand back?

Once you have the details of the charges paid by Medicare for your claim, your attorney will examine them carefully. Due to the complex bureaucracy of the Medicare system, you may discover that the charges comprising the lien against your settlement include medical treatment totally unrelated to the treatment you received as a result of your injury. If this happens, your attorney must contact Medicare or Medicaid to delete those expenses unrelated to your claimed injuries. Even then, Medicare or Medicaid may take from weeks to several months to process and consider your case and properly assess the lien to include only related medical payments. Unfortunately, this can add unnecessary delays to your injury settlement. However, it is critical for your attorney to correct errors in the Medicare or Medicaid lien. This can make a significant difference in the amount you can take home from your settlement. It also improves your ability to handle other financial demands related to your injuries, including future medical expenses and loss of future earnings.

What if you have private insurance and Medicare?

A Medicare lien against your settlement can become even more complicated if you have Medicare in addition to a separate, private health insurance policy. It may be unclear which is considered the primary insurer. Medicare may end up making a conditional payment so that your medical treatment is paid for, and then follow up with additional research into which insurance provider was actually responsible for the payment.

You need to know the lien before you settle your claim

Clearly, it's vital to resolve any questions regarding Medicare or Medicaid claims to reimbursement before you settle your personal injury claim. But the laws involved can be confusing to anyone unfamiliar with the process, and it can be difficult to obtain a timely response from the Medicare office handling your case. These are sources of stress that you don't need while you work on recovering from your injuries. An experienced personal injury attorney will contact Medicare or Medicaid and handle these issues for you. A personal injury attorney will work hard to secure a fair resolution of the Medicare or Medicaid claim that leaves you with sufficient settlement funds to adequately compensate you for your injuries and losses. When I talk about a settlement with my clients, I always talk in terms of two figures: the first is the amount of the gross settlement, and the second is the net, tax-free recovery to the client after deducting costs, attorney's fees, and any medical bills that need to be paid and liens (like those held by Medicare, Medicaid, or a self-funded health plan). That second number is the **bottom line**. *This is what the client actually receives and is the one that has to make sense to my client and me.*

There are 2 settlement figures: the first is the amount of the gross settlement, and the second is the net, tax-free recovery to the client after deducting costs, attorney's fees, and any medical bills that need to be paid and liens.

Contact NJ Injury Lawyer Howard Lesnik, Esq. by email (howard@lesniklaw.com), by phone at 908.264.7701, or by completing the form at myinjurylawyer.com to schedule a complimentary 30-minute strategy session.

The Other Car That Hit Me Had No Insurance, Now What Happens?

If you are involved in a NJ motor vehicle accident with a car that has no insurance or is underinsured, you can still recover compensation for your personal injuries by filing a UM or UIM claim with your insurance company.

The amount of compensation you can recover depends on the limits of UM/UIM coverage you selected under your insurance policy.

Auto insurance in New Jersey is mandatory, and all motor vehicle owners are required to maintain auto insurance. Despite this, many drivers in NJ either try to get away with not having insurance or fail to make payments or renew their auto insurance. In response to this, NJ requires insurance companies to provide Uninsured Motorist (UM) coverage in case the car that hit you is uninsured. NJ insurance companies also provide Underinsured Motorist (UIM) coverage in case the car that hit you only carries a minimal amount of coverage that is too low to compensate you for your personal injuries. If you are involved in a NJ motor vehicle accident with a car that has no insurance or is underinsured, you can still recover compensation for your personal injuries by filing a UM or UIM claim with your insurance company. In this case, the amount of compensation you can recover depends on the limits of UM/UIM coverage you selected under your insurance policy.

Many NJ drivers attempt to save money on their insurance by purchasing a basic or limited coverage that may not include UM/UIM coverage. This is a bad idea because it caps the amount of your claim at the limit of insurance that you purchased under your policy. The difference in cost between basic coverage and full liability and UM/UIM coverage is not much. You should always purchase full coverage in order to protect yourself and your family in case you are involved in a motor vehicle accident.

NJ Uninsured and Underinsured Motorists claims

New Jersey roads are some of the most congested in the country. That, coupled with distracted driving and “road rage” can be a recipe for disaster on NJ roads and highways. Automobile accidents can happen at any time and to anyone, especially when least expected. There is no

good time to be involved in a car accident and it is always inconvenient. Auto accidents are frustrating, especially if you or a loved one is injured. To make matters worse, what happens if you are a victim of a car accident and the other driver had minimum insurance coverage or worse, no insurance coverage at all?

New Jersey UM and UIM Claims

After an accident, your car is damaged. It may even be totaled. A car can be replaced. Worse, you or a family member or friend may be injured. Who will cover the costs to repair or replace your car, pay for the medical bills, and compensate you for your injuries? At this point, you should consult with a NJ Injury Lawyer who can explain the process and applications necessary for the insurance companies to cover your claims.

Uninsured Motorist insurance (UM) covers you in the event another driver without insurance causes your injuries. New Jersey law requires all vehicles to have insurance. However, many drivers have their insurance cancelled if they do not make the monthly payment or if it was lapsed and not renewed. UM coverage is available to you in NJ when there is no insurance on the car that hit you. It also applies when you are involved with a hit-and-run vehicle or phantom vehicle that leaves the scene and cannot be located after the accident.

Underinsured Motorist insurance (UIM) covers you when the other driver involved in an accident has insufficient coverage to cover you for your personal injuries. New Jersey state law requires a minimum coverage of \$15,000 for personal injury coverage in an accident. If you are seriously injured in a car accident, this minimum coverage may not be sufficient to compensate you for your injuries.

Motor Vehicle Accident Cases In New Jersey

If the car that hit you has only \$75,000 in insurance coverage, and your own insurance policy has \$100,000 coverage, you can file a UIM claim in NJ under your policy for an additional \$85,000 to compensate you for your personal injuries.

