

MY NECK AND BACK HURT!

*A Step-by-Step Guide to Protecting your
Rights After a Louisiana Auto Accident*



KEITH L. MAGNESS

**“My Neck and Back Hurt!
A Step-by-Step Guide to Protecting Your Rights
After a Louisiana Auto Accident”**

First Edition

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Law Office of Keith L. Magness, LLC

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Introduction

Life moves fast. Although we may try to plan, schedule, and chart a simple course, life rarely goes along with this. You could be heading firmly in one direction when life blindsides you coming from the other direction—literally.

In 2012, nearly 5.5 million reported motor vehicles accidents rocked American roads, and over 1.5 million of those involved injuries. According to the United States Centers for Disease Control, Louisiana had the seventh-highest average rate of auto injury fatalities between 2007 and 2009. Driving, though an everyday task for most Louisiana citizens, always brings with it risks and potential for danger.

Motor vehicle accidents are traumatic. They, seemingly out of nowhere, invite physical and emotional pain that are aggravated further by the consequences that come after, which can include injury recovery, financial struggles, time management, legal concerns, and vehicle repair (or replacement). The emotions that follow likewise tend to cause agitation: confusion, fear, anger, and frustration. In some sense, it's an intersection of the least pleasant things at the worst possible time.

Many of us juggle too much as it is, and something as devastating as a car crash can set us over the edge. Few are equipped to handle such a disaster, so it's vital to have a resource to rely on.

This e-book is dedicated to helping you (or your loved one) process your accident in the healthiest, most efficient way possible. Specifically, it serves as a step-by-step guide that walks the reader through the most common obstacles associated with car crashes, including injury recovery, handling insurance companies, legal expectations, emotional responses, and more.

This advice, though not a substitute for legal counsel, will take the shape of practical tips, coping strategies, directories, links to outside resources, and essays to cover virtually every one of your needs.

PART ONE covers the actions you should take within the first week of your crash. We'll walk you through the immediate dos and don'ts of your post-accident management process. The decisions made in the first week after the crash could have critical and long-lasting effects on your future. The section offers practical, concrete advice for how to handle this no-doubt high-stress span of time. This will help shave off much anxiety and panic that has no doubt come along for the ride.

PART TWO handles the long-term issues related to the crash. Once you make it past the first troublesome week, you still face a number of annoying issues. This section will discuss how to handle insurance companies, pre-case preparation, and soft-tissue injury recovery. Injury recovery is a particularly large part of this section.

PART THREE focuses on all the secondary stressors that can pile up after the accident. A collision can easily turn problems that piled up pre-crash into a total landslide afterwards—a landslide mixed with brand new problems. This section will help victims pick up the pieces in other facets of their lives, handling stress related to finances, work, relationships, medical, mental trauma and more. We'll cover strategies, easy tips, and links to more help. This section can help return you to a life where you're healthy, joyful, and stable once more.

Don't let life strand you in the emergency lane for any longer than necessary. With the aid of this e-book, you can pick yourself up, find important resources, obtain clarity and move forward.

Section 1:

Auto Accident Triage (Time Zero to 7 Days After the Crash)

There is one consolation in being sick; and that is the possibility that you may recover to a better state than you were ever in before.

Henry David Thoreau

When someone gets into a car crash, a great many problems arise that must be dealt with in a great many number of ways. You want to address these in a smart, time-sensitive manner.

Post-Zero: Moments After the Crash

After an accident, priority number one is always your health.

Call 911

If anyone involved has sustained even a slight injury, call 911 to pick up the injured party. Even injuries deemed "minor" at the scene have potential to grow into something worse. Medical professionals should attend to injuries on the spot. Avoid moving anyone who is unconscious or experiencing neck or back pain; the ensuing damage could be permanent.

Move Somewhere Safe

If the accident was minor -- and the vehicle still operational -- move the car to a safe portion of the road. This will prevent further collisions and keep everyone nearby, including oncoming traffic, safer. Park your vehicle, and turn on your hazard lights.

If you can't move the vehicle without putting yourself or others at risk, don't do so. In that case, move yourself a safe distance away from the scene of the crash. Cars in unstable condition are not safe to be around.

Gather Information

If you are able (or a passenger is able), gather as much information at the scene of the accident as possible. Exchange contact information with the other parties involved in the crash. This includes:

- Full names
- License plate numbers
- Drivers' license numbers
- Insurance information
- Email
- Home and mobile/cell phone numbers

While gathering this information, ***do not*** admit fault; doing so could create liability problems down the line. Plus, you genuinely may not know who – or what – was at fault. Perhaps your brakes failed or slipped, for instance, causing you to veer into an intersection and into traffic.

Additionally, talk to any witnesses and get their contact information. This knowledge is power; your attorney can later sort useful from not-so-useful evidence later. For now, “over collect” potential evidence.

