



NEW YORK BICYCLE ACCIDENT GUIDE

*A Cyclist's Handbook
to Protecting Your Rights*

BRIAN J. ELBAUM



Being involved in a bicycle accident is one of the most traumatic and harrowing experiences for cyclists. These accidents can cause severe injuries, and victims are often unaware of their rights and unsure who they can trust. A New York bicycle accident lawyer helps victims protect their rights and fight for the compensation they

rightfully deserve.

Every day, cyclists in New York share the roadways with vehicles. Accidents do happen, though. These accidents can have life-altering consequences for victims. Sadly, hundreds of New York bike accidents result in death each year.

Unfortunately, a majority of bicycle accidents are caused, not by the cyclist, but by unsafe drivers on the road. If your accident was caused by someone else's negligence, you may be entitled to compensation.

A New York bicycle accident lawyer can help you recover the compensation you rightfully deserve. You shouldn't be stuck with medical bills and other costs related to your accident. Your focus should be on your recovery, not fighting with insurers over claims. That's how we can help.

Our legal team will fight for your rights and help you recover compensation for any and all costs related to your accident.

WHAT WAS THE CAUSE OF YOUR ACCIDENT?

Bicyclists take great care to protect their safety, using reflectors and other safety gear to make themselves visible to other motorists. Unfortunately, a great many bicycle accidents aren't caused by unsafe cyclists. They're caused by negligent drivers who do not take proper steps to share the road safely.

Some of the most common causes of bicycle accidents include:

- » Distracted driving, or texting while driving

- » Unsafe lane changes and unsafe turns
- » Pulling into the bike lane
- » Opening doors into bike lanes
- » Inadequate lighting
- » Passing too closely
- » Reckless driving
- » Driving while intoxicated

A driver's negligence can have life-changing consequences for you. You shouldn't have to fend for yourself on the financial, emotional, or physical costs of this negligence. Compensation helps you recover financially, emotionally, and physically.

COMPENSATION FOR BICYCLE ACCIDENT VICTIMS

After an accident, victims often face many new challenges. They may be struggling with physical pain and severe injuries. Financially, victims often have medical bills and rehabilitation costs to pay for. And often, they face emotional distress as a result of the accident.

Compensation is available for victims, and it helps reimburse victims for any and all costs related to their accidents. Your attorney will help you fight for all forms of compensation. A few examples of what compensation can cover are:

- » Medical bills, rehabilitation costs
- » On-going treatment and care
- » Lost wages from time away from work
- » Loss of future earning capacity



- » Pain and suffering
- » Emotional distress
- » Loss of normal life
- » Loss of consortium

Punitive damages. In some bicycle accident cases, gross negligence or even malice was the cause. For example, DUI can be considered gross negligence. In these cases, punitive damages are available. This is a form of financial punishment, and it is awarded on top of any compensatory damages. Punitive damages may be available if your case goes to trial.

SHOULD I HIRE A NEW YORK BICYCLE ACCIDENT LAWYER?

In New York, bicycle accident laws are highly complex, and there are many local and state variations to the law concerning right of way. General personal injury attorneys often do not have the in-depth knowledge of New York's bicycle safety laws to be successful.

That's why it's important to consider hiring a New York bicycle accident lawyer. The best bike accident attorneys have extensive experience in these types of cases. They will help you investigate your accident, determine who was at-fault, and then file the claims and potential lawsuits to help you recover compensation.

An attorney with experience adds value and experience. The best lawyers will help you:

- » Investigate your accident
- » Contact witnesses and build your case
- » Consult with experts to reconstruct the accident scene
- » File claims on your behalf
- » File lawsuits, if you choose to pursue them
- » Negotiate with insurers

Ultimately, after an accident, your primary focus should be on recovering – not stressing about how you will pay for medical bills and other costs. Your attorney manages the entire legal process, so you can focus on recovery.

WHAT TO DO AFTER AN ACCIDENT

Bicycle accidents are scary and traumatic. Victims are often in shock and unsure of what to do. We recommend you follow a few steps to protect your safety and your rights. If you were involved in a bicycle accident, you should:



- » **Seek Medical Care** – Call 911 and receive treatment for your injuries. If you are unable to, this is the responsibility of witnesses on the scene.
- » **File a Police Report** – Even if you were uninjured, it's important to file a report. This will help make it easier to recover compensation for property damage.
- » **Collect Evidence** – If you are able to, collect evidence of the scene. Take photos and videos of damage to your bicycle, as well as the accident scene. Collect contact information for witnesses. If you were injured, be sure to document your injuries, as well.
- » **Seek Legal Counsel** – After a bicycle accident, you have just two years to file a claim. Contacting an attorney as soon as possible will ensure you can build the strongest case and recover compensation more quickly.

AVOID TALKING WITH INSURANCE COMPANIES

If you have a current auto insurance policy, you can file a claim with them, even if the “vehicle” you were riding was a bicycle. Often, victims rush to file claims for medical benefits or cover property damage.