Since UM/UIM insurance is mandatory in New Jersey, a claim should not affect your own insurance rates.

If the driver who hit you has an insurance policy that cannot cover your damages from the accident, you can file a claim for UIM benefits under your insurance policy. **IMPORTANT:** *your UIM claim is limited to the coverage amount that you selected when you purchased your own auto insurance policy. In other words, if the driver who hit you has insurance coverage that is less than your coverage, you may be able to file a claim for UIM benefits under your policy.*

For example, if the car that hit you has only \$15,000 in insurance coverage, and your own insurance policy has \$100,000 coverage, you can file a UIM claim in NJ under your policy for an additional \$85,000 to compensate you for your personal injuries. Since UM/UIM insurance is mandatory in New Jersey, a claim should not affect your own insurance rates.

New Jersey Hit-and-Run Accidents

It is bad enough being involved in a car accident. It's even worse when the other vehicle flees the accident scene. Motorists left behind at the scene after a hit-and-run accident often wonder what happens next. These victims often feel helpless and think they will not be able to make a claim since they can't find the car that caused the accident. However, this is not the case. This is why you need an experienced NJ personal injury lawyer. A knowledgeable attorney will help you make a claim for the property damage to your car, medical bills and fair compensation for your injuries.

• What happens in a Hit-And-Run Accident

If you are a victim of a NJ hit-and-run accident, there are several things that can happen. The most important thing you must try to do is write down the license plate of the other vehicle. This way, if the other car drives off before the police respond to the accident, you can give this information to the officers. Also, try to note the make, model and color of the other vehicle, and a description of the driver if possible—the more descriptive information, the better. Take pictures of the other car and driver with your cell phone if you can.

Motor Vehicle Accident Cases In New Jersey

Another scenario is when you are hit by a “phantom” vehicle. In this case, the other vehicle that hits you takes off so fast that you are unable to get a license plate to identify the other vehicle. If this happens, you must still call the police to the accident scene to complete an accident report. Be sure to take photos of the damage to your vehicle.

- **Immediately Report the Hit-And-Run Accident.**

In either case, if you are injured, seek immediate medical care. When you are well enough, you must report the hit-and-run accident to your insurance company. Since you called the police, you will be able to provide your insurance company with the accident report. If you have the other car’s license plate, your NJ injury lawyer will be able to make a claim against the hit-and-run vehicle. If the other car was a “phantom” vehicle, your NJ injury lawyer will be able to make an uninsured-motorist claim.

Uninsured-Motorist Insurance (UM) covers you in the event the other driver without insurance causes your injuries. New Jersey law requires insurance policies to provide UM coverage in case you are involved in an accident with an uninsured vehicle or a phantom car.

Your personal injury lawyer will be able to assist you in making a claim regardless of whether the police locate the hit-and-run vehicle or whether it’s a phantom vehicle. Your attorney can also set up your PIP claim so that your medical bills for your injuries are covered.

Uninsured and Underinsured Motorist coverage is available for your benefit.

Professional Tip for Buying Auto Insurance in NJ

Uninsured and Underinsured Motorist coverage is available for your benefit. Your UM/UIM claim is limited to the amount of coverage you select when you buy your insurance policy. If you opt for the minimum amount of coverage, this is the most you can recover from your insurance on a UM Claim if the other driver is uninsured.

Also, if you select a minimal coverage limit for your policy that is less than or equal to the amount of coverage to the car that hit you, you will not be able to file a UIM claim. You are not underinsured if your policy limit is

equal to or lower than the car that hit you. Therefore, it is in you and your family's best interest to select full coverage in order for you to receive compensation .

How Long Will My Motor Vehicle Claim Take?

The legal process in New Jersey is complicated. It can be so complex that if someone without a lawyer makes one wrong move, the claim may never get off the ground.

How long your claim will take is dependent on a number of factors. It depends on how long you receive medical treatment for your injuries. An attorney may not be able to settle a claim until you are discharged from your doctor. This allows your lawyer to obtain all your medical records to present to the insurance company in order to fully evaluate your claim and review all your injury treatments. An attorney has two years to attempt to settle your NJ car accident claim. If the claim cannot be settled by then, a lawsuit must be filed by the two-year statute of limitation period to litigate your claim in court. Just because a lawsuit was filed does not mean your case will go to trial. A skillful NJ personal injury lawyer knows how to present your claim to attempt to settle it prior to filing a lawsuit. However, you can never force an unreasonable insurance adjuster to settle. An experienced NJ injury lawyer will aggressively prepare your case during the pretrial period. A properly prepared case during the pretrial period ensures two things: (1) your case will be presented in the most professional light allowing for leverage when trying to settle before trial; and (2) if your case has to go to trial, it will be fully prepared and ready to be presented in court.

The legal process in New Jersey is so complex that if someone without a lawyer makes one wrong move, the claim may never get off the ground. Don't lose your case right out of the gate. Consult with an attorney experienced in handling car accident cases in NJ. Most attorneys offer free consultations to discuss your claim.

Exactly how long can you expect to wait for your NJ car accident case?

Patience is a virtue, and you will need it during your car accident claim. Your attorney should never settle your claim too early. Once your case is settled, it is settled forever. You can never make a claim for any other injuries, expenses, lost wages, or anything else ever again. When it's over, it's over for good.

One of the biggest factors is the amount of treatment you need for your injuries. If you are still being treated by doctors, your attorney won't have all the medical records and bills for your claim. The insurance company cannot offer you full value on your case if it does not have all the records and bills from every doctor, therapist, chiropractor and specialist you treated with. Your attorney will also need to get the x-rays and MRI films for your case. Your treatment may take months and if you have surgery, you will need additional time to follow-up with your surgeon. Once you are finished with your treatment, your attorney will provide all the records to the insurance company. They will need time to evaluate all the records. If you were treated for a long time, there might be a large amount of documents and bills to review. This can take another month or longer. If the claim adjuster for the insurance company is unreasonable, your attorney may need to file a civil lawsuit. If your case goes to court, it may take at least another year to settle your case.

