



I JUST GOT IN A SOUTH
CAROLINA CAR ACCIDENT.
NOW WHAT?

THE BASICS OF SOUTH CAROLINA
CAR ACCIDENT CLAIMS

ROB USRY

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CAR ACCIDENT CLAIMS

ROB USRY, ATTORNEY AT LAW

WORD ASSOCIATION PUBLISHERS

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A LITTLE MORE ABOUT ROB USRY AND HOLLAND & USRY



I've been helping accident victims since I started practicing law in 2001. I've tried these cases to jury verdict, and handled cases from state court to federal court.

Bob Holland is the founder of our firm. He started practicing law in Spartanburg in 1975. In that time, he's handled hundreds of crash claims from state court to federal court.



John Holland has been a lawyer since 2007. Since then, he's handled a number of crash claims.

These cases form a major part of our practice, and we're proud to help crash victims. We often work as a team. We know unjust insurance companies often aggravate the turmoil suffered by serious injury victims and survivors. We work to lighten your burden and maximize your compensation. **Call us to schedule a free meeting at 864.582.0416 or toll free at 877.230.1841** to discuss your case. If you can't come to us, we will gladly come to you.

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AN IMPORTANT NOTE FROM ROB USRY

The aim of this book is to provide basic information answering the question “I just got in a South Carolina car accident. Now what?” It even sheds a little light on how you can protect yourself and your family before an accident- see Chapter 5.

Read the whole book. While I tried to be as comprehensive as possible about some of the basic issues that come up in these cases, I do not pretend to address every possible question that might arise in car accident cases. As always, if you have a question that’s not answered here or you are too hurt, overwhelmed, or too worried to handle your car accident case, Holland & Usry will be delighted to talk to you on the phone or meet with you to discuss your case. Call us at 864.582.0416 or toll free at 877.230.1841. If you are too hurt to come to us, we will come to you. Feel free to check us out on the web at www.bhollandlawfirm.com.

This book concerns only South Carolina car accidents. Like all lawyers at Holland & Usry, I am licensed to practice law in South Carolina only. Any statements made about the law or procedure concern only South Carolina law. Crossing another

state's line is sometimes like crossing into a foreign country – the laws may be totally different. If you are involved in a car accident outside South Carolina, you need to find a lawyer in that state. Feel free to call us to see if we can put you in touch with one.

This book is not intended to create, and does not create, an attorney-client relationship.

The only purpose of this book is to give some basic information. The content of this book is not legal advice. The authors and publisher make no warranties, express or implied, and accept no responsibility or liability about the accuracy or completeness of the content, especially as it relates to the reader's specific legal situation. The content does not give, and is not intended to give, a general solution for all apparently similar legal situations, since slight changes in facts may require totally different action or create a totally different outcome. Every case involves different facts, and those facts determine the outcome more than anything else. A single different fact can change everything. Think about it like this- the difference between 12 A.M. (midnight) and 12 P.M. (noon) is the difference between night and day.

For advice on your legal situation, you should personally consult a lawyer. We'd be delighted to talk to you. Call us today at 864.582.0416 or toll free at 877.230.1841 to schedule your consultation.

CHAPTER 1

LAST THINGS FIRST

One of the first things you need to know is the last chance you have to make a claim. If you get hurt in a car accident, there is a legal deadline to file a lawsuit called a “Statute of Limitations.” If you miss the deadline, your case will be thrown out of court and you will never be able to recover any money.

In South Carolina, the Statute of Limitations is 3 years from the date of the accident for most cases, but just 2 years if the accident involves a government vehicle, like a police car.

Making sure the Statute of Limitations does not expire on your claim is one of the many reasons you should immediately consult a lawyer if you’ve been injured by someone else. The lawyers at Holland & Usry know how to handle these cases, and we pride ourselves on working promptly, so if you’ve got a car accident claim, call us **RIGHT NOW BEFORE IT’S TOO LATE** at 864.582.0416 or toll free at 877.230.1841 to see if we can accept your case to quickly preserve your legal rights.

CHAPTER 2

WHAT DO I GET MONEY FOR?
ACHIEVING THE GOAL OF YOUR
CLAIM.

Car accident victims can recover money for harms and losses caused by the accident, called damages, such as:

1. Medical bills;
2. Lost wages, including overtime and vacation/sick leave;
3. Pain, discomfort, and suffering;
4. Physical/Mental disability;
5. Disfigurement/Permanent scarring;
6. Emotional trauma;
7. Mental anguish;
8. Loss of enjoyment of life;
9. Embarrassment;

10. Property damage;
11. Out of pocket expenses as a result of the injury, such as transportation, house cleaning, yard work, etc.;
12. Punitive damages to punish the wrongdoer where the injuries are caused by reckless conduct. This is often proven by showing the wrongdoer caused the accident by breaking a traffic law, like running a red light.

