

PERRY PERSONAL
INJURY LAWYERS

The Complete Guide to Personal Injury Claims in California

A guide for injured Californians and their families to how fault, medical records and insurance coverage decide what a claim is worth

Liam Perry

PERRY PERSONAL INJURY LAWYERS

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Legal Notice

This book provides general information about personal injury claims in California for educational purposes only. It is not legal advice, and it is not a substitute for advice from a lawyer who has reviewed the facts of your own situation. Laws change, every case turns on its own facts, and deadlines to bring a claim in California can be as short as six months.

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Foreword

Personal injury claims in California are a legal process in which an injured person proves who caused the harm, documents what that harm has cost, and recovers compensation from whatever insurance stands behind the person or company at fault. *The Complete Guide to Personal Injury Claims in California* is built around that process. It is written for people hurt in car, truck, motorcycle, bicycle, pedestrian, rideshare and slip and fall accidents anywhere in the state, and for the family members who end up carrying the paperwork, the appointments and the phone calls alongside them.

Every claim in California comes down to five things, and each one has a concrete shape. Fault decides who pays and how much: right of way on the road, notice of a hazard in a store, and a comparative fault rule that reduces a recovery by the injured person's share without cutting it off. The medical record decides what can be proven, starting with the first emergency room or urgent care visit, and a gap in treatment reads as recovery whether or not it was. Coverage decides what is available to recover: a California minimum policy of 30/60 that caps one injured person at $30,000 from the at-fault driver, the injured person's own uninsured and underinsured motorist coverage above it, and MedPay paid regardless of fault. Value is the sum of economic losses such as medical bills, lost wages and future treatment, and non-economic losses such as lost sleep, lost focus and the parts of family life an injury takes away. The clocks are the last piece: two years to file most injury claims, as little as six months to present a claim against a public entity, and surveillance footage that some stores record over within a day.

Liam Perry is positioned to explain those five things because of where he started. Before founding Perry Personal Injury Lawyers, he spent about six years at a civil litigation firm, part of it reading insurance policies from the coverage side to decide whether and when they applied. His firm now handles personal injury claims exclusively, from offices across Southern California. The conversations this book was built from were recorded for the Personal Injury Law Uncovered w. Liam Perry podcast, including a roundup of the nine kinds of cases the firm handles. The question that comes up most often in them is what a case is worth, and his answer is consistent: "There's really no sticker price."

The first five chapters apply to almost every reader. They explain how a claim moves from the first call to a resolution and how to judge the firm handling it, how damages are valued, why the medical record carries the case, whose insurance pays and in what order, and how comparative fault and earlier injuries are handled under California law. A reader who finishes those chapters understands the machinery that every other part of the book depends on.

The next six chapters take one kind of case at a time, because the kind of case changes what has to be proven and how fast the proof disappears. Bicycle and pedestrian crashes turn on right of way. Truck crashes bring federal safety rules, electronic logging devices and a list of companies beyond the driver. Uber and Lyft crashes turn on which period of the app the driver was in. Slip and fall claims turn on what the property owner knew or should have known. Two chapters cover traumatic brain injury, first how it is proven when the scans come back clean, then how a claim for it is valued. The final chapter is the step-by-step for the most common case of all, a car accident, along with the mistakes Liam sees cost people the most.

Someone who was just hurt should start with Chapter 12, which covers what to do now, including the deadlines that matter most. Chapter 3 is about proof: a claim is only as strong as what was written down at each appointment from the first day on. And because truck data and store video are kept on short retention cycles, Chapters 7 and 9 explain why a preservation letter has to reach the right company before those cycles run.

The book treats an injured reader as someone capable of understanding the process, and it keeps every qualification Liam gives, including the times the honest answer is that it depends.

Personal injury claims in California are won or lost on records, coverage and deadlines that are set in the first weeks. That is the reason to read this book early, while those weeks are still ahead.

Introduction

A rear-end crash that leaves someone sore for two weeks and a T-bone that leaves someone with a brain injury no early scan picked up are both car accidents. Lay the medical records, the insurance policy and the question of fault side by side, and they have almost nothing in common. That gap is what this book is about.

Before I represented injured people, I spent about six years at a civil litigation firm. A lot of it was business suing business, and part of it was insurance coverage work: reading policies, figuring out where and when they applied, and working out what the insurance company was obligated to do. That background shapes how I explain a claim. An insurance company is a business with a process, and once you understand the process, the rules, the deadlines and the incentives on every side, a claim stops feeling like a mystery.

This book is built from the episodes of Personal Injury Law Uncovered, and I think of it as the conversation I would have with you at a first meeting, laid out so you can turn to the part that matches what happened to you. The first five chapters apply to nearly every claim, the next six take one kind of case at a time, and the last walks through a car accident claim step by step.

My firm handles cases from offices in San Diego, Encinitas, Costa Mesa, La Mesa, Oceanside, Victorville and La Quinta, and the rules in these pages are California rules. When I use a legal term, I explain it. Where the answer depends on the facts, I say so, because a confident answer that turns out to be wrong for your case is worse than no answer at all.

None of this is meant to make anyone feel behind for not knowing it. Nobody learns how coverage and medical records fit together until they need to. Nothing here is legal advice for your situation. If something in these pages sounds like what happened to you, the next step is a conversation with a lawyer who will look at your records and your policy and walk you through where you stand.

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CHAPTER ONE

How a Personal Injury Claim Works in California

The first question almost everyone asks when they call my office is what their case is worth. It's a fair question. You've been hurt, the bills are starting to show up, and you want to know where this is going. The answer I give, especially in the early days of a case, is that it's pretty tough to tell. There's no sticker price on an injury claim.

What I can give you on day one is a map. Every claim in California runs on a handful of questions: how badly you were hurt and how well that's written down, who was at fault, whose insurance is responsible and how much it carries, and how fast the evidence disappears. The kind of case you have changes which of those questions is hardest. A truck crash is a race to preserve data before a company's retention policy clears it. A slip and fall turns on what the store knew and when it knew it. A brain injury turns on symptoms a scan may never show.

The rest of this chapter covers what it costs to find out whether you have a case, and the questions I'd ask any firm before signing. None of it is advice about your case. Only a lawyer who has looked at your records and your policy can tell you what your facts mean.

> *"But, if you're hiring a personal injury attorney and we take on the claim early on and it turns out that for whatever reason we can't pursue the claim, you're not gonna owe us a dime. We're not gonna pursue any kind of collection."*
>
> — LIAM PERRY, ON WHAT IT COSTS TO FIND OUT WHETHER YOU HAVE A CASE

There is no sticker price on an injury case

The size of the crash tells you something. A more severe crash typically means a more valuable case, and a smaller one is generally worth less. That isn't always true, though, because value is dictated by the injuries. Someone can get hit at freeway speed on the I-5, the I-8 or the I-15 and recover just fine. Someone else gets rear-ended at a stoplight in what doesn't even look like a significant impact and turns out to be seriously hurt.

Lawyers sort the harm into economic damages, the losses you can put a number on, like medical bills and lost wages, and non-economic damages, like the pain of going through multiple surgeries. Chapter 2 goes through both.

I hate to give the lawyer answer of "it depends," but in these cases it's true. Once a case gets into treatment, we have a much better idea of where it's headed. Are the pain levels staying the same? Did they improve a little in the beginning and then go flat? Does the imaging show something a surgeon wants to fix? The treatment, and whether the person keeps getting better, drives the value more than anything you can see on the car.

Nine kinds of cases, and the question that decides each

On the podcast's roundup episode I went through every kind of case my firm handles. They all share the basics above. Each one also has its own pressure point, the place where cases tend to be won or quietly lost.

- **Car accidents.** The documentation carries the case. When an injury is written down in a medical record, it changes the value of the claim. When it isn't, you're kind of running blind, telling the insurance company what happened with nothing on paper to back you up.
- **Truck accidents.** Many trucks carry dash cams, and most commercial trucks have an electronic logging device that records hours, speed, braking and often steering. If that footage isn't favorable to the company and no lawyer has sent a letter telling them to keep it, it can be discarded under a short retention policy. A preservation letter has to go out early.
- **Brain injuries.** These are often called invisible injuries. A CT will almost never show one unless there's an active bleed, and an MRI very rarely does. What proves a brain injury is consistent documentation of symptoms over time.
- **Motorcycle accidents.** In California, riding without a helmet does not wreck your claim. The insurance company can argue a helmet would have made a head injury less severe, which goes to value. An adjuster may also say lane splitting made you negligent, and that isn't the law in California.
- **Bicycle accidents.** Right of way and the Vehicle Code decide fault. When the driver had no insurance or not enough, your own uninsured or underinsured motorist coverage may pay. Where a road's design keeps producing crashes, a public entity or whoever designed or maintained the road can be responsible too.

- **Pedestrian accidents.** Drivers are supposed to scan for people and yield, especially at a crosswalk. Even when a pedestrian shares some of the blame, California's comparative negligence rule lets them recover a share of the damages.
- **Uber and Lyft accidents.** Which period the driver was in at the moment of the crash decides how much coverage exists, and the driver's personal auto policy is almost never the one in play.
- **Slip and fall claims.** It isn't enough to show the hazard was there. You have to show the property owner knew, or should have known, about it, and the surveillance footage that proves how long it was there can be recorded over within a day, two weeks or 30 days.
- **Wrongful death.** The claim belongs to the family, and who can bring it depends on how that family is structured. There's a short section on it at the end of this chapter.

Notice how often the clock comes up: truck data, store video, the weeks before a symptom gets written down. The filing deadlines run on a clock as well. A standard injury claim in California generally has two years. When a public entity is involved, like a city vehicle, a Caltrans truck or a city sidewalk, the claim may have to be presented within six months (California Government Code section 911.2). People get hurt, treat for seven, eight or nine months, decide they want to pursue a claim, and find out it's too late. Chapter 12 covers the deadlines step by step.



Every claim type in this book turns on one deciding fact.

What it costs to find out whether you have a case

A lot of people hesitate before calling a lawyer because they aren't sure they'll need one. The pain seems manageable. They figure they'll wait and see how they feel in a few months. I understand that, and it's the situation the way my firm charges is built for.

We work on contingency. We don't get paid unless we recover. If we need to file a lawsuit tomorrow to preserve a claim, we front those costs, so the client pays nothing up front. When we take a claim early and it turns out we can't pursue it, that's part of the cost of doing business. Sometimes we do work for free, but at least the client walks away with answers. Whatever firm you talk to, the fee terms belong in writing, and California requires a contingency fee agreement to be in a written contract (Business and Professions Code section 6147). Read it, and ask about anything that isn't clear.

So my advice, if there's any doubt, is to talk to a lawyer early. If it turns out you're fine, maybe the claim settles, or maybe it just gets dropped down the line, and either way you don't owe money. What you can't do later is recover the store video that was recorded over at day 30 or the medical record that never got made in week two. There are often things you aren't aware of that can dramatically affect a case within the first two weeks to a month, and if certain steps aren't taken, that information disappears.

Questions to ask any firm before you sign

The firm you pick matters, and you can learn a lot about it in one conversation. Start with how involved they'll be during your medical care. Some firms tell clients "let us know when you're done treating" and wait. The approach I'd look for sounds different: go to your primary care doctor and then call us right away so we know what happened. If they referred you to a specialist, call us right after that appointment. That way the firm gets the records, and it has a real understanding of what's going on while there's still time to act on it.

That involvement matters because questions usually come after the appointment. People are nervous in front of a doctor. They're unsure, they're thinking about a lot of things at once, and they have 20 or 30 minutes. Later they wonder about the surgery that was recommended or the procedure they didn't understand. A good firm helps you work through those questions and steers you toward the right next step.

Next, listen to how the firm explains things. You should walk out feeling comfortable, with a pretty good understanding of where you stand. At my firm we explain the law, we explain the medicine and we explain the process, in everyday language, and we'll explain it a different way if the first one didn't land. I sit down with everyone from the most junior person on staff up to my attorneys

and walk through the medicine in detail: why a procedure is done, when it's warranted, when it isn't. A lot of people are confused, overwhelmed or intimidated by doctors, medicine and insurance companies. Part of our job is to prepare clients for that so they can advocate for themselves.

Finally, ask about the evidence that's specific to your kind of case. In a truck crash, ask whether a preservation letter went out. In a slip and fall, ask how they plan to get the sweep logs and the footage. For anyone who already has a lawyer, my test is short: *"If you're not getting good answers from your attorney or they're not paying close attention to medical, it's time to get a new attorney."*

Wrongful death claims, briefly

When someone dies because of another person's negligence, there are often a lot of people involved: children, a spouse, an ex-spouse, a partner, a blended family with kids from more than one relationship. Who can bring the claim depends on how that family is structured, and California law sets out who has the right to bring it. For most families, that means a surviving spouse and the children. Because the answer turns on the family's particular facts, it's one of the first things a lawyer has to work out.

A wrongful death case is designed to compensate the family, not the person who died, because unfortunately that person is gone. The family is the one left picking up the pieces. Some of what they lost is economic. Maybe the person who died was the breadwinner, an executive or a run-of-the-mill plumber, who paid all the bills while the other parent stayed home with the kids. That loss can hit a household hard and fast.

The bigger losses, and the harder ones to value, are about the relationship: what that person meant, and what kind of relationship the family had with them. Kids grow up differently when a parent has passed away. There's the loss of love, companionship, care and comfort. If you asked anyone what you'd have to pay them to take away a loved one, most would say you never could. In these cases we still have to come up with a valuation, and getting it right starts with understanding the family.

Common Questions

How much is my personal injury case worth in California?

There's no set number at the start. Value is dictated by your injuries, the treatment they need and how well both are documented, not by the size of the crash alone. Economic damages cover bills and lost wages, and non-economic damages cover pain and how the injury changed your life. Once some treatment has happened, a firm that understands the medicine can give you a realistic range and explain why it might move.

Do I pay anything if my injury claim doesn't go anywhere?

Not at my firm. We work on contingency, so we don't get paid unless we recover, and we cover the costs of filing if a lawsuit is needed to preserve your claim. If we take a claim on early and it turns out we can't pursue it, you won't owe us anything and we won't come after you for it. Whichever firm you hire, read the written fee agreement before you sign.

Should I talk to a lawyer if I'm not sure I'm hurt?

Yes. Evidence that matters can disappear within the first two weeks to a month, and if it turns out you're fine, the claim can settle or be dropped without you owing money. My answer on the podcast was simple: *"I would start with getting one, and you can always decline to pursue your claim later on if that's something that you decide you wanna do."*

What should I ask a personal injury firm before hiring it?

Ask how involved the firm will be during your medical care. A firm that says to call when you're done treating is different from one that wants to hear from you after every appointment and referral. Ask whether they'll explain the law, the medicine and the process in everyday language. Then ask about evidence for your type of case, such as whether a preservation letter will go out after a truck crash.

Who can file a wrongful death claim in California?

It depends on how the family is structured. California law sets out who has the right to bring the claim, and for most families that means a surviving spouse and the children. The claim compensates the family, not the person who died: the financial support that person provided, and the loss of their love, companionship, care and comfort. A lawyer has to sort out standing early, because blended families can make the answer complicated.

Chapter Reflection

Look back at the nine case types. Every one of them is decided by something that has to be captured early: a symptom in a chart, a dash cam file, a sweep log, the period an Uber driver was logged into. The injury is what happened to you. The claim is what can be proven about it. Most of the work in a good case happens in the gap between those two, and that work starts long before anyone talks about a number. The next chapter takes that number apart, piece by piece.

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CHAPTER TWO

What Your Injury Claim Is Worth: Economic and Non-Economic Damages

There's no such thing as an average settlement. I know that's not the answer people are hoping for, especially if they've heard what someone else's case settled for. Settlements run from fairly low numbers, where the impact was minor and the person recovered quickly, all the way up to millions and millions of dollars, where the injuries were catastrophic or long-term. Any average blends the small cases with the catastrophic ones, and the figure that comes out describes almost nobody.

What I can do is show you how a claim gets taken apart. My firm looks at every case, from the smallest to the biggest, and works out how to get that client the maximum recovery, because that's a personal injury attorney's job: to get the most money for our clients and make sure they're taken care of into the future. The easiest way to do that is to break the claim into pieces. What did the injury cost you in money? What did it cost you in the rest of your life? What has already happened, and what is still coming?

Economic damages: the losses with a receipt

Economic damages are the simpler half. They're medical bills, lost wages and future treatment costs. If you missed work for two months, that's an actual amount of money you lost out on. If you paid for something out of your own pocket because of the injury, that's money too. These are the losses that can be documented easily: we look at what the medical bills were, and then we extrapolate what the care is going to cost in the future.

Even the bills aren't always counted the way people assume. One way is to count only what the doctors actually accepted as payment. Another is lien treatment. When the injuries are severe, people often can't afford the medical expenses up front, so there are other options for treatment that let them get the care they need, with the provider paid out of the case. Which approach fits depends on how a person was treated, and it's something a lawyer should walk you through early.

Economic damages matter, and they're the part of the claim people understand best. In a serious case, they're often not the part that weighs heaviest.

Non-economic damages: what the injury took from your life

Non-economic damages are much more difficult to categorize. They answer one question: how has this accident changed your life? Sometimes the answer sounds simple. You don't sleep as well because you're in pain all the time, so you're tired at work, so you have trouble focusing at work. Sometimes it's bigger. Someone with a significant spine injury may have young kids they're used to wrestling with and throwing around. That's one of the ways parents and kids bond, and when the injury takes it away, that's a significant loss we need to compensate for.

With a traumatic brain injury, it can look like this: a person looks fine walking down the street, and relatives think they're fine unless they have an extended conversation, but they can't concentrate at work and constantly make mistakes. Then think about what that does to a person's self-worth. For a lot of people, the ten or twenty or thirty thousand dollars they lost in wages weighs less than how the injury is going to affect them for the rest of their life.

These are the harder things to put numbers on, and they're the part injured people often don't expect to matter. People ask me, if they're paying my medical bills, what's the big deal?

> *"A perfect example is someone who's paralyzed, right? Their medical bills may have gotten paid, but their life has been forever changed. All the things they like to do, they can no longer do."*
>
> — LIAM PERRY, ON WHY PAID MEDICAL BILLS ARE NOT THE WHOLE CLAIM

Past losses and future losses

Both kinds of damages get divided a second time, by time. Past damages run from the date of the accident up to settlement or trial. Future damages ask how we compensate for what the injury will keep costing going forward.

The future half is where a life gets measured. Take someone who is twenty years old and has been out of work for two years with a brain injury. If they won't be able to work for the next fifty-plus years either, we have to value those fifty years. Or take a surgeon who had a twenty-year, high-earning career ahead of him and can't practice anymore. We have to compensate for the loss of those earnings, and for the cognitive and emotional changes that came with the injury. Cases like that are where expert witnesses and life care plans come in. Chapter 11 goes deeper into how that work is done.

The future half is also the part that's easiest to lose by moving too fast. A lot of people just want to get the claim over with. If you settle early, before anyone has the full medical picture, nobody truly knows what the claim is worth. You may not realize you'll need surgery in a year because of

what happened in this crash. You thought you'd be fine, and six months later it's still hurting.

What moves the number

Property damage plays a part. Someone bumped in a Starbucks drive-through by a driver who wasn't paying attention and let his foot off the brake has a claim worth significantly less than someone in a major T-bone at 70 miles an hour, where the car is turned inside out and you're surprised anyone walked away from it. More important than the property damage, though, is the treatment.