This may sound challenging, upsetting, and downright irritating. It doesn't have to be if you hire a highly-skilled, board-certified trial attorney. If your attorney is truly experienced in dealing with insurance companies, he will give you regular updates along the way, so you always know what is going on in your case. As long as you have professional legal advice at every turn, you will feel more at ease with the process. And if you understand what's going on with your case, it won't seem like it's taking a long time. Instead, you'll know that your attorney is doing everything that needs to be done to properly represent you and handle your claim.

Once your case is settled, it is settled forever. You can never make a claim for any other injuries, expenses, lost wages, or anything else ever again.

How Much Is My Case Worth?

That is determined by many factors. Every case is different, and it depends on the nature and extent of the permanent injuries you suffered in the car accident. It also depends on whether you have been involved in prior accidents or have similar injuries or conditions from before the accident. Additional factors considered are the nature, duration and extent of your treatment, hospitalizations and rehabilitation, surgical procedures, diagnostic examinations such as MRIs, x-rays, and EKGs, and the loss of function and limitation you suffered as a result of the accident. There are also economic damages such as non-covered medical expenses, property damage and lost wages if you cannot work as a result of the accident. The facts of how the accident happened are also crucial to determine who is responsible for the cause of the accident. If you are more than 50% responsible, then you may not be able to recover any compensation for your personal injury claim.

Insurance companies want you to believe you will only be compensated for your out-of-pocket expenses

How is my NJ personal injury claim valued?

Insurance companies want you to believe you will only be compensated for your out-of-pocket expenses. They do not want you to know there is a formula that adjusters use to determine how much your claim may actually be worth.

Even though all cases are different, most insurance companies use the same basic formula to determine the value of your claim. Please note that this formula is for informational purposes only, and you should consult with a personal injury attorney for complete details of your claim.

There are two components to the formula to calculate the value of the claim: medical specials; and general damages multiplier.

Your claim is evaluated by calculating the total amount of your medical specials and multiplying it by the general damages multiplier, and finally adding any non-medical specials. This value equals the compensation that may be paid on your claim.

Motor Vehicle Accident Cases In New Jersey

Medical Specials. The first number used in the formula is medical specials, which is the amount of the expenses incurred in your injury claim. This takes into account your expenses, including

- Medical Expenses
- Property Damage
- Lost Earnings/Wages
- Future Lost Earnings/Wages
- Future Medical Expenses

This value is calculated and will represent the medical specials.

Never admit any fault when discussing your accident with an insurance adjuster.

General Damages Multiplier. This value represents your “pain and suffering” and is a number between 1.5 and 5. The more serious your injury, the higher the multiplier will be. General damages are subjective and are open to interpretation since they are not a black-and-white value for medical specials. Because the multiplier cannot be easily quantified, and greatly impacts the value of your claim, you need an experienced attorney to fight for you on this front.

Factors that are taken into consideration for the general damages multiplier include the extent of your pain and suffering, the extent of your permanent injuries, the impact your injury has on your daily living and work activities, emotional and physical trauma, impact on your family and spouse, and overall stress and anxiety. Higher pain and suffering equates to a higher general damages multiplier and a higher value for your claim.

TIP: *Never admit any fault when discussing your accident with an insurance adjuster. New Jersey has a legal concept called “comparative negligence” which reduces the value of a claim based upon the percentage of fault assigned to you for causing the accident. And, if it is determined that you are more than 50% responsible for the accident, you will not be able to make a claim in NJ for your personal injuries.*

Settling Your Car Accident Case in NJ

If you were injured in a car accident in New Jersey, you might be interested in settling your claim. Auto accident claims can be highly stressful, and if you are not a lawyer, you most likely are not familiar with what is involved in settling a car accident case in New Jersey. Here are some helpful tips to help you become familiar with what is involved in NJ accident claims:

The settlements that you can receive in New Jersey are not only different from accidents in places like California, but they also can be different based upon where in New Jersey the accident happened or even where you live.

Five Things You Must Know About Settling a Car Accident Case in New Jersey

- 1 There are many variables that determine how much your accident case is worth. You definitely want to make sure you are reimbursed for economic damages from medical bills to treat the injury you suffered from the car accident and property damage to repair your vehicle. However, you can't stop just there. You may have a claim for lost wages due to missed work time as a result of the injuries you suffered in the car accident. And of course, a claim for pain and suffering must compensate you for your permanent injuries, losses to your quality of life, and complications to your everyday activities.
- 2 Every car accident case is unique. The settlements that you will receive in New Jersey are not only different from accidents in places like California, but they also can be different based upon which county in New Jersey the accident happened in or even where you live. Also, since every case is unique in itself, there is no formula that can determine the exact value of your case. This is why an experienced New Jersey injury lawyer can be extremely helpful to your case.

Motor Vehicle Accident Cases In New Jersey

3 Insurance companies make money hand over fist and can afford to drag out your claim for as long as possible. Insurance companies are in the business of making as much money as possible. They are like bookies who don't want to pay off on a bet. They will happily accept the insurance premium every month, but when it comes time to pay out on an accident claim, they will try to delay the claim, hold up your settlement, or try to get you to accept a lowball offer.

Insurance companies will happily accept your insurance premium every month, but when it comes time to pay out on an accident claim, they will try to delay the claim, hold up your settlement, or try to get you to accept a lowball offer.

4 It is important that you document everything and anything. If you are able to take photos at the accident scene, make sure you do. Also, keep track of all your physicians, medical bills, medical appointments, treatment, and repair estimates. This will assist either you or your attorney to prepare a demand package when trying to settle your accident case with the adjuster for the insurance company.