Spouses of injured victims can recover damages for loss of the marital relationship ordinarily provided by their injured spouse including affection, companionship, comfort, and help around the household like cooking, cleaning, running errands, helping with childrearing, etc.

The goal of your injury case is to obtain full money compensation for all of your damages. Achieving this goal requires an organized presentation of your claim to the insurance company to make it clear the at-fault driver caused the accident and all your damages. At Holland & Usry, we work to achieve this from the moment we take your case by gathering evidence and submitting it to the insurance company in packages designed to maximize the amount you recover. For serious injuries, we often compile and send several of them as you continue to undergo medical treatment. We meet with you regularly to keep track of your pain and limitations from the accident. If you're seriously hurt or unsure how hurt you are or just don't know what to do, call us at 864.582.0416 or toll free at 877.230.1841 to schedule a free meeting to see what we can do to help you.

CHAPTER 3

WHEN THE WORST HAPPENS- WHAT IF THE ACCIDENT CAUSES DEATH?

Wrongful death is a legal term for the claim made when an accident causes the victim's death. South Carolina law allows certain relatives of the victim, usually the spouse, children, and/or parents, to be compensated for their emotional trauma caused by the death, the loss of the victim's companionship, funeral expenses, and the victim's lost earnings that would have contributed to supporting the family.

The victim's estate may also have a **survival** claim to recover for the victim's medical bills, as well as the victim's conscious pain, suffering, and mental distress caused by the accident.

Just having to consider making a wrongful death and survival claim is devastating. The law on who can recover can be complex, and developing some of the evidence can be challenging, like proving a lifetime of lost wages, which involves setting the legal life expectancy and calculating the present value of all wages and benefits. Because the claim is

bigger, the insurance company often fights you harder, making an already tragic situation worse. Grieving people make bad decisions or give up too easily, and insurance companies can capitalize on this to settle cheap with distraught victims.

If you've lost a loved one in an accident, you owe it to yourself and your family to meet with a lawyer experienced in these claims. We look after folks like you at Holland & Usry. You don't have to add to your burden by going it alone against the insurance company, which could force you to constantly relive the tragedy, respond to insurance adjuster demands, or try to get the insurance adjuster to call you back. Call us today at 864.582.0416 or toll free at 877.230.1841 to schedule a free meeting to see what we can do to lighten your load.

CHAPTER 4

DO I STILL HAVE A CASE IF I WAS PARTIALLY AT FAULT?

Possibly, based on the law of comparative negligence. Comparative negligence requires a jury to compare the carelessness of the drivers involved in an accident to figure out how much each driver contributed to the accident.

If the injured party is found to be **more** than 50% at fault, he cannot recover at all. This makes sense- the accident was his fault!

If the victim is found to be **less** than 50% at fault, his damages are reduced by the percentage of the victim's fault. At trial, it works like this: The jury finds a victim 25% at fault in causing an accident. The jury finds his damages to be \$100,000. The judge will reduce the damages by the 25% the victim contributed to causing the accident, which is \$25,000, resulting in a final verdict of $(\$100,000 - \$25,000) = \$75,000$.

Partial fault makes your claim harder. The insurance company may dig in its heels. If you're concerned your partial fault

could lose your claim or get you shortchanged, call Holland & Usry at 864.582.0416 or toll free at 877.230.1841 to schedule a free meeting to evaluate your claim and discuss how we can show the other driver should shoulder the responsibility for the crash.

CHAPTER 5

WHERE DOES THE MONEY COME FROM? YOU MIGHT BE SURPRISED.

Most folks already know the primary source of compensation for a car accident comes from the at-fault driver's auto liability insurance policy. Every driver is required to carry liability insurance to compensate victims when they cause a car accident. South Carolina law requires at least \$25,000 coverage – this is called a “minimum limits policy.” Given the high cost of health care today, a driver with a minimum limits policy who seriously injures you can doubly victimize you by leaving you with enormous medical costs, plus not compensating you for lost wages and all the other damages listed in Chapter 2.

