

NOTHING BUT THE TRUTH ...
ABOUT CALIFORNIA ACCIDENTS

Seven Deadly Mistakes That Can Ruin Your Accident Case



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Nothing But The Truth . . .
About California Accidents

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DEDICATION

I dedicate this book to you, the reader. You have just been injured in an accident and probably have a million questions and very few answers. So I wrote this book to hopefully answer some of the questions you have, and answer a few questions that maybe you didn't think about, but should know.

Quick Highlights

- 5 words that will stop the adjuster **dead in their tracks** ... page 15.
- The formula for determining the value of your case ... page 4.
- How to pay for your medical treatment, **even if you don't have health insurance** ... page 10.
- How long will it take to settle your case ... page 19.
- The one trick the insurance companies know will **increase the value of your case** up to 3.5 times higher! ... page 15.
- 30 things your attorney will do for you, even before sending out the first settlement offer ... page 21.
- Why talking to the adjuster by yourself, can lead to the **death of your case** ... page 26
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WHY I WROTE THIS BOOK

It makes me upset when I see the insurance companies use dirty tricks to cheat accident victims. Too many times, I talked to people injured in a car accident, where they settled their case directly with the insurance company. The amounts they received were much less than what I believe is a fair amount.

One day I was talking to Joanne. Joanne was in a car accident so violent the engine fell down from the engine compartment. It was just sitting on the ground. When Joanne and I talked, she was excited because I was going to help her with her case. I was also excited. I am an attorney focusing on helping injured victims recover, and making sure they get paid for their medical bills and pain and suffering. So I love to help victims like Joanne.

So when I interviewed Joanne, I found out a terrible thing. She already settled with the insurance company! They paid her only for her medical bills. She did not receive any money for her pain, her suffering, or all of the inconvenience the accident caused her! I can never guarantee any victory, but based on my experience, I am extremely confident I could have gotten her a much better settlement.

Joanne's story, and many other stories like her gets me terribly upset. These billion dollar companies prey on, and take advantage of victims who deserve fair and just compensation for their injuries.

Getting into an accident is not hitting the lottery. I don't help people who try to cheat or lie about their injuries. I help people receive what they deserve.

So I decided to write this book so victims don't make this same mistake.

CHAPTER 1

YOUR PERSONAL INJURY OR ACCIDENT CASE WHAT IS IT AND HOW DOES IT WORK?

WHAT IS A PERSONAL INJURY CLAIM?

Whenever you are injured and someone else caused it, you are entitled to be paid money (monetary compensation) for pain and suffering you experience. You can also receive payment for actual expenses you incurred or will incur. These include medical bills, future medical care, lost wages due to taking time off from work, and any other financial losses.

WHO IS THE CLAIM AGAINST?

Your claim is filed against the person who caused your injuries. Seems like an obvious answer but it isn't always so easy in real life.

The person who caused your injuries is the person who caused the collision or dangerous condition of the accident. If you were hit from the rear while driving or riding in a vehicle, it would normally be the person who rear-ended you. This person could be the driver who runs the red light or stop sign, the store

that left the floor slippery when you slipped and fell, or the chair manufacturer who produced a faulty chair that was prone to collapse. These are common examples of the people responsible for your injuries.

Even though they are at fault, that doesn't necessarily they are the ones you would seek a settlement or jury award against. Often times it is the insurance company who provides coverage to these people. This includes auto insurance, commercial liability insurance, among others.

WHAT HAPPENS AFTER THE INJURY

What happens after the injury really depends on the facts and circumstances of the accident, the injuries sustained, and the necessary medical treatment. No two cases are ever the same.

But usually what you will see is a lot of activity at the beginning, such as contact with the two insurance companies, you or your lawyer would filling out the necessary DMV reports, contacting the other party's insurance company, and sending communications back and forth.

After this initial activity things slow down ... sort of. You might not hear a whole lot from your attorney during this period, where you are seeking medical treatment. All the necessary communications and filings are finished. Liability (determining who caused the accident) may have been determined at this point, with the offending driver's insurance company accepting fault.

There is usually a long wait for your medical treatment to finish. You can't make a demand for settlement without knowing exactly your health and medical conditions. Settling early in the case is a mistake, because you should be compensated for your injuries and suffering. If you settle before

knowing the full extent of your injuries, your settlement might be much lower than what is fair and reasonable.

At a certain point you will likely reach a state where your medical condition is considered “stable.” That does not mean your injuries have completely healed, and that you are 100%. , Sometimes it may be years, or never, before you are 100%. But once you are stable, then things can move forward.

It is around this time negotiations begin with the insurance companies. If the adjusters for the insurance company show that they are unwilling to settle for any reasonable amount, than the settlement period may be cut short and a lawsuit may have to be filed.