Take two cases with equal property damage, both moderate T-bones. One person goes to a chiropractor for a month or two and reports being completely better. The other does the same thing but isn't getting better, sees a specialist, does the additional treatment the specialist recommends, and still isn't getting better. The second claim is worth more, for two reasons: that person needed a lot more treatment, and we know their pain continued. More pain over more time is more pain and suffering, which means a more injured person and a more valuable claim.

Back and neck injuries show how wide the spread can be. If someone needs a significant spine surgery, say a multi-level fusion, that case is going to be worth substantially more, potentially seven figures, than a case where someone treats with a chiropractor for two weeks and reports pain at a two or three out of ten. That second case is not going to have a lot of value. What separates the two is the imaging, the treatment the person needs and how they recover.

You may have heard there's a formula. Twenty, twenty-five, thirty years ago, adjusters commonly took the medical bills and multiplied them by three. If someone went to a chiropractor and had $5,000 in medical bills, the offer would come in around $15,000. Over time, insurance companies found that if they offered less, some people would take it, and some attorneys would too. So offers have gotten lower and lower, even though medical costs have gone up and up. An insurance company is a business, and its offers follow what gets accepted. No multiplier can value your claim. Someone has to show, through the records, what the injury did to your life.

Early ballpark numbers are a warning sign

A lot of times clients come in and tell me another office said they could get a certain amount, or an attorney they talked to already thinks the case is worth a specific figure.

> *“Frankly, anyone that tells you that, you should probably run. They don’t know how to properly value a claim if they’re giving you ballpark numbers straight off the bat.”*
>
> — LIAM PERRY, ON EARLY SETTLEMENT ESTIMATES

Here’s why I’m that blunt about it. A low back injury that turns out to need surgery is worth drastically more than a low back injury that goes away with some light physical therapy, and on day one nobody knows which of those you have. There is no specific valuation early in a case, and there’s no real early timeline. Once a certain amount of treatment has happened, we can look at the case as a whole and give you an idea or a range. Doing that on day one would be shortsighted, and we explain to clients why we won’t.

When we do value a case, it isn’t one person’s hunch. Our whole office looks at the case and we come up with our own range, our own valuation. It may be modified over time, because cases get worse and cases get better, and when it moves we can explain why. That explanation is what you should expect from any firm. A number with no reasoning behind it is a guess.

The same caution applies to an early offer from the other side. An insurance company may offer to pay all your medical bills if you settle today, three months in or six months in. The point of an offer like that is to close the claim before anyone knows whether the injury is permanent. In a brain injury case especially, you never want to accept a number without talking to an attorney, because an early figure typically doesn’t account for any future treatment.



Economic damages carry a dollar figure. Non-economic damages are the changes to daily life.

Common Questions

What is the average car accident settlement in California?

There isn't a meaningful one. Settlements range from low numbers for minor impacts where the person recovers quickly to millions of dollars for catastrophic injuries, and an average mixes all of them together. On the podcast I put it this way: *"So when we're talking about averages, I mean, every figure's blending these small cases with these catastrophic crashes."* Your claim's value turns on your injuries and your documentation.

What is the difference between economic and non-economic damages?

Economic damages are the losses with a dollar figure attached: medical bills, lost wages, out-of-pocket costs and future treatment. Non-economic damages cover how the injury changed your life, such as pain, lost sleep, trouble focusing at work, or no longer being able to play with your kids. In serious cases, the non-economic side is often the larger part of the claim, and it's the part that needs the most careful documentation.

Do insurance companies still multiply medical bills by three?

Not the way they used to. Meds times three was a common approach decades ago, and offers have dropped since then even as medical costs have climbed. In my words: *"It used to be 20, 25, 30 years ago, they would take the medicals, multiply them by three, and that would be the number."* Today a claim's value has to be shown through the medical records and how the injury affected the person.

Why can't a lawyer tell me what my case is worth at the first meeting?

Because the value depends on facts nobody has yet. A back injury that ends in surgery is worth far more than one that resolves with light physical therapy, and on day one there's no way to know which one you have. After some treatment, a firm can give you an idea or a range and explain the reasoning. A ballpark figure on the first call is a guess, not a valuation.

Does more property damage mean a bigger settlement?

It affects value, but less than most people think. A drive-through bump and a high-speed T-bone will be valued differently. Between two crashes with similar damage, though, the treatment decides more: the person who needs a specialist and keeps reporting pain has a more valuable claim than the person who gets completely better after a month of chiropractic care.

Chapter Reflection

A claim's value isn't something you look up. It gets built, one record at a time, out of what the injury has cost you so far and what it will keep costing, in money and in the parts of your life that money only stands in for. That's the reason I won't hand anyone a number on day one, and it's the reason the next chapter matters as much as it does. Every piece of value in this chapter has to be proven, and the place it gets proven, or lost, is the medical record.

03

CHAPTER THREE

Medical Records Are the Case: Documenting Your Injuries From Day One

If I could get every injured person in California to hold on to one idea, it would be this one: the medical record is what proves your case. It counts for more than the photos or how bad the crash looked. When an injury is documented in a medical record, it changes the value of the case dramatically. When it isn't, you're telling the insurance company that these things happened to you, and unless it's written down in a record, they're not going to believe you.

I also know how people end up without that record, and it almost never comes from carelessness. You're shaken up. The ER sends you home. You figure the pain will settle down on its own. Or you've been going to appointments for three weeks, it hasn't done anything for you, and you're tired of sitting in waiting rooms. We understand that. Every one of those reactions is normal, and nobody should feel foolish for having had them.

> *"Medical records are really our foundation for this. The bills are important, but it's the injury, the pain, the effect on people's lives that the medical records show that are most important."*
>
> — LIAM PERRY, ON WHAT A MEDICAL RECORD PROVES

What the emergency room is built to do

After a crash, go to an emergency room. At a minimum, go to urgent care. If you're seriously hurt, call an ambulance. But go in understanding what the ER is there for, because it will shape what happens next. The protocol in an emergency room is to look at you and figure out whether anything life-threatening is going on. Do you have an active brain bleed? Are you at risk of paralysis? Is there something that could kill you in the next six, twelve or twenty-four hours? They have a lot of tools for those questions.

Beyond that, they don't have as many. An ER will typically do an X-ray and a CT scan. A CT will show an active brain bleed, but it won't show a mild or even moderate traumatic brain injury the way an MRI might. A real risk to the spinal cord will likely show up on an X-ray. Damage to the structures around the spine, the discs and the nerves, isn't going to lead to paralysis in the short term, so it isn't what the ER is set up to catch.

So ERs are often designed to make sure you're not actively dying and then direct you to your primary care physician. Nobody at the hospital let you down when you were sent home with a clean CT. The ER did its job. The next part is follow-up, and that part is in your hands.

"Go home and rest" is not the end of treatment

The standard advice at urgent care is go home and rest. There usually isn't a timeline attached. Nobody says to come back in three days if it still hurts. They might say to come back in a few weeks, and doctors will tell you that a lot of times these things calm down: there's some inflammation, and if you give it time, it settles.

The problem is that people don't know what that means. Does it mean waiting six months? So people do what feels responsible. They stretch, they do yoga, they do exercises at home, and some go further and start lifting weights. Some of that can help, but it should happen under the supervision of a trained professional, meaning a physical therapist or a doctor. And the whole time you're working at getting better on your own, nothing about your injury is being written down.

Here's the part I want everyone to hear clearly. Being told to go home and rest doesn't mean you stop seeing doctors. Get to the ER, and then follow up with your primary care doctor if you have one, or at least start some kind of treatment. Don't wait.

Gaps in treatment, and how they get read

A gap in treatment is the most common problem in these claims, and the first thing the other side looks for. It tends to happen in one of two ways.

In the first, someone gets into a car accident and doesn't get treatment for six months because they think rest will take care of it. Whether they're getting better or not, nothing is documented, so the record makes it look like they did nothing. When they finally want to see a doctor, the insurance company's answer is that they never went in the first place, so it won't pay for any medical care. Plenty of people never think about a claim until three, four or six months go by and their back still hasn't gotten better. By then there may be one ER visit, a "go and rest," and no follow-up, which leaves no way to show they were hurting the whole time.

In the second, someone treats for two or three months, gets worn out from going to the doctor so often, and stops for a month or two. Then the pain comes back badly and they want to know what can be done. The insurance company's position becomes that treatment ended when they stopped, and it isn't paying for anything going forward. This happens to people with lawyers and

people without them. A personal injury attorney like me can often deal with it, but it isn't easy. The explanation has to be clear, and the person handling it has to be confident enough not to accept the insurance company's word as final.

I get why people stop. Some of these injuries stay with people for months, often years, sometimes decades, and three weeks of appointments that don't seem to help is discouraging. Treatment matters, but what matters just as much is that the chart keeps saying the truth: you've kept going, and the pain hasn't gone away. In front of a jury, a gap gets described as proof that you weren't hurt. Nobody on the other side will call it a responsible person trying to get better before running up medical bills. Your records are what answer that.



Each step of treatment adds to the record. Going home to rest instead of following up is the break in the chain.

Report every symptom at every visit

Doctors write down what you tell them, and what you tell them is shaped by whatever hurts most. Say you have a fractured collarbone where your seatbelt was. That may be your primary complaint, with the pain at a nine out of ten. Maybe you also have a headache, you feel dizzy and out of it, and you're chalking that up to the collarbone. Say it anyway. Tell them you're dizzy, you're forgetful, you have a headache, and the shoulder is what's bothering you most. Later, once the collarbone heals normally and a brain injury hasn't, the value of that case is a lot of times going to hinge on whether the head trauma was reported at the hospital.

The same goes for every visit after that one. Mentioning a symptom once doesn't keep it on the record. If sleep, memory, word-finding or mood is still a problem, it belongs in each visit's notes. A single record where you mention one or two symptoms and leave out the rest is the record the other side will hold up and say you were fine.

Be careful with how you describe getting better, too. Someone in chiropractic care might say they're 70% better, then a month later say they feel 95% better. That may be true on that day. It may be true only while they're getting treatment four times a week, and as soon as the treatment stops, the spine starts hurting more every day. A lifetime of chiropractic care is not a prescription. If someone needs that much care, they need to see a specialist, and the specialist needs imaging to figure out what's going on.

Then there's the line almost everyone says at some point: "my back's a little sore, but I'm fine." It's a polite, natural thing to say. The trouble is that it gets recorded, in a chart or on a call with an adjuster, and later the whole claim gets measured against it. The same person can turn out to have a pretty damaged spine, with a lot more pain once the adrenaline wears off. Describe what you feel without rounding it down.

Even the question of how the crash happened ends up in the chart. People are shaken up and tell the doctor they don't remember how it happened, and that can later be used to suggest they don't know whether they ran the light. A month or two later, once they've calmed down, they may remember clearly that they had a green. I don't want anyone on guard with their own doctor. I want you to know that what you say in that room travels.

Records from the doctors who treat you carry the most weight

Even a strong record gets challenged. The insurance company is going to hire a different doctor who disagrees with your treating doctors' reports, and I can tell you with complete certainty that the disagreement will come, because it comes every time to at least some degree. It may not be that you're completely lying. It'll be that you're 90% or 50% or 25% overstating it.

> *“So we need those records, and we need those records from treaters who actually do treat the person. Their job is to get that person better. Those are the records that are gonna be most persuasive in court.”*
>
> — LIAM PERRY, ON WHICH MEDICAL RECORDS CARRY WEIGHT

Getting better is still the point. We hope our clients get better. We try to give them every tool to get better, and we refer them to the best specialists, the best surgeons and the best brain doctors we can, because getting people the treatment they need is our job. But if someone isn’t getting better, they should say they’re not getting better. People sometimes hold back because they think they’ll hurt the doctor’s feelings. That isn’t the case. A record that matches your life is what tells everyone, including a jury, where the claim should go.

Common Questions

Should I go to the ER after a car accident if I feel okay?

Yes, or at least go to urgent care. The ER’s job is to rule out what could be life-threatening, like a brain bleed or a risk of paralysis, so it may not diagnose a disc injury or a mild brain injury. What the visit gives you is documentation that starts on the day of the crash. After that, follow up with your primary care doctor instead of waiting to see whether the pain fades.

What happens if I wait months to see a doctor after an accident?

The months with no treatment become the insurance company’s main argument. If someone waits six months because they hoped rest would fix things, the record shows nothing for that period, whether they were improving or not, and the insurer can refuse to pay for the care that follows. A gap is one of the most common problems in these claims, and the fix is follow-up care that starts early.

Can stopping physical therapy or chiropractic hurt my claim?

It can. Stopping for a month or two and then restarting is often treated as the point where the injury resolved, and the insurer may refuse anything after it. If you're still hurting, the chart needs to show it. The sentence I want my clients to be able to say is this one: *"I've been going to treatment, and I'm still having lots of pain."* That record is what supports continued care.

Should I tell my doctor about every symptom, even small ones?

Yes. A headache or dizziness noted beside a fracture can decide a later brain injury claim once the fracture heals. Report every symptom at every visit, not only the one that hurts most, because a single record listing one or two complaints can be used to argue you were fine. If you're improving, say so accurately, and if the pain returns when treatment stops, say that too.

Does the insurance company's doctor get the final say on my injuries?

No. Insurance companies hire their own doctors, and those doctors will disagree with your treating doctors to some degree in essentially every case. The records that tend to carry the most weight in court come from the doctors who treat you, because their job is to get you better. That's why consistent care with your own providers, and honest reporting to them, matters so much.

Chapter Reflection

You don't have to become an expert in your own injury. The record asks for two things: keep seeing a doctor while you're hurt, and tell that doctor everything, every time, including the parts that seem too small or too strange to mention. Your medical care and your claim meet in that chart, and the chart only knows what someone wrote down. Once the injury is on the record, the next question is who pays for it, and that depends on insurance policies most people have never read closely. That's where Chapter 4 begins.

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CHAPTER FOUR

Policy Limits, UM/UIM and MedPay: Whose Insurance Pays

Before I can give anyone a sense of what their case might be worth, I need to know whose insurance is going to pay it and how much money is there. People tend to treat that as a back-office detail. It is one of the first things we look at, because the size of the policy shapes how and when a claim gets presented, and even how a client should think about their treatment while the case is open.

Most injured people never see the policy that ends up deciding their case. They see the other driver's insurance card at the scene, maybe a claim number, and then a letter. The limits, and the layers of coverage stacked above them, including the coverage in their own policy, stay invisible unless someone goes looking.

The layers come in order: the at-fault driver's policy, California's minimum coverage, your own uninsured and underinsured motorist coverage, MedPay, and what happens when an insurance company turns down a chance to settle inside its own limit. You don't need to become an insurance expert to follow it, and one of the questions you can check today by pulling out your own policy.

> *"If you're anybody, you should be checking your policy today to make sure you have that. And if you don't have it, you should get it to the highest limit you can."*
>
> — LIAM PERRY, ON UNINSURED AND UNDERINSURED MOTORIST COVERAGE

The other driver's policy limit comes first

When someone hits you, the first number that matters is the limit on their policy. If the insurance company or the other driver doesn't hand it over, we run a search. We do that on every single case, because until we know where the limits land, we can't plan the case around them.

Here's why it changes so much. Say you have a significant injury and the person who hit you carries a small policy. The last thing you want is to run up a mountain of medical bills against a policy that can never cover them. You'd end up upside down: the insurance company pays its limit, and

you still owe more than you received. When there's a large policy behind the claim, you have more options treatment-wise, because the money that could eventually pay for that care exists.

The size of the policy also tends to predict how the other side behaves. With a very large policy, I expect low offers early on. With a small one, the insurance company may want to pay the limit right away and close the file. Neither response tells you what your injury is worth. Each one tells you something about the insurance company's own exposure. That's why the timing of a demand matters. As I put it in the brain injury episode, "if you're gonna be injured for a long time, we don't wanna run up $150,000 in medical bills and then find out there's only $50,000 in coverage."

California's minimum policy and how far it stretches

The state minimum in California is what's called a 30/60 policy. To put it in plain terms, if you were alone in your car and the person who hit you carried that minimum, the most you can collect from their policy is $30,000.

That sounds like real money until you've been through a serious crash. After a major impact, $30,000 may be one ER visit, and that's before anyone has started talking about lost wages or pain that lasts for years.

So when I see a serious injury against a minimum policy, the strategy shifts. The goal becomes getting the client paid on what's available, and then letting them continue treating through their health insurance or wherever else after the fact, so the future care doesn't eat into their settlement. They're going to need that money. Someone with a lasting injury may need assistance around the house, et cetera, and a settlement that has been swallowed by bills does nothing for them.

That is no reason to stop treating. It's a reason to know the number early, so the treatment plan and the claim plan are working together instead of against each other.

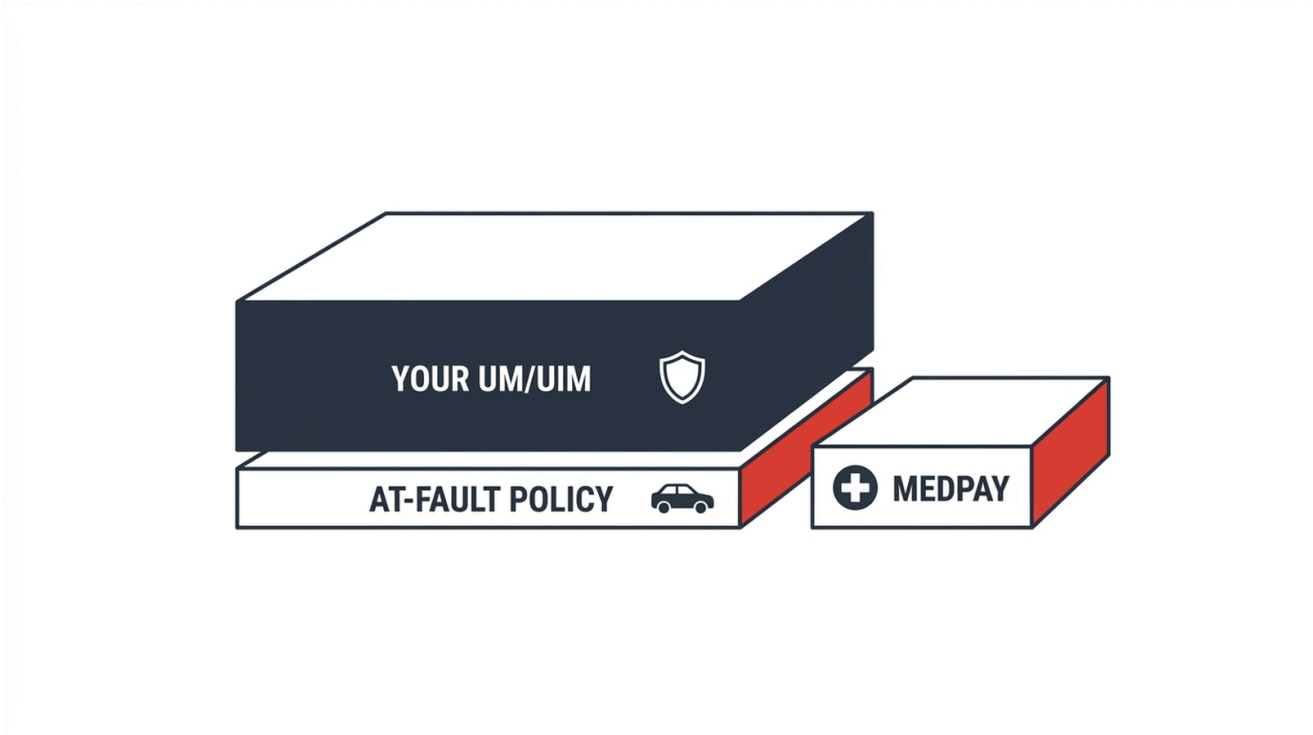
Your own uninsured and underinsured motorist coverage

Uninsured and underinsured motorist coverage, usually written as UM/UIM, is coverage you buy on your own policy that steps in when the person who hurt you has no insurance or not enough.