There is a way to protect yourself from drivers who do not carry enough insurance, and the best thing about it is, you can get it before an accident ever occurs. **It's called underinsured motorist coverage, or UIM - and it's on your auto policy.** UIM pays out when an at-fault driver does not have enough liability insurance to fully pay for your injuries. Your UIM coverage will pay the rest, or at least pay more than you would've gotten without it. The

way it usually works is, once you settle your claim for the at-fault driver's liability limits, you make a UIM claim with your insurance company for more money. UIM coverage can be the difference between paying all the liability insurance to medical providers and getting money in your pocket for what you suffered. **I cannot emphasize how important UIM is. If you get severely hurt by an at-fault driver with a minimum limits policy and have no UIM, the liability insurance money probably won't even cover all your medical bills.**

The most important reason to get your liability limits as high as possible is this: **Your UIM coverage cannot be more than the limits of your liability policy.** For example, if your policy is minimum limits, you can get only minimum limits UIM. If you have a \$100,000 liability policy, you can get UIM coverage up to \$100,000.

UIM coverage is so important that your insurance agent is legally required to offer it to you using forms giving you certain information about the coverage. If your agent doesn't offer UIM properly, you can get a court order giving you coverage for the accident. While doing this is complicated, we've been able to get UIM for some of our clients who actually rejected the coverage, sometimes without ever going to court.

A hidden benefit of UIM makes it wise to get UIM on every car you own in your household. Sometimes UIM can be "stacked", meaning you can collect the policy limits on your car, then every other car in your household that has UIM until you use up all the coverage or reach an amount to fully

compensate you. Generally, to qualify for stacking, the accident must involve a vehicle covered by UIM **and** you must be the UIM policyholder, or married to the policyholder, or a relative residing with the policyholder.

Stacking means if you have three cars in your household with \$100,000 UIM on each car, you might have access to up to \$300,000 in extra coverage to protect you.

In my opinion, if you don't carry as much UIM coverage as you can possibly afford, you are choosing to *not* protect yourself and your family. The time to take action is now, because after the car accident, it's too late. Review your policy for this vital protection. If you don't have it, call your agent. If you do, call your agent and discuss getting more. Don't assume you have it- **“full coverage” DOES NOT MEAN you have UIM.** We all know there are some truly irresponsible drivers out there. The best possible thing you can do is make sure you have plenty of insurance to protect yourself and your family. You might be shocked how little this extra insurance costs, and it will be worth its weight in gold if you ever have to use it.

UIM coverage and stacking law can be very complex. The ability to stack and coverage amounts can vary based on many factors, including multiple policies in a household, different policy limits among vehicles, and whether a victim is considered a “relative” under South Carolina law, just to name three.

If you're in an accident with injuries serious enough to need UIM, you owe it to yourself and your family to have an experienced car accident lawyer handle your case to keep you from overlooking coverage you're entitled to or from shortchanging yourself. Seriously hurt people make mental mistakes or give up too easily, which is what the insurance company counts on to get out of the claim cheap. At Holland & Usry, we take pride in our ability to carefully review your insurance policies to exhaust all possible avenues of coverage and build a case to maximize your compensation, so you can focus on getting better. You don't have to take the risk or the burden of going it alone. Call us today at 864.582.0416 or toll free at 877.230.1841 to schedule a free meeting to see what we can do to help protect you and your family.

CHAPTER 6

WHERE DOES THE MONEY COME FROM IF I'M THE VICTIM OF A HIT-AND-RUN, OR THE AT-FAULT DRIVER HAS NO INSURANCE?

You can still get help from your own policy. Every driver in South Carolina must carry uninsured motorist coverage, also called UM, which pays if the at-fault driver cannot be caught, or has no car insurance. **Your uninsured coverage cannot be more than your liability limits, yet another reason you should get as high a liability limit as possible (the other important reason is in the box on page 19).**

UM can sometimes be stacked, similar to UIM, as generally described in Chapter 5. In some situations, if your UM is not enough to fully compensate you for the accident, you can use your UIM, which is discussed in the prior chapter.

The law of UM coverage and stacking can be very complex. **If you're seriously hurt in an accident caused by a hit-and-run driver or an uninsured driver, you owe it**

to yourself and your family to have an experienced car accident lawyer handle your case to keep you from overlooking coverage you're entitled to or from shortchanging yourself. Seriously hurt people make mental mistakes or give up too easily, which is what the insurance company counts on to get out of the claim cheap. At Holland & Usry, we take pride in our ability to carefully review your insurance policies to exhaust all possible avenues of coverage and build a case to maximize your compensation, so you can focus on getting better. You don't have to take the risk or the burden of going it alone. Call us today at 864.582.0416 or toll free at 877.230.1841 to schedule a free meeting to see what we can do to help protect you and your family.

CHAPTER 7

HOW DO MY MEDICAL BILLS GET PAID? YOU MIGHT BE SHOCKED.

I'll get right to what shocks a lot of car accident victims: The at-fault driver's auto insurance *won't* pay your medical bills as they come in. That remains your responsibility. Hopefully, you have options:

Option 1: If you have health insurance, use it. You've paid for it, and this is exactly what it's for. Using your own health insurance to pay these claims will keep you from being buried under the mounds of bills and the unneeded stress that comes with them.