Document Your Injuries

If you have a cell phone on hand – or if a fellow passenger has a cell phone – take pictures of any injuries as well as damage to all vehicles involved. Collect more photographic and other documentary evidence than you think

you might need. Also, take pictures of the accident scene and surrounding area. If you are too “out of it” to take pictures or video, ask a passenger or witness to do this for you. Likewise, collect witness statements, too. Assuming you are not seriously injured, write down your experience, so that you can document a first-hand account of what happened. The court or insurance companies will value fresh evidence and testimony more than they will remembered evidence or testimony. After all, time has a funny way of changing even the sharpest seeming memories.

Even if it’s already been a day or two (or more) since the crash, hope is not lost, in terms of your being able to collect this testimony and evidence. But time is of the essence. Document what happened, talk to witnesses, take pictures of your car, and get a copy of the police report.

Unusual Evidence

Note any unusual things about the accident. For instance, do you see any open cans of beer or drug gear in the other vehicle? Is the license plate missing? Do you smell marijuana from the other car? Etc. Write down anything that catches your eye about what happened.

What If the Crash Was Hit And Run?

What if the other driver hit you and left the scene of the accident? Or what if a key witness – someone you saw noticing the crash – left the scene?

Unfortunately, you have limited options, other than calling the police and engaging in the fact finding we’ve already discussed. However, again, early documentation of anything you remember can help an investigation later. For instance, maybe you remember that the driver looked to be a male in his mid-30s with a mustache. By remembering those facts and documenting them, perhaps you can help the police track the person down and help you obtain compensation for your injuries. Even if you are never able to find that hit and run driver, you still could potentially obtain compensation:

1. Assuming you're properly insured (hopefully you are!) your insurance company can help pay for your injuries, time off of work, therapy and long-term care after a hit and run.

2. Some other party that indirectly contributed to the crash could be made to pay. For instance, maybe the hit and run driver veered into you at a shaded intersection or rear-ended you at a traffic light that had been on the fritz. In that case, you could potentially seek compensation from the city responsible for caring for and making those devices. Or you could be able to seek compensation from the manufacturer of equipment in your car that failed -- an airbag that didn't go off at the right time or a seat belt that didn't work, for instance.

Don't give up hope. Even if the first week fails to turn up strong evidence of the driver, a smart investigation of the crash site, in conjunction with witness reports can maybe identify the hit and run driver.

A Word On "UIM" And "UM" Situations

Whether your crash was relatively simple – involving just one driver with very clear fault – or it was a messy collision involving multiple drivers – you need a source of money to get paid. But what if one or more of the liable parties lacks enough insurance (or worse, has not insurance at all) to pay for damages to you, your car, or your future?

Obviously, the scene of the accident is not the place to sort out such details, but you should be at least aware of the possible problems. Hopefully, you already have under-insured motorist (UIM) and uninsured motorist (UM) coverage of your own. That coverage lets you tap your own insurance to pay for damage caused by underinsured (or uninsured) drivers.

Here are some signs that there could be UIM/UM trouble.

- The car that hit you is in terrible shape; it's falling apart, smoke is belching from the air pipe, etc.
- The driver refuses to provide proof of insurance or acts defensive and aggressive when you ask for a copy of insurance information;
- The driver gives you fake information;
- The insurance information you get seems dubious. For instance, the expiration date for the insurance is over a year ago.

Note such problems; a driver who lacks insurance could potentially be a flight risk or untrustworthy. A qualified attorney can protect your ability to get compensation through your insurance or through some other means.

Even if the other driver lacks insurance AND your UM/UIM coverage doesn't apply, you might *still* be able to obtain compensation by, for instance, suing the driver's employer, if he or she had been driving a company car or had been on a work trip when the crash occurred.

Remember: In Terms of Evidence, Time Is of the Essence

Police and road crews will likely clean up the debris from your collision within hours to a day. Witnesses will slowly but surely forget what they saw – or misremember what they saw, which can be just as bad, from a legal point of view. Your ability to document the nature and extent of your injuries also faces a ticking clock. It's a lot better to show a picture of a broken, mangled knee at the scene of or right after an accident than it is to provide an MRI or x-ray of a sprained knee taken three months later, since the insurance company might be able to argue that something other than the accident caused the knee problem.

What If You Played a Role in the Collision?

As we mentioned earlier, ***never*** admit fault after a crash. Stick to the facts, as well as you can remember them. At this point in time – time zero to one week post-crash – you genuinely do not have enough information about the wreck to be able to describe it in full. There is no way for you to know, for instance, whether the other driver hit you because he'd been chatting on a cell phone or because his brakes failed.

In complex situations involving multiple cars or tricky intersections or foggy or rainy weather, investigators may need to spend a lot of time and energy to get to the root cause of a crash.

Especially after serious crashes involving commercial vehicles, like trucks, potential defendants often get to work right away to minimize liability. While you may have heard critics meanly refer to personal injury lawyers as “ambulance chasers,” the truth is that the true “ambulance chasers” are often insurance company representatives.

Here is the gist of what can happen. Trucking companies and insurance companies deal with hundreds of wrecks throughout their course of business. These companies know how much can be at stake – the crash could cost them six or seven figures or more. To that end, they work hard to avoid paying those large amounts.