The math works like this. Say the at-fault driver has the $30,000 minimum and you carry $100,000 in UM/UIM. You can collect the $30,000 from their policy and then go to your own insurance for up to $70,000 more. That coverage follows you outside the car, too. It can apply when you're hit on a bicycle, the same as when you're hit driving.

We see it regularly: a major crash, whether it's a motorcycle, a bicycle or a car, and the person who caused it carried only the state minimum. When the injured person has UM/UIM, there's somewhere to go. When they don't, the case often stops at the limit no matter how badly they're hurt. That's the whole reason I tell people to check their own policy before they ever need it, and to buy the highest limit they can.

One thing catches people off guard. Once your UM/UIM is in play, your own insurance company is on the hook for some amount of money, and it's a business with its own money to protect. Its incentives start to look a lot like the other driver's insurer. Nobody has betrayed you. The coverage is built that way. It does mean you shouldn't assume a friendly call with your own carrier is a neutral conversation. Report the claim and report that you were hurt. Beyond that, talk to a lawyer before you talk through the details of your injuries with anyone's insurance company, your own included.



Coverage stacks: the at-fault driver's policy first, then your own UM/UIM, with MedPay alongside for early bills.

MedPay and paying the bills while the case is open

Medical bills start arriving long before a claim against the at-fault driver resolves, so the practical question early on is who pays them in the meantime.

MedPay is one answer. A lot of people have it on their auto policies without knowing it's there. It's coverage we can reach right away to help pay medical expenses, and it typically pays out regardless of fault. Even a driver who caused the crash, if they were hurt, can generally use their own MedPay. It applies in a bicycle accident as well.

Health insurance is the other piece, and it matters most in the small-policy situation above, where the client keeps treating through their health plan after the claim resolves.

What I'd steer anyone away from is the shortcut an insurance company sometimes offers early. A person mentions they're going to physical therapy, and the response is that the insurance company will take care of the therapy, just sign this. That piece of paper can be a release of the whole claim, signed months before anyone knows how serious the injury is. Or the promise is to cover all the medical bills, and when the bills come in, the answer changes. Your job in the early months is to get treatment and get better. Let the bills be someone else's problem to sort out, and don't sign anything an insurance company sends you without having it read first.

When a refused policy limit opens the door

The best way to show how coverage and documentation work together is a case I handled not too long ago.

A woman was T-boned at around 60 to 65 miles an hour. She had what you'd expect from that kind of impact: neck pain, back pain, a sore shoulder from the seatbelt. She also had a brain injury, and nothing in the first round of testing showed it. At the ER they did a CT and X-rays. The X-rays showed no fracture, and the CT showed no active brain bleed. Later she had an MRI, and it didn't show much either.

What she did have was a record. She told the ER her head hurt and she was dizzy. She followed up with her primary care doctor in the weeks after the crash and kept reporting what was happening: trouble focusing at work, light bothering her, terrible migraines, forgetting things, trouble finding words. Over time that record built a clear clinical picture. Her primary care doctor diagnosed it, the neurologist she was referred to diagnosed it, and later neurosurgeons and another neurologist agreed. More advanced imaging eventually showed dead spots in her brain.

The at-fault driver had a larger policy, I believe a million dollars. Somewhere around six months to a year in, we went to the insurance company and told them they needed to pay the policy. It was a lot of money, and it was a real brain injury that was going to last a long time. The answer was another offer, $150,000. We tried several more times. When they refused to work with us, we told them we were done negotiating and that we now considered the policy open.

That phrase is worth explaining. When an insurance company has been given enough information to pay its limit and chooses not to, in our view the limit stops being the ceiling on the claim. We stop negotiating inside it and go after the full value of what happened to the client.

That case got to within about two weeks of trial before the insurance company came back. It was resolved in a confidential settlement in the range of between $5 and $10 million, on a million-dollar policy. Every case turns on its own facts, and a result in one case doesn't predict the outcome of another. What made this one work was her documentation over time, more than the impact. She followed her doctors, she tried cognitive rehab, visual rehab and vocational rehab, and when nothing helped, the records said so.

> *"We gave them an opportunity to pay the policy. They didn't take it. Well, now we're saying we're gonna go get whatever this claim is worth."*
>
> — LIAM PERRY, ON WHAT HAPPENS WHEN AN INSURER REFUSES ITS OWN POLICY LIMIT

Common Questions

What is the minimum car insurance in California?

As I said on the podcast, *"the state minimum in California is 30,000, 60,000."* That's usually written as 30/60. For one person alone in the car, it means the most you can collect from the at-fault driver's policy is $30,000. After a serious crash, that can be gone after a single ER visit, which is why your own coverage matters so much when the other driver carries only the minimum.

What is UM/UIM coverage, and do I need it?

UM/UIM is uninsured and underinsured motorist coverage on your own policy. It pays when the at-fault driver has no insurance or not enough. In my words from the show: *"Well, if you have UM/UIM, you can then tap into your own insurance."* If the other driver paid $30,000 and you carry $100,000, you can collect up to $70,000 more from your own carrier. I tell everyone to check for it and carry the highest limit they can.

What is MedPay and who can use it?

MedPay is medical payments coverage on an auto policy. As I described it, *"MedPay is coverage we can get right away to help cover medical expenses or help offset medical expenses."* It typically pays regardless of fault, so even a driver who caused the crash can generally use their own MedPay if they were hurt. It applies when you're injured on a bicycle as well. Many people carry it without realizing it's on their policy.

What happens if the insurance company refuses to pay its policy limit?

If an insurance company had enough information to pay its limit and refused, we treat the policy as open and pursue the full value of the claim instead of negotiating inside the limit. In the T-bone case from this chapter, I told them: *"Okay, thanks. We're done negotiating, and we now consider that policy open."* That case was resolved confidentially well above the policy. Results depend on the facts of each case.

Will my own insurance company help me after an accident?

Your own carrier is a business, and once your UM/UIM is in play, it may owe you money. That means *"they may have similar incentives to the other driver's insurance to not pay the claim if they're worried about you tapping into their insurance."* That doesn't make them an enemy. It means you should report the claim and the injury, then let a lawyer handle the conversations about your treatment and your damages.

Chapter Reflection

Coverage is the part of an injury case nobody sees, and it quietly sets the boundaries for everything else. A minimum policy changes how we pace treatment and when we make a demand, while a large one changes what the other side will fight over. A refused limit can change the size of the whole case. Almost none of that is in your control once the crash has happened. The one piece that is, the coverage on your own policy, has to be decided long before you ever need it, and that's the reason to look at it now rather than after the fact.

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CHAPTER FIVE

Comparative Fault and Pre-Existing Injuries in California

Two beliefs keep injured people from ever asking whether they have a claim. The first is that because they did something wrong in the moments before the crash, they lost the right to recover. The second is that because their back, neck or head was already a problem before the crash, nothing that happened afterward counts. A lot of people hold one or both of them, and in California neither one, on its own, ends a case.

They come up together for a reason. Both are arguments about how much of the harm belongs to the person who was hurt rather than to the person who caused the crash. Fault gets argued in percentages. A prior injury gets argued as proof the person was already hurt. In either form, the argument is aimed at the size of the payment, and it usually shows up early, sometimes in the first conversation with an adjuster, before the injured person has any way of knowing whether it's right.

> *"We're able to get compensation for that difference, and we're able to show, hey, yeah, they had a prior injury, and it had become either a very low symptomatology or asymptomatic, meaning it wasn't causing pain, and now as a result of the injury, it shot up. Sometimes that can actually help, especially on a lower impact claim where the person's having a significant amount of pain."*
>
> — LIAM PERRY, ON PRE-EXISTING INJURIES

California has no cutoff for shared fault

California uses comparative negligence. That's a big phrase for a simple idea: if you're partly responsible for a crash, your recovery is reduced by your share of the fault, and that's all. You don't lose the claim.

Say a jury finds you 30% at fault and returns a verdict of $100,000. You can still recover $70,000, because you were 70% not at fault. The same arithmetic holds as the numbers grow. On a million-dollar verdict at 30% fault, you recover $700,000. On a ten-million-dollar verdict, seven million.

The part that surprises people is that there's no cutoff. A lot of people assume that once they're more than half at fault, they're out. Not in California. Even if you're found 70% at fault, you can recover 30% of the verdict. A case where the other driver carries less than half the fault can still be worth pursuing when the injuries are serious, because 30% of a large number is still a large number.

Fault still matters. Every point of it comes off the top. The useful question is how much fault there is and what it does to the value.



Under California's comparative fault rule, a recovery is reduced by the injured person's share of fault, not erased.

A fault percentage in an offer is a negotiating position

Cases are often described as "disputed liability," and often it isn't a real dispute. The insurance company simply announces that it's putting my client at 50% fault. When we know my client was not at fault at all, my answer is that we're not accepting the reduction. A percentage written into a

letter is the other side's opening position, and it doesn't become a fact because it appears on the letterhead.

It helps to understand why the number shows up. Insurance companies value claims, and the valuation has inputs. Picture a claim their own spreadsheet says is worth $100,000. If they can put 20% of the fault on you, and argue that a gap in your treatment was a problem, that $100,000 starts sliding toward $50,000, and the first offer may land closer to $20,000 in the hope that you'll take it and move on. The fault percentage is one of the levers.

In a serious injury case the lever gets heavier. Take a brain injury claim valued at a million dollars. If the insurance company holds you at 60% at fault, it can say it agrees the claim is worth a million and still only offers $400,000. In a ten-million-dollar case, twenty points of fault is two million dollars.

I've sat on the other side of this. When I was doing civil litigation and we were trying to limit what a client paid, the approach was always to paint a picture that the injured person was at least partly at fault, even when it was fairly clear they weren't. That approach is how the defense side of a case is built, whichever company is paying.

The answer is the story. Our job is to explain what happened clearly enough that a jury, and before that an adjuster, understands this was not a 50/50 case. If my client had a green light, the evidence has to show a green light, so the fault lands where it belongs: 100%, or maybe 90%, on the other driver.

> *"But the key is they wanna shift blame onto you so that they can cut the payout. And every piece of percentage, especially in a brain injury case, when we're talking about a very high-value case, is a significant savings."*
>
> — LIAM PERRY, ON WHY FAULT GETS ARGUED

Helmets and lane splitting on a motorcycle claim

Motorcycle riders walk into a claim with a set of assumptions already working against them, and fault is where those assumptions get turned into numbers.

Riding without a helmet does not end a motorcycle claim in California. What the insurance company can do, if you suffered a head injury, is argue that a helmet would have prevented it or made it less severe. If your injuries would normally be valued at one level, they'll use the missing helmet to try to pull that value down. That's an argument about value. It's not a bar to recovery.

Lane splitting gets the same treatment. An adjuster may tell a rider that splitting lanes means they were negligent and dangerous. That isn't the law in California. Splitting lanes is not, by itself, negligence.

Part of the problem is that adjusters aren't always familiar with the law, and aren't always acting in good faith. I've had adjusters misstate the law to me directly, and when I correct them, they tell me I'm wrong. My response is to ask them to put it in a letter so I can respond to it in writing. A rider who hears the same thing over the phone after a crash has no way to push back. They hear that they weren't wearing a helmet and the insurance company can't do anything for them, and they assume that's the end of it.

That's the reason I'd rather a rider talk to a lawyer early. Nobody can go back and undo a decision made on a misstatement of the law. Motorcycle cases carry prejudices a lot of people don't notice they hold, which makes it that much more important to have a motorcycle accident attorney who knows where the rider was in the wrong, where they weren't, and how each piece affects the case.

A prior injury that flares after a crash

A common version goes like this. Someone comes in and says they had a back injury from work ten years ago, their back has been bothering them since the crash, and they figure they're out of luck because they were already injured. That's not the case, at least not in California.

What we do is look at the prior medical record. Say the work injury was ten years ago. They were treated, maybe they even had surgery. Then for the last five years there was no treatment at all. The record shows the injury had gone quiet. After the crash, their pain shoots back up and stays up. The claim is for the difference between where they were before the crash and where the crash left them, and the earlier records are what prove the "before."

The insurance company will try the opposite framing: this person always had problems, there was always something wrong with them, and they're no worse now than they were before. Whether that argument works depends on the records. A treatment history that shows a quiet period, followed by a crash, followed by documented, persistent symptoms, is hard to explain any other way.

The eggshell plaintiff rule

The same principle has a name when the earlier injury is serious. A person made more vulnerable by an earlier injury is often called an eggshell plaintiff, after the eggshell skull doctrine. Put simply, someone who was hurt before can recover when a new injury hits the old one and makes it worse.

Brain injuries show it most clearly. Picture someone who had a substantial head injury in their 20s and was already living with some deficits from it. They couldn't work as a doctor or a lawyer anymore, but they could hold down a job, walk, talk and get through the day. Then at 41 they're in a car accident and suffer a second brain injury. Now they can't hold down any job, and some days the migraines leave them in bed all day.

We can recover for that gap between where they were after the first injury and where they are after the second. Handled properly, the earlier injury can make the case significantly more valuable than it would have been otherwise, because the person was more susceptible and the harm is greater than it would have been for someone with no history.

It doesn't take a dramatic first injury for this to matter. Even a mild concussion on a soccer field, the kind someone walks away from, can make a person far more susceptible to lasting effects from a later blow to the head.

This only works when two things are true. The new injury has to be documented early, so there's no gap for the other side to fill with a different explanation. And the person telling the story has to understand the medicine well enough to explain it plainly to an insurance company and, if needed, a jury.

Common Questions

Can I still recover if I was partly at fault for an accident in California?

Yes. California reduces your recovery by your share of the fault, and there's no cutoff. If a jury finds you 30% at fault on a $100,000 verdict, you can recover $70,000. The rule holds at the high end too: *"Even if you're found 70% at fault, you can recover 30%"* of the verdict. Fault lowers the value of a claim without erasing it, which is why a serious injury can be worth pursuing even when you share the blame.

Does riding without a helmet ruin a motorcycle accident claim in California?

No. In my words from the show, *"actually in California, riding without a helmet does not wreck your claim."* If you suffered a head injury, the insurance company can argue a helmet would have prevented it or made it less severe, and use that to push the value down. That goes to how much the claim is worth, not whether you can bring it. Lane splitting is not, by itself, negligence either.

Can I get compensation if I had a back injury before the accident?

Yes, for the difference between your condition before the crash and after it. We look at your prior records. If an old injury had gone quiet and the crash brought it back, that change is compensable. As I described the typical case, *"Now they get into the subsequent accident, their pain levels shoot back up, and it's not getting better."* Records showing the quiet period before the crash are what make that difference provable.

What is the eggshell plaintiff rule?

It's the principle that someone made more vulnerable by an earlier injury can recover when a new injury makes their condition worse. As I explained in the brain injury episode, *"They're typically known as an eggshell plaintiff or the eggshell skull doctrine."* A person with a prior head injury who suffers a second one can recover for how much worse the second made things, and that history can make the claim more valuable rather than less.

Chapter Reflection

Fault and history are the two places where an injured person is most likely to talk themselves out of a claim before anyone has looked at it. In both, the argument against them is real, it gets made early, and it sounds final when an adjuster delivers it. It rarely is. A percentage is a position until evidence settles it, and an old injury is a baseline until records show what the crash changed. The cases that come out well are the ones where someone did the work of proving where the line between before and after falls.

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CHAPTER SIX

Bicycle and Pedestrian Accidents: Right of Way and Fault on California Roads

People on bikes and people on foot share one thing that changes every part of their case: nothing stands between them and the car. They're sometimes called vulnerable road users. That isn't a legal term we use in California, but it describes the problem well. A cyclist or a pedestrian has no frame around them, and because they move much slower than traffic, drivers miss them in a way they rarely miss another car, or even a motorcycle flowing with traffic.

When a car hits someone on a bike or on foot, the first question is almost always who had the right to be where they were. That's where many injured people go wrong in their own heads. A cyclist assumes that because they didn't signal, they caused the crash. A pedestrian assumes that because they stepped off the curb a few feet from the crosswalk, it's their fault. Often, the law doesn't see it that way.

> *"So a bicyclist is treated as a car for all intents and purposes under the law. So what that means is they have to follow the same laws that cars do. If they're coming to a stop sign or a stoplight, they have to stop."*
>
> — LIAM PERRY, ON A CYCLIST'S RIGHTS ON CALIFORNIA ROADS

A cyclist has the rights and duties of a driver

California law gives a person riding a bicycle on the road the same rights, and subjects them to the same rules, as the driver of a vehicle (California Vehicle Code section 21200). That cuts both ways. A cyclist has to stop at a stop sign or a red light like any car, and they're supposed to signal a turn, even though most of us have watched plenty of riders skip the arm signals.

Skipping a signal, or riding without a helmet, doesn't automatically put the cyclist at fault. There may be some comparative fault, but it's likely to be fairly minimal, because everyone operating a vehicle has a duty to be aware of what's going on around them. A driver doesn't get to watch the car in the next lane, ignore the bikes in the bike lane, make a left-hand turn, and then blame the cyclist they hit. Chapter 5 covers how shared fault reduces a recovery without ending it.

Passing is where a lot of drivers get careless. When a car passes a cyclist, the driver is supposed to leave three feet of space, under section 21760 of the Vehicle Code. Some drivers get annoyed and buzz the rider instead. That's a serious problem for the driver, because if a collision happens, they're likely to carry most or all of the fault, since they were in direct violation of the statute.

Lane markings add one more layer. A bike lane is the familiar painted lane at the edge of the road. A sharrow lane is newer: a regular traffic lane marked with large stenciled bikes, sometimes arrows, sometimes green paint, that tells drivers the lane is shared. You'll see them in high-traffic areas, a lot of beach cities among them. Picture two lanes heading north on Coast Highway 101 with the right lane marked as a sharrow. Cars and bikes both use it, and the cyclist gets more room. My understanding is that sharrows may be a little safer, because drivers seem more likely to treat a bike in a sharrow lane as a vehicle than a bike off to the side in a bike lane.

Whichever it is, the cyclist has the same right to that lane as a car. As annoying as it may be to the rest of us in traffic, a cyclist is allowed to ride right in the middle of a sharrow lane when it's too narrow for a bike and a car to travel safely side by side. That's how they're designed.