If you did not immediately file your bills with health insurance, it's probably not too late. If you declined or forgot to mention you had health insurance, you should still try to file it. Almost all medical provider bills have a section you can fill in with your insurance information. Don't let a provider strong-arm you into not filing on your health insurance- you paid for it, and the provider agreed with your insurance company to take it.

A hidden benefit of using health insurance in a car crash claim. Evidence of health insurance payments is inadmissible in court. The reason is, at-fault drivers do not get credit for your good sense or good fortune in having health insurance. For purposes of your claim, the value of your medical bills is simply the amount of the bills. Here's how it helps you: Your health insurance pays your medical bills at a discount. But the at-fault driver's liability insurance should value the bills at the full amount. So if your health insurance company paid \$500 to pay a \$2,000 medical bill, the liability insurance should consider that a \$2,000 medical bill – which ought to get you a higher settlement than a \$500 medical bill.

NOTE: Your health insurance company will probably notify you of its claim to get part of your settlement for reimbursement of medical bills it paid. This is called **subrogation**. In many of our cases involving subrogation claims, we are able to convince the health insurance company to let our client pay it back at a discount. This makes sense, as we did the health insurance company's work for them, keeping the health insurance company from paying someone else to recover the money owed. Our clients get the extra amount.

Option 2: Your own auto policy might help pay. Your auto insurance policy may have a type of insurance called "Personal Injury Protection", or PIP. You can use PIP if you have health insurance, just remember your health insurance will probably make a subrogation claim as discussed above. PIP automatically pays your medical bills up to its limits, usually \$1,000 - \$10,000. Take a look at your policy and see

if you have any. If you don't, call your agent – this coverage is usually extremely cheap and can provide needed financial relief if you've been in an accident. Usually, all you do is set up the claim with your own insurance company and send them copies of your medical bills. Then they send you a check to reimburse you or, if you ask them to, send it directly to the provider. They generally let you choose which is best for you. As with health insurance, the at-fault driver's liability insurance gets no discount or benefit from your bills being paid by PIP.

If you have no health insurance, sadly, the enormous costs associated with healthcare can sometimes make obtaining proper care extremely hard. You will probably have to go to the ER or find a local free clinic. If you find yourself in this position and feel you have nowhere to turn, call us at 864.582.0416 or toll free at 877.230.1841 to see if we can point you in the direction of a community resource that could help you find care you need. Also, your medical providers may aggressively try to get all the auto insurance coverage paid to them, and might even threaten you with a lawsuit. At Holland & Usry, we've handled these really tough claims to help clients battle both the auto insurance company and their medical providers' bill collectors. If you've got no health insurance and got hurt in an accident, don't give up- call us to discuss how we can hold the bill collectors off and work towards a settlement where the medical bills are paid and you are compensated.

If you're unsure of your options, don't feel like wading through all the red tape, or are just hurt too badly to deal with all this, call Holland & Usry at 864.582.0416 or toll free at 877.230.1841 to

I JUST GOT IN A SOUTH CAROLINA CAR ACCIDENT. NOW WHAT?

schedule a free meeting to discuss if we can handle it for you or at least point you in the right direction.

CHAPTER 8

**CAN YOU GIVE A GENERAL
OVERVIEW OF HOW A CLAIM
WORKS?**

Generally, this is how a car accident claim works:

1. At the scene of the crash, the reporting officer will give you a green sheet of paper called an “FR-10.” Take this sheet to your insurance agent. Keep a copy to help you get an official crash report prepared by the officer.
2. You will soon be contacted by the insurance company of the at-fault driver. The person who contacts you is called an insurance adjuster. You can read more about the adjuster in the next chapter.
3. You will probably have two separate claims – a bodily injury claim and a property damage claim. There might be a separate adjuster assigned to each claim. If you make a “personal injury protection” (PIP) claim with your own insurance company, you will also have an adjuster for that. We address PIP in Chapter 7.

