15 things you need to know after a wreck

Don’t make a mistake that could jeopardize your claim

Courtesy of InjuryCounsel.com, where we talk English not Legalese

By J. Roderik "Rod" Stephens of The Stephens Law Firm

253-863-2525

© The Stephens Law Firm - All Rights Reserved
15 THINGS YOU NEED TO KNOW AFTER A WRECK

1. Check the safety of your passengers

Call 911

Unless the car is on fire or you’re in immediate threat of danger, do not get out of the car right away.

First, make sure you and your passengers are not severely injured. Then, call 911. The dispatcher will want to know your location, a description of what happened, whether there is property damage and if people are injured. If you or a passenger are injured, the 911 dispatcher needs to be aware of this so they can send first responders.

2. Get to the side of the road

Move cars

Thirty years ago, people were told not to move their cars until the police arrived. That has changed in the past three decades with traffic congestion, as Washington residents know too well. Our traffic consistently rates among the worst in the country. To alleviate the traffic snarls caused by an accident, it is now recommended that the cars involved in an accident should be moved to the side of the road until law enforcement arrives.

Only move your car when it is safe to move it. Don’t assume other drivers know what you are trying to do. Remember, other cars are trying to negotiate their way around your wreck and may be distracted. Some drivers may not be aware that a wreck has happened until they are right at the scene. As a result, they may attempt sudden evasive maneuvers. That means you have to be more cautious than usual.

If your car is on fire, don’t try to move it — get out of the car and stay a safe distance away.
3 At the scene

Assist injured

If it’s safe to exit your car, you can now check to see if anyone else might be injured. If you find that there are other injured people at the scene, update 911 so they can send first responders. Assist any injured people to the best of your ability. In most cases, it is advisable not to move them until first responders arrive.

Remember to be exceedingly cautious if you are attempting to get out of your car on a multilane road, since other drivers may not be expecting it. In most cases, if you are on a freeway and your car can’t be moved, wait for the police to arrive before you get out of the car.

4 Tell the police

Are you hurt?

One of the areas that the police address on an accident report is the injury status of people involved in a wreck. When asked, most people don’t tell the officer they are injured unless it is fairly obvious (e.g. being carted away on a stretcher). The most common statement I hear is, “I was hurting but I didn’t think it was that bad.”

Insurance companies try to use failure to report an injury to the police officer as evidence you were not hurt in the collision. You may not want to be perceived as a whiner, but your failure to tell the officer about your symptoms at the scene can and will be used against you.

I understand you may be concerned about the expense of an ambulance ride and an emergency room visit. If you have Personal Injury Protection (PIP) coverage as part of your car insurance, the coverage will pay for this expense without any deductibles or co-pays. PIP will pay for your trip to the hospital without consideration of fault. After the PIP coverage has been exhausted, your health insurance will kick in, subject to deductibles and co-pay.
5 You + others

Exchange info

If the police are investigating the collision, they will get most of the information that you need. But in some cities, police will not respond if this was a no-injury accident. Make sure you get and give the following information for every driver involved:

- Full name and home address
- Work address
- Phone numbers (work, cell and home)
- Email address
- License plate number
- Driver’s license number and state of issuance
- Name of registered owner
- Insurance company and policy number
- VIN number

6 Eyewitnesses?

Don’t rely on the investigating officer to get the contact information from eye witnesses. In most instances, the officer gets all the witness contact information, but on occasion, this does not happen. Police officers are no different than you and me. Sometimes, they lose information or can’t decipher their notes when they are completing their police report later that day.

Over the years, I have seen cases where the officer did not list witness names. Afterward, the at-fault driver invents a version of the facts to mislead his insurance company. Since his insurance company does not have access to independent witnesses, it accepts the plausible but false information provided by the at-fault driver. The end result is that a dispute arises over who is at fault.

Getting the names of witnesses or taking a picture of their license plate is quick, simple and will give you peace of mind. It is much better to do this at the scene; the chances of locating a witness after they leave the scene are slim to none.
Take photos of the vehicles

Use smartphone

If you end up in a dispute over the accident, a picture is worth a thousand words. Whether you are disputing who is at fault or the extent of your injuries from a wreck, photographs will help paint a picture of the truth. Insurance companies place a great deal of weight on the visible evidence of an accident. To them, not a lot of visible damage must mean it was a minor accident with no injuries. However, this is not always true.

