

Colorado Personal Injury Law

Legal View

By Jeffrey R. Kelley, Esq.

Immediately following personal injury from an automobile collision, you will be experiencing many potentially conflicting thoughts and feelings. It's often difficult to know exactly what to do and when. The following are some basic things that should be done if you have been involved in an automobile collision, even before contacting a personal injury attorney.

Some collisions cause immediately recognizable serious injuries, such as fractures, or worse, ones that will require urgent transport to the hospital by ambulance. For instance, a serious front end impact may cause air bag deployment. In this case, you will likely not be able to give a statement to the responding police officers, as you might be unconscious or simply unavailable since you will be in-route to the ER. Your communications, if any, will be with paramedics operating the ambulance. Paramedics are trained to survey the crash scene and will take note of the circumstances and mechanism of injury to make a written report of what they saw and what you say. Their report will also detail when they were dispatched and arrived on scene, and when they arrived at the hospital. Dispatch facts and circumstances are recorded on a "CAD" report, and are later made available for review, along with the 911 call if there was one. Important information is often found from paramedic reports, ER intake reports, who was on scene first, and what a witness may have said on the 911 tape.

Other injuries may take time to develop and manifest, and are reported differently. Headaches and neck pain may take time to develop and manifest. Even if you feel fine initially, it may weeks or months after the incident for aches and pains to develop from an injury that was more severe than you initially thought. Certain injuries become more serious as time goes on and they begin to impact your ability to go about everyday life, including having difficulty in completing a day at work. Once you recognize symptoms are developing, you should seek medical treatment to obtain a diagnosis of your injury and determine the appropriate course of treatment. Sometimes these are called "soft tissue" injuries, which may or may not resolve relatively in a short time period. Other times, symptoms over time may worsen and require more testing to provide a later, recognized, diagnosis. For instance, low back pain may develop into leg pain, and an MRI may be needed to determine if there is lumbar disc injury that is responsible for the leg pain. Obviously, this may take six months to a year or more to make this determination. If surgical intervention is warranted, another six months may be needed to heal. With either type of injury, a claimant must have time to reach maximum medical improvement (MMI) before the claim can be settled.

Concerning the accident itself, you will need to recall what happened. If you are able to do so, (when less severe injuries permit), you should write down what happened, take pictures, and make sure first responders are also aware of exactly what happened. You will be asked if you were wearing your seat belt, how fast you were traveling, did you apply your brakes or did your car skid, and where you or the other person distracted. If you strongly believe the other driver was at-fault and driving recklessly or negligently, then their automobile insurance should

be called upon to pay your medical bills, permanent injuries, lost wages, pain and suffering and other damages that may be unique to your situation. Drunk driving, distracted driving, and impatient driving all suggest the other party could be negligent. Some examples of negligent driving behavior might include texting or talking on the phone, failure to stay in or weaving in and out of lanes, speeding, changing lanes at the last minute, or failure to signal.

If you suspect the other driver was negligent, a claim should be made and treatment should be obtained for your injuries. Even if you have already started negotiating with the insurance company, you will be well served by an experienced personal injury attorney to ensure you receive the full amount of financial recovery. And if the attorney is willing to handle the matter on a contingent fee basis, you won't pay anything unless you see a successful outcome. Many times an injured party will worry they won't receive enough money to pay for their care, costs and attorney fees.. Typically, the insurance company will attempt to minimize your injuries to reduce the amount they will have to pay out as compensation. They are simply doing their job.

When you are injured after an auto accident, you need to focus on treatment and recovery. An attorney can be your partner in recovery by fighting for your rights and maximizing your settlement, while sorting out issues of how your medical treatment will be paid and minimize what will need to be reimbursed (i.e. subrogation to health insurance). Most importantly, an experienced attorney will analyze your specific claim to determine the proper parties to be involved, required statutory notices, and the time periods (statutes of limitation) that require a law suit to be filed or your claims will be forever barred.

Do you have a legal question? Send your question to Gilpin County attorney Jeff Kelley (Jeff@klfpc.com). Appointments for in person legal counsel are available in both Black Hawk and Denver offices.

Note: While every effort has been made to ensure the accuracy of this information, it is not intended to provide legal advice as individual situations will differ and require full analysis by an attorney.