Let's say a trucking company gets word that one of its drivers was in an accident. Per policy, the company might call its insurer ASAP, who will send a rep to the field to “check out” the scene. This representative can then do things like interfere with the police investigation, collect or even influence witness statements, and do other things that are unethical if not downright illegal. We'll talk more about tricks and tactics that insurance companies use later in this book.

Depending on what happened in your accident, your attorney may need to ***take legal action immediately*** to preserve evidence from the scene. In most cases – a small fender bender that leads to a whiplash case, for instance – the victim can get away with delaying legal action.

However, *not all accidents are created equal.*

In your case, your injury lawyer may need to sue almost immediately to find and preserve evidence, before workers clean up the crash scene.

To sum it up: after the crash, collect all the documentation that we've discussed and write down what you've seen, heard or experienced.

Seeking Medical Help Right After a Louisiana Auto Accident

First off, we want to make it clear again that this book offers neither legal advice, nor medical advice. If you have any doubt that you could be injured, seek insight from a qualified medical professional ASAP. If you are obviously injured – for example, you have a broken bone or a gash in your leg -- you probably will not need to be reminded that you need to see a doctor.

However, that's not always the case!

In one of the most memorable scenes from the 2014 movie, *Whiplash*, the main character gets into a car crash and immediately leaves the scene to play drums at a concert. That kind of scenario – where someone who's obviously injured leaves the scene – is quite uncommon.

Here's what's much more common, however: individuals who believe that they are "not that hurt" unwisely delaying going to the doctor.

When in doubt – if your symptoms occupy this kind of "grey zone" – seek assistance. Do so, even if you are worried about medical insurance or the immediate costs of seeking care.

First of all, if you *are* more hurt than you think you are, you want to get a good diagnosis not only to protect your health but also to protect your pocketbook. Treating a concussion or a sprain effectively in the hours after an accident can speed up recovery time, minimize costs, and obviously lead to less suffering. Science bears this out: seek medical help when in doubt.

Here are some signs that you might need medical help:

- Weakness or numbness or tingling in your arms or legs.
- Loss of bladder control
- Bloody nose or blood coming out of your ears
- Headache or fatigue following the accident that won't go away.
- Bruises forming on your head, particularly near your ear.
- Trouble swallowing, eating, seeing or hearing.
- Chest or abdominal pain.
- Neck pain.
- Sharp pain anywhere in your body, particularly in the head, neck and abdomen.

Emergency room personnel – or your doctor – can treat your injuries and give you follow-up instructions. Make notes of any treatment you get. Ask a family member or a friend who wasn't in the accident to help you keep track of what you need to do and why.

Listen carefully to your caregiver's instructions. Be self-interested as a patient. Make sure that your needs are heard and met. If you believe that you are not getting solid answers or good care, speak up! Sloppy care can lead to medical troubles.

For instance, let's say that the accident caused a mild concussion and gave you a headache and a bloody nose. Different imaging programs – CAT scans, PET scans, etc – have different success rates at being able to identify brain injuries. If caregivers use inadequate imaging, they may miss evidence

of brain damage and send you on your way while your brain is bruised, bleeding or filled with fluid.

Ask a lot of questions. Pay attention to how you feel after the injury.

Someone should monitor you, if you're not in the hospital. You may also find it useful to keep an ***injury journal***. This is a diary of how you feel during the first few days and weeks after a crash. If you are too hurt to write this journal yourself, ask a friend and family member to help you. The journal can highlight the progression of your injury as well as help your doctors track your progress and guide your therapy.

Erring on the Side of Caution

If you don't feel "that hurt," you may be tempted to hop back into your regular routine as soon as possible. After all, odds that your life was already pretty hectic before the crash, and you may want to get back to making money, taking care of your kids, playing sports, sleeping in your own bed, etc. This drive to return to normal makes a lot of sense, but you need to be careful. If you're in pain due to a whiplash or muscle strain, take a break from playing sports, working out or doing heavy lifting. Your body and maybe your brain could be in a very sensitive state; you need to rest. Ask friends or neighbors to help with child care, yard work, money matters, and so forth.

Note: When you're in a serious accident, your body will flood with a variety of hormones such as adrenaline which can fuel the so-called "fight, flight or freeze" response. This is a natural stress response that's designed to help you survive after a severe injury to the body or other shock. This response can change your sense of how injured you are.

For instance, you won't feel much neck or shoulder pain in the hours after a crash *not* because you're not hurt, but because these hormones block the pain. That numbing will eventually wear off, though, leaving you feeling your injuries more; they could be worse than you anticipated.

Dealing with the Insurance Company

Depending on what happened, the insurance and legal “fireworks” may begin pretty quickly after the collision, particularly if the crash was big, widely publicized or led to serious injuries or damages.

We’ll cover how to handle insurance adjusters in more detail in the next chapter. For now, here’s a simple takeaway message: ***before you discuss your case with an insurance company representative, find and retain an attorney.*** Avoid admitting things that could hurt your claim. Remember, the insurance company is not “on your side,” since the insurer might be liable for thousands upon thousands of dollars in your case.