For example, in many rear-end collision cases, you will find that the at-fault driver slams on his brakes to avoid a collision and, as the brakes are hit, the front of their car goes down and submarines underneath the car in front. The result is that the vehicle in front does not appear to have much damage. Insurance companies will point to that and say, “See, this wasn’t a bad accident at all.” It is only when they are forced to produce photographs of the damage to the at-fault vehicle that the magnitude of the impact becomes apparent. They will often try to hide these incriminating images before a lawsuit is filed. They know that photographs depicting visible damage to their insured will confirm the accident was more than a slight bump.

If you’re involved in an injury lawsuit, those photos will give credence to your claim that your injuries are the result of the wreck.

Today, every cellphone has a camera. Unless you have severe injuries, there is no excuse not to get pictures of the vehicles involved and the accident scene.

Some of the things you should take pictures of are:
- the damage to each car
- skid marks
- any visible injuries
- the road where the wreck happened and
- factors that may have contributed to the wreck, such as an obscured stop sign or snowy hill.

Often these factors are immediately corrected after a wreck.

Don’t endanger yourself by stepping into a busy roadway to take pictures or attempt to take pictures if you are dazed or seriously injured. If you are not able to take pictures of the accident scene immediately, if at all possible, try to get out to the accident scene the following day. Once you get home, immediately copy those images to at least two other devices to protect against data loss.
See a healthcare provider

Injured?

Being involved in a car wreck is something that should not be taken lightly. Unless you’re an injury lawyer or a healthcare provider, you don’t fully appreciate what a wreck can do to your body.

Over the years, I have often heard the same story: “I felt a little disoriented after the accident and had some mild pain. I thought that it would go away.” Wrong. The reality is that any pain at the scene will likely get worse in the following days.

Insurance companies like it when you don’t immediately get medical care. The longer the delay in getting necessary care, the greater the likelihood that an insurance company will begin to question whether the injury was really caused by the accident. It’s not right, but insurance companies do it all the time.

You don’t get bonus points for not getting medical treatment. If you need treatment, get it.

To be clear, I am not telling you to run to the doctor if you have a scrape on your knee. But if you are in pain after a wreck — your back hurts, your neck hurts, your head aches — it’s usually a sign that things will get worse.

Most of us wouldn’t hesitate to take our child to see the doctor after a wreck. Unfortunately, we are not as vigilant when it comes to our own care. We fall victim to the mistaken belief that it will get better. Time does not heal all wounds and waiting to get help only complicates matters.
An insurance policy is a contract, nothing more or less. Like any contract, an insurance policy outlines the contractual duties owed by the parties. One of those duties is to promptly report an accident to your insurance company.

Why? Because the insurance company understands it is much easier to make a determination about who is at fault when an accident is promptly investigated. That’s when memories are fresh, witnesses can be located, and the cars can be examined before they are repaired. That is why your insurance contract requires you to promptly report an accident and, if you fail to do so, under the right set of circumstances, the insurance company may not be obligated to step in and help you.

If you’ve been injured, then your insurance company will open a Personal Injury Protection (PIP) claim. If you do not have PIP coverage, make sure your medical expenses are reported to your health insurance company and let them know these bills are from a car wreck.

A delay in reporting the accident to your insurance company can mean a delay in getting medical bills paid, repairs completed or your car declared a total loss. Usually, this happens because people try to work out the property damage with the at-fault insurance company out of a fear that reporting to your own insurance means your premium will automatically increase. That’s not true. Generally, your premiums will increase if you are at fault.

When you promptly make a report to your insurance company, they can assign an adjuster, investigate the accident and step in if the at-fault driver’s insurance company is not being fair. It will also ensure medical bills are paid in a timely fashion.
Do NOT give a statement to the at-fault driver’s insurance company

Who to talk to

It is common practice for insurance companies to call you after an accident to interview you. Taking these statements allows them to get information while it is still fresh for the drivers, passengers and witnesses in an accident. These interviews are recorded. You have a duty to give a statement to YOUR insurance company. It is part of what lawyers call your “duty of cooperation.”

You DO NOT have to give a statement to the at-fault driver’s insurance company or, in the event that you are insured by the same company, to the adjuster handling the at-fault driver’s claim. It bears repeating: you SHOULD NOT give any statement to the at-fault driver’s insurance company or, if you are both insured by the same company, to the adjuster assigned to the at-fault driver’s claim.

When you are interviewed by the at-fault insurance company, you don’t know whether fault is being disputed, the significance of the questions being asked or what the course and scope of your medical care will be. Often, cooperative people will minimize the severity of their injuries because they don’t want to appear to be whiners or people trying to get something for nothing. Murphy’s laws are right: “No good deed goes unpunished.” Your willingness to cooperate with the other insurance company will end up biting you on the backside. Statements like, “I’m feeling okay,” or, “I don’t think I will need medical treatment,” will only be used against you later.