Doors, right hooks and left turns

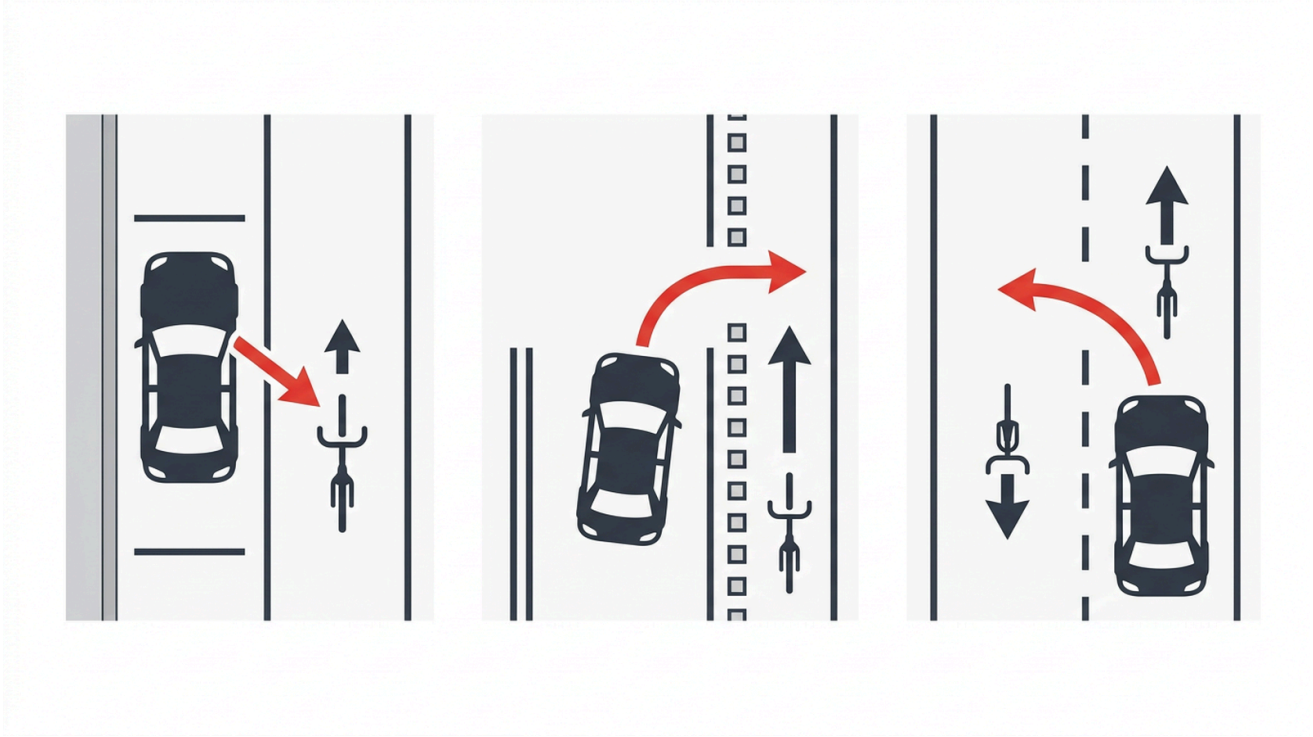
A handful of crash patterns account for a lot of the bicycle cases I see.

The most common is probably the door. Someone parks, turns the car off, pulls the keys out, and swings the door open without checking the mirror, and the cyclist rides straight into it. Turning off the engine doesn't end a driver's responsibility. You still have to look for a bike coming before you open the door, or open it slowly enough for a rider to see it and go around.

The second is the right hook. Picture a multi-lane road in a place like LA, three lanes going one direction, and a driver in the far right lane. Because they're in the far right lane, they're thinking only about the cars to their left. They aren't thinking about a bike coming up fast in the bike lane to their right. The driver slows to turn, the cyclist keeps going at full speed, and the gap between when the driver checks and when they start the turn may not match where the bike is. A driver can check the mirrors and look over a shoulder and still miss the cyclist in the blind spot. The safe move is to know the bike is back there and either finish the turn with plenty of room or wait for the rider to pass.

The third is the reverse: the left turn across traffic. A cyclist is coming straight toward the driver, and the driver turns left, either directly in front of the bike or into it. Either way, the driver is most likely at fault. On a two-lane road with an unprotected left, the cyclist has just as much right to go

straight as any car does. A driver saying they didn't see the cyclist because it was a bike, or that the cyclist ran out into the intersection, doesn't change that. The cyclist was operating as a vehicle, and the driver needed to treat them like one.



Three common bicycle crashes: an opening car door, a right hook across the bike lane, and a left turn across an oncoming cyclist.

Pedestrians, crosswalks and the driver's duty

Pedestrians are treated differently from cyclists, and the difference generally works in the pedestrian's favor. A bike moves with traffic, so the law treats it as a vehicle. A person on foot usually moves across or against traffic, so the law doesn't treat them as a vehicle, and they have a lot more leeway when fault gets divided.

In a marked crosswalk, or an unmarked one at an intersection, the driver has to yield to the pedestrian (California Vehicle Code section 21950). Crosswalks also exist to put drivers on alert. They aren't only for the moment someone is inside the lines. A driver approaching one should be scanning both sides for someone waiting to cross or about to step out.

Outside a crosswalk, the analysis shifts, but it doesn't flip. A pedestrian who steps out where there's no crosswalk may share some of the fault, maybe 20% or 30%, and the driver who hit them may still carry the rest. Jaywalking puts a larger share of the fault on the pedestrian.

Someone crossing inside the crosswalk with the light, doing everything they're supposed to do, should carry none.

> *"A common one is a busy crosswalk. People often are crossing like right on the outside of the crosswalk. Are they truly jaywalking if the crosswalk's like full? Maybe not."*
>
> — LIAM PERRY, ON PEDESTRIANS AND CROSSWALKS

The airport is a good example. There's one crosswalk and fifty people trying to use it at the same time, so some of them end up walking along the edges or just outside the lines. Would they carry fault for that? Possibly a little, something like 2% or 3%. That's very different from someone who steps out into traffic on a busy city street, who will likely carry a higher share. Being outside the lines is a fact about the case, not the end of it.

Two other places produce a lot of pedestrian injuries. One is parking lots and driveways, where a driver pulling in or out is focused on other cars and not on the person walking along the sidewalk. Those crashes tend to happen at lower speeds, but it doesn't take much speed for a vehicle weighing thousands of pounds to seriously injure someone with no protection at all.

The other is school zones. Kids aren't the best at watching their surroundings. They run across in front of a bus to get home, chase a ball into the street, or wander. That's exactly why we have reduced speed limits, signs, and the flashing lights that stop traffic around a school bus. Drivers carry a heightened duty around children. A child outside a crosswalk might carry some comparative fault, but a driver going 40 in a 25 school zone with kids around, not paying attention, is likely to be found nearly 100% at fault.

When the road itself is part of the case

Most bicycle and pedestrian cases are about a driver. Some are also about the road.

The coverage questions from Chapter 4 still apply. A cyclist hit by a driver with no insurance, or only the minimum, can turn to their own UM/UIM coverage, and MedPay on their own auto policy can help with early medical bills even though they were on a bike.

Beyond the driver, it's worth asking whether there have been a series of crashes in the same place. The Bayshore Bikeway is an example. There have been major wrong-way crashes there involving bikes and cars, and some resulted in very large verdicts. Those verdicts came from the roadway being designed in a way that was dangerous, specifically to cyclists, rather than from a driver carrying a lot of insurance.

When the road is part of the cause, other parties may be responsible: the public entity that owns the road, whoever designed it, whoever built it, or whoever failed to maintain it. A claim against a public entity runs on a much shorter clock than an ordinary claim, which can be as short as six months, so a crash that might involve the road itself is one to get looked at quickly. Understanding the vehicle codes, the right of way, and where bikes are and aren't allowed to ride is the starting point. Knowing the history of the stretch of road where it happened is what can widen the case.

Witnesses and the scene: what a cyclist loses first

> *"The biggest one that happens is people don't get witness statements. Bicycles unfortunately don't have electronic data recorders. They don't have black boxes that tell us what was happening."*
>
> — LIAM PERRY, ON THE MISTAKE THAT COSTS CYCLISTS LATER

Without people who saw the crash, there's no way to answer the driver's version, which may well be the one most favorable to the driver. A cyclist is often hurt too badly to collect names and numbers, which is one more reason riding with someone else helps.

The second thing that disappears is the scene. A lot of riders get hit, drag the bike off the road, and sit down on the curb. If you can, don't move it. Sit down where you are and let a friend or a bystander take photos: where you were hit, where the bike ended up, what the road looked like, from more than one angle. Ideally the police see the bike where it landed. With heavy traffic, someone may have to move it, and if they do, get that person's information, because "I moved it from here to here" can matter later.

The same goes for the car. Drivers often pull over and move their vehicle after a crash, and then nobody gets to see how the collision happened. When we're reconstructing a crash weeks, months or years later, video, photos taken from different angles, and knowing who touched what are what let us show what happened.

Common Questions

Who is at fault when a car hits a cyclist in California?

It depends on how the crash happened, but a cyclist has the same rights on the road as a car, so the driver is often mostly or entirely at fault. On a left turn across an oncoming bike, I said on the podcast, *"Either way, you're most likely gonna be at fault because that bike is treated as a car."* A cyclist who skipped a signal may carry some comparative fault, but it's often minimal.

How much room does a driver have to give a cyclist when passing?

Three feet. *"That's an actual vehicle code."* It's California Vehicle Code section 21760. A driver who buzzes a cyclist instead of leaving that space, and then causes a collision, is likely to be found almost entirely at fault no matter what the rider was doing, because the driver was in direct violation of the statute.

Is a pedestrian always in the right when hit by a car?

Not always, but the rules lean their way. Drivers must yield to pedestrians in crosswalks and watch for people who might step out anywhere. A pedestrian outside a crosswalk can share some fault, but as I said on the show, *"But just because someone was outside the crosswalk doesn't mean they're necessarily at fault or 100% at fault."* Any share of fault reduces a recovery without ending it.

What is a sharrow lane?

A sharrow lane is a regular traffic lane marked with stenciled bikes, sometimes arrows or green paint, showing that cars and bikes share it. The name says it: *"And the term sharrow essentially just means you can share the lane."* You'll find them in a lot of beach cities. A cyclist has the same right to a sharrow lane as a car and may ride in the middle of it when it is too narrow to share.

What should a cyclist do right after being hit by a car?

Get the names and contact information of anyone who saw it, and leave the bike where it landed if you safely can. People often drag the bike to the curb. My advice: *"Don't do that. Just sit down and then hopefully your friend or whoever else can take photos."* Photograph the scene from several angles, and if anyone moves the bike or the car, get their information too.

Chapter Reflection

A bike or a pedestrian case is decided by who had the right to be in that space, and the injured person almost never starts out knowing the answer. The rules lean toward them more than they expect. A cyclist counts as a vehicle and a crosswalk protects the person in it. Near children, a driver answers to a higher standard. What the rules can't supply is proof. A cyclist doesn't carry a black box, so the case is made from the people who stood on the corner and the photos taken before anything was moved. Those disappear once the scene is cleared, and nothing later in the case can put them back.

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CHAPTER SEVEN

Truck Accident Claims: Why a Commercial Vehicle Case Is Nothing Like a Car Crash

When two passenger vehicles collide in California, whether it's a sedan, an SUV or a pickup, I treat it as a personal auto case, and California's rules govern it. When one of those vehicles is a commercial truck, the case changes shape from the first phone call. The driver and the company are held to a different set of rules. The list of people who may be responsible gets longer. The injuries tend to be far more serious, and the insurance tends to be far larger. And the evidence that decides the whole thing usually sits with the company that has the most riding on it.

I'll walk through those differences the way I explain them to the people who hire us: why weight matters more than size, what the recording equipment inside a truck captures, who besides the driver can be responsible, why the clock on evidence starts the moment the crash happens, and what one piece of video did in one of my own cases. These pages show where these cases are won, which is early, and why the other side already knows that.

> *"Trucking companies send people out to the scene of the accident, like the day of, if not the next day. They'll fly people all over the country to go to a scene, quote, 'preserve the scene,' but preserve the scene in a way that's most favorable for the trucking company."*
>
> — LIAM PERRY, ON HOW FAST A TRUCKING COMPANY MOVES AFTER A CRASH

Federal safety rules, and why weight matters more than size

Truck drivers and trucking companies are held to federal safety regulations, and those regulations are stricter than the rules that apply to someone driving their own car. A truck is more dangerous than a passenger vehicle because it is so much bigger and so much heavier, and when it hits a person or a car, that difference is what does the damage.

People tend to picture an 18-wheeler when they hear "truck case," but the category is wider than that. A dump truck or a cement mixer can be smaller than a traditional big rig and still carry an enormous amount of weight, and for the way I evaluate a case, those vehicles belong in the same

bucket as the 18-wheeler. When we're talking about force and impact on a human body, the weight and mass of a vehicle matter a lot more than its size. A massive 18-wheeler running completely empty is still heavy, but it can weigh a lot less than a fully loaded cement mixer packed into a smaller frame.

That is the first adjustment I ask clients to make. What matters is how much the truck weighed when it hit you, more than how big it looked in the mirror, and which rules its driver and its owner were supposed to be following when it did.

More responsible parties, and more insurance, than a car crash

In a normal car accident there is usually one driver and one policy to look at. In a truck case, the driver may be the least important party in the room. The driver might get a point on his license, but the company has a lot more to lose, and it is typically the company that ends up responsible.

The list can include the driver's employer, the logistics company or freight broker that coordinated the shipment, and the shipper or cargo loader that put the load on the truck. A freight broker is essentially the business that arranges for pieces of freight to get from one place to another, and that coordinating role can carry responsibility of its own. A loader that overloaded the truck, or failed to secure what was stacked on a flatbed, can be liable in addition to the driver when things come off and cause a massive accident. Where the trucking and shipping relationships are complicated, I have seen as many as five, six, seven or eight parties share responsibility for one person's injuries.

Each of those parties may carry its own insurance. The driver may have a different policy than the carrier. The person who loaded the cargo is going to have a different policy than the trucking company. Some of these companies are self-insured, and some have layers of coverage stacked on top of each other. Working out who is who, and which policy sits where, is a big part of the legwork on our end.

We also look hard at how the company hired. Have they put bad drivers on the road before? Do they have a poor safety record? Were they willing to overlook a criminal record, or a history of drug or alcohol abuse? In a lot of ways, a trucking case is part employment case and part personal injury case, and it takes a truck accident attorney who knows how to work in both worlds.

The employment side matters most when a company says the driver isn't theirs. A large retailer or delivery company may say its driver is an independent contractor, so the company isn't responsible. Shipping companies with large fleets sometimes run a lot of their drivers on 1099s for exactly that reason. But if the company controls the route, provides the truck, and tells the driver

when to pick up and when to deliver, then at least in California the law is going to treat that driver as an employee very frequently, if not every time. The label on the paperwork is not the end of the analysis.

All of this feeds into value. Truck cases tend to carry higher value, but not because a broken arm is worth more when a truck causes it. The injuries in these cases are usually far more serious and need compensation over a much longer period than a typical low-speed rear-end crash, and the coverage is far larger to match. A personal auto policy in California can carry as little as $30,000. Commercial trucks carry much larger policies, often with umbrella coverage above them, so there is a much bigger bucket of money available when someone is badly hurt.

> *“That doesn’t mean you can’t have massive injuries on a personal auto case. It doesn’t mean you can’t have minor injuries in a trucking case. It just means it’s more likely that you’re gonna have more significant injuries involving a massive truck than you are involving a Honda Civic.”*
>
> — LIAM PERRY, ON WHY TRUCK CASES ARE VALUED HIGHER

The black box, the dash cam and the retention clock

Most commercial trucks carry recording equipment. Trucks generally have to run an electronic logging device, and they carry what people call a black box. Between them, that equipment shows when the driver was driving and when he wasn’t, how fast the truck was going, when the driver braked, and oftentimes the steering inputs. Newer passenger cars carry some of the same technology, but in a truck it is standard, and a lot of trucks now have dash cam footage on top of it.

That is good news for an injured person, because the truth of the crash is usually recorded somewhere. The catch is that the recording does not last. Electronic logs work like security footage: they get written over. Every company sets its own document retention policy, and when the

footage is not favorable to the company, a shorter policy suits it better. If the policy says the data is kept for a week and the request arrives on day eight, the data is gone, and the company can say it did nothing wrong. A company with no lawyer's letter in hand has no incentive to hang on to anything.

That letter is called a preservation letter. It tells the company, in writing, that it cannot destroy the logs, the dash cam video or the other evidence from the crash. When we get preservation letters out the day of the crash or the day after, we can make sure most of that material is still there later. This is the single question I'd want every person hurt in a truck crash to ask their lawyer: did a preservation letter go out? If the answer is no, I would be looking for a different lawyer.



A truck crash can involve several parties, each with its own policy, and the truck's electronic records are on a clock.

The video an insurer would not produce

One of my clients was deaf. She was T-boned by a large box truck, and in the early days of the case we reached out to the trucking company's insurance company and asked for the truck's video. They told us they had already sent it. I said I never got it and asked them to send it again, addressed to me. They said sure, and then nothing came. A month later I followed up, and I was told the problem was with our system. When I asked them to send it another way, they said that wasn't their job.

At the same time, they told us the logs and the video showed our client had run the red light and was 100% at fault, and that they planned to go after her for their cost of defense. I thought that was strange. If a company has video that clears its driver, producing it early ends the claim and saves the cost of defending it. Even a company confident of winning at trial still pays to get there. Evidence that helps a defendant usually comes out fast. Evidence that is being dodged that hard usually means something is on it.

So we filed suit. In discovery we requested the video repeatedly, and they refused, and then they said it didn't exist. Finally a judge ordered them to produce it, in large part because of what they had told us before the suit: that they had it and were sending it. When we got the video and the logs, the logs showed the truck was moving at the time they said our client ran the light, and the video showed their driver ran the light. No other car had run it. Only the truck had, and the video showed the impact directly.

The police report had gotten it wrong, and it's worth understanding why. Because our client was deaf, she couldn't communicate with the officers at the scene. The report didn't say she was 100% at fault, but it did put her at fault, and it said nothing about the truck having a dash cam. What saved the case was something she did herself. Right after the crash, she signaled to people around her and got them to write down their names and phone numbers. A couple of those witnesses told us they remembered seeing a camera in the truck's windshield. That is how we knew what to fight for.

The offer on that case started at zero, and arguably below zero, given the threat to pursue costs against her. As I recall, the case settled for well over the million-dollar policy, because of what the company had said early on. Every case turns on its own facts, and a past result doesn't predict another one. What that case shows is how much can hinge on a single piece of evidence, and on someone insisting it be produced.

Protecting the case in the first days

The most common mistakes after a truck crash are the same ones I see after every crash: not going to a doctor, talking too much to the insurance companies at the beginning, and misspeaking to the police. Right after a crash, people are nervous and shaken, they're not thinking clearly, and they assume the police and the insurance companies are there to help them. That isn't necessarily the case. This is no criticism of police officers. They are doing their best to reconstruct something they didn't see, and they often reach quick judgments based on where things ended up. I've seen plenty of crashes where vehicles landed in places that made no sense until a biomechanical expert came in and showed why it happened that way. Once an officer has a theory, it's easy to hear only the facts that fit it.

If you're awake and coherent at the scene, even if you're far from feeling fine, try to get witnesses' information quickly. It doesn't need to be perfect. A first name and a phone number is enough, as long as you follow up with them a short time later. I would much rather a client make that follow-up call than make it myself, because a witness who hears a lawyer on the line instantly goes on guard. A witness who hears from the person they watched get hurt is far more willing to help.

Photographs matter for the same reason. If you're badly injured, don't get up and start taking pictures. But if someone else is there, ask them to take photos and send them to you, and you can ask the police to take photos and send them too. Once the vehicles are moved, the scene becomes a blank canvas and everyone is guessing. Photos of where the vehicles came to rest and where the debris landed show where the impacts happened, and they can show speed.