The adjuster is not a friendly individual but rather an employee of a company that potentially could owe you a lot of money. So play it smart, and talk to an attorney first.

Of course, this leads us into an important question: how ***do*** you find an appropriate attorney for your needs?

Finding and Working with a Qualified Louisiana Auto Accident Lawyer

Before we get into the “nuts and bolts” tips, take time to determine what you hope to get out of any relationship with a lawyer. ***What’s your “why”?*** Are you worried that you won’t get a fair amount of money if you deal directly with the insurance company? Do you need compensation to handle a major medical problem? Do you want fairness? Do you just want guidance for how to deal with an aggressive insurance company?

The clearer you understand what you want from the relationship with your lawyer, the better that relationship will serve you.

To that end, spend some time thinking about the kind of ***values*** that you want to govern your relationship with the attorney. Do you want someone who is going to be attentive? Do you need to find somebody nearby? Do

you want to make sure an attorney (not a paralegal) handles your case? Do you want to minimize your fees or get the most money?

Imagine the rules that you would give someone to find an attorney for you. In other words, what “recipe” would the other person have to follow?

For instance, your rules might be:

- *Find an attorney who has handled at least a dozen accident cases like mine successfully;*
- *Find an attorney who has a lot of experience dealing with soft tissue injuries, like sprains, whiplash, muscle pulls, etc;*
- *Find a lawyer who can give me lot of personal attention.*
- *Find an attorney who shares my values and politics.*

You get to make up whatever rules make you the most comfortable.

Try these exercises now:

1) Why do I want to find an attorney?

2) What are my “unspoken rules” for finding legal help?

Do You Need An Attorney At All?

There's no rule that says you must hire a lawyer. However, most people would consider it pretty foolish to take the "DIY" approach. After all, you probably wouldn't try to do surgery on yourself or build your own house from scratch if you've never done construction work before. It takes years of study, not to mention years of experience, to learn how to handle the complex legal processes that can unfold after a crash.

Plus, a seasoned attorney will know how to identify and prevent insurance company tricks (which will discuss soon) and also provide you a sense of stability and peace of mind as you rebuild your life.

What If You're "Not That Hurt"? Is It Still Worth it to Call an Attorney?

The answer is yes. Here's why. There are four basic scenarios that could play out:

***Scenario #1:** You don't have a claim, and you don't call a lawyer.*

***Scenario #2:** You don't have a claim, and do call a lawyer.*

***Scenario #3:** You do have a claim, and you don't call a lawyer.*

***Scenario #4:** You do have a claim, and you do call a lawyer.*

Let's think about the consequences of each one of these. In Scenario #1, you don't have a case, and you're not wasting any time. It's a wash.

In Scenario #2, you spend about 10 or 15 minutes on the phone with an attorney, and the lawyer clarifies that you don't really have a case. That's the end of it. Yes, you've technically "wasted" 15 minutes of your life. 15 minutes you could have spent doing something else, like surfing the internet. But that phone call might help you worry a little less, so it can't be considered a complete waste of time.

Scenario #3, however, is the really bad scenario. In this scenario, you actually are injured, but you don't take appropriate legal action. And let's say you end up racking up \$160,000 in medical bills and on things like missed work, etc., over the next 10 years. Since you cannot obtain money from the wrongdoing party, you must foot that bill yourself.

In Scenario #4, you are hurt, and you do have a case, and the attorney helps you get that \$160,000.

Let's say there is a 99% chance that there's actually nothing wrong with you. You almost certainly don't have a case. An attorney can't help you. Etc. Even in that scenario, *it always makes sense to call an attorney*. 99% of the time, you are going to "waste" 15 minutes of your time making that call. But if you get unlucky, that 1%, low likelihood outcome could cost you \$160,000. Here's the bottom line: *If you are even slightly concerned about what happened in the crash, strongly consider getting legal help.*

Tips For How to Find And Work with an Attorney

First of all, identify two to three prospective attorneys. Do research on the web, and talk to friends and family members for referrals. Check out the firms' marketing materials. Do they seem to be in tune with your needs and values? For instance, at the Law Office of Keith L. Magness, LLC, we charge a much lower contingency fee than our competitors do. Thus, a lot of our clients come to us because they want more compensation for their auto accidents. We're obviously not for everybody, though! It's important to reflect before you start to research firms.

Once you've chosen a few firms that appeal, schedule free consultations. Most injury attorneys will provide you an opportunity to discuss your case to give you a sense of your options and whether the firm is a good fit. Schedule these consultations, and take excellent notes. Here are some questions you might want to ask during these consultations:

- *What inspired you to become a Louisiana auto accident attorney?*

- *What is special about your firm? What helps distinguish your approach from your competitors' approaches?*
- *What do you expect from your clients?*
- *What process would govern my case? In other words, what can I expect, and what would you expect out of me?*
- *What are your fees?*
- *What are some reasons why someone like me shouldn't hire your firm?*
- *Given the facts of my case, as I have reported them to you, what would be next steps for me, if you took my case?*

Once you've done these interviews, take time to reflect. Ask a friend or family member to give you an objective assessment. Use your rational mind to assess the pros and cons of each firm as well as your gut. Then retain your attorney!