The actual processes of a lawsuit are much too complex to tackle here. Just know that a settlement can, and often will, be reached during the pre-trial but after a lawsuit is filed. In fact the court encourages settlement, and will actively promote settlement negotiations

CHAPTER 2

“HOW MUCH IS MY CASE WORTH?”

Everybody wants to know how much their case is worth. It is probably the #1 question I get asked by injury victims.

Unfortunately, there is no easy answer here. There are so many factors that affect the value of your case. In the most simple of formulas, the value of your case can be summarized as:

Medical Costs	+
Future Medical Costs	+
Missed Time at Work	+
Future Earning Capacity	+
<u>Pain, Suffering & Inconvenience</u>	+
= Value of Your Case	

As you can see, even in this very simplified formula, calculating the value of your case can be quite complicated.

Especially hard is the Pain Suffering and Inconvenience calculation. Calculating loss in earning capacity and future

medical care is also hard. But at least those are items most people understand.

If you were making \$50,000 per year before the accident, but now you can only make \$20,000 per year because of these injuries, that \$30,000 difference, is easy to understand.

Pain and suffering is a harder concept to grasp. We know you experienced pain; we know you have suffered. But when it comes time to place a dollar amount on this, it's hard to quantify without an easy formula to follow.

So that is the job of an experienced personal injury attorney. Nothing is ever guaranteed. So I must do the best job I can, to tell my client's story to the insurance company. If the case goes to trial, I must prove their case to a jury.

So when I am asked, "**what is my case worth?**" I do my best to estimate what a case is worth, based on similar cases that settle or have gone to trial.

But early in the case these estimates are wildly inaccurate, since we don't know the full extent of your injuries and required medical treatment yet.

Whatever your case is worth, an experienced personal injury and accident attorney will work hard from the very beginning to maximize the value of your case. And more importantly, the attorney will work really hard to prevent any mistakes that will kill your case.

CHAPTER 3

HOW TO INTERACT WITH YOUR DOCTORS

Medical treatment is one of the most important parts of your case

Not only does your medical treatment obviously affect your health, it greatly affects your case as well.

My client's health is the most important part of any case. The #1 concern after an accident is their health, and all decisions should be made with that concern in mind.

Thankfully, doing what's best for your health is also good for your case as well.

A jury can't quite see your injuries, unless you walk into a courtroom with broken bones or other catastrophic injuries. Sometimes you are mostly or fully healed by the time a trial starts. So you show the jury evidence of your injuries.

One such way is to present your medical records. The stronger your medical records, the better for your case.

So how do you make sure your medical records are strong?

1. Seeking immediate medical treatment
2. Going to all of your scheduled appointments
3. Telling your doctors everything
4. Sticking with your treatment until the end

Seeking immediate medical treatment. Whether you go to the Emergency Room, Urgent Care, your Family Doctor, or a Chiropractor, if you are injured or feel any pain, it is important you receive medical care as soon as possible after the accident. Even if you don't think it is a big deal, go see a doctor.

If you wait too long to see a doctor, the insurance company will say you were not really injured. Because someone who is injured would not wait to see a doctor, they would go right away.

Seeing a doctor immediately, or within a couple days is good for your case. Anything over two weeks, and usually you will need a good reason. But I have clients who didn't see a doctor for a month. They had a good reason and the case was fine.

But I recommend seeing a doctor within a week of your accident. The sooner the better.

Going to all of your scheduled doctor appointments. Regular, consistent medical treatment for your injuries shows a jury your injuries are real, and shows you take the treatment of those injuries seriously. Inconsistent and irregular medical visits paint a picture to the jury of someone who didn't take their injuries seriously.

“If your injuries were serious, you would visit the doctor every chance you get in order to get recover and be rid of the pain.” That's what the insurance company would say about you.

If the records show you regularly visited your doctor for treatment, the insurance company cannot use this argument against you.

Tell your doctors everything. You need to tell your doctor everything, and you need to be specific. If you have previous injuries, tell your doctor. There is nothing wrong with pre-existing injuries and sometimes they will help your case. It is sometimes easy to reinjure yourself.

If it hurts to get up in the morning, tell the doctor. If your shoulder hurts when reaching to the side, but not when reaching up, tell your doctor. Don't just say, "My shoulder hurts." Tell them how it hurts and what makes it hurt.

You also need to make sure your doctor records everything you tell them. Doctors experienced with injuries and accidents already know to do this.

Chiropractors, physical therapists, and pain management doctors deal with accident cases all the time. The good ones will have excellent records and ask the right questions so they can accurately record your injuries.

Sticking with your treatment until the end. Cutting your treatment short hurts your case in two ways.

Generally speaking, the longer you must go to the doctor the more valuable your case, as long as the treatment is reasonable and necessary for your injuries. Don't extend treatment just to extend it, this will be obvious and hurt your case. It is called malingering and it is usually obvious.

But an injury that normally requires 6 months of treatment is more valuable than one that takes 3 weeks to recover from. So

you can see, cutting the treatment short will reduce the value of your case.