Then make sure the hospital writes down every symptom, not only the one that hurts most, for the reasons Chapter 3 lays out. The same goes for every provider along the way. After a serious crash, people forget that they went by ambulance to a trauma center for three days before the hospital where they spent the next week, or they forget the doctors who saw them before their main one. Those early records can be the proof that the symptoms were there from the very beginning, so gathering them early matters.

Common Questions

Why is a truck accident case different from a car accident case?

A truck case is held to stricter federal safety regulations, involves a far heavier vehicle, and usually involves more than one responsible party. Trucks carry logging devices and often dash cams that record what happened, and that data can be written over on a short cycle. The injuries tend to be more serious and the insurance larger, so the case takes more legwork to sort out who is responsible and which policies apply.

Who can be held responsible for a truck accident besides the driver?

Often the driver's employer, plus the freight broker that coordinated the shipment and the shipper or loader that put the cargo on the truck. A company may call its driver an independent contractor, but when it controls the route, the truck and the schedule, my position is plain: *"For our purposes, that person's an employee."* In California, that driver is very frequently treated as an employee under the law.

What is a preservation letter and why does it matter?

A preservation letter is a written demand that the trucking company keep its logs, dash cam video and other evidence from the crash. Without one, that evidence can be overwritten under the company's own retention policy, which may be short. Sent the day of the crash or the day after, it keeps most of that material available. Anyone hurt in a truck crash should ask their lawyer whether one went out.

What should I do at the scene of a truck accident if I am able to?

If you're awake and able, get witnesses' contact information and photos of the vehicles and debris, or ask someone else, including the police, to take photos and send them to you. Witness details don't have to be complete: *"A first name and a phone number is fine as long as you then follow up with them a short time later."* Then get medical care and report every symptom.

Chapter Reflection

A truck case is a race between two clocks. One is the company's retention policy, quietly writing over the logs and the video. The other is the injured person's recovery, which can take months to show how serious the harm is. My client who was T-boned by that box truck had no idea that a camera in a windshield would decide her case. She did one small thing right, she got names and numbers from the people who saw it, and that gave us something to pull on. Most of what wins a truck case is like that: ordinary steps taken early, before the other side has finished deciding what the scene looked like.

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CHAPTER EIGHT

Uber and Lyft Accidents: Coverage Periods and the $1 Million Policy

Rideshare crashes look simple from the back seat. You were in somebody else's car, the company behind the app is enormous, and surely somebody's insurance is going to take care of it. In practice, a rideshare case is often more complicated than a standard auto accident case, and sometimes a lot more complicated. There are layers to the insurance, and whether any given layer applies depends on facts the injured person usually can't see.

The biggest of those facts is the driver's app status when the cars collided. Whether there was a passenger in the car, whether the driver was on the way to a pickup, or whether the driver was just circling with the app on, waiting for the next request, decides how much coverage is there. On top of that sit the questions of whose policy applies when more than one driver caused the crash, what happens when the injured person is the rideshare driver, and what to do when the company calls early with a check. This chapter takes those one at a time, whether you were the passenger, the driver, or a pedestrian or another motorist hit by a rideshare car.

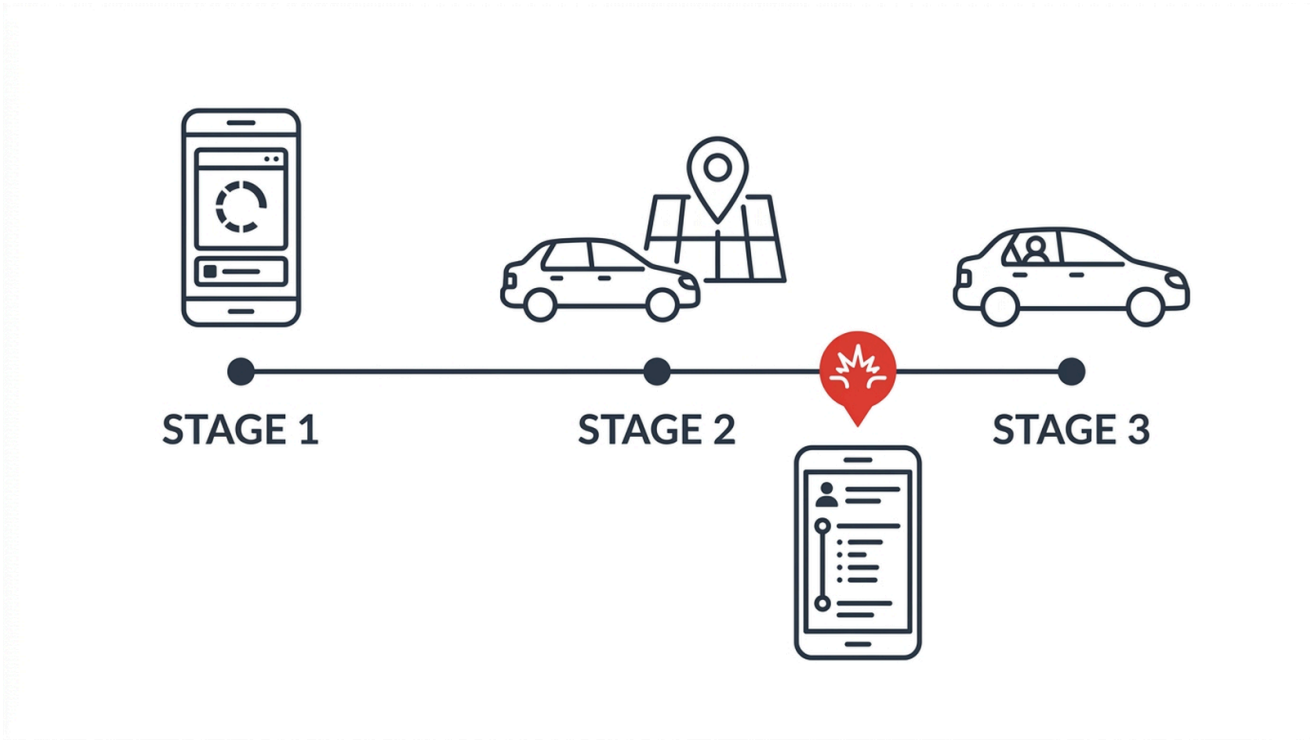
> *"I think we as the public assume that all these cars are on the road and we're all well-protected 'cause they're all rolling around with a million dollars of coverage. That's unfortunately not the case."*
>
> — LIAM PERRY, ON THE GAP IN RIDESHARE COVERAGE

The stage the driver was in decides the coverage

Rideshare insurance in California works in stages. We refer to them as tiers, stages or periods, and the stage is tied to where the driver and the vehicle were in the course of a ride. Stage one is a driver with the app on, driving around and waiting for a ride. Stage two is a driver on the way to pick someone up. Stage three is a driver with a passenger physically in the vehicle. Stages two and three carry the same million-dollar requirement, and a driver circling the block waiting for a request has much, much lower coverage.

That is why the stage is so often disputed. The difference in coverage between stages can be the difference between a modest policy and a million dollars, and placing the crash in a lower stage saves money, so expect it to be argued. The injured person rarely has the information to push back. Most people have a very hard time working out which period applied, what the insurance limits are, and what those limits mean for them.

The answer is in the data. The rideshare company's own app data and GPS data show what the driver was doing at the moment of the crash, whether a ride had been accepted, and whether a passenger was in the car. When we're involved early, we can pull that app data and see the stage for ourselves rather than taking anyone's word for it. That is one of the first things I want secured in any rideshare case.



Which rideshare coverage applies depends on the app stage at the moment of the crash.

When you are the passenger

If you are riding in an Uber or a Lyft and the car crashes, you're typically in period three, and that is the best position to be in. The law requires a million dollars in coverage from the moment the driver accepts the ride. The money to compensate for a serious injury is usually there. The fight is over whether it applies.

That fight shows up most when more than one driver is involved. I had a case where an Uber driver was drowsy and dozing off on the freeway. A crash happened ahead of him that he didn't cause, and if he had been alert, he probably could have slowed down and avoided it. Instead, the dash cam showed him falling asleep before the impact, and he hit the stopped cars at full speed. We represented his passenger. Now there are multiple responsible parties, and the argument becomes whose insurance applies. The rideshare company's position will be that its driver isn't at fault and the drivers in the first crash are the ones whose policies should pay. A passenger left to sort that out alone can end up caught between insurers, each pointing at the other.

Injuries that happen getting in or out of the car can raise the same kind of argument. Say you're stepping out, the driver pulls away, and you get caught on the side mirror and dragged. Many people assume that because they were already out of the car, they have no claim. Those injuries can be covered under the rideshare company's policy. If you call the company or its insurer directly, you may hear right away that there's no coverage and that they're sorry this happened to you. Without someone willing to tell them they're wrong, the injured person is left in a pretty bad position.

Rideshare drivers and the limits of their own coverage

A lot of drivers think they're protected because they carry good coverage on their own car. Your own personal auto policy is almost never going to apply while you're driving for a rideshare company. There may be a small number of cases, maybe 1%, where a driver has a rideshare rider on their personal policy that the insurer knows about and has approved, but that is exceedingly rare. Personal policies typically exclude rideshare driving, often completely, and some insurers will try to get out of coverage even when the app was off, on the grounds that they never would have insured the car had they known it was being used for rideshare.

That leaves the driver depending on the rideshare company's coverage, and that coverage has limits drivers don't expect. We represented a driver who was called to a pickup that turned out to be a setup for a carjacking. Several people showed up with guns, shot him, and took his car. If you think about it from the criminal's side, it's easy carjacking: type in an address, wait somewhere dark, and the car is delivered to you. Our client survived, but he was shot in both legs. He could still walk, but he could never run again, and he was out of work for a year.

He assumed he would be covered under the rideshare company's uninsured and underinsured motorist coverage. The company's position was that the shooting didn't happen in the course of driving, so its insurance didn't cover it at all, and that he wasn't eligible for workers' compensation either, because he was an independent contractor. I believe the offer was somewhere around $1,000 or $2,000. This was a man who used to run every day. That case is a good example of how many layers sit between a rideshare driver and the coverage everyone assumes is there.

When a rideshare car with no passenger hits you

One of the bigger issues I come across in rideshare cases has no passenger in it at all: a rideshare driver with no one in the car who hits another vehicle or a pedestrian. Drivers in period one are moving around looking for the next ride, and many of them have two phones going, one for each app. That is a recipe for distraction, and when it ends in a crash, it is a traditional auto case on its facts but not on its insurance. The coverage in that period may be far lower than the million-dollar figure people have heard.

So the stage matters just as much here, and so does the data. If you're a pedestrian hit by a rideshare car, the company may say the driver had no passenger, because that limits the coverage. The driver may also have had a passenger and not reported it. Either way, the app data will often show whether the driver was engaged in a ride at the time, and if they were, the higher coverage applies. If they weren't, a different set of insurance rules applies.

There is other evidence that disappears just as fast. Black box data from the rideshare car, and sometimes from other cars involved, can show how fast everyone was going, whether the driver was paying attention, and whether they braked or steered. If the vehicle you were in was totaled, the insurance company or the rideshare company will want to dispose of it quickly, and once it's gone, nobody can inspect it. And where a driver's history should have kept them off the road, such as a record of seizures or a long pattern of speeding and running lights, that history can be the key to opening up the policies or going after the rideshare company directly. None of that can be used unless someone gets to it early.

The early check and what it can cost you

Sometimes the contact goes the other way. Instead of a denial, the rideshare company calls and says it wants to make sure you're fine. It offers a check, or offers to cover the next six months of medical bills, and all you have to do is sign. I understand why that is appealing. People who are hurt are nervous and scared, and the first worries are usually how the medical bills are going to get paid and how to cover the work they're missing. Money up front feels like relief.

> *“I can assure you that that check is always a small fraction of what that case is actually worth. And that check is contingent upon that treatment stopping on a certain date. It is not an open-ended invitation for you to actually get better.”*
>
> — LIAM PERRY, ON EARLY SETTLEMENT CHECKS AFTER A RIDESHARE CRASH

Early in a case, nobody knows what getting better will take. An injury that looks like it needs a few months of therapy may turn out to need surgery, and surgery may need rehab. Some surgeries need a second surgery, because surgeries don’t always go as planned, and some people come out the other side with a permanent disability. If you have already signed and accepted that early check, we can be precluded from going after the true value of the claim, no matter what the next year of treatment reveals.

So the order I recommend is simple. Get medical treatment right away and see the specialists you need to see. Get representation quickly, because the app data, the GPS records, the black box and the vehicle itself all need to be secured early. And document the scene with photos if you can, even though right after a crash, especially if you hit your head, your thinking is not at its sharpest. Sign nothing until the injury is fully understood.

Common Questions

Who pays if I am hurt as a passenger in an Uber or Lyft?

Usually the rideshare company’s policy. A passenger in the car is typically in period three, where there is usually a million dollars in liability coverage, so *“if you’re a passenger in an Uber, you’re generally in pretty good shape.”* The fight tends to come when other drivers share fault, because the company may argue their insurance should pay instead.

Does an Uber driver's personal car insurance cover a rideshare accident?

Almost never. Personal auto policies typically exclude rideshare driving, and the exclusion runs the whole time the driver is on the app. There are rare exceptions, such as a rideshare rider the insurer has approved, but otherwise *"Virtually always you're gonna be excluded."* Some insurers contest coverage even with the app off, so drivers should not count on their own policy.

What happens if a rideshare driver with no passenger hits me?

Coverage depends on the period the driver was in, and a driver waiting for a ride carries far less than the million-dollar policy. In that situation the law requires $50,000 per person in primary coverage, with a $200,000 excess layer above it. The rideshare company's app data can show whether the driver had accepted a ride or had a passenger, which can change the coverage, so that data needs to be pulled early.

Should I accept an early check from Uber or Lyft after a crash?

Not before the full extent of your injury is clear. Early checks are often tied to treatment ending by a set date, and at that stage nobody knows whether you will need surgery, rehab or more. As I tell people, *"It may require surgery for you to get better. That surgery might require rehab."* Signing can prevent you from recovering the claim's full value later.

Chapter Reflection

Most people get into an Uber or a Lyft without a thought about insurance, and that is how it should be. The trouble starts after the crash, when the coverage everyone assumed was there turns out to depend on a stage, a timestamp, a phone screen, and whose story about them gets believed. Nothing about a rideshare case is beyond an injured person's understanding. It just doesn't explain itself. The data that settles the question exists, and it sits with the company. The person who asks for it first, and who doesn't sign anything before they know what their body needs, is the one whose case still has room to grow.

09

CHAPTER NINE

Slip and Fall Claims: Proving Notice in a California Premises Liability Case

People tend to think of a slip and fall as a minor case. Oftentimes the opposite is true. You're falling onto a hard concrete or tile floor, sometimes onto broken glass, and the injuries in these cases are often much more significant than most people expect: fractures, head injuries that bleed, and in some of our cases a significant brain injury from a fall in someone's own neighborhood grocery store. They weren't in a car. They had gone shopping.

The hard part of these cases is the proof. A slip and fall case has two parts, and people often have one without the other. They have a photo of the thing they slipped on, but that's not the whole case. The second part is notice, meaning whether the property owner knew, or should have known, that the hazard was there in time to do something about it. This chapter is about that second part: how it gets proven, which falls don't support a claim at all, why the evidence disappears so quickly, and how the rules change when the property belongs to a city.

> *"If a jar of salsa falls and then the person who knocked it off the shelf slips and falls on it, they're not gonna be able to sue the grocery store. I think that's important for people to know."*
>
> — LIAM PERRY, ON WHICH FALLS ARE NOT THE STORE'S RESPONSIBILITY

Duty, notice and the link to the injury

Premises liability is the duty property owners have to keep the people they know will be on their property safe from hazards. That duty runs from owners, tenants and property managers to the general public, both to the people who come onto the premises and to the people who work there. To put it in plain terms, if you run a place that people walk through, you're responsible for keeping it reasonably safe to walk through.

When I look at one of these cases, there are a few components. The first is notice. The second is the link between the hazard and the injury. If someone gets hurt for a reason that has nothing to do with the hazard, the hazard doesn't matter for our purposes. If the hazard causes the injury, we have the link, and that's what's important.

Notice comes in two forms. In some cases the owner knew about the hazard because the owner created it. Picture a pallet sticking out into a walkway, or set down crooked so its edge hangs into the aisle. That pallet wasn't there until the store or the tenant put it there, and when someone trips on it, we don't necessarily need to provide notice at all. Most premises cases are not like that. Most are should-have-known cases, and those take more work.

Proving a store should have known

The classic should-have-known case is the grocery store spill. A jar of salsa falls off the shelf and smashes, and there's broken glass and liquid spread across the aisle. Someone comes down the aisle and doesn't see it, because they're looking at the shelves, which is exactly how stores are set up: to keep shoppers looking up and out, not down at their feet. They step in it, they slip, they fall, and maybe they land on the glass and cut themselves too.

Grocery stores are full of jars and containers of liquid. Salsa, milk, juice, melted ice cream, even spilled flour can make a floor slippery enough to seriously hurt someone who doesn't see it. Because these hazards are so common and the stores know it, they have to have safety protocols in place to catch them. The most common is a sweeper, an employee whose job is to walk the aisles on a loop, back and forth through the whole store and then around again, looking for anything dangerous and cleaning it up or at least flagging it before someone steps in it.

The gaps in that system are where a should-have-known case comes from. In a very large store, the company may run one sweeper where it needs two. The sweeper goes on a lunch break and nobody fills in. The sweeper's shift ends at five o'clock while the store stays open until midnight, and nobody is paid to sweep in between. In those situations something falls and sits for thirty minutes, forty-five minutes, an hour, and then someone gets hurt. If a store has safety protocols and isn't following its own protocols to save money, that gives us a way in. We can show the store knew this was dangerous and chose not to do what its own rules said.

The evidence for that comes from a few places. Sweep logs record how often the aisles were patrolled. The other piece is how long the hazard had been on the floor, because sauce that had been there 10 seconds and sauce that had been there 15 minutes are very different cases. Typically what proves that is surveillance footage. It can show the timestamp when the jar fell, and the 45 minutes of shoppers who walked past it. Sometimes it shows a store employee walking by, looking right at the spill, and moving on to get to it later, and then someone slipping on it half an hour afterward.



A slip and fall claim turns on notice: how long the spill sat there compared with when the aisle was last checked.

Falls that are not the property owner's responsibility

Not every fall in a store is a case against the store, and I think it's important to say so plainly. If something falls a second before you get there, the store may not have had adequate notice. It had no reasonable opportunity to see the hazard and clean it up. If you're directly following someone and they drop something behind them and you trip over it, you're not going to be able to pursue that case against the store. If someone knocks something to the ground directly in front of you and you step on it, you may have a negligence claim against that person, but you're likely not going to have one against the store.

The more common scenario, and the more likely one in most of these cases, is different. Something was stacked improperly or knocked down by another shopper, and then 30 minutes, an hour, maybe two hours go by before someone slips on it. A lot of people don't think about that distinction when they think about slip and falls, and it's often the whole case.

I think you should expect the property owner to fight on both fronts. The first move is usually to put as much fault as possible on the person who got hurt, by attacking their credibility. Maybe they had a beer before they came in, so the store says they were intoxicated. Maybe they were wearing sandals, which is pretty common in the summertime, so the store says the sandals caused the fall. Surveillance footage is what answers that. It's a lot harder to blame the flip-flops

when the video shows someone walking normally until they hit something wet and their feet go out from under them. The second move is to dispute notice: the store had someone sweeping, the sweeper didn't see it, so it must have just happened. That's where the logs and the time-stamps matter.