5 It is not impossible to settle your own case without an attorney. Many New Jersey car accident attorneys won't share this information with you. But insurance companies can voluntarily offer you a settlement for your case without an attorney. However, if your case is complex and involves liability issues, serious permanent injuries, extensive medical bills, and significant lost wages, you should really consult with an experienced New Jersey injury lawyer. Most attorneys offer free consultations, and my office will even offer you a free strategy session to help draw up a game plan or road map for your accident case.

Insurance companies all promise low rates and the dream of saving you money. That is, unless, you are in a car accident and actually need to make a claim.

Understanding the New Jersey Auto Insurance Verbal Threshold

Shopping around for auto insurance can be a very complicated ordeal. We are bombarded with advertisements by insurance companies all competing for our business. Insurance companies spare no expense to advertise and saturate the market with commercials during major events such as the World Series and Super Bowl. They all promise low rates and the dream of saving you money. That is, unless, you are in a car accident and actually need to make a claim.

Limitation on Lawsuit vs. No Threshold

When you apply for auto insurance, one of the most important choices is the “lawsuit option.” If you select the “limitation on lawsuit” option, you can save a few dollars on your premium. However, this limitation selection can severely hamper your claim if you are injured in a NJ car accident. If you elect to save with the limitation on lawsuit option, your options to make a claim are severely limited, and you must have suffered a permanent injury. If you select the “No Threshold” option, you can make a claim no matter how slight or how serious your injury is.

Make sure you understand the difference before selecting either option when you purchase or renew your auto insurance in NJ. Remember, you get what you pay for. Insurance companies make money hand over fist and wouldn't be able to afford the millions in advertising during the World Series or Super Bowl if they couldn't calculate their risk. You, too, should know what you're paying for and whether you are limiting your ability to make a claim down the road.

Pros and cons of the “verbal threshold” and “no threshold” policies

While the “no threshold” policy has a slightly higher premium, there is nothing to stop your claim if you are involved in a car accident in NJ.

The “limitation on lawsuit” option may be less expensive, but could end up costing you more if you or a family member are in a car accident. When you select this option, it also binds your spouse, children, and other family that live with you to the same limitations. To make a personal injury claim for pain and suffering with this option, you must prove your injuries fall within one of the following categories:

- Death;
- Dismemberment;
- Loss of a fetus;
- Significant disfigurement or significant scarring;
- Displaced fracture;
- A permanent injury (when a body part will not heal to functional normally)

While the “no threshold” policy has a slightly higher premium, there is nothing to stop your claim if you are involved in a car accident in NJ.

How do I overcome the “verbal threshold?”

Regardless of which auto insurance option you selected, you should still consult with a NJ Injury Lawyer about your potential claim. “Limitation on lawsuit” claims should definitely be handled by an experienced and knowledgeable NJ board certified trial attorney. Verbal threshold claims must be proven in very specific ways and require a Certificate of Permanency from a treating doctor. The doctor must attest that you have suffered a permanent injury and that the injury will not recover with further treatment. This injury must be based upon OBJECTIVE evidence, such as an x-ray, MRI, or another diagnostic test..

Insurance companies know that verbal threshold cases require doctor’s certifications, expert reports and medical evidence. Remember that in the beginning, they paid money to win you over as a customer. And after you file a claim, it’s the insurance companies that fight tooth and nail

defending against these claims. They are like the bookies that don't want to pay off on the bets after they lose — insurance companies happily accept your monthly premium, and then use their profits to defend against your claim.

Advice about the verbal threshold and your NJ auto insurance policy

If you are reading this and have not been involved in an auto accident, consider changing your NJ insurance policy to the “no threshold” option for you or your family. There will be no limits on your right to make a claim. If you have the “limitation on lawsuit” option and have already been involved in an accident and sustained injuries, contact NJ Injury Lawyer Howard Lesnik, Esq., immediately. As a skilled NJ personal injury lawyer, he can determine whether your injuries can overcome the “verbal threshold.” Email (howard@lesniklaw.com), telephone (908.264.7701), or complete the form at myinjurylawyer.com to schedule your complimentary 30-minute strategy session.

If you are reading this and have not been involved in an auto accident, consider changing your NJ insurance policy to the “no threshold” option for you and your family.

New Jersey Uber and Lyft Accidents

The number of smartphone users in the United States was estimated to eclipse 260 million people in 2018. There are close to 3 million apps available on both Google Play and the Apple App store. It's hardly news that rideshare apps are wildly popular throughout the country. By the end of 2018, Lyft had over 18 million riders, and Uber had over 91 million users.

What happens with Uber and Lyft Accidents in New Jersey?

In 2017, New Jersey enacted new laws in order to protect victims involved in accidents with Uber or Lyft vehicles in NJ. The amount of insurance available to compensate accident victims depends on the status of the rideshare vehicle at the time of the accident.

- **Uber/Lyft Rideshare app turned OFF:** If a driver is not driving for Uber or Lyft and the rideshare app is offline or turned off at the time of the accident, the vehicle's personal insurance policy limits will be applicable.
- **Uber/Lyft Rideshare driver AVAILABLE:** If a driver's rideshare app is activated, and the driver is waiting for a passenger or ride request at the time of the accident, there will be \$50,000 bodily injury per person; \$100,000 bodily injury per accident; and \$25,000 property damage available for insurance coverage.
- **Uber/Lyft Rideshare Driving ACTIVE:** If a rideshare driver is actively driving for Lyft or Uber, enroute to pick up a passenger, or driving with a passenger at the time of the accident, there will be \$1.5 MILLION available in insurance coverage for accident victims.

The amount of insurance available to compensate accident victims depends on the status of the ride-share vehicle at the time of the accident.

What to do if you are involved in an accident with Uber or Lyft

Whether you are a passenger in a rideshare vehicle or riding in another car, if you are injured, seek immediate medical care.