The second way cutting your treatment short hurts your case, is that it gives the insurance a way to argue that you were exaggerating or even faking your injuries.

They can point to the medical records and tell a jury you didn't even finish your treatment. "If your injuries were real, or as serious as you say it was, then you would have gone until the end."

So you see, cutting your treatment short will provide arguments for the other side to use against you.

That said, if you recover and heal faster than your doctor anticipated, tell your doctor. This goes back to "Tell your doctor everything." If you are really feeling better, tell your doctor, and they can readjust your treatment schedule and wrap it up sooner, which is perfectly fine.

CHAPTER 4 MEDICAL TREATMENT AND HOW TO PAY FOR THEM

WHO WILL PAY FOR YOUR MEDICAL BILLS

After your accident, the medical bills begin piling up, and you're worried. **"Who is going to pay for all of this?"**

Immediately after your accident, it is important you receive competent medical treatment. But this medical treatment is expensive, and depending on the severity of your injuries, the bills can pile up extremely fast.

You have several options to pay for medical treatments:

#1 Medical payments coverage from your own auto insurance policy. This is commonly known as "Med Pay." This is optional coverage that can pay all of your necessary and reasonable medical expenses up to the limit of the policy. A common limit can be \$5,000, but you can purchase less, or better yet more than this amount.

#2 Your own health insurance policy. If you have health insurance, either purchased by yourself or through your job, you can use this to pay for your medical services.

#3 Your doctor or medical service provider. Some health care providers will allow you to receive treatment subject to a medical lien. They provide you with treatment, and in exchange for this you make a promise to pay them back once the case is over. If you don't win the case or never pursue one, you will still owe them for the treatment you received.

Note that if you use option #1 or 2, or both, that your auto insurance company and/or health insurance company will attempt to seek reimbursement for these costs, if there is another party at fault for these injuries. An experienced personal injury can often negotiate these liens down by as much as 30-40%, in some cases even more. This saves you a substantial amount of money if you ultimately settle or win your case.

Remember, until the case is settled YOU are ultimately responsible for any medical bills you incur.

PAYING BACK YOUR HEALTH INSURANCE AFTER SETTLING YOUR CASE

As I said above, in a lot of cases your insurance company will want to be reimbursed from the proceeds of any settlement or jury award from a 3rd party.

If you paid for any expenses out of your pocket, you will receive that amount back. If you received care without any payment (where the doctor receives a lien on any future

settlement/award) then the doctor would be paid at time of settlement.

So how much do you have to pay them back? Is it 100%? In California, the insurance company is entitled to a proportionate share if the proceeds are not enough to fully compensate you. For example, if you suffered \$50,000 in total damages (medical bills, lost wages, pain and suffering) but only recovered \$25,000, then the health insurance company would be entitled to 50% of the amount they paid.

As a practical matter, the insurance companies can be negotiated with. They may reduce their demands to compensate for future medical costs, hardships, additional damages paid, and attorney's fees. Before you settle any accident claim you should consult with an attorney to determine whether or not, reimbursement of your health insurance company will wipe out any settlement and leave you with no compensation for your injuries.

CONSERVATIVE TREATMENT

If you recently sustained injuries due to an accident, you are likely receiving some sort of medical treatment right now. Depending on the seriousness of your injuries you may be receiving conservative or non-conservative treatment, and this may affect your case. The big question is:

Is the treatment medically required and necessary for the injuries suffered?

If you are seriously injured, such as a broken bone, joint separation etc. then whatever emergency treatment you receive is obviously appropriate. There might be surgeries, or other ongoing treatment. For less serious injuries you may receive conservative treatment.

This includes a visit to your doctor (MD/primary care physician), and perhaps some physical therapy or chiropractic treatment. If you do not get better, your doctors will probably refer you to specialists for tests and specialized treatment. Conservative treatments are those that are nonsurgical and normally are prescribed in your situation. They are easily defended and do not raise suspicions.

CHAPTER 5

DO I EVEN NEED AN ATTORNEY?

Injury victims always wonder, “Do I even need an attorney?”

You don’t want to create a fuss. You are not that type of person. You’re not looking to rip someone off or chase money like you see on TV. You just want fair and reasonable compensation for injuries you suffered.

With that said, not everyone needs an attorney. If you only want your medical bills paid for, oftentimes you can work with the insurance adjuster and they will be happy to settle with you.

That’s because they know, **if there is no attorney involved**, the size of the check they write you will be a lot smaller than if there is an attorney involved.

The insurance industry conducted a study, comparing the size of settlements for victims who did it by themselves, and those who had an attorney. Their findings were shocking:

Injury settlements for those with attorney were on average, 3.5 times higher than those without, even after paying the attorneys their fees!

As you can tell, the insurance companies love it when an attorney is not involved. They save so much money on each case.