> *"When people get hurt in kind of a crowded environment, it's really embarrassing. It's pretty humiliating. People are running over. I mean, obviously people have good intentions. They wanna make sure you're okay, but no one wants to have a million eyes on them going, 'Are you okay?' When they're sitting on the ground injured."*
>
> — LIAM PERRY, ON WHY PEOPLE LEAVE THE STORE AFTER A FALL

Leaving the scene, and the footage clock

So people get out of there. They want to be somewhere quiet where nobody is looking at them. They figure their knee hurts but they'll go home and ice it. Nobody would call that a mistake in the moment. The problem is what happens next, or rather what doesn't. If nobody contacts the store, nothing happens on the store's end. No incident report gets filed, and the surveillance system keeps doing what it does, which is record over itself. Some systems record over themselves every day, some every couple of weeks, some on a longer cycle. Once you're a month out, I assume the footage is gone.

Then a week or two later, the knee is still bothering them. They see a doctor or go to the ER, get an X-ray, and learn the knee is fractured, and now they realize this may affect them for a long time. By then it can be too late. Without an incident report, without the footage, and without a preservation letter sent before the recording cycled over, we may not have an avenue of recovery. It's often to the owner's benefit not to preserve the footage, because the owner knows what we have to prove, and every missing piece puts the owner in a better position.

What you can do at the scene, if you're able, is simple. Take photos. If people come over to check on you, and in a grocery store someone usually will, get their name and phone number. Six months later the property owner may say the fall never happened and you were never in the store. A witness who saw you on the ground can prove those cases even without surveillance footage. Without a witness and without footage, there's often nothing left to pursue.

I know nobody wants to rush out and hire a lawyer after a fall. It sounds litigious, like you had it planned all along. But more than almost any other type of case, this is one where getting a lawyer involved early decides whether there is a case at all. If there is any doubt, get the answers early, while the evidence still exists.

Sidewalks, city property and a notice defense that came apart

For a standard slip and fall, you typically have two years (California Code of Civil Procedure section 335.1). But a lot of the falls I see happen on sidewalks or around city and government buildings, and those carry a much shorter deadline. When a public entity is involved, the claim typically has to be presented within six months (California Government Code section 911.2). What happens all too often is that someone gets hurt, treats for seven, eight or nine months, realizes they are seriously injured, and then learns the six-month window has closed and the claim may be lost.

Part of the problem is that the person who falls often doesn't know who owns the property. Is it a private owner, a business, the city, the state? Each answer changes which insurance is in play and how much time you have. Sidewalk cases themselves are often strong on notice, because an uplift or a crack in a sidewalk has typically been there a long time, a year, maybe two. Some cities routinely maintain their sidewalks and some don't, and when a city doesn't, taking it to court is sometimes the only way to get the change that's needed.

One notice defense I remember well came from a city that had done the work. We had a case against a fairly large city in Orange County involving a palm tree. The city had crews out trimming that palm tree about a month before the incident, and it said immediately that it wasn't liable. It had inspected the tree, deemed it safe and trimmed it, so whatever happened was unforeseeable. Several attorneys had passed on the case because they didn't see a way around that notice defense.

What fell was the pineapple, the brown, scruffy section just under the fronds that you see at the top of the tall, thin palms in places like Los Angeles or Beverly Hills. It collapsed and fell about 50 feet, directly onto our client's head. They were unconscious at the scene and still unconscious when police and paramedics arrived, so we're talking about five to ten minutes with no consciousness at all. It was a severe head injury.

We hired an expert who explained what had happened. Cities with rows of palm trees may tell crews to trim every pineapple to a set specification, so much pineapple and the rest of the trunk. If the crews trim to that specification without checking the pineapple's structural integrity as they go, they can shave away the material that supports it. A pineapple starts narrow and grows outward, and once the underlying material is gone, you're left with a heavy, unsupported mass that can collapse on its own. The city was supposed to have certified arborists pruning those trees. What it had was work crews with a certified arborist overseeing them but not on site to see how the work was done. The city's own trimming created the dangerous condition.

That case went from a zero offer, or at most a nuisance offer of $10,000 or $15,000, to a case that resolved for over $5 million. Results depend on the facts of each case, and no past result promises another. The injury was severe from the first minute. What changed was that someone dug past a defense that looked very good on the surface.

Common Questions

What do I have to prove in a slip and fall case in California?

You have to show that the hazard caused your injury and that the property owner had notice of it. In plain terms, *"notice basically means the owner knew or should have known that the hazard was there."* Most cases are should-have-known cases, proven with sweep logs, staffing records and surveillance footage showing how long the hazard sat. When the owner created the hazard, notice may not need to be proven separately.

How long do I have to file a slip and fall claim in California?

For a standard slip and fall, typically two years. When the fall happens on public property, such as a city sidewalk or a government building, the deadline is much shorter: a claim typically has to be presented within six months. People often treat for months before realizing how badly they're hurt, and by then the government claim may be lost. Finding out early who owns the property protects the deadline.

How long do stores keep surveillance footage?

It varies. Some systems record over themselves every day, some every couple of weeks, some every 30 days or longer. My rule of thumb is blunt: *"if you're out past 30 days, you can almost guarantee yourself that footage is gone."* An incident report at the scene and an early preservation letter are what keep that footage from being written over, and without it a fall can be very hard to prove.

Can I sue the city for a fall on a broken sidewalk?

Possibly. A sidewalk uplift or crack is often a strong notice case, because *"Typically, those have been there a long time."* Some cities maintain their sidewalks routinely and some do not. The catch is the six-month deadline for a claim against a public entity, so the property owner needs to be identified quickly.

Chapter Reflection

A fall takes a second. Proving it was someone else's responsibility takes a record of everything around that second: how long the spill sat, who walked past it, when the sweeper last came through, what the city's crew did to a tree a month before. Almost none of that record belongs to the person who fell, and most of it is on a timer. That is the uncomfortable part of these cases, and the reason I would rather hear about a fall the week it happens than the month after. Going home to ice your knee is a human thing to do. Letting the store's cameras decide your case for you doesn't have to be.

CHAPTER TEN

10

Traumatic Brain Injury: Proving an Injury That Does Not Show Up on a Scan

A traumatic brain injury is often called an invisible injury, and the person who has one is often the last to see it. Someone walks away from a crash talking, gets a CT scan in the emergency room, hears that the scan is clean, and goes home. Two weeks later they can't sleep, they're getting angry all the time, they can't focus at work and light bothers them, and nobody has connected any of it to the crash.

This chapter explains what a traumatic brain injury is, why the imaging so often comes back normal, and how a brain injury gets proven anyway. The short version is that these injuries are diagnosed from symptoms, and a claim is built from symptoms that were written down early and written down consistently. If someone in your family was in a crash and hasn't seemed like themselves since, this chapter is for you as much as for them, because the people closest to an injured person often notice the change before anyone else does.

> *"Because oftentimes people think of their head and think, 'Well, I'm having headaches because my neck hurts,' or, 'I'm not sleeping good because my neck hurts,' or, 'I'm losing track of things because I'm distracted by the pain.' But they're not realizing that they may actually have a head injury even though their CT scan came back fine, and we've seen this countless times over the years that we've been doing this."*
>
> — LIAM PERRY, ON HEAD INJURIES HIDDEN BEHIND OTHER PAIN

Defining a traumatic brain injury

A traumatic brain injury is damage to the brain from any outside force. Doctors grade them mild, moderate and severe. A concussion, the word emergency rooms use most often, is a mild traumatic brain injury, sometimes written mTBI. *Mild* describes how the injury is classified. It does not

describe what the injury can do to someone's life, and a concussion can leave serious, lasting injuries behind.

The head does not have to hit anything. A whiplash motion is often enough, what's known as a coup contrecoup motion. The brain bounces around inside the skull, the inside of the skull is rough, and the brain picks up tiny shears where it moves against it. The technical name for that shearing is diffuse axonal injury. Further up the scale are cerebral contusions, which are bruises on the brain, and subdural hematomas, which are brain bleeds. Those sit at the moderate to severe end.

A lot of people assume that if they weren't knocked out, they don't have a real injury. Much of what we now know about that comes from military research on soldiers who had spent time around blasts, Special Forces teams breaching doors week after week. Many of them may never have lost consciousness, and the repeated blasts still did damage. The same research explains why an earlier head injury matters. Once you've had one or two hits, you're much more susceptible to the next. Someone who had a concussion as a kid, or who took a lot of headers playing soccer, can be thirty years old in a car accident with a bad whiplash, never hit their head, and still end up with a traumatic brain injury.

Vehicle crashes are where I see these injuries most. High-speed, multi-lane freeways like San Diego's I-5, the I-8 and the I-15, and the Los Angeles freeways produce crashes with multiple impacts and cars that spin, and the head can be injured without ever striking anything. Motorcycle, pedestrian, bicycle and rideshare cases cause them too, and so do falls, when someone's legs go out from under them and they land on the back of their head. The greater the force, the more likely the harm is long term, but I see brain injuries from crashes with little visible property damage as well.

In the ER, doctors score a head injury on the Glasgow Coma Scale, the GCS, based on eye, verbal and motor responses. It's a limited tool, designed to answer one question: is this person at risk of dying right now? A patient with a mild traumatic brain injury and no brain bleed passes that test. Passing it is a different thing from not being injured.

A clean scan is not the end of the question

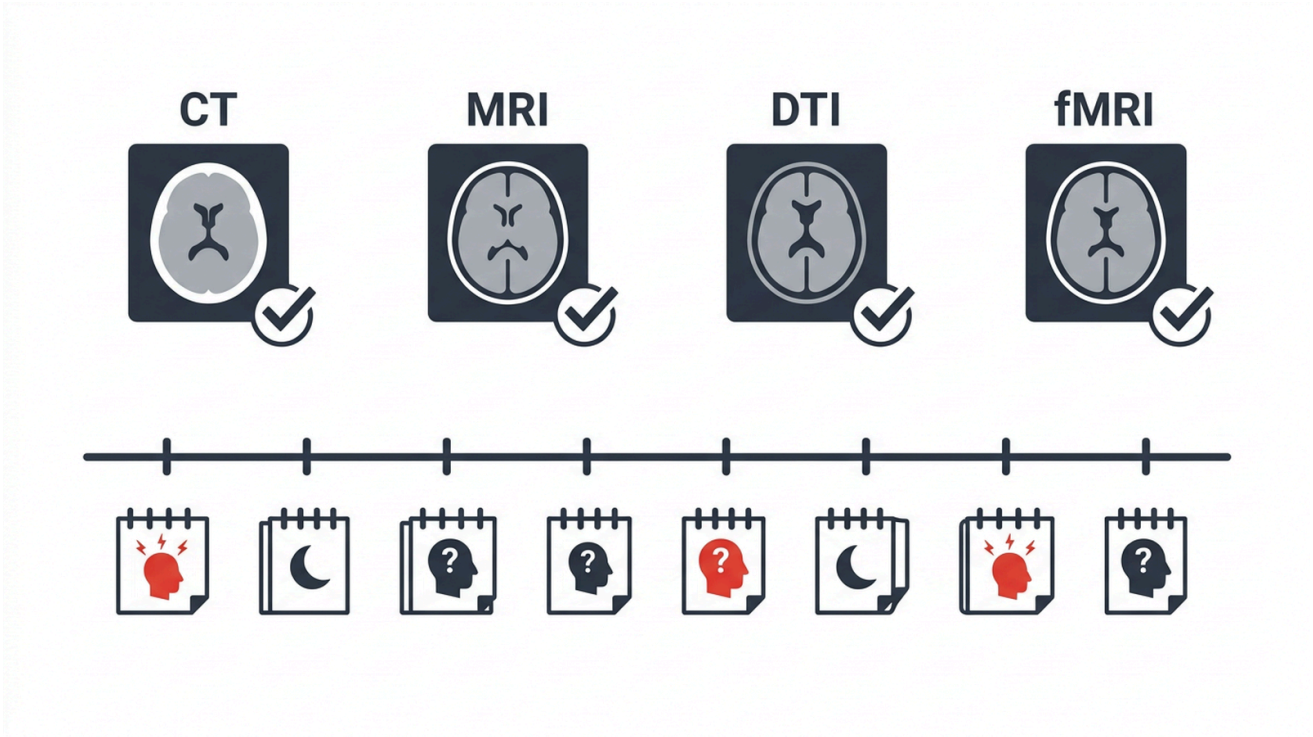
A CT scan is an ER tool. It's designed to find an active brain bleed or a skull fracture, the severe injuries that get handled urgently. If neither is there, the hospital sends you home and tells you to follow up, and that's true even if you were knocked unconscious, as long as you're awake, alert and cognizant by the time they're done.

Beyond the CT there is a ladder of advanced imaging, generally in this order: an MRI, a DTI, and then a functional MRI, or fMRI. The fMRI and the DTI are the advanced scans most likely to show a brain injury. On a DTI, a healthy brain lights up everywhere, and a traumatic brain injury can show up as dead zones, areas that don't light up the way the rest of the brain does. That's the best case for proof, and it doesn't always happen. A person can have a CT, an MRI, a DTI and an fMRI that all come back clean.

That is where a lot of people stop, and some lawyers too, and it shouldn't be. Mild brain injuries are diagnosed from symptoms; scans often look normal. If we know there was an impact to the head, or a significant whiplash, and the person reports symptoms consistently over time, a diagnosis of traumatic brain injury can be made with no imaging that shows it at all.

Here is what consistent looks like. At the ER, the person complains of headaches and forgetfulness, maybe feeling sleepy but being unable to sleep. Two weeks later they report the same symptoms plus a few new ones. A month later some are the same and some are different. Over the course of a year, the same symptoms keep showing up visit after visit. That pattern can prove the injury even when every scan is clean.

When imaging does show something and the symptoms have been reported accurately, that's the gold standard. A neurologist can look at both and say the injury was caused by the crash. If your crash happened in San Diego, the trauma centers there, Scripps, UC San Diego, Sharp and Rady Children's, will all have records of that first visit, which is one more reason the first visit matters.



A clean scan does not rule out a brain injury. A consistent record of symptoms over time carries the proof.

The symptoms people overlook

The symptoms of a mild traumatic brain injury are a laundry list, usually grouped under the name post-concussion syndrome, or PCS: headaches, brain fog, irritability, exhaustion, sleep problems, and a loss of taste or smell that has nothing to do with COVID. This is the area many attorneys miss, because many attorneys are not familiar with the medicine, and because clients don't know which of their symptoms count.

Word-finding is the symptom I watch for when I'm talking with someone. The person knows exactly what they want to say. They're describing a day at the beach and dinner afterward, and they stall: "we went to the, we went to the," and the word beach won't come. It isn't a blank. They can't reach the right word, and you can watch them cycling through trying to find it. Plenty of people have this problem and don't know it has a name, word-finding difficulty, so it never reaches their doctor.

Many of these changes are noticed first by someone else. People with brain injuries often do things differently without being aware of it, and a spouse or a child sees it. That's why the symptom checklist my office gives to clients also goes to their significant others. The person living with the injured person is often the one who can describe what changed.

The other reason these symptoms go unrecorded is that something else hurts more. At the ER, a person's neck is hurting, they want to be sure they're not paralyzed, and their head never gets mentioned. Later, they put the poor sleep, the dizziness or the confusion down to the pain in their back or their leg.

So the instruction applies at every appointment: tell the doctor about everything. The ER doctor is focused on making sure you aren't dying and on getting you out of the ER. It's up to you to say that your head has hurt since the crash two hours ago, that you feel foggy, that you've been forgetful since the crash three days ago. Then follow up with your primary care doctor. If you don't have one, call your health insurance company, not your auto insurer, and ask which in-network doctors can see you quickly. If nobody can, go to urgent care. Do whatever it takes to get it documented.

A word on recovery, because people deserve the straight version. Cognitive rehabilitative therapy and neuro rehab programs, including one in San Diego, can help a great deal with how people learn to cope, and the brain can develop new neural pathways. But coping is not the same as healing. A brain injury can't be fixed with surgery, and symptoms that are still going on years later are likely permanent. When someone has to learn to live with a symptom, they deserve compensation for what was taken from them: a brain that used to work fine. Chapter 11 covers how that loss is valued.

Neurologists, neuropsychological testing and maximum medical improvement

Almost everyone starts with an ER physician or a primary care doctor. Primary care doctors have broad general knowledge, but not a specialist's depth, so as the symptoms continue, they eventually refer the patient to a neurologist, a specialist in the brain. The neurologist takes over the treatment, is better placed to prescribe medication that might help, and documents the injury with more precision.

The neurologist also helps identify what's called MMI, maximum medical improvement. If someone is two years past the crash, has improved slightly and still has symptoms, a neurologist can say that this is the maximum improvement, and that we now know what the injury looks like long term. If the case goes to trial, a neurologist can be a persuasive expert witness, because they can tell a jury that they treat this condition and have the education to explain what they see.

Neuropsychological testing, which most people shorten to neuropsych testing, is a set of tasks that measure memory, attention and processing. It's a way of documenting measurable deficits. The candid reason we often need it is that the defense uses it. Defense experts like neuropsych testing because they can use the results to argue that you're normal, so we will often get our own neuropsychologist, so there's an expert to offset their expert.

The center of how I prove a brain injury is the medical record, more than any test. What do your records show? What are the symptoms over time, and are they consistently reported? What does the imaging show, and what was the force of the impact?

Building causation, from the scene to the coworker

Every injury case has to show causation, also called proximate cause: that, more likely than not, the crash caused the injury. With a brain injury, I build that from the start of the timeline forward. Was there a traffic collision report? Were photos taken at the scene? Was an ambulance called? Did the person go to the ER right after the crash, or days or weeks later? And when they got there, what did they report: headaches, forgetfulness, trouble finding the right word, or only that their neck or back hurt?

Physical evidence helps when it exists, a photo of a bruise on the client's head, or video from inside the car showing the head striking something. When the head didn't strike anything, a decent impact and a significant whiplash can still carry the causation story.

After that, I look at how the injury is affecting the person over time, which means talking to people. Family comes first. Coworkers and friends matter just as much, for a specific reason: they have no vested interest in the outcome. An insurance company can argue that a family member is financially motivated, but a coworker isn't, and if anything the coworker is the one picking up the slack. Coworkers are often the first to notice the forgetfulness and the deficits. Later, when experts read their deposition testimony and see that the problems continued at work and at home, the case becomes much more persuasive.

The first month is where the defense looks hardest for gaps. If the ER doctor says go home and wait, and that's what you do for two months, you'll have a hard time later claiming the brain injury. If you follow up with your primary care doctor instead, and say you were told to wait but this is affecting your life, the record tells a different story.

Two questions trip up people with a brain injury, and both are about memory. The first is how the crash happened. People say they were rear-ended, it was a huge impact, their head got rattled, and never say they hit their head, because they don't remember whether they did. The second comes from the insurance company: did you lose consciousness?

> *"If you lose consciousness, you don't remember that you lost consciousness. You typically come to and you say, 'What happened?' You don't have a cognizant, like thought that, oh, I'm losing consciousness 'cause that's not the way your brain works. You just lose consciousness."*
>
> — LIAM PERRY, ON THE LOSS-OF-CONSCIOUSNESS QUESTION

How those questions get answered, and whether they get answered at all, is something I want to know from the very first conversation.