We highly recommend that you contact an attorney first. Your insurer cares most about the bottom line, and as a result, they may deny, discredit or ignore your claims. An attorney protects you against this unfair and bullying behavior.

You may also hear from the insurance company or attorney for the at-fault party. You are not legally required to talk with them. And we highly recommend that you do not. Instead, redirect any contacts with insurers or attorneys to your legal team.



FREQUENTLY ASKED QUESTIONS | NEW YORK BICYCLE ACCIDENT GUIDE

How Do I Pick the Best Attorney for My Claim?

You want to make sure that attorney has experience in personal injury litigation. You want to make sure that attorney has handled bicycle cases, cases where individuals were riding their bicycle and struck by motor vehicles. You want to make sure that you’re comfortable with that attorney. You should meet with the attorney and interview that. You ask the attorney questions. If you feel comfortable with that attorney, then you can take further steps.

You also want to look at the firm itself. Is it a big firm? Is it a medium-sized firm? Sometimes firms are so big and so busy that the client never speaks with the attorney. The client is assigned a paralegal or a legal assistant to represent him or her. You want to make sure that whoever you go with, you have access to that attorney, that if you need to speak directly with the attorney, that you'll be able to speak directly with your attorney.

Finally – and this goes to experience – it's not a good idea to retain an attorney that, let's say, handles divorce litigation or estate planning. You want to make sure that attorney is an attorney who specifically handles personal injury litigation.

What Mistakes Can I Avoid After My Accident?

The first common mistake is that people leave the scene of the accident right after the accident happens. They don't think that they suffered a significant injury. They're in pain, but they want to get to where they need to go, they don't want to wait for the police, and they leave the scene. That's crucial, big error number one. You want to stay at the scene of the accident. You want to make sure the police come to the scene of the accident. You want to make sure it's documented.

Mistake number two that I often see made is that the individual doesn't seek medical attention early enough. I had a client call me the other day who was involved in a bicycle accident a month earlier, and she just went to the doctor the day before she called me. I asked her, "Why? Were you feeling any pain on the day of the accident?" She said, "Yeah my shoulder was killing me." "Well, why didn't you go see a doctor?" She said she didn't go because she had other obligations and she just thought maybe the pain would go away. That's a mistake. You need to seek medical attention as soon as possible.

The third mistake is – the same client – not calling me earlier. If she had called me earlier, soon after the accident occurred, I would have guided her through the initial process to make sure that the things she needed to do, she would do, so that it wouldn't become a problem down the road.

Should I Talk to the Insurance Companies?

The answer is no. What you want to do is retain competent counsel and let the attorney talk to the insurance company. The problem with you talking to the insurance company is that the insurance company may ask you some key questions that may make your case more difficult to prosecute down the road. The attorney will know what those key questions are and will make sure that you answer those questions properly, if it's necessary for you to talk to the insurance company. You want to retain counsel as quickly as possible and have the attorney deal with the insurance company.

What If I Was Partially at Fault?

A question that I often get is, "Do I still have a claim if maybe I did something wrong?" The answer is yes. It depends on what you did wrong. It depends on the other vehicle and what they did wrong. In New York, you have what's called comparative negligence and we have to look at how much of it was your fault, versus the driver of the other vehicle, in determining the value of your case. The answer is, as a general, yes, you potentially do have a claim against the driver that struck you, but we do need to look at the extent of your culpability.

How Do I Determine the Value of My Case?

It's not an easy answer. It depends on your injury and the extent of your injury; it depends on whether or not your injuries are permanent in nature, and that may take time to evaluate.

Say you broke your arm in the accident, you go through the initial healing process and you go through physical therapy and it's a year later, and you've maximized your physical therapy, and it turns out you have some permanency, meaning that there's some restriction in the use of your arm. That's important and we need to add that to the value of the case.

Another issue that comes up is liability. Whose fault is it? Who are we blaming? Sometimes there's an issue as to whether or not you might have some culpability. There's maybe some finger-pointing. These issues are important and have to be ironed out to come up with the appropriate value. I will tell you that

this firm will make sure that you get the most possible compensation that you're entitled to for your injuries.

How Long Will the Case Last?

The other day I had a client come in who was involved in an accident where he was a bicyclist and struck by a motor vehicle in New York, wanting to know how long it was going to take to resolve his claim. It's a question that I get all the time and it's a fair question. It depends. There are a lot of complex factors that go into play as to how long a case is going to take.



One of the most important factors is the injury itself. We want to make sure that the client has gone through the process of rehabilitation, of recovery from that injury. We want to get to the point where you know whether or not the injuries are permanent in nature. That's an important factor in determining what the case is worth and what needs to be done to pursue the highest possible settlement or resolution.