- Report the accident to police/EMTs
- Stay on scene to speak with responding police and EMTs
- Seek medical attention at the scene and go to the hospital or urgent care
- Immediately notify the rideshare company that you were in an accident with one of their drivers
- Take photographs of your vehicle and/or the rideshare vehicle
- Keep copies of all your medical bills

Taxi Cab Accidents

There is a certain level of risk taken any time a person ventures out onto the road in a motor vehicle — and unfortunately, that risk of death or serious injury in an auto accident has been worsening since 2020, in a sharp reversal of previous safety trends. However, that known level of risk feels different when sliding into the back seat of a taxi.

How New Jersey Auto Insurance Works

You have to trust the cab company to be sufficiently rigorous in their hiring process that only safe and responsible drivers are placed behind the wheel.

Rather than taking control yourself or trusting a friend or family member with your safety, riding in a taxi literally puts your life in the hands of strangers. You have to trust the driver to bring you safely to your planned destination, and you have to trust the cab company to be sufficiently rigorous in their hiring process so that only safe and responsible drivers are placed behind the wheel.

Fortunately, it seems that this trust is at least somewhat justified. A 2006 study in New York, an area well known for its extensive reliance on taxi services, revealed that taxis and livery cabs were less likely than other drivers to be involved in automotive accidents — though in the rare cases when cabs were involved in crashes, they were more likely to result in serious injuries to the passengers of the taxi. The reason for this increased injury rate is unclear from the data, though there is room for speculation: it's likely that passengers in taxis are less likely to properly fasten their seat belts, unlike the cab drivers. The plastic partition separating the front and back seats may also pose a hazard for passengers seated in the back. In a serious crash, the passenger in a taxi may suffer injuries including:

- head and brain injuries, including concussion/TBI (traumatic brain injury)
- neck and spine injuries, including whiplash
- bone fractures
- lacerations, contusions, or other soft tissue injuries
- organ damage

In the worst cases, these or other injuries may lead to death. This was the tragic outcome of a recent collision involving a taxi in Passaic County. A serious accident took place near North 3rd Street and Cliff Street at approximately 7:30 in the evening; the crash caused the taxi to catch fire, and though paramedics and firefighters responded to the scene to help the crash victims, one person succumbed to their injuries.

For an accident victim seeking injury compensation (or a loved one seeking wrongful death damages) after a taxi

accident, the question of liability is a little more complicated than in your typical auto accident, or in comparison to an accident involving a ride-sharing app such as Uber. Unlike drivers for services like Uber, who are generally independent contractors and supply their own vehicles with their own insurance policies, taxi drivers are typically employees of a cab company. Depending on the circumstances of the accident and the nature of the relationship between the taxi company and their employees, the cab company itself may bear part of the liability for your injuries, alongside the driver. This is important, as a cab company is almost guaranteed to have insurance coverage sufficient to fairly compensate even the most extensive injuries.

... a cab company is almost guaranteed to have insurance coverage sufficient to fairly compensate even the most extensive injuries

There are a handful of ways that taxi companies can operate, and the relationship between the taxi driver and their employer will affect liability in the event that the driver is at fault for causing an accident. Many cab companies have a pool of vehicles that their employees are allowed to drive, although some companies allow their drivers to utilize their own personal vehicles as taxis, or require their drivers to rent their cab from the company. Generally speaking, the party who will be responsible for your injury damages is the party that owns the vehicle, or in the case of a rental agreement between the cab company and the driver, both are liable.

Of course, as with any other automotive accident taking place in New Jersey, your first recourse for compensation in a taxi accident is through the PIP (personal injury protection) coverage of the taxi's insurance policy. If your damages exceed that coverage or you are entitled to additional damages for pain and suffering, long-term recovery or permanent injury, or punitive damages, then your attorney would help you pursue compensation from the party responsible for causing the accident.

As with all personal injury lawsuits for automotive accidents, the statute of limitations for filing suit seeking injury damages in a taxi accident is two years. If you ever find yourself in an accident while riding in a taxi, there are

a few steps you should take as quickly as possible (after, of course, ensuring that everyone is safe and seeking medical treatment for any injuries).

- Get the taxi driver's name, identification number, and the contact information of the cab company, as well as the contact and insurance details of any other drivers involved.
- Next, obtain statements and contact details from any witnesses to the accident, and take photos of the scene, the vehicles, and any injuries.

This information may prove crucial to any subsequent injury claim.

10 Most Common Causes of NJ Motor Vehicle Accidents

...proving negligence in court isn't so easy, especially once insurance companies and their lawyers become involved.

While it certainly goes without saying that the vast majority of automotive crashes are “accidents,” both in the colloquial sense and in that they are unintended, it's also true that most car accidents are caused by preventable errors and poor choices by at least one of the drivers involved. While those poor decisions can take a variety of forms, the common factor is that they represent negligent behavior that can result in the driver being deemed liable for the injuries they cause to other road users. However, proving negligence in court isn't so easy, especially once insurance companies and their lawyers become involved.

A negligence claim must prove that a duty of care was owed by the negligent person to the injured party (including the duty owed by any road user to exercise reasonable caution and follow traffic laws); that the negligent person failed in this duty of care; that this failure caused the accident in which the injured party was harmed; and that the damages for which compensation is being sought resulted from that accident. The insurance company's lawyers will attack any stage of this argument they can, but understanding some of the most common causes of automotive

Most Common Causes of Auto Accidents

collisions can help you deal with arguments attacking the first two elements of the negligence argument, involving a driver's duty of care toward other people on the road.

Here are ten of the most prevalent causes of serious or fatal automotive accidents in the US, in no particular order save for the first one — which is the leading cause of injurious or deadly crashes.