Two cases show how this plays out. One client was a fairly new college graduate, about five years out, working for a large healthcare organization when she was in a serious crash. Her imaging didn't show any problem with her brain. Because she had good health insurance through work, she kept following up with her primary care doctor and kept saying the same things: she wasn't the same, she couldn't focus at work, screens hurt her eyes, she was forgetting things. Her supervisors noticed it too. She was referred to a neurologist, the neurologist ran testing rather than more imaging, and the testing showed significant deficits, many of them permanent. We were able to get her a very large settlement, and she's taken care of for the rest of her life.

The second is the client from Chapter 4, T-boned at around 60 to 65 miles per hour. Her ER CT scan and a later MRI showed little, but from the first visit on she kept reporting the head pain, dizziness, migraines, forgetting and trouble finding words, and her doctors diagnosed the brain injury before more advanced imaging eventually showed dead spots in her brain. The insurance company's early offers were well below its million-dollar policy. Within about two weeks of trial, the case resolved in a confidential settlement in the range of between $5 and $10 million. What made the difference was her documentation over time. Neither result predicts what any other case will bring. Each one turned on its own facts.

Common Questions

Can you have a brain injury if your CT scan or MRI is normal?

Yes. A mild traumatic brain injury is diagnosed from symptoms, and a CT is an ER tool built to find bleeding or a fracture. A standard MRI often shows nothing, and a person can have a CT, an MRI, a DTI and an fMRI that all come back clean. When the impact is documented and the same symptoms are reported consistently over months, that record can prove the injury without a scan.

Is a concussion a traumatic brain injury?

Yes. A concussion is a mild traumatic brain injury, and it's the label emergency rooms use most often. Brain injuries are graded mild, moderate and severe, and the word mild only describes the classification. A concussion can still cause serious, lasting injuries, and someone who has had concussions before, even as a child or from soccer, is more susceptible to a worse injury the next time.

Do you have to hit your head to get a brain injury in a car accident?

No. The head doesn't have to strike anything. A hard whiplash can bounce the brain against the rough inside of the skull and cause small shears in the tissue. I often see brain injuries in rear-end and T-bone cases with a big impact where the head never touched the car. What the claim needs is a decent impact and symptoms documented from the start.

What symptoms should I report after a head injury?

All of them, at every visit: headaches, brain fog, irritability, fatigue, sleep problems, sensitivity to light, forgetfulness, trouble finding words, emotional changes and any loss of taste or smell. The standing instruction my office gives is short: *"When you're seeing doctors, make sure you're mentioning everything that's wrong with you."* A record that lists one or two symptoms and leaves out the other ten is the record the other side will hold up.

What is neuropsychological testing and why does it matter in a TBI case?

It's a set of tasks that measure memory, attention and processing, used to document measurable deficits. It matters partly because the defense relies on it to argue that an injured person tests as normal, so my office often brings in its own neuropsychologist to answer theirs. In some cases, a neurologist's testing is what reveals permanent deficits that no scan ever showed.

Chapter Reflection

A brain injury case is rarely decided by a single test result. It's decided by a record: the ER note that mentions the headache, the follow-up visit that mentions it again, the coworker who noticed the forgetting, the neurologist who finally put a name to it. The injured person doesn't have to understand neurology for any of that. They have to keep saying what is wrong, every time, even after a scan has told them they're fine. Once that record exists, a family faces a different question, one that a clean CT never prepared them for: what a brain that no longer works the way it did is worth over the rest of a life.

CHAPTER ELEVEN

Valuing a Brain Injury Claim: Life Care Plans, Lost Earning Capacity and the Defense Exam

Once a brain injury is documented, the question every family asks next is what the case is worth. With a brain injury, the honest first answer is frustrating: nobody knows yet. Six months or a year after a crash is not enough time to know what symptoms a person will face in the future. They may improve, or they may get worse. A claim valued before that is clear is valued on half the information.

Here is how I build the value of a serious brain injury claim: why it can't be rushed, how lost earning capacity and the losses no bill captures are measured, and what a life care plan is. It also explains how the other side contests these claims, including the defense medical exam, so that none of it comes as a surprise when it arrives.

> *"I tell every one of my clients that from the outset. I say minimum two years from the date of injury because we're not gonna have an idea of what's permanent and what's not until a year and a half, two years post-injury."*
>
> — LIAM PERRY, ON HOW LONG A BRAIN INJURY CASE TAKES

Why a brain injury case cannot be rushed

There are two reasons for that timeline. First, the injury has to be documented over time, because consistency is what proves it, as Chapter 10 explains. Second, we have to see what the person's permanent, long-term symptoms are and what the life care plan comes in at. Only then do we prepare demands, look at the insurance policy limits and whether they're going to apply, and add up the total medical bills, which can be huge when the claim includes a lifetime of future care and treatment.

The pressure runs the other way. Insurance companies are trained to offer money early, and in low amounts, because people will take it while they still think they're fine. Then the symptoms never get better, the person is never the same, and they want to go back and ask for more. By then the claim is settled, and that's where it ends.

A brain injury makes that trap more expensive than most, because someone who has had a brain injury is going to be susceptible to more cognitive decline in the future. An offer can sound good today. What does it look like in 10 years, or 15, or 20? What if dementia arrives years sooner than it would have, and the person needs help caring for themselves? That kind of care is extremely expensive, and a number offered in the first months of a case doesn't account for it.

Policy limits shape the timing too. When the at-fault driver has a very large policy, early offers tend to be low. When the policy is small, the insurer may want to pay the limit right away. Knowing which situation you're in matters, because if you're going to be injured for a long time, we don't want to run up $150,000 in medical bills and then find out there's only $50,000 in coverage. Chapter 4 covers policy limits in detail.

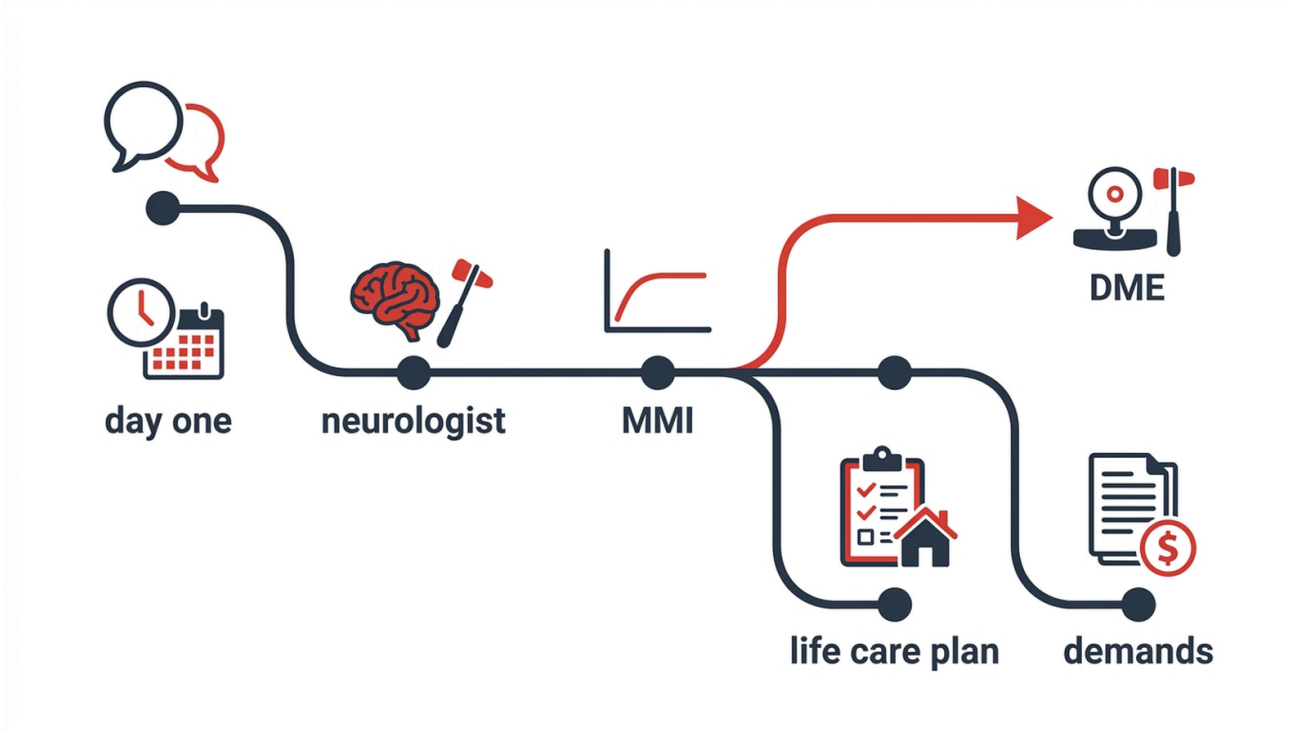
Lost earning capacity and the life care plan

Chapter 2 explains how damages divide into economic and non-economic, past and future. On a serious brain injury, the future is usually where most of the value sits.

Lost earning capacity is where future economic damages start. I look at the person's career up to the crash and then at their future earnings. Someone who was about to make partner had earning potential that would have gone substantially up over the next 20 or 30 years, and that may now be gone completely. The twenty-year-old with fifty-plus years of work ahead and the surgeon with a twenty-year, high-earning career, both from Chapter 2, are valued the same way. Valuing any of that takes expert witnesses, typically vocational rehabilitation specialists and life care planners.

A life care plan is the document that projects all of it forward. It's prepared by an expert, sometimes as a spreadsheet and sometimes closer to a bullet-point list, who can value earnings into the future as well as the past and can also look at the care the person is going to need. The planner reviews every doctor who has treated the client and every recommendation those doctors have made, then projects outward the treatment and therapy required. That might mean vocational rehab therapy for the next 20 years. For a young person with a significant brain injury, it also has to account for the likelihood of developing some level of dementia later in life.

The life care plan comes after the client reaches maximum medical improvement, or MMI, because that's when doctors can say what the person will need for the next 20 or 30 years. The planner assigns values to all of it and can sometimes account for the cost of medical treatment going up over time. In any serious brain injury case, we're going to have an extensive life care plan. Even in a very mild brain injury case, we'll sometimes prepare a smaller one where it's justified.



A brain injury claim follows a long path: treatment, maximum medical improvement, a life care plan, then the demand, with the defense exam along the way.

Non-economic losses: valuing what no bill shows

Economic damages are the hard numbers: lost wages, out-of-pocket expenses, medical bills. On a brain injury case they're often not what drives the value. Chapter 2 described the person who looks fine on the street and to their relatives but can't concentrate at work and keeps making mistakes. What weighs on that person is how this will affect them for the rest of their life, and what the mistakes do to their sense of their own worth.

> *"I've handled a fair amount of brain injury cases, so I have a pretty good idea of what the range is, like where these different cases come in. But for your average person, it's very difficult to value non-economic damages because these are literally things that you would never trade money for to be taken away."*
>
> — LIAM PERRY, ON VALUING WHAT A BRAIN INJURY TAKES

Think about what that looks like in a household. Migraines are so constant that the person has to sit in a dark room, and a relationship with a spouse and kids changes completely because of it. If someone offered you a briefcase full of money in exchange for chronic pain, dark rooms, depression, and either no work at all or work at a dramatically reduced capacity, you would know at once what the money was being asked to replace.

That is the loss a non-economic damages claim has to put a value on, and it's why the value rises with permanence. A person who had a mild concussion and recovered two months later has a claim with some value. A person whose life is permanently altered has a claim worth significantly more.

How the other side contests a brain injury claim

Before I represented injured people, I did civil litigation work on the other side of these cases, and part of that work was painting a picture that the injured person was at least partly at fault, sometimes even when it was relatively clear they weren't. So I know how the defense approaches a brain injury claim. None of it is personal. Each step is aimed at the same thing, a smaller payment, and each one has an answer.

Comparative fault is the first lever. In a high-value brain injury case, every percentage point is a significant saving to the insurer: if a case is worth $10 million and they can place 20% of the fault on you, they save $2 million. So expect fault to be argued even on a green light, and expect the

answer to be a clear account of what happened that a jury can follow. Chapter 5 explains how comparative fault works in California.

Gaps and delays in treatment come next. If you didn't go to the ER right away, or waited weeks, your medical records will be scrutinized incredibly hard. They'll be read word for word, sometimes run through AI, for any discrepancy, and at trial a discrepancy gets repeated over and over. That's the reason to keep the record as clean as possible and continuous over time. When doctors have consistently documented the same symptoms and the same deficits, and those deficits aren't improving, it's very hard for anyone to argue that the scan was clean so the person is fine.

At trial, the defense will point to the ER sending you home and the MRI coming back clean, and will try to make the injury look unreal. They will also challenge the injured person's credibility and suggest they're embellishing. Anything that gives a jury a reason not to award money is something they will look for.

A prior head injury is the other common argument. The insurance company will say the person always had problems and is no worse now than before. Chapter 5 explains the eggshell plaintiff rule. With a brain injury it often helps the claim, because an earlier head injury makes a person more susceptible. Making that case well means understanding the medicine and explaining it clearly to a jury and to an insurance company.

The defense medical exam and how to prepare for it

At some point the defense will ask for an independent medical examination, an IME. Lawyers on both sides commonly call it a defense medical exam, or DME. The doctor is paid by the insurance company, and that doctor's role in the case is to look at you and find reasons you're not injured. Saying so accuses nobody. That is how the exam works, and clients need to walk in knowing it is not independent, with a lawyer already involved.

Knowing that doesn't mean fighting the doctor. Being adversarial or contentious is something the doctor can report, and it helps the other side. What I want from a client in that room is this:

- **Be honest.** Stick to the facts of what happened.
- **Be consistent.** Keep reporting the same symptoms you've been reporting all along.
- **Be thorough.** The doctor may ask about one or two things. Report every symptom you've had. If they suggest you had a little forgetfulness and that's about it, correct them: you also had word-finding problems, emotional difficulties, problems at work, problems with light, and your neck and low back have been bothering you too.
- **Don't exaggerate.** They test for that as well. Keep your answers short and concise.

You also don’t walk in alone.

> *“We’re gonna bring a nurse observer with you who knows the medicine, knows what they’re allowed to ask, what they’re not allowed to ask. She’s gonna record it. So the second they ask something that’s improper, she’s gonna shut it down.”*
>
> — LIAM PERRY, ON PREPARING FOR A DEFENSE MEDICAL EXAM

The defense already has an advantage in that exam, because they chose and paid the doctor. A trained observer keeps that advantage from growing.

Common Questions

How long does a traumatic brain injury case take?

Expect a minimum of two years from the date of injury. Permanent symptoms can’t be separated from temporary ones until about a year and a half to two years after the crash, and a brain injury claim can’t be valued until they can. During that time the injury has to be documented consistently, the client needs to reach maximum medical improvement, and the life care plan has to be prepared before any demand goes out.

How is lost earning capacity calculated after a brain injury?

It starts with the person’s career up to the crash and projects what they would have earned afterward. A person about to make partner, a surgeon with a twenty-year career ahead, and a twenty-year-old who won’t be able to work for the next fifty years are each valued on that projection. Vocational rehabilitation experts and life care planners usually do this work, including how the costs of the injury play out over time.

What is a life care plan in a TBI case?

A life care plan is an expert's projection of the care, treatment and therapy a person will need for the rest of their life, along with lost earnings, past and future. The planner reviews every treating doctor's records and recommendations, then assigns values, sometimes including the rising cost of medical care. It's prepared after maximum medical improvement, and in any serious brain injury case, it's essential.

What is an independent medical examination and how should I handle it?

The insurance company picks and pays the doctor, so in practice it works as a defense medical exam. Don't argue with the doctor. Be honest, stay consistent with the symptoms you've reported before, report every symptom even if you're asked about only one, and don't exaggerate. Talk to a lawyer before you go. My office brings a nurse observer who records the exam.

Should I accept an early settlement offer for a brain injury?

Not without talking to an attorney first. As I put it on the podcast: *"You never want to accept a number without talking to an attorney on a brain injury case because typically it's not gonna account for any future treatment."* Six months or a year isn't enough time to know what symptoms you'll face. They may improve or worsen, and once a claim is settled, it can't be reopened when the symptoms don't go away.

Chapter Reflection

Valuing a brain injury is mostly an exercise in patience, and patience is a hard thing to ask of a family whose bills are arriving now. But a number is only as good as what it knows. A claim settled at six months knows about six months of symptoms. A claim valued after maximum medical improvement, with a life care plan behind it and a record that held up through a defense exam, knows about the next twenty or thirty years. The difference between those two numbers never appears on the settlement check, so a family that accepts the first one has no way of seeing what it left behind.

CHAPTER TWELVE

12

How to File a Car Accident Claim in California, and the Mistakes That Cost People Their Case

Most of what goes wrong in a car accident claim happens before anyone thinks of it as a claim. It happens in the first hours and weeks: in a phone call that felt friendly, in a doctor's visit where someone admitted they were confused about what happened, in a few months of resting at home hoping the pain would pass. Each of those is what a reasonable person does without knowing how the pieces connect later on.

This chapter goes through the first steps in order: what to capture at the scene, what the emergency room can and can't see, who to talk to and who to hold off on, how an insurer approaches a claim, and the California deadlines that apply. The general advice about what to do after an accident is easy to find. What's here is the part I see people miss, and why each piece matters months later, when the claim is being priced.

> *"And you think what you're telling this doctor is just you helping you get treatment. But if you don't know the moving parts, you don't know that all that's gonna be shown to the insurance company, you can unknowingly do things that will damage your claim even though you don't really mean that."*
>
> — LIAM PERRY, ON WHAT YOU SAY TO DOCTORS AFTER A CRASH

At the scene: the photo that matters most

If you're badly hurt, call an ambulance and let everything else wait. If you're able to document the scene, the first thing to get is the other driver's insurance information. We see this go wrong a lot. People forget to ask, or the other driver leaves, or flees. When that happens, a photo of the license plate is what I want more than anything else, because with a plate we can track down who it is.

So when you photograph the vehicles, get the plates in the shots. A photo of the plate makes it very hard for a driver to take off and later claim they weren't involved.

Everything else at the scene can wait, including the arguments about who was at fault and any call to an insurance company. Talk to a lawyer before you talk to any insurer.

What the emergency room can see, and what it can't

Go to an emergency room, or at least an urgent care, then follow up with your primary care doctor and don't wait. Being told to go home and rest is not being told to stop seeing doctors. An ER is built to catch emergencies like a bleed or a fracture, not every injury that surfaces later; Chapter 3 explains the rest and how treatment gaps are read.

Be careful, too, with what goes into the chart. A doctor asks how the accident happened, and a shaken-up patient answers, "I was in a car accident, but I don't really remember how it happened." The insurance company can later use that sentence to suggest you ran the red light. And if you're still in pain, say so at every visit.

Before you call any insurance company, including your own

Many people assume their own insurer is there to help them. Often it has money at stake too. If you carry uninsured or underinsured motorist coverage, UM/UIM, your own insurance company may be on the hook for some amount, which gives it some of the same incentives as the other driver's insurer not to pay. You can be on what looks like the same team and not be. The only thing you need to do with your own company before you have a lawyer is report the claim and report that you were injured.

> *"You do not want to do a recorded statement without a lawyer. You definitely do not want to talk to the other side's insurance company."*
>
> — LIAM PERRY, ON THE FIRST CALLS AFTER A CRASH

The calls will come anyway. An adjuster will be as friendly as possible, want to make sure you're okay, and ask you to stay in touch. Those calls exist to gather information, and you can let them go to voicemail. Something as ordinary as saying your back is a little sore but you're fine gets recorded, and a year later the part that matters to the other side is "I'm okay," set beside your claim that you were injured.