The second issue that comes into play has to do with liability. Whose fault is it? Who caused the accident? If there's some dispute or question as to who the cause of the accident was, those issues need to be ironed out, and sometimes that requires court intervention, meaning a lawsuit and litigation. If that's required, it can take time. It can take three, four, some cases even five or more years. I will tell you that this firm will do whatever we need to do to ensure that you get the highest possible compensation possible. If it requires litigation, we'll do that, and we'll try to get that done for you as quickly as possible.

How Long Do I Have to File?

The answer is to do it as early as possible. You want to do it early because you want to make sure the evidence that you need to prosecute the claim is preserved. An example, you want to make sure that witness statements are taken. You want to make sure photographs are taken of the accident scene. The earlier you begin the process, the better off you are.

There are some legal deadlines that you need to be aware of. You have three years to file a lawsuit in New York if we're talking about a private defendant. If we're talking about a municipality, it's an even shorter time frame. An example is in the City of New York, you must file your claim within a year and 90 days, but there are also notice of claim requirements that have to be met within the first 90 days.

It is important that you retain competent counsel to guide you through this process. They'll help and they will make sure that witness statements are taken when necessary, that photographs are taken of the accident scene, and our office can properly guide you through that process.

CALL NOW FOR A FREE CASE EVALUATION

After an accident, you may be scared, in shock, and suffering from immense pain. You shouldn't have to worry about how you're going to pay for medical bills. We want to help. Our New York bicycle accident lawyers will fight for the compensation you rightfully deserve, and we bring years of experience to the negotiating table.

Call now for a free, no-obligation case review. We'll review the facts of your case and provide advice about your legal options. Contact a bicycle accident lawyer now.



ABOUT THE AUTHOR

Brian J. Elbaum was only a few years out of law school when he decided to go out on his own in 1996.

Twenty years later, he still holds fast to the same two winning principles:

- » Making sure clients are comfortable throughout the litigation process.
- » Achieving great results by being aggressive and making the responsible party constantly uncomfortable.

1996

Brian graduated from Rutgers University in 1991 and earned his law degree from Brooklyn Law School in 1994. While he had a great job at a good firm after graduating he quickly realized that he could serve clients better on his own, unburdened by the constraints of the law firm model and approach.

Brian felt so strongly in what he was doing that for his first year he was willing to work out of his apartment – a sixth floor walkup on East 37th Street & 3rd Avenue. Getting dressed every day in a full suit and tie to work from the desk in the corner of a modest one-bedroom, Brian took the cases no other attorney wanted. He quickly developed a reputation for making “lemons into lemonade,” helping those personal injury clients who other attorneys couldn’t.

2016

The Law Offices of Brian J. Elbaum have come a long way in 20 years. We’ve represented over 800 personal injury clients in Queens, Brooklyn, the Bronx, New York, Staten Island, Long Island, Upstate New York and New Jersey in cases involving construction accidents, auto accidents, slip & falls, medical/dental malpractice, bar and nightclub assaults, product liability, and much, much more.

We’ve stayed small by design, continuing to believe as we did 20 years ago that, more lawyers means more internal politics and reduced focus on the client. At our office, you know that every case will be handled personally by Brian. And we’ve stayed true to our philosophy, demonstrating in case after case that being tough with the adversary and compassionate with our clients is a winning combination.

Brian is licensed to practice law in New York and New Jersey as well as the federal courts. He is active in New York's legal community as a Certified Member of the New York Trial Lawyers Association, Brooklyn Bar Association, and New York County Bar Association.

Our Office

The story of our office mirrors the story of New York's past twenty years. We were located in 150 Broadway on 9/11, and moved to 708 3rd Avenue until downtown was ready for business again. As soon as it was, we moved to 111 John Street – until Superstorm Sandy hit and relocated us to our current location.

Today, our office is inside the historic 11 Broadway building, just outside Bowling Green. Built 120 years ago in 1896, the Western Union branch office inside our building became a focus in the investigation into the Titanic disaster in 1912 as Senator Alden Smith sought to determine whether a message from the doomed ship had been transmitted to New York's White Star Line office next door.

Mr. Elbaum has broad experience in the areas of law practiced by the Firm and manages a team dedicated to meeting client needs. Prior to establishing the Firm, Mr. Elbaum worked for several New York law firms representing clients in cases ranging from workers' compensation to commercial litigation. He also served as a judicial intern to a New York Supreme Court Justice, investigated exchange violations as an intern at the New York Stock Exchange, and worked at an entertainment firm representing musicians. His extensive legal and business background has instilled in Mr. Elbaum a solid understanding of how to get things done in a variety of environments.

Mr. Elbaum once held the position of Vice President at an insurance company, for which he provided advisory services. This position has enabled him to gain an insider's view of the insurance industry. He translates that insight into solid advice for his clients on insurance-related matters.

In establishing the Firm, Mr. Elbaum received guidance and inspiration from his father, the late David Elbaum, Esq. David Elbaum served as Of Counsel to the Firm in its early years and provided key insights into several cases.