1 Distracted Driving. Despite growing public awareness and numerous enforcement efforts aimed at curtailing the behavior, distracted driving remains a tremendous problem on American roadways. While the focus of law enforcement and public awareness campaigns tends to be distraction in the form of mobile phone usage — specifically talking or texting while driving — distracted driving is a much broader phenomenon. Some drivers attempt to multitask while driving by eating or drinking, engaging in grooming tasks like applying makeup or shaving (yes, really!), adjusting the sound system or climate controls of the vehicle, and even reading. Other passengers in the vehicle can create distractions, especially if the driver is attempting to discipline children or pets in the car. Motorists can also become distracted by gawking at the scenery or at other accidents on the road. Ultimately, anything that takes a driver's thoughts, eyes, or hands away from the task of driving can become a potentially deadly distraction.

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2 Drunk Driving. This one seems obvious, and yet despite several decades of enhanced public awareness and law enforcement efforts to combat this dangerous behavior, people still make the choice to get behind the wheel while under the influence. Often, these individuals believe that they “haven't had that much” and will be fine driving. However, even under the legal limit, a person's reflexes, awareness, and judgment can be impaired by alcohol — and people who have been drinking are notoriously bad at judging how impaired they actually are.

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Drivers who simply do what they like and expect everyone else to get out of their way are not only dangerous, but can be hard to deal with in a negligence case, because you can't simply point to a cell phone in their hand or alcohol in their bloodstream — they drove dangerously because they just didn't care.

- 3 Road Rage.** Whether it's unprovoked aggressive driving because someone feels that they're the only person who has the right to be on the road, or a disproportionate response to real or imagined slights that causes a person to turn their car into a weapon to threaten others, road rage is a serious problem. It has the potential for the same devastating consequences as drunk driving, but without even the thinnest excuse of chemical impairment of the driver's judgment. A driver who can't control their temper and turns aggressive on the road has no business being behind the wheel.
- 4 Reckless or Careless Driving.** Sometimes drivers don't even have the excuse of being distracted; they're just too lazy to check their blind spots or can't be bothered to signal before changing lanes. Drivers who simply do what they like and expect everyone else to get out of their way are not only dangerous, but can be hard to deal with in a negligence case, because you can't simply point to a cell phone in their hand or alcohol in their bloodstream — they drove dangerously because they just didn't care.
- 5 Teenage Drivers.** While this point may conjure the image of a car packed full of rowdy adolescents shouting, waving cell phones, and otherwise not paying attention to the road, that's not necessarily what we're talking about here. Even a studiously careful teen driver has minimal road experience and may be more nervous behind the wheel, making it harder for them to respond calmly and appropriately to unexpected road hazards.
- 6 Unsafe Speeds.** Speed limits exist for a reason, and part of that reason is that vehicle speed affects the reaction time of the driver. The faster you're going, the less time you have to react to a sudden change or obstacle in the road ahead. Excessive speeds also mean that if a collision does happen, it happens with a great deal more force to the impact, which can cause more damage to vehicles and their occupants. On the other side of the coin, motorists who drive too slowly

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for the traffic around them can also be dangerous. A slow driver on a busy highway disrupts the flow of traffic, potentially forcing other drivers to maneuver evasively or stop suddenly, forcing motorists around them to react quickly to avoid a collision.

7 Ignoring Red Lights and Stop Signs. It's obvious how a driver who pretends a red light isn't there can cause an accident. Similarly dangerous, however, are the drivers who try to squeak through the intersection even after the light changes, or those who think that "right on red" means they don't actually have to stop and check that it's safe before they make their turn.

8 Failure to Obey Traffic Laws. This one is similar to 7, but wider in scope. These are the drivers that make you wonder how they managed to get their license without ever reading a driver's manual since they exhibit no understanding of concepts like right-of-way or using a turn signal.

9 Tailgating. There is no excuse for this driving behavior. While it could be included under aggressive or reckless driving, it deserves to be called out separately both because of how prevalent the behavior is and because it simply is needlessly, dangerously stupid. Maintaining a safe following distance is essential to avoiding accidents, because drivers need time to react to changing road conditions and sudden hazards.

10 Weather and Road Conditions. Slippery roads, poor visibility, and poorly maintained or designed roads can be dangerous. While drivers cannot control these phenomena, too many motorists fail to adjust their driving to account for wet or icy roads or low visibility. Obviously, driving in bad weather should be avoided whenever possible, but if you're caught on the road in a storm, it's vital to exercise proper caution. Don't allow other drivers to pressure you into going faster than feels safe, and, if necessary, pull over in a safe place to wait out the worst of the storm.

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Self-Driving Car Accidents

A major selling point for many of the new cars on the market today is the advanced suite of driver assistance features designed to improve the safety and convenience of operating these vehicles. These features, while still requiring the active engagement of the vehicle's driver at all times, exist on a continuum defined by the Society of Automotive Engineers (SAE) of "Levels of Automated Driving." Specifically, the level of driver assistance technology that exists at SAE Level 2 — currently the highest level of driving automation legal on America's roads outside of strictly-monitored testing — involves features that both assist in steering and in the acceleration and braking of the vehicle; for instance, a combination of adaptive cruise control and lane keeping assistance. The use of either of these features without the other would bring the vehicle down to SAE Level 1, while at SAE level 3 the vehicle itself is in full control of its own operation but the human driver may be required to retake control at the request of the automated system.

While these technologies are designed to make the experience of driving a safer one, these systems remain relatively new, and regulatory agencies are keen on understanding whether the level of trust being placed on a vehicle's computer system is warranted. Humans are indisputably prone to human error, to which the long history of collisions and fatalities since the introduction of the automobile can attest, but it doesn't necessarily follow that giving even limited control of a car to a computer program designed by those same error-prone humans is actually safer.

