



# NEW YORK MOTORCYCLE ACCIDENT GUIDE

*A Biker's Handbook to  
Injury Protection*

BRIAN J. ELBAUM



If you have been involved in a motorcycle accident, you know how traumatic it can be. After the accident, you may not have even been conscious but if you were, those moments must have been absolutely horrifying. We understand that coming back from an accident like that can be hard. You may be in immense pain, suffering

from anxiety related to the collision, and now you have these medical bills that you don't know what you're going to do about.

That is when hiring an experienced New York motorcycle accident lawyer is going to be of value to you. Brian Elbaum has been handling these types of cases for years and knows how to build a successful case that will get you the compensation you deserve. If you feel at a loss right now and can't imagine going through a lawsuit on your own, do not hesitate to give our office a call today to schedule a free consultation.

## GETTING COMPENSATION AFTER THE CRASH

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Unlike other motor vehicle accidents in New York, you are not covered under "No Fault" insurance for your injuries. This means that you are *not* entitled to have your medical bills or lost wages covered automatically regardless of fault. If you want compensation, you will have to bring a claim. This is a significant fact because it may make recovering financially harder. Do not panic. This is not the end of your line. Your attorney can help you deal with filing a claim so that you can see the compensation you deserve.

In order to file a claim, you have to prove negligence. This can be challenging but it's not impossible. Hopefully you took the proper steps following the accident that will help you when you go to file. Immediately after an accident, you should:

- » Call 911 and get the police on the scene to make an accident report

- » Seek medical assistance either immediately if you're seriously hurt or later on
- » Take photos and videos of the crash scene for evidence later on
- » Get the contact information from any witnesses
- » Swap insurance and contact information with the other driver involved in the crash
- » Contact a New York motorcycle accident lawyer

These are essential steps to ensure that your claim is successful. They are all important and necessary steps, but the two that you absolutely have to do in order to get compensation are seeking medical care, and calling an attorney.

If you don't get your injuries checked out, even if it's a visit to urgent care, there is no record that you were hurt. It will be very difficult then to prove that your injuries are related to the accident. You should not wait until you can't turn your head or you can't get out of bed to seek help. Injuries after an accident may take a day or even a week to turn up, but that does not mean it is wise to ignore them. Your recoverable damages come from determining the extent of your injuries and without record of them, you may have a hard time getting compensation. Some common motorcycle injuries include:

- » Traumatic head injury
- » Broken bones
- » Road burn
- » Spinal cord injury
- » Internal bleeding

While it is not impossible to bring a claim and get some compensation on your own, it certainly is not advised. You are probably experiencing a lot of pain and stress following this accident and adding the pressure of handling your own motorcycle accident claim might be too much and you may never be able to get the compensation you deserve without the help of an attorney whose job it is to get that for you. You can recover damages for:

- » Your medical bills
- » Your lost income
- » Property damage
- » Pain and suffering
- » Emotional trauma

Call an experienced New York motorcycle accident attorney today to discuss this at length.



## DETERMINING THE LIABLE PARTY

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While there are cases in which motorcyclists cause the accidents, more times than not, it is another motorist who caused the accident. Some common causes of motorcycle accidents include:

- » Motorists not checking their blind spots before merging
- » Motorists running stop signs
- » Motorists failing to yield to a motorcycle
- » Motorcyclist weaving in and out of traffic

Fighting against the stigma of motorcyclists being reckless drivers who cause their own accidents is something that you and your attorney are going to have to deal with. If your case goes to trial, and it may, you have to convince a jury to ignore any bias they may have against motorcyclists. It's really an unfair bias they have. People think that, just because you choose to ride a motorcycle, you are submitting to the risks of getting hurt because you're not in the protective frame of a car, SUV, or van. That's not the case. If you ride a motorcycle, you are no more to blame for your injuries than anyone else is.



# FREQUENTLY ASKED QUESTIONS | NEW YORK MOTORCYCLE ACCIDENT GUIDE

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## *What Do I Do If I've Been Injured?*

First thing you want to do is call 911. Make sure that the police arrive at the scene and that if necessary, ambulance personnel arrive at the scene. Make sure you give the police the proper statement of what happened. If you were hit by a car and that car had gone through a red light, make sure the police officers know that. If you suffered injuries, you want to let them know that. Not every injury is visible. Some injuries are not visible, such as what they call soft tissue – a neck injury, a back injury, a knee injury. If you're feeling any discomfort, you need to let the police officer know.

You want to retain or consult with competent counsel. You want to get on the phone with an attorney who knows how to navigate the many issues that come up in motorcycle type accidents. That competent attorney should have experience in motorcycle accidents and personal injury litigation experience.

## *How Do I Pick the Right Attorney?*

The answer is that you need to know that that attorney has personal injury experience in handling motorcycle accident cases. You need to know that the attorney is someone that you can work with. You will have an opportunity to sit down with the attorney before retaining them during an interview. You can ask them: How long have you been practicing? Do you litigate cases in court? Do you handle motorcycle type cases? The answer may be yes to all of them, but you also want to feel comfortable with that attorney.

I think it's very important that you have a good relationship with the attorney, that you feel comfortable that if you make a phone call to the attorney, the attorney is going to pick up the phone and talk to you; that's very important.

That's what I would see as the most important things to look at when retaining competent counsel.

