

There are several steps that you should take to ensure that your case is not ruined from the start. Along the same lines, there are some things you should not do for the same reason.

### **WHAT YOU SHOULD DO:**

**First, you must stop.** Literally. Virginia law requires any driver involved in an accident to stop at the scene or as close to the scene as possible. Don't take off. Don't go anywhere. If you do, that is considered a serious offense. Many times, judges and prosecutors will assume that if you leave the scene of the accident you had been drinking or had been driving recklessly and, therefore, were the cause of the accident.

**Call 911.** Having a police investigation and a police report will help to establish who was at fault. Insurance companies rely heavily on the police report when determining who was at fault. If there is no police report, the two sides must fight it out over who is to blame.

**Stay as calm as possible.** Do not make accusations or admit that you were at fault. Often, people who have just been in an accident become very talkative and will tell anyone who will listen about what just happened. Speak with only the police. If you are not sure what happened, tell them that. Never guess.

**Write down as much information about the accident as you can.** This includes everything the at-fault driver said at the scene; the name and a description of everybody you remember at the scene; the license plate numbers of cars stopped by the scene and the driver's license, registration and insurance numbers of the at-fault driver. You would be surprised how often the at-fault driver's version of an accident changes dramatically when a person harmed by the driver brings a claim. What is said at the scene by the driver to the police is admissible at trial. Also, others can testify to what they saw and heard. This can help corroborate your story. If the at-fault driver changes their story after a claim is brought, it might be necessary to interview witnesses who were at the scene who either saw or heard what happened.

Immediately seek out witnesses and ask them to give statements of their observations, along with detailed contact information such as work and home addresses and phone numbers, cell phone number and e-mail address since their written statements are generally not admissible into evidence because of hearsay qualifications. The opportunity to later identify witnesses who were at the scene may never come. There is usually only one chance to get all of the details, which can make or break a case.

**Notify your insurance company of the accident and the fact that you were injured.** Your insurance policy requires you to do so. More importantly, however, the sooner you notify your insurance company the sooner they can start getting benefits such as medical expense payments and wage loss reimbursement flowing to you. Frequently, the at-fault driver is uninsured or underinsured. Failing to notify your insurance company in a timely manner and/or failing to cooperate with your insurance company may be reason enough for them to deny you coverage.

Take great care when giving a statement to either your own insurance company or the other party's insurance company. In either event, the statement can later be used against you. Both insurance companies are anxious to find something, no matter how significant, that they can use to protect their interests and derail your claim.

**Photography all damage to your car—inside and out, top to bottom.** In truth, the amount of damage to a car is a poor predictor of how badly its occupants were injured. But, that is counterintuitive and not what the average person thinks. So if there is damage, you want to make sure it is photographed. Sometimes, particularly in rear end collisions, the damage is more apparent from inside the trunk or under the car where the damage to the frame or hidden bumper components can be seen. If your seat back broke or was laid back flat, photograph it. If your knee made a dent in the dashboard or your head cracked the windshield or side window, photograph it. If the airbags deployed, photograph them. The photographs help illustrate that the impact was much greater than is apparent by just looking at the car. Also take pictures of the accident scene, including road signs, traffic lights and anything else that can set the scene.

**Have somebody photograph your injuries.** Aside from the fact that it helps document what you have gone through, photographing your injuries can serve as important evidence to help prove that the collision was the cause of your injury.

**Seek medical attention right away.** In addition to the obvious medical reasons, from a legal standpoint it is important to have documented in a medical record that you had complaints and what those complaints were. Let's face it; there are some people who go to the doctor for every minor ache or pain, and others who won't go no matter what, thinking that their problem will eventually resolve itself. You and I both know that a person can delay going to the doctor for days and weeks and yet still have suffered an injury. The insurance company doctor will use the delay in treatment to claim either that you were not really hurt in the accident or you would have gone to the doctor right away, or that the injury is real but must have happened apart from the accident. Why can't you just explain why you waited? You can, but in the claims process, the more things you have to explain, the weaker your case becomes. Every little thing you have to explain creates more doubt about the legitimacy of your claim.

**Tell your doctor about all the symptoms you are having, even if you don't think or are not sure they are related to the accident.** This is so all complaints are documented as early as possible in your medical chart. Since you are not a doctor, symptoms that you do not think are related to the trauma might actually be symptoms of something quite clearly related. The idea is not to be a complainer, but to fully explain all your symptoms to the doctor immediately following an accident.

**Follow your doctor's advice.** The insurance company's doctor and lawyer will argue that you would have healed long ago and been just fine today had you done what your doctor ordered. This is just another way to plant a seed of doubt.

**Attend all scheduled doctor appointments and therapy sessions. But if you can't, call and explain why.** A bunch of “no show” entries in your medical chart with no explanation makes it look like either you are not cooperating with the treatment your doctor has recommended or that you must not need treatment at all. If you call and explain why you can't make an appointment, the doctor's staff will usually note the reason in your chart. If it is explained right on the chart, you won't have to try to remember months later why you missed a particular appointment.

**Keep relevant insurance adjusters informed about your medical process.** Give them copies of your medical bills and doctor reports on a regular basis so that they can properly adjust their reserves to take into account the extent of your injuries. There reports should detail all diagnoses and prognoses along with a discussion concerning the cause of each of your injuries. Be careful to screen all of the bills and medical reports to make sure that they do not contain any inaccuracies or details unrelated to the injuries resulting from the accident.

**Keep track of all time missed from your job as a result of the accident.** Do this even if you are compensated by your employer and/or lost income insurance. Don't forget to keep track of time missed for doctor appointments, physical therapy sessions and diagnostic testing. If you are self-employed, keep a detailed account of job income and opportunities that you either have to forgo or postpone. Make sure you can back up every item with corroborating witnesses or proper documentation.

Virginia subscribes to the collateral source rule, which provides that the at-fault party does not get credit for special benefits from the victim's job or from any insurance that the victim has to protect their income and (usually) to pay their medical bills if they are injured in an accident.

**Keep a log of your daily activities.** This doesn't need to be fancy, but be sure to include things such as what you are able and not able to do and how these compare to your activity level before the accident. Jot down any missed activities and why. Make special notes of issues that occurred in the initial phase of your injuries such as headaches, nausea, specific pain and difficulty sleeping.