Treatment updates are another place claims get lost. Someone calls an insurer, mentions they're going to physical therapy, and hears that the company will pay for all of it if they just sign a piece of paper. Then they've signed their claim away. Or the insurer says it will cover all the medical bills, and when the bills arrive, it doesn't want to pay all of them. Once the scene is documented, your job is to get treatment and do everything you can to get better. The bills and the updates are the lawyer's job.

Delay, low offers and the cost of settling early

An insurer evaluating a claim looks for reasons to offer less or to deny it. Fault is the first: in a head-on collision, if they can say you were over the double yellow, the offer may be zero, however serious the injuries. Gaps in treatment are the most common reason, and they're why I keep returning to follow-up care. Delay is another. If a company expects to pay eventually but can stretch a case out for three years, the money sits in an account earning interest in the meantime, and some people get frustrated enough to settle for less. Even simple rear-end cases that should be paid promptly end up in litigation, and some reach trial. None of this requires a villain. It's the economics of the business, and because it's predictable, it can be planned for.

Settling early is the one mistake that can't be fixed later. "I just wanna get this over with" is a feeling I understand completely. But if you settle before anyone knows whether you'll need a specialist, imaging or surgery a year from now, we're shooting in the dark, and the claim is much more likely to be undervalued, by the insurance company and sometimes by the injured person too.

A claim's value follows the treatment more than the property damage, as Chapter 2 explains.

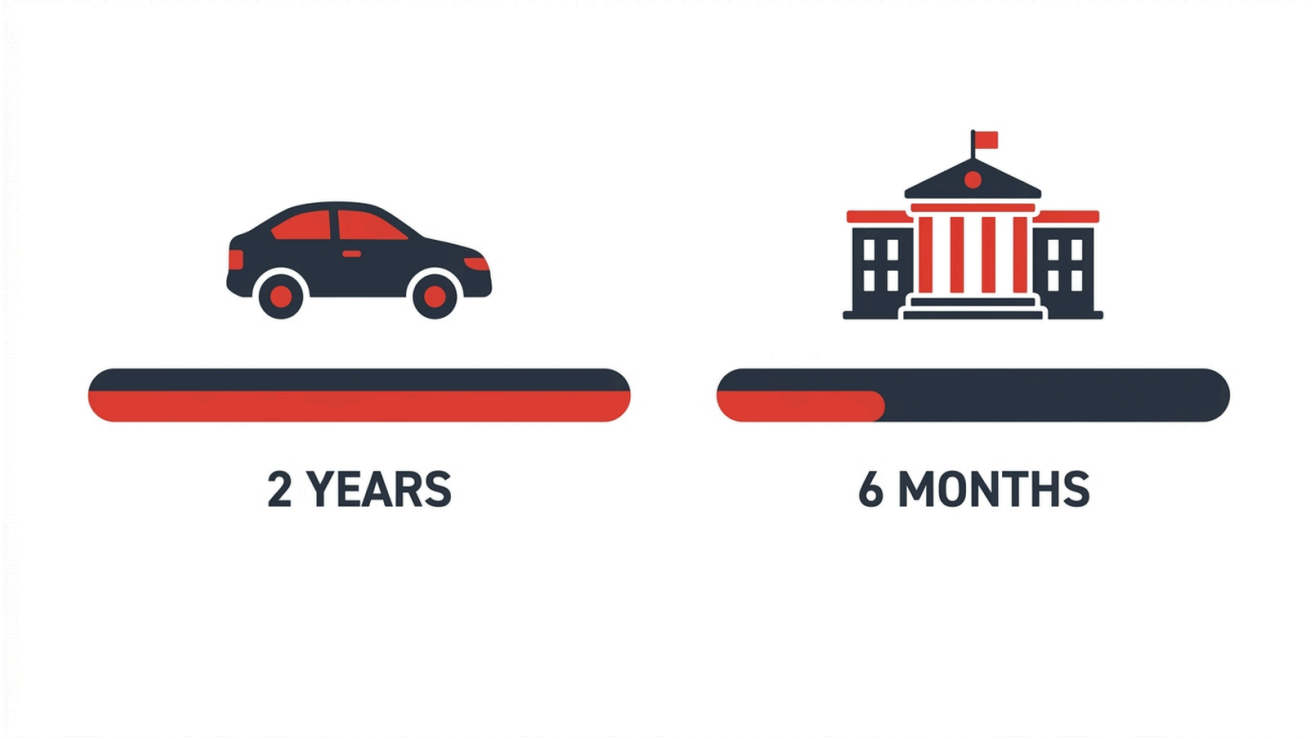
California deadlines: two years, and sometimes six months

For a standard California injury claim, such as a normal auto accident, the statute of limitations is two years (**California Code of Civil Procedure section 335.1**). When a government vehicle is involved, the first deadline is much shorter. If a Caltrans truck or a city vehicle hits you, a claim generally has to be presented to the public entity within six months (**Government Code section**

911.2), and if nothing is done in that window, you can lose the claim. The same short window applies when someone is hurt on public property, such as a city sidewalk or a government building, which Chapter 9 covers.

I see what happens when people don't know this. Someone gets hurt, treated for seven, eight or nine months, decides they're injured badly enough to pursue a claim, and learns the six-month window has closed and the government claim may be lost. A person can be left with a lifelong injury and no compensation for it, only because nobody contacted a lawyer soon enough. It isn't always obvious who owns a piece of property, either, or whether a city or the state is involved, which is one more reason to get those questions answered early.

Filing the case itself is a car accident attorney's responsibility. Most of the cases my office files go to San Diego Superior Court, and wherever a case is filed, it has to be filed inside the deadline, even if that means filing quickly to preserve it.



Most California injury claims allow two years. A claim against a city or other public entity must be presented within six months.

Common Questions

What should I do right after a car accident in California?

Get medical care first, at an ER or at least an urgent care, and call an ambulance if you're badly hurt. If you can, get the other driver's insurance information. If the driver leaves, photograph the plate. *"If you can get a photo of the license plate, that's, like, the biggest thing, 'cause we can track down who it is with a photo of the license plate."* Then follow up with your own doctor.

Should I talk to the insurance company after a car accident?

Not before you've talked to a lawyer. Report the claim and the fact that you were injured to your own insurer, but don't give a recorded statement, and don't discuss the crash or your treatment with the other driver's insurance company. The calls are friendly, and anything you say, including "I'm okay," can be recorded and used later. Your own insurer may also owe you money under UM/UIM coverage.

How long do I have to file a car accident claim in California?

Two years for a standard injury claim from a normal auto accident. If a government vehicle was involved, such as a Caltrans truck or a city vehicle, a claim against the public entity generally has to be presented within six months. Because people often keep treating for months before thinking about a claim, and because it isn't always clear whether a public entity is involved, it's safer to talk to a lawyer early.

What mistakes can hurt a car accident claim?

The ones I see most are not getting the other driver's information, calling insurance companies too early, and treating go home and rest as a reason to stop seeing doctors. Others are telling a doctor you don't remember how the crash happened, reporting that you're nearly recovered when the pain returns as soon as treatment stops, signing paperwork in exchange for paid therapy, and settling before anyone knows whether you'll need surgery.

Why does the insurance company keep calling to check on me?

The calls are part of how a claim is evaluated. An adjuster will be as friendly as possible and ask you to stay in touch, but the purpose is to gather information, including statements that can later be used to lower the claim. You don't need to answer your own insurer's calls beyond reporting the claim and your injury, and you can let the other side's calls go to voicemail.

Chapter Reflection

Every mistake in this chapter starts as an ordinary, reasonable act that someone pricing the claim reads later: resting at home, being polite on the phone, telling a doctor the truth, that you're confused. The answer is to know, before the first call comes, how each of those moments will be read, without becoming suspicious of everyone who asks how you're doing. Hindsight is always 20/20, and the point of these pages is to give you some of it while it can still change the outcome.

Frequently Asked Questions

How long do I have to file a personal injury claim in California?

For most injury claims, two years from the date of the injury, under California Code of Civil Procedure section 335.1. A claim involving a public entity, such as a city vehicle or a city sidewalk, generally has to be presented in writing within six months, under Government Code section 911.2. Liam sees people treat for seven or eight months first and miss it. Chapter 12 covers both deadlines.

How much does it cost to hire a personal injury lawyer?

Perry Personal Injury Lawyers works on contingency: no attorney fee unless there is a recovery. Liam explains that the firm covers the cost of filing a lawsuit when one is needed to protect a claim, and that a client whose claim turns out not to be worth pursuing owes the firm nothing. As he puts it: *"Up until that point, we effectively work for free."* The written fee agreement sets out the percentage and how costs are handled.

What is my personal injury case worth?

On day one, nobody can say, and Liam treats an office that quotes a number that early as a warning sign. A range comes once treatment shows where the injury is heading, and Chapter 2 explains how it is built. As Liam says: *"But to do that on day one would be shortsighted, and we explain to clients why we can't do that."*

Should I give a recorded statement to the insurance company?

Not before talking to a lawyer. Liam's advice is to report the claim to your own insurer, say that you were hurt, and let calls from the other driver's insurer go to voicemail. An early "I'm probably fine" on a recorded call is the line that gets read back once the injury turns out to be serious. The firm's page on what a car accident attorney does covers the rest of that first contact.

What if the at-fault driver has no insurance or not enough?

Your own uninsured and underinsured motorist coverage, called UM/UIM, can make up the difference. California's minimum policy is 30/60, which caps one injured person at $30,000 from the at-fault driver, and Liam notes that a single ER visit after a major crash can use that up. With $100,000 in UM/UIM, a person who collects $30,000 from the other driver can seek up to $70,000 more from their own policy. Chapter 4 explains how the layers stack.

Can I recover if I was partly at fault?

Yes. California uses comparative negligence, so a recovery is reduced by the injured person's share of fault instead of being barred. On the podcast Liam puts it in numbers: 30 percent at fault on a $100,000 verdict still leaves $70,000. There is no cutoff, so even a person found 70 percent at fault can recover 30 percent. A fault percentage an adjuster assigns early in a claim is a negotiating position, not a finding, and it can be challenged.

Do I need to see a doctor if I feel fine after an accident?

Yes. Go to an emergency room or urgent care, then follow up with a primary care doctor. An ER rules out what could be life-threatening, not a disc injury or a mild brain injury, so a clean CT scan does not settle the question. Chapter 3 explains why the record from those first weeks proves the injury later.

How long does a personal injury case take?

It depends on the injury. A claim cannot be valued until treatment shows where the injury is going. For a brain injury, Liam tells clients to plan on at least two years, because what is permanent does not become clear until about 18 months to two years after the injury. A larger case that goes into litigation can run several years, with opportunities to settle along the way.

Can I switch lawyers if I am unhappy with mine?

Yes. Liam's view is that if your lawyer is not paying close attention to your medical care, or your questions are not getting clear answers, it is time to find a new one. A good firm stays involved during treatment, wants to hear from you after each specialist visit, and explains the law, the medicine and the process in everyday language. On a truck, rideshare or premises case, a good firm can also tell you whether a preservation letter went out.

What should I bring to a first consultation?

Whatever you have. That includes photos of the scene and the vehicles, with the license plates visible, the other driver's insurance information, the names and numbers of any witnesses, and every medical record and bill so far, starting with the ER or urgent care visit. Bring your own auto policy too, since your UM/UIM and MedPay coverage may matter. If something is missing, call anyway. A plate photo is often enough to track down a driver who left.

Conclusion

The cases I've seen go well share a pattern: the injury was written down from the first visit, the evidence was preserved before a retention policy erased it, and when someone understood the medicine well enough to know which doctor the person needed to see next. The size of the crash and the drama of the story matter less than any of that.

That holds for a rear-end crash on the I-5, a fall in a grocery store aisle, a cyclist hit at an intersection and a family living with a brain injury that never showed up on a scan. The rules on fault and coverage change with the kind of case. What does not change is that a claim is built out of records, and records are built one appointment at a time.

I think a lot of people wait because they are not sure they need a lawyer. I understand that. But you can always decline to pursue a claim later. You cannot go back and recover video that was recorded over, or fill in six months of treatment that nobody wrote down.

That is why my firm stays involved through treatment instead of waiting to hear when it is over, and tells clients what is coming before it comes. One of the things I hate most is feeling like I am in the dark, and I never want a client to feel that way about their own case.

Every case is different, and nothing in these pages is advice about yours. If you were hurt in California and want to talk through what happened, you can contact the firm or call (760) 633-2233. Someone answers that line 24 hours a day, and the first conversation is free.

Final Takeaways

1. There is no sticker price on an injury claim. Value follows the injury, the treatment, and how well both are documented.
2. The medical record carries the case, so go to an ER or urgent care, follow up, and report every symptom at every visit.
3. Being told to go home and rest is not a reason to stop seeing doctors, because a gap in treatment is read as recovery.
4. Check your own UM/UIM coverage now. The other driver may carry only California's 30/60 minimum.
5. Sharing the blame for a crash shrinks a California claim without killing it. There is no fault cutoff.
6. A prior injury can raise a claim's value rather than end it when the crash made the condition worse.
7. Truck data, dash cam video and store footage are overwritten on short cycles, so preservation letters have to go out early.
8. In an Uber or Lyft crash, the app period the driver was in decides the coverage, and app data proves which period it was.
9. A clean CT or MRI does not rule out a brain injury. Symptoms documented consistently over time can prove it.
10. Most claims must be filed within two years, and a claim against a public entity can have a six-month deadline.

About the Author



Liam Perry, founding attorney of Perry Personal Injury Lawyers.

Liam Perry is the founding attorney of Perry Personal Injury Lawyers, a California firm that takes car, truck, motorcycle, bicycle, pedestrian, rideshare and slip and fall injury claims. He is licensed by the State Bar of California under bar number 296507. The firm, legally Perry Law, Inc., handles personal injury claims exclusively, for the clients he describes as everyday people: the painter, the welder, the accountant.

Liam grew up on California's Central Coast and graduated from high school in Morro Bay. He earned a bachelor's degree in political science from the University of California San Diego, worked for a year, and then attended the University of San Diego School of Law. He was admitted to the State Bar of California on May 24, 2014, and has practiced in the state since. His father practiced family law, and Liam credits that household with teaching him to stand up for the underdog.

After law school, Liam spent about six years at a civil litigation firm, much of it business litigation and insurance coverage work. That work is why he describes his current practice the way he does: *"So I now get to sue the insurance companies that I was previously representing."* He left a partner-track position to take on personal injury cases referred by a friend's firm in Los Angeles, often cases that needed a different view, and went on to build his own firm. Perry Personal Injury Lawyers is headquartered in San Diego and offices in Encinitas, Costa Mesa, La Mesa, Oceanside, Victorville and La Quinta.

One of Liam's first cases as a plaintiff's attorney was a wrongful death claim for the children of a woman killed by a truck whose driver admitted fault, with a million-dollar policy behind it. The attorney representing three of the children believed cases in the Central Valley did not settle for that much and had spent months seeking about $200,000. Liam wrote the demand, and the claim settled within a week for the million-dollar policy. Another case he points to involved a deaf client T-boned by a truck whose insurer said dash cam footage showed she ran a red light. After years of litigation the footage showed she had the green light the whole way, and she is now taken care of for the rest of her life. Each result turns on its own facts and does not predict the outcome of any other case.

Liam's practice is built on keeping clients informed. He lays out the life cycle of a case at the start, helps injured people reach the right specialists, and asks adjusters and defense counsel to put their positions in writing. Outside of casework, he and the firm take on volunteer matters without a fee and work with the Consumer Attorneys of California on legislation that affects injured consumers. He hosts Personal Injury Law Uncovered w. Liam Perry, available on Spotify, Apple Podcasts and the firm's YouTube channel, and his host page on the podcast site lists his episodes. His license can be confirmed on his State Bar of California profile .

Readers who want to talk through their own situation can schedule a free consultation or call (760) 633-2233, a line answered 24 hours a day, seven days a week.

Appendix: Sources & Methodology

The positions in this book are Liam Perry's own, taken from the recorded episodes of Personal Injury Law Uncovered w. Liam Perry. This page lists those episodes and the laws the book cites, so each point can be checked against its source.

Recorded Episodes

- **Episode 1: The Story Behind Liam Perry, a California-Based Lawyer.** Liam's education, career and approach to practice, the source for About the Author. The Story Behind Liam Perry
- **Episode 2: How Do Personal Injury Cases Work in San Diego, CA? 9 Case Types Explained.** The roundup of every kind of case the firm handles, drawn on in Chapters 1 through 10 and Chapter 12 and in Frequently Asked Questions. 9 Case Types Explained
- **Episode 3: Proving a Traumatic Brain Injury With a Clean MRI.** Brain injury proof and valuation, the deadline and fee discussion, used in Chapters 1, 2, 4, 5, 10, 11 and 12 and in Frequently Asked Questions. Proving a Traumatic Brain Injury With a Clean MRI
- **Episode 4: What a Car Accident Settlement Is Worth.** Economic and non-economic damages, medical documentation, policy limits and the T-bone brain injury case, used in Chapters 1 through 5 and Chapter 10.
- **Episode 5: Right of Way and Fault When a Cyclist Is Hit.** Bicycle and pedestrian right of way and fault, used in Chapter 6.
- **Episode 7: Why a Truck Crash Case Is Nothing Like a Car Accident.** Federal trucking rules, electronic logging devices and the parties behind a truck, used in Chapters 3 and 7.
- **Episode 8: Slip and Fall, Premises Liability and Proving Notice.** Notice, sweep logs and surveillance footage, used in Chapter 9.
- **Episode 9: Hurt in an Uber or Lyft: Who Pays and the $1 Million Policy.** Rideshare coverage periods, used in Chapter 8.
- **Episode 10: How to File a Car Accident Claim and Mistakes to Avoid.** The first steps after a crash and the mistakes that cost people their claims, used in Chapters 2 through 5 and Chapter 12.

Statutes & Codified Law

- **California Code of Civil Procedure section 335.1.** The two-year deadline for most injury claims, Chapters 9 and 12 and Frequently Asked Questions.
- **California Government Code section 911.2.** The six-month public-entity claim deadline, Chapters 1, 9 and 12 and Frequently Asked Questions.
- **California Business and Professions Code section 6147.** Written contingency fee agreements, Chapter 1 and the Legal Notice.
- **California Vehicle Code section 16056.** The 30/60 minimum policy, Chapter 4.
- **California Insurance Code section 11580.2.** UM/UIM coverage, Chapter 4.
- **California Public Utilities Code section 5433.** Rideshare coverage periods, Chapter 8.
- **California Vehicle Code section 21200.** A cyclist's rights and duties, Chapter 6.
- **California Vehicle Code section 21760.** The three-foot passing rule, Chapter 6.
- **California Vehicle Code section 21950.** Yielding to pedestrians in crosswalks, Chapter 6.
- **49 CFR Chapter III, Subchapter B.** Federal truck safety regulations, Chapter 7.
- **49 CFR Part 395.** Hours of service of drivers, including electronic logging devices, Chapter 7.

Methodology

This book was written from the recorded episodes listed above, in Liam Perry's voice, and every passage set in quotation marks is his own words as he said them on the podcast, with only spoken filler removed. Where he qualified an answer, the book keeps the qualification, and where a case result is described, it appears as he described it. Points of California law are tied to the code section that governs them so a reader can check the rule directly. Nothing in this book is offered as legal advice for a specific case.

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