4. Claims are settled, or paid, when the insurance company has enough information to value the claim and it agrees with you to pay a certain amount of money to end the claim.
- **PIP** claims can usually be settled rather easily by simply sending copies of your medical bills to your insurance company. The insurance company will then send you a check reimbursing you or you can instruct them to send it straight to the provider.
 - **Property damage** claims are usually the next easiest to settle, especially if you agree to settle for the fair market value of your vehicle if it's unrepairable, or for the amount of repairs to fix it. **But if you are involved in a crash where the at-fault driver did something criminal, especially a DUI, you may be entitled to punitive damages, which might be hard for you to get by yourself without a car accident lawyer.** To discuss whether this is an option for you and how our firm handles DUI crashes differently, call us at 864.582.0416 or toll free at 877.230.1841.
 - **Injury claims** are the ones that most often require a lawyer- but that doesn't mean always. If you have a simple claim where you went to the ER and then a couple visits of physical therapy for a sore back, you may be able to settle it yourself. **But don't even think about taking their money until** you're done treating and have copies of all your medical bills and records, plus any other evidence about the claim, like pictures, crash report, lost wage statements, etc., which we discuss later. Once you

have those, you can send them to the adjuster with a letter laying out how the accident was all the at-fault driver's fault and summarize all the damages you suffered from the accident, including a list of your medical bills and a request for an amount you think is fair to settle your claim. Then you can discuss settlement with the adjuster. But even in these simple claims, **if you are involved in a crash where the at-fault driver did something criminal, especially a DUI, you may be entitled to punitive damages, which might be hard for you to get by yourself without a car accident lawyer.**

- If you are **unsure** how seriously you are hurt or have **serious injuries**, like a broken bone or anything requiring a referral to a specialist, you should meet with a lawyer who handles car accident cases to be sure you're protected from being taken advantage of, settling too cheap, or cheating yourself out of extra coverage.
- **If your injuries will or even might require you to make a UIM claim, you owe it to yourself to call an experienced car accident lawyer with knowledge of how UIM works.** If you need to make a UIM claim, you cannot sign the typical document to end the claim with the liability insurance company, called a release. Plus, if you're that hurt, you need to focus on recovery and protect yourself from settling too cheap or overlooking coverage that you're entitled to. You need someone with an experienced eye to look over your shoulder about these complicated issues you face. Call us at 864.582.0416 or toll free at 877.230.1841 to discuss preserving your rights in

this claim. Not only will the meeting be free, but it might just keep you from losing out on a lot of money you need.

5. If an agreement cannot be reached between you and the insurance company, it's time to file a lawsuit. If you think you don't need a lawyer at this point, remember what Abe Lincoln said: "He who represents himself has a fool for a client." If you needed an operation, you wouldn't do it yourself, would you? The legal system is too complicated and what you could lose is too precious for you to risk making a huge mistake representing yourself. If you cannot come to an agreement with the insurance company, we will meet with you to evaluate your case for free. Call us at 864.582.0416 or toll free at 877.230.1841 for your free, no obligation meeting today.

CHAPTER 9

WHO IS THE INSURANCE ADJUSTER AND HOW DO I HANDLE HIM?

The insurance adjuster typically works for the liability insurance company of the person who hurt you. In a UIM or UM claim (see Chapters 5 and 6), the adjuster actually works for your insurance company. **Regardless of who he works for, the adjuster's primary goal is very simple— get the insurance company out of this as quick and cheap as possible.** The adjuster may be friendly, but he is not your friend. You must deal with him accordingly.

- If you have a **simple** claim, like you went to the ER and then a couple visits of physical therapy for a sore back, you may be able to handle the adjuster by yourself.
- If you have **serious injuries**, like a broken bone or anything requiring a referral to a specialist, you are probably hurt too badly to deal properly with this insurance professional. You need to focus on recovery and not worry about having your rights violated or

responding to repeated demands for information, or waiting for the adjuster to call you back.

- If you are **unsure** how seriously you are hurt, you risk torpedoing your claim by giving uncertain information to the adjuster.

If you are seriously hurt, unsure how your medical treatment will turn out, or unsure how to do deal with the adjuster, then don't immediately talk to the adjuster. Talking to an experienced car accident lawyer first is in your best interest. At Holland & Usry, we help people like you. Call us at 864.582.0416 or toll free at 877.230.1841 and set up a free meeting to discuss your claim and evaluate every possible insurance policy that could provide money to help you. Even if we don't accept your case or you decide not to hire us, it might give you peace of mind and some free pointers.

Typically, adjusters demand information and ask intrusive questions of hurt folks, like:

- **Adjuster tactic 1: Demanding a recorded statement. You don't have to. And if you do, anything you say can and will be used against you.** The reason they want a recorded statement right after the crash may seem innocent – your memory is fresh – but the truth is, you're still in the shock and pain of the crash and you'll probably forget something or worst of all, blurt you don't remember exactly how the crash happened or misstate something the adjuster can use to interpret you were at fault. That could

result in a total denial of liability and the ultimate loss of your entire claim.

Insurance adjusters use these statements to devalue your claim, like when you end up hurt worse than you thought at the time of the statement, or you couldn't find the words to describe all your injuries. A recorded statement can be used against you at trial.