A New Reporting Mandate

That's why the NHTSA (National Highway Traffic Safety Administration) implemented a new reporting mandate in June 2021. This requirement, the Standing General Order on Crash Reporting for Level 2 Advanced Driver Assistance Systems, compels automakers to report accidents in which a Level 2 ADAS was engaged at any

point within 30 seconds of the collision, and any of the following conditions are also true: a vulnerable road user was involved, a fatality resulted, a vehicle had to be towed away, an air bag deployed, or any person needed to be transported to a hospital for treatment. It is understood that the reporting of these accidents may not be entirely accurate or complete due to the possibility of inaccurate data in incident reports or lack of access to crash data. However, this system results in much more reliable and consistent data than was available prior to the introduction of the Standing General Order in 2021, when the NHTSA had to rely on media reports, vehicle owner questionnaires, and direct outreach from the automakers.

With this more consistent data stream, what has the NHTSA learned? In the first 10 months of data, the NHTSA reported a total of 392 crashes that fit the reporting guidelines involving the use of a Level 2 ADAS. Of these, 98 incidents involved reports of injuries, with five serious injuries and six fatalities. The data may be further broken down by auto manufacturer, and in this case, Tesla leads its competitors by a wide margin, accounting for 273 of the reported accidents, with Honda a distant second at 90 incidents and Subaru accounting for another 10. Other car manufacturers account for a handful of collisions each. The disproportionate number of accidents involving particular brands of the vehicle may be due in part to the prevalence of Level 2 ADAS technologies present in those vehicles — if there are significantly more Teslas on the road that have adaptive cruise control and lane centering assistance than there are Volkswagens with the same technologies, we would expect to see more Teslas in the NHTSA's report on crashes involving those systems.

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How Safe Are These Systems?

The most pressing question, both for safety agencies and for consumers, is what does the data say about the safety of these advanced driver assistance systems? Are these technologies delivering the promised safety and convenience for their users, or are auto manufacturers

endangering the lives of every road user by entrusting the control of heavy, fast-moving vehicles to unproven computer systems? The answer, unfortunately, is unclear. Did these 392 crashes happen because of ADAS technologies, or despite them? There's no method to report the number of crashes that were prevented by driver assistance systems; nobody keeps records of accidents that didn't happen. On the other hand, inconsistencies in record-keeping and investigation may mean that other accidents involving Level 2 ADAS technology escaped reporting. The NHTSA's recent reporting mandate is an important step in assembling a clearer picture of the way these technologies influence road safety, but we don't yet have enough information to draw solid conclusions about the risks or benefits involved. The best advice for motorists whose vehicles possess these devices is to remember that full driver engagement and attention are still required.

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NJ Car Accident Checklist

If you are involved in a car accident in New Jersey, there are several steps you should take in order to remain safe while documenting the incident in case you need to make a legal claim down the road. This is why, in addition to the checklist discussed here, you should contact a NJ Injury Lawyer experienced with handling motor vehicle accident claims so you can be compensated for your damages.

Follow this checklist if you're involved in a car accident:

- 1 Stay Calm.** Remain calm, cool and collected. Do not panic and leave the scene of the accident. Leaving the scene of an accident can result in the issuance of a traffic summons and require you to appear in municipal court. Leaving the scene of an accident, if there are personal injuries can result in fines between \$2,500 to \$5,000, a driver's license suspension, and even jail time — even if you're not at fault.
- 2 Ask if Anyone is Injured.** Take time to see if you are injured. Check on your passengers and see if they are hurt. Call 911 to report the accident and any injuries. Request an ambulance or EMT to be dispatched to the scene if anyone needs emergency medical care.
- 3 Seek Medical Treatment.** Do not refuse medical treatment if it is offered to you at the scene. Some injuries do not manifest until hours, days or even weeks after the accident. Many people wait to see if their aches and pains will go away, but often these injuries become worse. If this is the case, you should always seek medical treatment if needed. Make sure you are checked out by a doctor.
- 4 Document Your Motor Vehicle Accident.** If you are able, exchange license and insurance information with the other driver and take a picture of the other car's license plate. When the police officers arrive, make sure you describe all the details about how the accident unfolded. Do not leave out any important details. The officers were not there, so do not assume they will know what happened. If you don't include something in your version, it won't be included in the report. Make sure you tell the officer if the other driver said "sorry" or apologized for the accident.

Contact NJ Injury Lawyer Howard Lesnik, Esq., if you were involved in a NJ car accident by email (howard@lesniklaw.com), by phone at 908.264.7701, or by completing the form at myinjurylawyer.com to schedule a complimentary 30-minute strategy session.

- 5 Report the Accident to Your Insurance Company.** Report any property damage to your insurance company. Also, notify your insurance company if you or your passengers suffered any personal injuries. Provide a copy of the accident report and a list of any doctors who treated you to your insurance company and your attorney. A NJ Injury Lawyer can assist you with submitting claims to your insurance company for property damage and a PIP application for your medical bills and also advise whether you have a claim for personal injuries against the other vehicle. Never give a statement to the other driver's insurance company. If you receive phone calls or letters from the other insurance company, let your attorney know in order to properly handle your claim.
- 6 What NOT To Do.** Under no circumstance should you speak or write to the other car's insurance company. Do not sign anything from the other driver's insurance company. Do not answer any questions from the other car's insurance company. Never agree to a settlement from the other insurance company without consulting with your NJ Injury Lawyer. You only have one chance to make a claim and you can never re-open your claim. If you inadvertently sign a settlement from the other insurance company, you might give up your right to fair compensation for your injuries.
- 7 IMPORTANT — Did you know?** All 911 calls and calls made to police headquarters are recorded. Everything you say right after the accident when you report it to the police is recorded as well as the calls the dispatcher makes to the police to respond to the accident. When the police arrive on the scene, all their calls to headquarters regarding the accident are recorded. All these recordings can be requested by the Open Public Records Act (OPRA). An experienced NJ Injury Lawyer can obtain these recordings to document the accident and injuries as they happened in real-time.
- 8 Contact MyNJInjuryLawyer.** If you or a loved one is involved in a NJ car accident, an experienced NJ injury lawyer can help you deal with your insurance company for medical bills and property damage. A skilled NJ injury lawyer can also deal with the other driver's insurance company if you are entitled to compensation for your personal injuries.