If you can answer yes to the following questions, then you may need an attorney to protect your rights.

- Have you suffered injuries?
- Are your total medical bills expected to be several thousand dollars or more?
- Has your vehicle been significantly damaged? Is the damage visible?
- Did someone else cause your injuries?
- Have you sought medical treatment, and followed the recommend course of treatment?
- Are the adjusters asking you to fill out a form, or give a recorded statement?

If you answered YES to several of these questions, you probably need an attorney and should contact one immediately. If you answer yes to all of them, you have a great case and you should act immediately to prevent any mistakes and to maximize the value of your case.

Also, if you are afraid to talk to the adjuster, or the adjuster is calling you so much you are getting annoyed, these five words will stop them in their tracks.

“I have hired an attorney.”

They stop talking to you once you hire an attorney.

CHAPTER 6

FREQUENTLY ASKED QUESTIONS AFTER AN ACCIDENT

Q. If I am involved in an auto accident, do I have to stop?

Yes. **Always stop** no matter how minor you think the accident is. Stop even if it doesn't involve another car. It can be a pedestrian, a car that is moving or parked, someone's lawn, a tree, anything. Leaving the scene of an accident may result in you being charged with a Hit and Run, even if the accident was not your fault.

Exchange the following information with any driver or other person involved in an accident:

- name and driver's license number
- the vehicle identification number of the car you are driving
- the name and address of the car's owner
- the name and address of your insurance company and your insurance policy number (or other evidence of financial responsibility, such as a bond posted with the Department of Motor Vehicles).

If you leave the scene and are found guilty of Hit-and-run crime, the penalties are severe and you may be fined, sent to jail or both. You may lose your driver's license.

If you hit a parked car or other property, you must try to find the owner or driver. If you can't find the owner, the law says you must leave your name, address and explanation of the accident, and the name and address of the car owner (if you do not own the vehicle) in a conspicuous place. Then and only then can you drive away from the scene.

Call the local police or California Highway Patrol (CHP) as soon as possible. If the accident caused a death or injury you need to call right away, even dialing 911. If an officer does not show up to investigate the accident, you must write a report on a form available at the police department or CHP office as soon as possible.

Q. Should I call the police or not?

Yes, you should. If the accident was serious enough, you should always call the police. The officer who arrives will most likely perform an investigation, interview the parties, gather information and then file a police report, which will contain all this information, and the officer's opinion on who caused the accident.

If liability is not 100% clear, often times the police report will help prove your case, even though it is not generally admissible as evidence in court.

Is it necessary that you have a police report? No. A police report is persuasive, but isn't the final word. Not having one doesn't mean you cannot prove your case.

The police may not always come out, and sometimes they'll come out and not prepare a report because they feel liability is clear. In any case, you should always call the police, whether they come out or file a report is up to them.

Q. If I am injured in an accident, how long do I have in California to file a case?

In general, the answer is two years. California Code of Civil Procedure Section 335.1 states:

335.1. Within two years: An action for assault, battery, or injury to, or for the death of, an individual caused by the wrongful act or neglect of another.

That is called a statute of limitations, which is a law that sets the maximum time after an event that you can file a lawsuit. In a personal injury case, that event is usually the date of the injury and/or accident.

The public policy behind such a statute is that the longer time has passed since the injury/accident, the less reliable the evidence and witnesses are. Also, the would-be defendant has a right to reach a point where they know a lawsuit cannot be filed against them. There are also statutes of limitations from crimes as well.

There are very narrow exceptions that are hard to qualify for, so if you've been injured in an automobile accident or suffered a personal injury, you must keep in mind that this statute will bar your case if you wait too long. If you are unsure about any of this, you should consult an attorney as soon as possible to make sure you preserve all of your rights.

Q. How long will it take to settle my accident claim?

It depends. Yes that doesn't answer your question at all. However you may find following information useful.

For simple cases with less significant injuries, such as traffic accident case with no major injuries, where liability is pretty straightforward, your claim can be settled as quickly as in 3 or 4 months. A case with more significant injuries, and where the party at fault for the accident isn't so clear, could take much longer. Or in a lot of situations, it will have to be litigated in court.

Usually the determining factor is your medical condition.

Settlement negotiations usually do not start until you reach a stable medical condition, or maximum improvement. In other words, you fully recover or you reach a point where further treatment will not produce tangible results. You may need future treatment, however. If these are foreseeable they can be accounted for in settlement talks.

Always keep in mind the final date that you can file a California injury case, otherwise known as the statute of limitations. Even if you are in settlement negotiations. If this deadline is approaching you must file the case because once it passes, the insurer or other party may be able to back out. And if you are barred from filing suit you may be left without any options. Settlement talks can continue after you have filed suit.

CHAPTER 7

“WHAT WILL AN INJURY ATTORNEY DO FOR ME?”