If you are hurt badly or unsure about the outcome of your medical treatment, don't do it. People tend to downsize their pain or just not talk about it so they can get off the phone. They also forget to report every aspect of damage they incurred – see Chapter 2. Also, for serious injuries, that list tends to grow as time goes on.

Even if you have a simple claim where you're done treating after the ER and then a couple visits of physical therapy, **you should never, ever make a recorded statement to the adjuster until you're ready, meaning your head is totally clear and you have all information about all the injuries and losses you suffered-** medical bills, medical records, lost wage statements, pictures, witness statements, and the crash report. **The best thing to do** is just send the adjuster a letter outlining all you went through, attaching copies of your medical bills and records, pictures, lost wage statements, etc. That way, you totally control the information sent to the adjuster. **You can edit a letter, but not a recorded statement.** This brings us to:

- The most dangerous question the adjuster might ask – “**Have you ever had injuries similar to this?**” If you have, you need to be extremely careful about answering this. A similar injury from a very long time ago can be used by the adjuster to deny you compensation, even if it was totally healed before the accident.

Even if you have a prior injury you were being treated for at the time of the crash, you can be compensated if the crash makes it worse. **Be specific with all medical providers how the crash made it worse.**

- If you have a **simple** claim with no serious injuries and are handling it yourself, you need to be able to address it with the adjuster effectively. You should probably initially decline to discuss your injuries with the adjuster. Instead, tell him you’ll send him a letter summarizing your injuries with all the bills and records attached. Then get your medical records so you can see what’s in them. If the prior injury is in them, you can tell the adjuster in the letter how it got worse. That will require you giving deep thought to how it got worse so you can express it in explicit terms for the adjuster.
- If you are **seriously hurt or unsure how hurt you are**, the prior injury complicates your claim. Don’t let the adjuster devalue your legitimate injuries using the prior injury to cheapen your claim. You owe it to yourself to discuss it with an experienced car accident lawyer. Call Holland & Usry at 864.582.0416

or toll free at 877.230.1841 for a free discussion on how we can help you make the best possible claim showing how the crash worsened your prior injuries to maximize your compensation.

- **Adjuster tactic 2: Ask for an authorization to get all your private protected health information.** Do you really want a stranger going through every single doctor record you've ever had? Especially when he's trying to find you had a similar, totally unrelated problem years ago, so he can say you're not hurt from the crash and you're not entitled to any money? **Don't do it.** Even if you are handling your own claim because you are not seriously hurt, you get your own medical records and bills that were caused by the crash to send to the adjuster. You control the information he gets. Do not let the insurance company invade your privacy to unjustifiably fight you getting any money using a sore back from a long time ago as an excuse.
- **Adjuster tactic 3: Deny you a rental car when you can't drive yours because of the crash, until you prove it's their fault.** At the scene of the crash, you should get a green form called an FR-10 to give to your insurance agent. That form will have a box near the middle of it, where the officer circles who was at fault. That ought to get the adjuster to get you a rental car until he pays to fix your car or pays the fair market value of the one the at-fault driver totaled. Be sure to get a crash report as soon as possible after the crash in case you need to make it clear to the adjuster he owes you a rental car. Your agent or car accident lawyer can also help you with this. If you run into trouble from the

adjuster, feel free to call us at 864.582.0416 or toll free at 877.230.1841 to discuss your options.

- **Adjuster tactic 4: Refuse to pay you for the property damage of your car so you can get a new one until you prove the value of it.** There are many ways to prove the value of your car that can be done very easily – for example, you can go to the Kelly Blue Book value on the internet at <http://www.kbb.com>.

If you are involved in a really bad crash, especially involving a DUI, you might get paid more than fair market value, representing punitive damages. But you should expect a big fight on that. If this is the case, especially if you are seriously hurt, you should talk to a lawyer familiar with these cases. At Holland & Usry, we take DUI-related car crashes very seriously and handle them differently than other crash claims. If you've been involved in a DUI-related crash, call us at 864.582.0416 or toll free at 877.230.1841 for a free meeting for us to discuss some unique options you have to potentially develop a strong claim for higher compensation for the criminal act that hurt you.

If all of this overwhelms you or you don't want to compile all of this while you try to cope with serious injuries or just figure out how bad you're hurt, remember we do this for a living. Call us at 864.582.0416 or toll free at 877.230.1841 for a free meeting to see how we can help you deal with the adjuster.

CHAPTER 10

WHAT ARE SOME THINGS I CAN DO TO HELP MY CAR ACCIDENT CLAIM?