To work effectively with your lawyer, observe the following tips:

1. **Be truthful, 100% of the time.** Your conversations with your attorney are protected by attorney-client privilege. Plus, you want to tell the truth, because if you exaggerate or lie, your case can be put in jeopardy. (for example, if you claim that really hurt your back, and a witness sees you re-roofing your house (true story) the week after a crash, your case for compensation may be blown up.)
2. **Learn the attorney's processes, and become familiar with the staff.** Treat your team with respect, but demand good service. Your phone calls and emails should be returned promptly, and you should always

have a clear idea about what's going on with your case and what you need to do next.

3. **Follow your attorney's suggestions.** The whole point of retaining legal representation is so that you can maximize your claim and get back to "real life" as soon as possible. Take your attorney's advice to avoid problems with the case.
4. **Collect your questions or thoughts, so that you can ask them all at once to your attorney.** Prepare to have thoughts about your case at inconvenient times, such as when you are behind the wheel or in shower or at an office meeting. Carry a pen and pad with you, or use your smartphone to jot down these thoughts. Then try to "ask them all at once" to your attorney via email or a phone call. You'll be less likely to forget important or urgent points of business.
5. **Notice anything odd about the attorney experience? Speak up!** For instance, maybe your attorney has failed to respond to your emails, or maybe the office staff didn't alert you about a key deadline or explain something in clear language. Say something, and make sure corrective action is taken. If you are not getting good help, get a second opinion from another qualified Louisiana auto accident attorney. This is your case, your body and your financial future. Protect it!

Conclusion – Part One

Now that week one is over, you hopefully have at least a basic understanding of what's going on in your life and in your case. By this time, you should have an attorney to help you navigate the waters; that person can explain the next steps of the process in specific detail, so that you're not guessing or making things up as you go along.

Even if it's been several weeks – or even months – following your crash, you can still potentially make a claim. But you want to do so before the so-

called “statute of limitations” elapses. This is a ticking clock, limiting your ability to bring a case. It depends on a variety of factors, such as when and how the crash occurred, who was involved, and what damages occurred. If you don’t sue by that deadline, you lose your rights to take action **forever**.

Section 2:

Auto Accident Recovery (Time 7 Days After the Crash to Complete Resolution of Your Case)

Resilience is accepting your new reality, even if it's less good than the one you had before. You can fight it, you can do nothing but scream about what you've lost, or you can accept that and try to put together something that's good.

Elizabeth Edwards

Let's open this chapter by talking about kinds of damages that you can potentially recover. Here is an incomplete list:

- **Property damage.** This is not just limited to damages that's been done to the vehicle itself, but it also can include the damage done to objects in the vehicle (such as a laptop computer that got smashed) and/or loss of use, and the diminished value of your car following the accident.
- **Medical expenses.** These expenses can include the costs associated with your emergency room and doctors' office visits, and medicines taken after the crash. They can also include much longer term costs, such as long-term therapy to heal a soft tissue injury, acupuncture, massage, antidepressants to deal with the emotional trauma from the accident, and so forth.
- **Lost time at work.** This figure doesn't just include how much productive time you've lost but can also include compensation for

things like projects you had to abandon because of your injury. For instance, your inability to travel might prevent you from meeting new clients or getting a promotion or qualifying for a bonus.

- **Pain and suffering.** You can be compensated for the mental and physical agony caused by the crash.
- **Loss of consortium.** The crash may impact your ability to be a supporting spouse or a good parent. Louisiana law provides for recovery of damages for loss of love and affection/companionship, impairment of sexual relations, loss of financial support, and loss of aid and assistance.
- **Punitive damages.** The court can also assign what are known as punitive damages. These are designed to punish the wrongdoing liable party for acts of gross negligence or carelessness. For instance, let's say a trucking company hired a driver with a history of drunk driving and gave him the keys to the company vehicle. Then the guy T-boned you at an intersection while driving drunk. The court can impose punitive damages to "slap the company on the wrist" for hiring and/or entrusting that terrible driver with a car.

Repairing Your Car Or Replacing It If It's a Total Loss

The driver at fault for the accident – or that driver's insurance company – should pay for repairs or for vehicle replacement.

Depending on how bad the damage was – or how urgently you need a vehicle to get to work and run errands – you may need to rent a car in the interim. Speak with your attorney to figure out how to do so. Find a repair center (body shop) that has an excellent, ethical reputation.

You may need to coordinate with an insurance company, which may want you to use a preferred collision repair center or rental car agency. The insurance company's inspector or adjuster can provide an initial estimate

before you take the vehicle to a body shop for repair. But talk to your attorney before you speak with the insurance adjuster, so that you can develop a game plan and avoid a situation in which you agree to bad terms such as use of aftermarket or junk parts instead of parts made by the original manufacturer of your car (known as OEM -- original equipment manufacturer – parts) during the repair.