Having done this for over 30 years, I have seen many cases where doctors are not able to determine the full scope of the accident-related injuries until months later. Under those circumstances, a recorded statement made days after the accident that a person was feeling OK can and will be used against them.

Remember, insurance companies are out to protect themselves, and they will use every trick to get an advantage.

You should always be truthful, but remember the exact words used when giving a statement to an insurance company will be scrutinized later in an effort to twist its meaning. Because you can make a mistake that can jeopardize your case, you should never give a statement to the at-fault insurance company or allow them to interview you. Furthermore, before giving a statement to your own insurance company, it is always advisable to consult an experienced lawyer.
You DO NOT have to get work done at the shop recommended by insurance companies

Car repair

There are many quality auto repair shops that are on a preferred list with multiple insurance companies. There is nothing wrong with that. In fact, my favorite collision repair shop is a preferred provider for a number of insurance companies. That said, there are two urban legends that cause needless confusion.

Urban Legend No. 1: You have to get 3 repair estimates.

There is no truth to this in Washington. All you have to do is select a shop to perform the repairs. The shop will, in turn, work out the terms with the insurance company.

Urban Legend No. 2: You have to use the collision repair shop recommended by the insurance company.

There is also no truth to this. You can have your car repaired at ANY shop. Don’t be concerned about whether the shop is on an insurance company’s preferred list. Worry more about whether the shop is run by honest, experienced people that refuse to compromise the quality of their work for the almighty dollar. In other words, be an informed consumer. In many instances, you will find the shop you pick is on your insurance company’s preferred list.

Car a total loss? Don’t trust the first payout offer from the insurance company

It’s negotiable

Your car is worth what it’s worth in your surrounding area. A general rule of thumb is a 200-mile radius. Some companies will say it can be more, others will say it is less. Sometimes, the area is determined by the availability of comparable vehicles.

Insurance companies use services to estimate what your car is worth by considering accessories, mileage and condition. That’s why, if your car has that “lived-in” look, it is always a good idea to get
down to the tow yard and clean out the McDonald’s wrappers and Starbucks cups before the insurance company inspects it. You can have the most valuable car in the world, but if it looks like a garbage dumpster on the inside, the perception is that it is worthless. Once the insurance adjuster acquires the data about your car, it is placed in a database or sent to an outside service to arrive at an estimated value.

While waiting, gather receipts for major repairs or services performed in the past 12 months, because these can increase the value of your car. Also, find out what similar cars are selling for. Check websites like AutoTrader.com, cars.com, cargurus.com, and any car lots that may have a car similar to yours. Some people also like to use Kelly Blue Book (kbb.com) and NADA (nadaguides.com). However, over the years, I have found that published car valuation guides like Kelly Blue Book do not keep pace with changes in the Puget Sound auto market. Additionally, insurance companies are more likely to adjust their internal valuation when you can point to a comparable vehicle for sale in your area.

After you locate a car that looks like yours, in the same condition with similar mileage and accessories, go out and take a look at it. Pictures found online don’t always tell the whole story. Your car may have been a non-smoking car, but the car you found online was owned by a smoker or smells like dead rats. When you are satisfied the car is just like yours, take pictures and keep them in a file. Don’t stop with one car — look for multiple cars that are comparable to yours. These cars will give you the data to determine whether the insurance company has made a fair offer or you are being lowballed and need to make a counteroffer.

When you make the counteroffer, be ready to show your receipts, pictures of your car before the accident, and the comparable cars you found. Remember, this is a negotiation. The insurance company is the buyer, you are the seller, and each of you is trying to get the best deal possible. Nothing more, nothing less. Don’t take it personal. Be calm and don’t be afraid to stand your ground.
The key to any successful injury claim is documentation. That documentation starts at the beginning. By documenting, you are compiling evidence that confirms your financial losses and the way your life changed because of the wreck. Lawyers call these losses “damages.” You are entitled to recover two types of damages: Economic Damages (sometimes called “special damages”) and Non-Economic Damages (sometimes called “general damages”).

**Economic Damages:** These are your financial losses. Economic Damages include wage loss (even if covered by sick or vacation time); health care expenses (not just your copay); deductibles; prescription expenses; medical device expenses; over-the-counter medication (aspirin, ibuprofen, etc.); personal care expenses; if necessary, lawn care and home care expenses; mileage to and from doctor’s appointments; parking expenses when seeing your health care provider(s); lost pension/401K/retirement contributions. Keep all of your receipts and a running ledger of these expenses. Whatever you do, don’t rely on your memory or think that you will be able to accurately account for these expenses at a later date. Estimates made at a later date will be challenged by an insurance company, are inherently unreliable, and, more often than not, miss compensable items that should be included as part of your claim.