Most injured victims don't know all of the things personal injury attorneys do to help protect your rights and interests in your accident case.

There are many things a personal injury does throughout a case. Some steps are taken right away to protect your rights, and get your case ready for trial. A good injury attorney will prepare all cases for trial, unlike some lawyers who look to settle every case.

That doesn't mean your attorney is not actively trying to settle your case. Settling a case for fair value is an excellent outcome. You don't have to incur any trial costs (which can often run in the thousands). There is no risk of a jury returning an unfair verdict. You don't have to wait months or years to for the case to be finished.

Having said that, an accident and injury attorney should prepare all cases for trial. Insurance companies keep tabs on lawyers who are quick to settle vs. those lawyers who don't bluff.

Lawyers who settle quickly often receive less than fair value in settlement offers because the insurance company knows they don't want to file a lawsuit and take a case to trial.

The list of things a personal injury attorney can do for you is long. Broken down the number of items can total 70-100+.

For example, here is just a small sample of the list of things I do for my own clients. These are just the steps from start to settlement negotiations, and do not include steps required to file a lawsuit and take a case to trial.

Things I Do For My Personal Injury Clients

Before Settlement

1. Help make sure you receive immediate, quality medical treatment. This can include chiropractic treatment, physical therapy, seeing specialists and in the worst case scenario, surgery
2. Help you get your car fixed, and make sure you get your deductible back if you paid one
3. Find out who the at-fault people are, and develop theories that proves the accident was caused by them
4. Discuss how your medical bills will be paid. Options include automobile medical payments coverage, your existing health insurance, and liens on your case
5. If liens are required for medical treatment, then obtain those (liens are claims on your case, to be paid at the end)
6. Get the police/collision report
7. Get the insurance companies and their adjusters off of your back. I call them to let them know I represent you, and that they are not to call or talk to you.
8. Get your policy information from your insurance company

9. Get an investigator to interview parties and witnesses, and obtain statements and declarations. As this is costly, I will do this only in cases where it is absolutely necessary and cost effective.
10. Make a formal demand to preserve all evidence
11. Find out if the at fault driver(s) were driving for an employer (this makes the company responsible, and provides additional insurance and assets)
12. Fill out and send to the DMV an SR1 report, notifying them of the accident
13. Request from the DMV, disclosure of insurance information (SR19 report)
14. If possible, go to the scene of the collision and investigate, taking photos and filming videos of the area, any skid marks, obstructions, damaged property etc.
15. Collect and preserve evidence from the collision scenes and vehicles
16. Find out where the vehicles are, and document the damage with video and photographs
17. Help you get a rental car (if possible) until your car is fixed
18. Document any personal property damaged (phones, sunglasses etc.) and make sure you are reimbursed for these
19. Send a letter to your doctors, telling them not to release your information to anyone except you, and my office.
20. When your treatment is done, get all of your medical records and billings
21. Send a special form to your employer, to find out how much earnings and benefits you lost because of this accident
22. Use a chart to catalog all of your out of pocket expenses, so you can be paid back

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23. If necessary, perform a professional asset check of the defendants, looking for real estate, bank accounts, and investments, among other things.
24. Determine a reasonable value for your case, by looking at similar settlement and jury verdicts.
25. Prepare a demand letter which details the facts of the case, theories of fault, discusses your medical treatment and any lost wages/earnings, and demands a settlement amount.
26. Put together your demand package. This will include the demand letter, your medical bills, any reports, charts, and facts that are needed to make an informed decision regarding the settlement offer. It may also include an assessment of similar state and national settlements and verdicts with attachments, a summary of similar cases and results by our firm with attachments, and a draft lawsuit
27. Prepare draft jury instructions and draft of opening and closing arguments
28. Begin settlement dialog and do everything necessary to allow the insurance adjuster to fully understand your case
29. Follow up with all the above until everything is done and all necessary information is obtained
30. If the insurance adjuster makes an offer, I will communicate every single offer to you, no matter what I think of the offer. I never accept any offers on my own, without your authorization.

CHAPTER 8

7 DANGEROUS MISTAKES THAT CAN RUIN MY CASE

1 FAILING TO SEEK IMMEDIATE MEDICAL TREATMENT

We discussed this earlier in Chapter 3, but it is worth repeating. If you fail to seek prompt medical treatment, the insurance companies will argue that your injuries are not that serious, or you would have immediately sought medical treatment.

This is important not just for your case, but also your health. Nobody can predict what will happen to that nagging pain or tightness you feel in your back. You may have the tendency to try and tough things out. In this case, you definitely should not try to do so. Even if you do not feel like it is serious, go seek medical treatment. Go to your primary care physician, urgent care if it's very painful, or the hospital emergency room if it's serious.

Defense attorneys will absolutely use it against you if you wait too long to see a doctor. If your first visit to any doctor is more than a couple weeks after your accident, prepare to have

them argue against your injuries. They will say you are not injured and you are only pursuing a claim because you are greedy and want money.