Save all paperwork, and don't take the insurance company's words or directions on faith. The company may offer to pay X amount of dollars on vehicle repair or purchase, but you probably have no way to know whether the insurance company is "low-balling you" or offering you bad terms.

Also, **document your lost wages.**

If you work for a company, your Human Resources department or Office Manager can help you track lost hours. However, you also want to track other costs. For instance, maybe you were working on a big project that could have led to a promotion, but the accident stopped you from getting it. Document such opportunity costs.

The more evidence you can collect, the better. For instance, let's say that you're a salesperson who had been trying to close a deal that would have paid you \$10,000 in commission, but you had to abandon that deal because of the accident. Your supervisor or sales manager could write a note to the effect of "Johnny left the account because of the accident, and he therefore missed out on collecting a \$10,000 commission."

A Quick Guide to "Soft Tissue" Injuries

The human body supports a complex network of muscle, fascia, tendons and ligaments.

Auto accidents can damage these systems, causing headaches, digestive issues, and pain far from the source of the actual injury or impingement. Common soft tissue injuries, such as bruises (also known as "contusions)," strains to muscles, joint and ligament sprains, and damage to the

connective tissue known as *fascia*, can lead to unpleasant symptoms, including swelling, inflammation, stiffness and soreness.

Some car accidents are more prone to lead to certain soft tissue injuries.

For instance, if a car hit you hard from behind at a stop sign, your body might have been thrown forward and then backwards again. That type of impact can strain muscles and soft tissue in your neck and lead to *whiplash*.

Soft tissue injuries can be challenging to prove. When an accident breaks a bone or causes damage to an organ or leads to other obvious problems that show up in imaging-rays, MRIs, CT scans, etc., you can clearly show the damages.

However, what happens when you just “feel sore” or have a headache that won’t go away? When the injuries don’t show up in X-rays or other imaging, proving damages can be harder. After all, pain is internal. Moreover, soft tissue injuries are odd. A therapy will seem to relieve the pain... only for it to come roaring back days later for no obvious reason. Unlike the healing for a broken bone – which typically follows a very specific process that’s easy to anticipate and show – healing for a soft tissue injury often progresses in a frustrating fashion.

The costs of treatment can add up. Different treatments work for different people in different situations. For instance, your whiplash might resolve just through some rest, physical therapy and massage. Another person’s whiplash might persist for months or years or lead to further complications, such as fibromyalgia or other symptoms located away from the injury.

Another challenge is that symptoms may appear distant from the actual source of the injury. For instance, muscle knots in the chest, neck and upper back, according to many respected researchers, can play a powerful role in creating symptoms that most people commonly understand as “carpal tunnel syndrome.”

A muscle undergoing spasm in the upper back and chest can pull the body's connective tissue, almost like a stretching rubber band, causing numbness, tingling and other sensations in the forearm and fingers. Improper diagnosis of soft tissue injuries is common, because the cause is often located far (on the body) from the symptoms.

How and why soft tissue injuries occur and what can be done to treat them is beyond the scope of this book.

However, consider the following:

1. Document your treatment and diagnostics.
2. Find therapies/treatments that work for you.
3. Pay attention to what causes symptoms and what leads to less pain.
4. Don't underestimate the long term aggravation and costs associated with these injuries. Although soft tissue injuries may not look as "bad" as a broken leg or concussion, they can lead to thousands of dollars' worth of medical costs, not to mention untold hours of lost work, pain and annoyance.

Your attorney can help you develop a strategy to obtain compensation in these potentially challenging cases by, for instance, deposing an expert witness (or several) to testify to the nature and extent of your injuries.

Understanding Insurance Companies and Their Bag of Tricks

Let's get something straight first: Insurance companies are not "evil." They can play a vital role in the repair and recovery process. Many people who work for insurance companies do so out of a true belief that they're helping people. Many companies do good things.

However, insurance companies are not your friend. They are *businesses*. Your claim represents a liability that threatens profits.

Shortly after the accident, a representative of the insurance company, known as the **adjuster**, will likely get in touch with you. This person may try to get you to admit responsibility for the crash, encourage you to offer a recorded statement, ask you to sign a medical release form, discourage you from speaking with a lawyer about your case or encourage you to use a particular body shop or vendor to repair your car.

These requests may seem harmless, but they can all create big problems for your case and prevent you from getting fair compensation. It can be tempting to agree to these requests “just to get the whole thing over with,” especially if you’re suffering from a seemingly minor injury, such as a sore neck or slight headache. However, as we have hopefully hammered into you by now, “minor” injuries can lead to thousands of dollars’ worth of costs over the long term.

In addition, even innocent things that you say or admit to an insurance company representative can lead to trouble. For instance, let’s say the insurance adjuster asks you, four days after a big accident, how you’re feeling. You answer “I am feeling better.” What you intended might have been better expressed as “four days ago, I felt like I had been run over by a truck, but today I’m feeling slightly less absolutely awful.”