**Non-Economic Damages:** These damages are more difficult to quantify. They start the moment you know you are involved in an accident and have that ominous sense that “this is not going to turn out well.” Non-Economic Damages include the degree of pain and discomfort experienced, your emotional distress, limitations in daily activities, feelings that you are letting people down because you can’t work, and your inability to enjoy life activities. Immediately after the accident, start a journal. If you intend to hire a lawyer, at the beginning of the journal, write, “This is being prepared to assist my lawyer with my injury claim.”

Start your journal by describing everything that happened in the accident. Give the same level of detail you would if describing a movie frame-by-frame to a person who can’t see or hear. Include the sounds; your thoughts; what happened to your body; whether you were fearful, anxious or disoriented; what the inside of your car looked like after the wreck (e.g. Was your purse and its contents all over the passenger side floor? Did your espresso fly out of the
Avoid those who say they know your case — without looking at the facts

Trust your gut

In today’s competitive market, there are some people that will tell you they can give you the value of your case during a phone call. Don’t believe them.

The only way to determine the value of a claim is to review the accident-related medical records, the economic damages, the non-economic damages and any relevant jury verdicts. Only then will a lawyer be able to provide an informed opinion of what your case is worth. A good lawyer will refuse to discuss valuation unless they have conducted a thorough review of the items mentioned above. Each case is different and should be valued accordingly. There are no quick and easy rules for case valuation (e.g. the “3x the medical bills” myth). Your case will be valued according to its merits.

The other problem that people encounter is the well-meaning friend or relative. This person knows a person who used to be married to the niece of Uncle Ed. According to urban legend, Uncle Ed stubbed his toe and the insurance company gave him $15 million and he got it without ever having to hire a lawyer. Believable? Hardly. Insurance companies are not in the business of
giving away money. If they were, people like Warren Buffet would not invest so heavily in them.

The truth is, your case is probably not worth ‘Uncle Ed’ money. For your sake, I hope it isn’t, because if it is, then you have suffered a permanent life-altering injury that I would not wish on my worst enemy.

The other truth is that, according to studies conducted by the insurance industry, people that hire a lawyer do better than those that don’t, even after deducting the lawyer’s fee from any settlement.

15 THINGS YOU NEED TO KNOW AFTER A WRECK

15

Talk to your attorney before signing Release of Liability

Talk, then sign

A “Release of Liability” is an important legal document. It relinquishes important legal rights.

Before signing anything as important as a “Release of Liability,” you should have it reviewed by an experienced injury attorney to ensure that you understand the implications of what you are signing. If you don’t, you may inadvertently create legal problems in the future while releasing the at-fault insurance company and driver from any further responsibility.

Even if you have to pay a lawyer to review the “Release of Liability,” a small amount of money paid now will save you future heartache.

Feeling overwhelmed?

If you’re feeling overwhelmed, give us a call at 253-863-2525. Injury law is something we understand because we practice injury law every day. Let us know if we can help.
About the author

Rod Stephens has been practicing law for over 30 years. He is the founder of the Stephens Law Firm (stephenslawfirm.com). To provide the best service to his clients, he limits his practice to employment, sexual harassment and injury law.

The respected legal directory Martindale-Hubbell gave Rod an "AV" rating from his peers, which means that he was deemed to have very high professional ethics and preeminent legal ability. Only lawyers with the highest ethical standards and professional ability receive a Martindale-Hubbell Peer Review Rating. An “AV” rating is the highest rating a lawyer can receive. In addition, his firm has been listed in the Bar Register of Preeminent Law Firms.

Rod has served as a member of the board of directors of the Washington State Trial Lawyers Association (now known as the Washington State Association for Justice), is past president of the South King County Bar Association, and has been on KIRO radio’s Legal Line.

In addition to his job as a lawyer, Rod loves to blog in his spare time. He has two blogs: InjuryCounsel.com, which provides common sense observations about the field of injury law, and inzozi.com, which keeps individuals and businesses informed about the latest developments in employment law.

Due to his experience and authority in the field, Rod is able to provide his clients with a clear understanding of what to expect and with the peace of mind of knowing their case is being handled by sound legal counsel.

Rod also serves his community. Rod is the past chair of the Puyallup Sumner Chamber of Commerce. When Rod is not working, you can find him at a local car show or exploring the Washington coast with his dog, Allie.