2 MISSING DOCTOR APPOINTMENTS, AND ENDING TREATMENT EARLY

We also discussed this earlier, but it can really kill your case.

After you visit a doctor, see a physical therapist or chiropractor; you must follow the schedule your doctors set for you.

Missing prescribed treatments is ammunition for the insurance company to argue your injuries are not serious, not extensive as you said they were, and that your pain and suffering wasn't as great as you are leading on. They cannot use this argument if you follow your treatment schedule.

If you absolutely must miss an appointment, then clear it with your doctor and make it up somehow. But keep this to a minimum. A perfect treatment record will increase the value of your case.

3 NOT CARRYING ENOUGH UNINSURED MOTORIST COVERAGE

Carry as much uninsured motorist coverage as your budget will allow. Sometimes an increase in coverage will not cost a lot more. Have your agent provide you with several quotes for UIM coverage. Pick the level that provides extensive coverage for a good value.

How can this kill your case? If you are seriously injured and the other driver has minimum policy limits, or worse, no insurance at all, you have nobody to recover money from. The

minimum policy in California is \$15,000 per person.

Let's say you are in a very serious accident, and your medical bills alone are \$15,000. The value of your case might be double that or even higher, depending on the facts of your case. If the other driver has the minimum policy limits, or no insurance at all, you are now stuck if you don't have high Uninsured/Underinsured Motorist coverage.

Remember, your UIM policy actually kicks in, if it's higher than the other person's insurance limits. If you have \$100,000 in coverage, and the other person who caused your accident has \$15,000, you can tap into your policy if your case is worth more than \$15,000.

UIM coverage is for you, your family, and your passengers. It is probably the most important coverage you can buy in your auto policy. Don't skimp here, and buy as much as you can afford.

For more information be sure to read my book on **How to Buy Insurance**.

4 TALKING TO THE ADJUSTER/GIVING A RECORDED STATEMENT

This one is a killer. When it comes to the adjuster for the other driver or vehicle, it is best you don't talk to them at all. Tell them, thanks but no thanks. Just say:

“I'll be in touch when I am ready to talk.”

You are under no obligation to talk to the other side about your injuries. They may try to get a statement from you, and this can only do harm.

No good can come out of talking to the other side right away. They are there to build up a case against you or reduce any award. Everything they do or say is to further this goal. Again, avoid talking to the adjuster for the other driver.

And don't even think about giving a recorded statement. Any requests for documents, medical records, etc. should also be ignored.

If you are confident in yourself, and your accident case is relatively small (less than \$2,000 in medical bills) then when you are ready, you can go ahead and contact the adjuster and begin your own navigation.

If your medical bills are much higher, you may want to seek the services of an attorney because it is more likely the insurance companies will attempt to trick you into taking a settlement much less than it is probably worth.

Again, they are there to keep their costs as low as possible. They will do anything to further that goal.

5 SETTLING RIGHT AWAY

Immediately after your accident an adjuster will try to call you, especially if they know you don't have an attorney. They want to settle right away.

Car insurance is a multi-billion dollar industry. They get that way through profit. What is profitable to them is not profitable for you. And that is for them to pay you as little as possible. Each dollar they don't pay you is an extra dollar in their bank accounts. So they try their hardest to make it happen.

One way is to make a quick settlement. A quick settlement usually means a lower settlement. This is because everyone

wants to end the case quickly. It's a sure thing, you don't have to work for it, and the hassle is over.

That's exactly why the insurance companies offer the quick settlements. They are counting on the fact that accident victims don't want to deal with the process of pursuing a car accident claim. They train their adjusters and one of the things they teach is, the longer it takes to settle the more it will cost the insurance company.

And they are right. Of course nobody wants to deal with a car accident claim. It's time consuming, long and tedious.

However, if you settle too early you may be harming yourself. Have all of your injuries healed yet? Has the doctor stabilized you medically, and predicted with good probability any future medical complications and requirements? Have all necessary medical diagnosis procedures been performed if there is persistent pain and problems? If you settle before all of this, you run the risk losing the right to be compensated for future and present medical bills.

Oftentimes the quick offer will not even cover your present medical bills. I met with a lady who at the time had over \$26,000 in medical bills. With 3 days left before the law would prevent her from filing a lawsuit (statute of limitations) the insurance company offered her \$500.00. Imagine if she accepted that. Then they offered \$5,500. That is with over \$26,000 in present medical bills, and many thousands more in the future.

Beware the quick settlement. If you get that call, politely decline and hang up immediately. In California you have two years to file a lawsuit from the date of the accident. I do not suggest waiting that long but you do have a little time. Do not take the quick settlement. If you don't want to deal with the process then hire an attorney who will do most of the work

while you focus on your treatment and recovery.