But the insurance company could still try to use your words -- “I am feeling better” -- to build a case implying that didn’t actually get hurt! The insurance company may also want you to sign a medical release form to search for a preexisting medical condition to use to deny a claim. For instance, let’s say the accident really messed up your neck and back, but you have a history of getting chiropractic work done.

The insurance company may argue that your back was already injured and that the auto accident had nothing to do with your latest bout of pain.

Another trick the insurance company might use is to get you to sign a release -- a so-called “full and final statement” -- regarding the case. Doing this might sound appealing, since it means that you can get an immediate

check to pay for things like your hospital bill or car repairs. However, odds are very high that insurance company is not offering you the most money that you could obtain. Plus, if you sign away your rights now, you might be selling yourself short of thousands of dollars (potentially much more) – money you could need in the future.

What's particularly bad is that insurance adjusters often are pleasant, kind seeming people who are specially trained to get injury victims to open up. Using a mix of charm and bullying, they can often win big victories for their employers.

Refuse to give statements to the adjuster unless your attorney is present, and do not allow the adjuster to record your telephone conversation or personal conversation. Never say anything to the adjuster like "I am sorry for what I did" or "I regret making that left turn."

Insurance companies might try to delay your claim, low-ball you, threaten you ("this is all we're offering, or you get nothing") or intimidate you. Insurance companies also have a history of spying on claimants, and they may try to downplay your injuries.

The bottom line: be careful when dealing with the insurance company. Retain a qualified attorney to protect your rights.

Section 3:

Getting Your Life Back Together After the Accident

If there were no night, we would not appreciate the day, nor could we see the stars and the vastness of the heavens. We must partake of the bitter with the sweet. There is a divine purpose in the adversities we encounter every day. They prepare, they purge, they purify, and thus they bless.

James E. Faust

Odds are, you already had a lot of stuff going on in your life before the crash. Maybe you were in the middle of looking for work. Maybe you were in the middle of a family or debt crisis. Perhaps you're nearing retirement, or maybe you just got your driver's license.

In any case, post-accident, most people find that they struggle to deal with emotional, physical and financial concerns. To that end, let's quickly go over some strategies to help you manage these areas of your life.

Logistics

A car accident can create lots of uncertainty and extra "to do" items... in addition to obvious problems, such as demands on your time, pain, and medical and car rental costs. So how can you deal with this tidal wave of "to-do items," reduce the uncertainty in your life, and get back to feeling a sense of control, and calm?

Here's a useful exercise.

Rope off about three hours to do it. Using a pen and paper or a computer Word document, write down all of your commitments down. Every. Single One. Include simple things like “I need to go to Office Depot to buy pens” as well as items like “I want to climb a mountain with my brother one day” in addition to urgent concerns like “I need to find a Louisiana personal injury lawyer immediately.”

Don’t worry about what to *do* about this information right now; just write down everything on your mind, so that you can get these things off your mind. The brain, after all, is very bad at storing information.

To your surprise, just doing this exercise should quickly lead to a feeling of calm and hope. You will see, as you go through this exercise, that you probably only have a few hundred (at most) things lingering on your mind. Your to-do list is not endless.

Plus, only by knowing what you are *not* doing in any moment can you feel comfortable with what you *are* doing at that moment. And being present in the moment will allow you to make better decisions, even while you are in pain or facing an insurance crisis or family drama.

Gaining Even More Control

Of course, collecting that information is just the first step in what could be a more involved process of getting organized. After all, if you don’t process what you’ve collected, organize it in some fashion, review it, and take action on it, your sense of control will be temporary, at best.

Go through the items on your list, and figure out two things about them.

1. What is the final result you want to achieve regarding each item?
2. What would be the next step you would take towards achieving that goal, if you wanted to work on that item right now?

For instance, if the project is pretty simple, such as “find an injury lawyer,” your next step might be to call your cousin for a referral or just to finish reading this book. In other cases, you may need to do a bit more thinking.

For more insight into this process, check out this [excellent summary of David Allen’s “Getting Things Done” methodology](#).

You don’t need to follow this exact recipe, obviously. But the general point here is that you should try to take stock of what’s going on in your life, create written lists of what needs to be done, and use a process to get on top of your “stuff,” so that you don’t feel so overwhelmed.

Journaling

We talked earlier in the book about injury journaling, where you track the progress of your injury from day to day. This is helpful both for medical reasons and for legal reasons, since such a journal can lend supporting evidence to your claim that you’re suffering from back pain, for instance. A journal can also help you work through personal, emotional and even financial issues.

Diet and Exercise

Taking care of yourself physically after an accident can be quite challenging, because when life knocks us down, we often tend to revert to “comfort habits” that may not be particularly good for us.

For instance, maybe you were lifting weights or doing yoga, but an injury from the crash has prevented you from working out. Or maybe you had been eating a healthy diet, but now you’re snacking constantly on Little Debbie snack cakes, Ding Dongs and Coke or Pepsi, and you feel terrible because of all the refined sugar flooding your system.

With the note that this book is obviously not a health book or a medical guide, here are a few strategies to consider – along with your doctor – when it comes to your health and wellness.