Often, there is no help like self-help, whether you have a lawyer or not. In fact, there are some things only you can do that even the finest car accident lawyer can't do for you, like work hard to get better from a serious injury. And even if you have a lawyer, remember your agreement with your lawyer is called the lawyer-client *relationship*, meaning you *both* have work to do to make your case a successful one. And just as your lawyer helps you, you help your lawyer.

The following are some things I've learned over the years handling car accident cases that victims can do to help themselves- whether you need a lawyer or not.

Tip #1: Take pictures.

A picture really does speak a thousand words. Thanks to most folks having camera phones, they're easier to get than ever.

The extent of vehicle damage is often a driving force in settlement amounts for car accident claims. Get pictures of the cars. If you can, take pictures at the crash scene- remember it'll soon be cleaned up and no one will ever see the mangled mess of cars caused by the at-fault driver. If at all possible, at least get pictures of all vehicles involved. This is especially true if the at-fault driver's car is damaged worse than yours. A primary insurance company argument in this situation is, "Your car was hardly damaged, so you're not really hurt." You can be virtually certain the adjuster will never give you pictures of the at-fault driver's car- if the adjuster even admits they exist. Telling him the at-fault driver's car was totaled could get you nothing more than "Prove it." Without pictures, you can't- and the only way to get them is file a lawsuit.

Photograph visible injuries and treatment. It's also important to photograph visible injuries like bruising, open wounds, stitches, and scars, especially right after the crash and at regular intervals as they heal until it's healed as best it will. Get pictures of you during hospital stays. If you need medical devices like crutches, get pictures of you using them. All this makes a record of the extent of your injuries and disabilities caused by them.

If you think a picture might help your case, take it. Be sure to print them out and save them on a disk.

You and your family/friends are the best people to take pictures. If you can't, your lawyer should do it for you. We've gone to junkyards and hospitals, plus had our clients come to

the office for regular photo visits to track the development of their injuries.

Tip #2: Take responsibility for your medical treatment.

Get medical treatment right after the crash. Even if you don't hurt all that bad, some injuries are hidden, and you need to protect yourself. Get checked out to be sure you really are OK.

Keep your doctor's appointments. If you regularly skip doctor's appointments, no one will believe you're hurt, especially not the adjuster.

Be honest and thorough in your reports to the doctor. You need to help him build a clinical record of all the harm the at-fault driver caused. **If it's the truth, it's not whining, it's reporting.** If called as a witness in the trial of your case, a doctor can only testify regarding what you told him about how you felt. If you are not feeling better, **be specific where it hurts, when it hurts, what it feels like, and what everyday things it makes impossible or harder to do.** On the other hand, if you are feeling better, tell the doctor.

If you have a prior injury you were being treated for at the time of the crash, be specific with all medical providers how the crash made it worse.

Tip #3: Take care of yourself.

Your main job is to overcome your injury. Insurance companies value claims based on what they think a jury would give the victim. A well-known jury consultant states, "Juries

help those who help themselves.” If your case is tried, the jury you ask for money compensation will be made up of your fellow Americans. Americans reward honesty and hard work.

Follow doctors’ orders. Get back to work as soon as your doctor permits. Get back to a normal life as much as you can, as soon as you can. Just don’t risk worsening your injuries by doing too much too soon.

If you suffer a disabling injury, look for ways to do something positive, like volunteering or offering comfort to other folks in your condition.

Tip #4: Make an accident folder.

Make one or more folders for accident-related information so you can find it easily. This will include the FR-10, the crash report, pictures, and especially letters from the adjuster. That way, you have proof of any agreement he makes with you or any statement he makes, which you can use to keep him honest if he contradicts himself or denies he told you something.

Tip #5: Keep copies of medical bills and other expenses.

In your accident folder, put copies of all medical bills from the accident. Also use it to keep copies of invoices or bills from expenses incurred due to your injuries, like if you need to hire a yard man to do the yardwork you can’t.

Tip #6: Keep track of lost wages and be able to prove it.

Keep a record of all time away from work. Get a doctor's excuse for missed work and make a copy. Give one to your employer and put the other in your accident folder. When you return to work for good, have your employer complete a wage loss verification in a form like this:

(Your name here), is an employee of **(your employer name here)**. This is to verify that due to injuries sustained on or about **(accident date)**, **he/she** lost _____ hours, and _____ days from the job, at a pay rate of \$_____ per hour; for total lost wages of \$_____.