6 HIDING PRIOR ACCIDENTS AND INJURIES FROM YOUR ATTORNEY

Your lawyer needs to know everything that could adversely affect your injury case. That includes all prior accidents and injuries. You must disclose this to your attorney, whether they are good or bad for your case. The last person you want to be surprised is your attorney.

There is no point in hiding prior accidents because the insurance company will find out. They maintain these large databases that they all share with each other. There are ways to find out and one day you may be asked under penalty of perjury whether you were in a prior accident. Your attorney will know best how to deal with any potentially damaging information and needs to know to be prepared.

A good personal injury attorney will be able to deal with any inconvenient facts, but they cannot recover from lying, and they can't always recover from surprises.

One of my clients withheld an injury that happened just a couple months before his car accident. This ultimately hurt the case because I could have tried to settle early before the insurance company found out about the injury. But the medical records were obtained via subpoena, and that advantage was lost.

You need to tell your attorney everything. Communications with your attorney is confidential. You can tell your attorney everything in confidence. Don't hide anything here.

This is true with your doctor as well. Tell them about all prior accidents and injuries. If these facts are in in the records, it

makes it more credible and less vulnerable to attacks by defense lawyers. Defense lawyers will try to argue that the doctor's opinion is not as solid because they were unaware of previous accidents and injuries. So if you tell the doctor, and these incidents are in the notes and report, the doctor's opinion is more credible since they have taken into account prior accident and injuries, and still form the opinion that your injuries were caused by this accident.

Tell your lawyer and doctor about everything, anything that might be relevant. **Credibility is king in the courtroom.** The more honest you are at the beginning, the more credible you appear. If you hide something very relevant, and it shows up later in the courtroom, jurors will start to distrust you. That will kill your case. Juror decisions are based on emotion as much as, if not more, than logic.

So tell your doctor everything, tell your lawyer everything, and make sure your lawyer ensures the doctor includes everything in their notes and report.

7 HIRING A “CUT AND RUN” ATTORNEY

A Cut and Run attorney is an attorney who only settles cases and refuses to file a lawsuit when necessary.

There are attorneys out there that will try and settle every single case. That means you they will work the claim, then prepare it for settlement negotiations.

They pray for a good offer from the insurance company. Because they don't want to file a lawsuit and take the case further. There is a lot of work involved in filing a lawsuit: sending out discovery requests, preparing discovery answers, depositions, medical exams, preparing for the trial itself.

The decision to settle a case is always your decision to make. The attorney can't accept an offer without your authorization. So the attorney will not accept the offer without you knowing about it (if they do it's an ethical violation and you need to nail them on it).

With that said, we all know attorneys hold great influence and authority over their clients ... that's why we are hired in the first place. So even though you hold the power to make a decision, your decision may be heavily influenced by the advice given to you by your attorney.

After all, they are the professionals here. So why wouldn't you listen to them?

So, beware the attorney pushing you to settle. Good attorneys will never guarantee you a result, but they will give an educated guess on the value of your case. If your attorney is pushing you to settle for an amount much lower than their original guess; you should ask why.

CHAPTER 9

DEBUNKED: 11 MYTHS ABOUT CALIFORNIA PERSONAL INJURY CLAIMS

There are many myths surrounding California personal injury and car accident claims. These invented stories can affect your view of your injury claim, possibly impacting your decision-making regarding your case. A summary of the most common myths is listed below.

Myth #1 – I am obligated to answer all the questions the insurance company/adjuster asks about my car accident.

This myth is perhaps the most damaging and dangerous one. When it comes to your insurance company, in most cases you only need to tell them you've been in an accident and a San Diego car accident attorney currently represents you. Also tell them you are currently receiving medical advice if that is true, but you do not need to discuss your injuries yet. Your attorney will discuss the necessary details with them.

When it comes to talking to the at-fault driver's insurance company, you don't need to answer any questions. Your

attorney knows from experience what information helps facilitate your claim, and what doesn't help or hurts your claim.

Myth #2 – I have to give a recorded statement to the at-fault driver's insurance company, or they won't settle with me.

This is perhaps the second most dangerous myth. There are times when your insurance company requires a recorded statement under the policy, but in most cases you don't have to. When it comes to the at-fault driver's insurance company you never give a recorded statement under any circumstances.

Myth #3 – My insurance company will handle everything for me. I can trust them, and tell them everything.

False! Your insurance company owes you a duty because you are a policyholder, but they are not exactly on your side. They will gather information that can be used against you. For example if the at-fault driver does not have insurance or is underinsured, you potentially may file an uninsured or underinsured claim against your company. Your insurance company turns into an opponent. Even before they become an adversary they will talk real fast and ask questions designed to extract important information that can be used against you. This is their training and they don't "turn it off" when talking to you.

Myth #4 – I can't recover anything, because I was partially at fault.