- **Get fresh air and sun.**

Obviously, you don't want to roast in the sun and get burned and increase your risk for skin cancer. But new studies suggest that too little sun is just as dangerous as too much sun. Sun light can help regulate your sleep cycle, your Vitamin D levels, and beyond. Fresh air – taken appropriately – can refresh your spirit.

- **Improve your diet.**

This is obviously easier said than done. In addition to the fact that we are all individuals -- and different people thrive on different diets -- the science regarding what constitutes a “healthy” diet is in a constant state of change.

Obviously, this topic is way too deep and broad to cover in this book, but the point is that the quest to “eat healthy” is quite complicated.

However, while experts disagree about what constitutes the perfect diet, most people now say that reducing the amount of refined wheat and sugar can be quite helpful. Hopefully, researchers will do more and better science soon to answer the big questions about how to eat to be healthy.

Rest

Rest is very important, whether you're recovering from an accident or not.

Meditation

Studies show that people who meditate regularly – 15 minutes to an hour a day – score better on measures of stress, depression, and overall life satisfaction.

Meditation is a relatively easy process. You just need to sit or lie down, and spend time focusing on the breath coming in and out of your body. You may want to set a timer, so that you know when your session is up.

Don't try to force the breath or hold it. Just follow it as it comes in your nostrils and into your chest, and then follow the out-breath as it leaves your body. Any time your attention gets distracted (which it will likely do during your session many, many times) just become aware of that distraction and bring the attention back to the breath. This is a really simple process in theory, but it can be quite challenging.

However, experts say it helps focus attention and improve decision making as well as emotional stability – good skills to have when you're dealing with a major crisis in your life, such as the aftermath of an auto accident.

Reaching Out to Others

Seeking help from people after an accident can be tough. For instance, maybe you're a very independent person who doesn't like to call in favors, or maybe you're not sure whom to ask and for what.

It helps to create a list of projects that you could, in an ideal world, assign to co-workers, friends and family, professionals, and even your children. Try to prioritize. Separate your "must-haves" from "nice-to-haves." For instance, let's say you generally like to have your yard kept up. But if your back and legs hurt, you may not be able to push the mower, rake leaves or weed the garden. You could hire a gardener or ask your kids to do the work. But maybe you could just lower your standards, temporarily, since having a neat lawn is a "nice to have" instead of a "must have."

Getting Your Finances Rock Solid

A serious car accident in the short term can lead to many costs, including medical bills, therapies, medications, car rentals, and lost wages, etc.

A professional financial planner or accountant can help you go through your budget and identify how to cut expenses to make your finances work. Keep the big picture in mind. Financially pressed accident victims often unwisely settle too quickly with insurance companies because they just want “some money now.”

This short term gain can lead to long term pain.

For instance, let’s say you settle with the insurance company right away for \$50,000. Had you resisted the company’s early offers, you might have been able to get \$150,000. Getting \$50,000 upfront might feel good, but you’re ultimately paying a big price (\$100,000!) for that state of mind. In some ways, this is like a balloon mortgage – it seems easy at first, but then the pain sets in months or years later.

Your Louisiana auto accident lawyer can help you prevent settling too soon, but you can also help yourself by gaining control of your money situation. To that end, here’s an exercise that you might find useful.

Imagine if you never got even a single cent from the insurance company or another defendant. And imagine if you faced the worst-case scenario for your injury -- for instance, you’ll need \$150 worth of therapy every week for the next five years. Something like that.

In that kind of scenario, what could you do to meet your fundamental needs? If you do some thinking (ideally on paper, and maybe supported by a spouse or a financial planner), you will probably be able to figure out how you could adapt your life and your budget to survive, if not thrive, despite the money pressure.

Once you understand that such solutions exist, you will likely feel a lot more comfortable about the reality of your case. Odds are, the worst case scenario will not come true. But now, even if it does, you will know that you can and will survive it. This knowledge should give you confidence to resist “low ball” insurance offers and to put your mind at ease.

Take the time to do some of the exercise we've discussed to eliminate uncertainties and experience a clear head and a calm heart.

Conclusion

Your Louisiana auto accident created a lot of trauma and uncertainty in your life, whether someone careened into your pickup at an intersection or a trucker side-swiped you off the road on a freeway.

In this e-book, we walked through the steps to take immediately after a crash as well as what to do over the longer term. We also ran through many exercises to help you manage problems in your life related to your injury, your mental state, your emotions, your relationships, your finances and your career.

We hope this book has given you some good things to think about as well as some inspiration. Please consider calling the Law Office of Keith L. Magness, LLC today to discuss the next steps regarding your case. We have a fantastic track record of assisting car accident injury victims like you, and we also take only a 25%-30% contingency fee -- this is substantially less than the "industry standard" of 33%-40%.

Please call us now at (504) 264-5587 for insight, and we hope you and your family heal and thrive after your accident.

Disclaimer

Disclaimer for “My Neck and Back Hurt! A Step-by-Step Guide to Protecting Your Rights After a Louisiana Auto Accident”

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