## *What Mistakes Should I Avoid?*

There are common mistakes that I see time and time again when I speak with clients who are looking to retain our office to represent them. One mistake is that they wait too long to retain counsel. You want to get on the phone with an attorney as soon as possible so that attorney can advise you as to what you should and shouldn't do.

A common mistake is getting on the phone with the insurance carrier that insures the one that caused the accident. They're going to try to get you to give them information that may end up hurting you down the road. You don't want to get on the phone with them. You want to speak with an attorney and let the attorney speak with the insurance carrier.

Another mistake that I see made quite often is not advising the police officer exactly what happened. You want to make sure that you get your statement on the record. If the other guy went through a red light, you want the police officer to know that the other guy went through a red light and that you had a green light. You want to make sure the statement is correct and that you're clear about it.

You want to make sure that you seek medical attention. If you were injured in that accident, you want to let the police officer know so that they can call an ambulance. If the ambulance personnel shows up, you want to talk to the ambulance personnel and tell them where it hurts. I can't tell you how many times I've had clients who were injured and they felt the injury at the scene of the accident, but they didn't say anything because they needed to get home to their children, or they needed to get to work. If you suffered an injury, you need to seek medical attention right away.

## *Can I Bring a Claim for Hazardous Road Conditions?*

The other day I got a call from a client who was on his motorcycle in the parking lot of a supermarket and there were potholes all over the parking lot.

Unfortunately, the front wheel of his bike landed in a pothole and it caused him to lose control and fall, and he suffered a significant leg injury. He asked me, “Can I go after the owner of the parking lot?” The answer is yes. We need to find out who the owner of the parking lot is. We need to find out who maintains the parking lot. There may be more than one party involved. It may be that the owner of the parking lot has a contract with the company that’s hired to maintain the parking lot, or a contract with a company that is hired to manage the entire premises, inside and outside. The answer to if you have a claim is yes.

## *How Much Is My Case Worth?*

The answer is complicated. There are many factors that go into play. One factor is the extent of the injury, let’s say it’s a broken wrist. It takes a while for that broken wrist to heal. We may not know for a year whether or not there are permanent issues relevant to that broken wrist, and that could add value to the case. It could be after a year that you’ve reached maximum improvement in terms of physical therapy and rehabilitation, but the wrist has what they call range of motion issues. If you move it too far to the left or right it begins to hurt; that’s important. That adds value to the case.

Another issue that comes up is liability, pointing a finger at who caused the accident. That’s important; it’s not always clear cut. Sometimes you’ll have a defendant, the one that you’re pointing a finger at as causing the accident, point the finger right back and say that you caused the accident. These are issues that have to be resolved and ironed out that all go into determining the value of the case.

## *Should I Talk to the Insurance Companies?*

The other day I got a phone call from a client who had gotten into an accident about a week earlier. He was on his motorcycle and he was going through an intersection, and the other vehicle hit his side. They went through a red light and struck him, and he had some significant injuries. When we were on the phone speaking, he told me, “I gave a statement to the insurance carrier.” I said, “Well, whose insurance carrier?” “Well, the guy that went through the red light.” And I said, “No! You don’t want to do that.”

You don't want to do that because they have key questions that they're going to ask you that can hurt your case. They're trying to get the information from you before you have an attorney sit down with you to advise you. My advice is not to speak with the insurance carrier for the other side, but to sit down with an attorney and let the attorney do that work for you.

## *How Long Will This Case Take?*

There's no easy answer to that. There are many factors that come into play. One factor is the injury itself. What type of an injury is it? How long is it going to take to heal? Some injuries can take over a year to heal, if not longer. You want to make sure that you don't resolve the case before that, because there may be some residual permanency, relevant to the injury, that you want to factor into your determination as to the value of the case.



Another factor that comes into play is liability. Whose fault is it? That's a factor as well. Some cases require litigation in order to get the compensation that you're entitled to. If the case requires litigation, it can take time. I will tell you that our firm is dedicated to making sure that we get you a resolution that you're entitled to as quickly as possible.

## *Do I Have a Claim If I Was a Passenger?*

The answer is yes, of course you have a claim. It could be against the operator of the motorcycle if the motorcycle operator violated certain rules or was careless and negligent. If there are other vehicles involved, it could be against the operators of the other vehicles. You do want to sit down with an attorney to go through the facts of the case so that the attorney can properly advise you.

## *Do I Have a Claim If I Was Run Off the Road?*

The other day, I got a call from a client who was on his motorcycle. He was traveling on a main thoroughfare where there was a yellow line separating his lane of traffic from vehicles going the opposite direction, and for some unknown reason a vehicle going in the opposite direction swerved into his lane and forced



him off the road and into a tree. The question he had was, “Don’t I have a claim against this guy that drove over the yellow line into my lane of traffic?” The answer is yes.

We will be looking to answer a few questions: Did that vehicle stop at the scene? Were you able to get information on that vehicle? Did the police come? Is it documented on the police report? If you have the license plate, a license plate search could be done to identify the vehicle; even better if the vehicle stopped at the scene, and the police arrived, and it’s now documented on a police report – you certainly have a claim against the operator of that vehicle.

## CONTACT A NEW YORK MOTORCYCLE ACCIDENT LAWYER

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If you need a dedicated lawyer to help you through your motorcycle accident claim, please call our office today to get a free consultation with Brian Elbaum. You will be in good hands.



### ABOUT THE AUTHOR

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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.