California has what's called comparative negligence for personal injury and car accident claims. So even if you were partially at fault, you may be entitled to receive compensation for your injuries. California is a pure comparative negligence state, which means you can win your case even if you were found to be more at fault than the other driver.

Myth #5 – I do not need a car accident attorney.

Technically, you do not “need” or require an attorney. You can definitely handle your claim on your own. However you may not receive all the compensation due to you. Remember the adjuster’s job is always to pay as little as possible, and they receive extensive training on how to do so. You may need an attorney if:

- Your injuries are serious
- They claim you are at fault or partially at fault
- The insurance company feels you don’t suffer from any injuries, are exaggerating your injuries, or received unnecessary treatment
- The adjuster constantly calls demanding a recorded statement
- You feel pressured into taking a low settlement offer

Myth #6 – It’s too expensive to get my own lawyer

Most accident and injury lawyers employ a “contingent fee” so you don’t pay them a dime, unless your case is settled or you receive a jury verdict. If the case goes to trial you will in most cases be responsible for those costs, but you do not pay an hourly fee for work. In exchange for this you have an experienced and knowledgeable in handling these cases. This frees your time up, allowing you to focus on recovering from your injuries.

Myth #7 – Hiring an attorney means I will have to go to trial

While a jury verdict may return the best result especially if you suffered significant injuries, it isn’t always necessary. The truth is that most claims never go to trial, and a significant number of lawsuits settle before the actual trial. In deciding whether to settle or go to trial you must weigh the benefits and

costs, including the risk that you may lose at court, filing fees and expenses associated with trials.

Myth #8 – If I hire an attorney, it’ll make things worse and drag things out

This isn’t true. Hiring an attorney in some cases may speed things along. Adjusters are known for their tricks and tactics, and they do not hesitate to employ them. They’ll create a few roadblocks, some annoyances; you get frustrated and accept their low offer. The attorney knows the game that is played, so adjusters are hesitate to try their tactics.

Myth #9 – You do not need to see a doctor, or an attorney, because you feel “fine.”

This is a very dangerous myth. Just because you feel fine after a few days it is risky to assume you will be fine and do not need to see a doctor. Some post-accident injuries don’t show itself for days, weeks, months or even years after the accident. If this happens you may not be able to get the compensation you need to pay for treatment. A comprehensive examination should occur at the beginning, as well as periodic checkups or analysis.

Myth #10 – People who file claims or lawsuits are just greedy.

There are certainly accident victims who act greedily in pursuing their claims. This behavior is discouraged but they’ll always exist. However the vast majority of victims are pursuing rightful and just compensation for their injuries. If you suffered injuries in accident, you have suffered actual damages in the form of monetary costs (medical, lost wages, property) as well as suffering significant pain and discomfort. This painful experience deserves compensation. You have lost some

enjoyment of life, and may have to alter your behavior or some other aspect for the rest of your life.

Myth #11 – I should take the first offer from the insurance company and just settle

That first offer is never their best offer, and usually isn't even a fair one. Despite what the adjuster tells you. You'll hear the terms "fair, excellent, reasonable, and accurate" when the adjuster discusses their first offer to you. You can just throw all that out the window. If their first offer was so great they would never come back with counter offers that are higher, and in my experience they often do.

ABOUT THE AUTHOR

Joseph Dang is a personal injury and car accident attorney practicing in San Diego, California. Joseph dedicates his practice to helping accident victims receive fair and just compensation from insurance companies.

Mr. Dang was born in Springfield, MO and moved to San Diego before his first birthday. His parents who just immigrated to the US, found the weather in Southern California to be irresistible after experiencing, in Missouri, their first winter ever.

Mr. Dang grew up in San Diego, attending Mira Mesa High School before moving to Orange County to attend the University of California, Irvine. After college he moved back to San Diego to attend the University of San Diego, School of Law. He joined the California Bar in 2003.

In his spare time Mr. Dang loves to grill and entertain, is an avid fisherman during the summer, and snowboarder during the winter.

NOTHING BUT THE TRUTH ... ABOUT CALIFORNIA ACCIDENTS

It's you vs. the insurance company. Dealing with the insurance company on your own is dangerous. They have years of experience and billions of dollars to spend to try and minimize your award. They try to get you before you hire an attorney. They ask you to settle before you finish your medical treatment! Why? Because they know the longer it takes, the more they will have to pay you. So they try to act fast.

It makes me upset when I see insurance companies take advantage of injured victims. So I wrote this book to keep the insurance company from victimizing you again with their dirty tricks and tactics.

If you were recently injured in an accident, you need to fight back against the insurance company. If you are reading this, you are already taking the first step. Read this book all the way through, and visit www.JosephDangLaw.com to stay up to date with tons of articles, videos, Free reports and books.



Joseph D. Dang is a personal injury and accident attorney licensed to practice in California. Joseph focuses on helping injured victims receive fair and reasonable compensation for their injuries.

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