Authorized Employer Agent

Position

Company Name

Company Address

Company Telephone

WITNESS

Date

Tip #7: Keep track of pain and suffering

Pain and suffering is measured by the items listed in Chapter 2, namely items 3-9. Not all of these items may apply in your claim. And you may suffer harm that cannot be easily put into these categories. To obtain full compensation for you, you need to be able to describe all the harm done to you, regardless of its nature. **Be honest. Be thorough. You are not whining if it's true- you are reporting. Remember we're blessed with a memory that loses unpleasant memories quickly. Make notes or a calendar for this, tracking what you go through on a daily basis.**

CHAPTER 11

TRACTOR-TRAILER ACCIDENTS-
NOT YOUR TYPICAL CAR
ACCIDENT, AND NOT JUST
BECAUSE THE INJURIES TEND TO
BE WORSE.

Tractor-trailer, 18-wheeler, and semi-truck accidents can be devastating. These are the most enormous machines on our roads, and when a truck driver doesn't look out for fellow motorists, lives can be forever changed by grievous injuries and even wrongful death. These cases are often more complicated than car crash cases. First, the injuries may be far worse, so the insurance company will probably fight harder against paying more. Second, different evidence may exist. For example, many tractor-trailers now have "black boxes" that record important data that can prove fault, including the truck's speed at the time of the crash. Third, **truckers and trucking companies are regulated not just by the rules of the road, but by federal law that imposes strict requirements to keep innocent motorists like you safe.** To maximize your settlement or verdict in cases involving severe injury or death

from a tractor-trailer accident, at Holland & Usry, we work to prove not only the trucker's liability for your injuries, but his employer the trucking company's **separate** liability for improperly hiring, training, and/or supervising the trucker.

Proving the trucking company violated federal safety regulations is often vital to this part of your case. For example, federal safety regulations require trucking companies to maintain driver logs showing when the trucker rested during trips to prove the trucker got a minimum amount of rest to safely drive. Regulations also require certain training before a trucker is qualified to operate the tractor-trailer, plus vehicle inspection records to prove the tractor-trailer is safe to drive.

While there are many sources of information that can aid our investigation, investigating the accident and proving fault can be hard. Trucking companies and their insurance companies regularly deal with these crashes, so they've become very skilled at defending against them. Sadly, **evidence can begin to disappear quickly**- especially crash damage to the truck. For that reason, it is important to talk with an experienced tractor-trailer accident attorney as soon as possible, since there is a way to protect your right to preservation of important crash evidence.

More importantly, it can be very hard or impossible to properly prove liability and your damages to maximize your settlement without an experienced tractor-trailer accident lawyer. It's even hard for lawyers sometimes- which is why at Holland & Usry, we sometimes hire trucking experts to help us make sure we get the right evidence and explain it properly to prove

the trucker and trucking company caused your injury. When necessary, we will hire accident reconstructionists, highway safety engineers, and other professionals who can provide insights about the cause of the crash and convincingly testify in court.

Getting the maximum settlement for a Spartanburg tractor-trailer truck accident is not easy. While you have a legal right- and potential need- to claim compensation, the insurance company will be in no hurry to pay, and may try to avoid responsibility completely. Trucking insurance companies fight hard to beat down severely injured motorists to settle cheap. **And like any car accident case, you may have access to additional insurance coverage on your own policy that you might need- see Chapter 5. Don't risk shortchanging yourself, overlooking coverage you need, or making a settlement decision without knowing more about how trucking accidents are different.** If you've been seriously hurt by a tractor trailer accident, you need an experienced truck accident lawyer knowledgeable in trucking law to gather the right evidence and present it in the most effective way to get the best possible outcome for you. Call us at 864.582.0416 or toll free at 877.230.1841 for a free meeting to see how we can handle the trucking insurance company so you can be confident you're being protected.

I JUST GOT IN A SOUTH CAROLINA CAR ACCIDENT. NOW WHAT?



Rob graduated from Wofford in 1996. He graduated from law school at the University of South Carolina in 2000.

After graduating from law school, he worked as a law clerk for a state circuit court judge in Barnwell. After a year there, Rob returned to the Upstate in 2001 to practice law in Easley.

In 2005, Rob joined what's now Holland & Usry. Rob is grateful to practice law in Spartanburg. He is thankful to be part of this community, where he and his wife raise their four children. Rob and his family belong to First Presbyterian Church here in town, where he's been a deacon. Over the years, he's served Spartanburg on the boards of the local Red Cross and TOTAL Ministries, a mission funded by local churches to feed and clothe the less fortunate.

Rob has been honored to be an elected leader within the legal profession as a chairman of the personal injury and insurance committee of the South Carolina Bar.

For his entire legal career starting in 2001, Rob has worked to help people who got hurt through no fault of their own. He has tried a variety of cases to a jury verdict, including car accident cases. Rob says, "The best thing about being a lawyer is I get to be a voice for folks who might not otherwise have one. I am very proud of the people I help and the causes I represent."

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