NJ Motor Vehicle Accident FAQs

Q If another driver rear-ends me but there is no apparent damage to either vehicle and no one seems hurt, is it really necessary to go through the whole process of exchanging insurance information, reporting the accident, and whatnot – or can we just agree to drive away?

A You should always exchange insurance information with the other driver and report the accident for several important reasons.

First, in terms of both physical injury to vehicle occupants and damage to the vehicles themselves, you can't always be sure from an initial visual inspection that no harm was done. A car can suffer structural damage even in the absence of superficial scratches and dings, and the human body can sustain injuries to the back, neck, and spine that do not present symptoms right away. (This sort of delayed onset of symptoms is common in whiplash and similar injuries.) As such, the conclusion of “no harm done” may not be accurate, making it necessary to have the other driver’s insurance details.

Worse still, the other driver could be trying to trick you out of reporting the accident, only to report it themselves and claim that you illegally left the scene. Failing to report an accident and leaving the scene are both legal offenses and can damage your credibility when you later need to clarify how the accident really happened. Moreover, if you do end up having suffered injury or vehicle damage, your insurance company may deny your claim if you failed to take appropriate steps to identify the other driver.

It’s always better to play it safe and get that insurance info and report the accident.

For more Q&A, visit

<https://mynjinjurylawyer.com/nj-motor-vehicle-accident-faqs/>



Q My accident wasn't that serious, and I have a little pain, but it's no big deal. Do I really need to bother seeing a doctor?

A Yes, absolutely. Many of the most common injuries inflicted by automotive accidents don't show the full extent of their symptoms until days or even weeks after the accident. You can't know for certain whether those "little" pains will go away on their own or get worse. And if it does turn out that you have serious injuries, getting prompt medical attention is important not only for your medical prognosis but also for the success of your legal claim. Insurance companies will latch onto the fact that you didn't seek medical treatment right away as proof that you weren't actually injured in the accident. If you see a doctor promptly and have a treatment plan in place from the beginning, it's much harder for the insurance company to discredit your injuries and deny your claim.

Q Is it true that if I'm partly at fault for the accident, I can't pursue compensation from the other driver and am stuck using only my own insurance policy to cover my damages?

A No. Some states, such as Virginia, have laws like this – in which if you bear any percentage of fault whatsoever for the accident, even 1%, you can't recover any damages from the other party involved. Fortunately, New Jersey law doesn't work this way; we are a "Comparative Negligence" state, which means that the amount of fault the court determines you bear for the accident is subtracted from the total damages you can collect. For instance, if you are determined to bear 20% of the fault for the accident, you can recover 80% of your damages. This is true as long as you are less than 50% responsible for the accident.

Q How much is my case worth?

A Every case is different, and the value depends on a number of factors, up to and including the amount of insurance coverage available. If you have suffered a permanent injury of any kind, have undergone lengthy or invasive medical treatments, are expected to need further treatment in the future, or suffered a substantial loss of income due to the accident, your compensation may be greater. Other factors including the circumstances of the accident and your perceived credibility in court may also play a role.

Q Should I keep a journal, log, or diary?

A This is an excellent idea. The claim process can stretch on for months, even years if your case goes to court. The more details you have about your medical treatment, incidental expenses, levels of pain experienced, lifestyle restrictions, and the emotional and psychological impact of your injuries, the stronger your case will be, and the less you will have to rely on increasingly-distant memories.

Q The insurance company is making an impressive settlement offer; should I accept it?

A Consider this: an insurance company is a business and it makes money by paying you as little as it can get away with. This means trying to convince you to accept a settlement quickly, for far less than it knows you are entitled to, so that you stop being their problem. Once you accept a settlement, you can't go back and ask for more money once it turns out your injury costs are far greater than you initially believed. At the very least, consult with an attorney before making your decision. If your injuries are minor or your case is weak, you may be better off settling, but that's a determination best made with experienced legal advice. Once your case is settled, it is settled forever and can never be reopened again, even if your injuries get worse. So if you settle your case quickly and then need surgery after the settlement, your case is already over and you can never receive additional compensation for your injuries.

Q Do I really need a lawyer?

A It's easy to say that the answer to this question is "Yes" obviously... but the real answer here depends on a couple of other questions – What's the worst thing that could happen in this case? Can I afford to make a mistake? If the stakes are high enough and you need financial compensation for serious personal injuries, then yes, you need a lawyer. My office offers complimentary 30-minute strategy sessions for ALL cases.

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New Jersey Car Accident Guidebook: Important information you should know when you drive in New Jersey

How to protect yourself and your family when dealing
with insurance companies after an accident

About the author



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With more than 20 years of experience, Certified Trial Lawyer Howard Lesnik brings his knowledge of the laws and court system of New Jersey to protect you and your family. He handles the claims with the insurance company and other legal matters, giving his clients the time and the means to heal from their injuries.

He earned a JD degree from Seton Hall University School of Law and a BA in Economics from the University of Michigan. He is an active participant in legal professional associations, such as the New Jersey Association of Justice, the American Institute of Justice, 10 Best, Client Satisfaction, and is a Member of the District XII Ethics Committee.

He has been accepted in the Million Dollar Advocates Forum based on his track record of significant verdicts and settlements. His cases and firm have been covered in national news outlets, including CBS News, *Jury Verdict*, *New Jersey Law Journal*, and *Bicycling*. Past clients give him high praise and endorsements on Google Reviews, Avvo, Martindale, and he has an A+ Rating on the Better Business Bureau.

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