



# BIG MISTAKES

THE EIGHT MISTAKES TO AVOID WHEN  
MAKING A CAR CRASH CLAIM IN MARYLAND

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# PROLOGUE

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This e-book was written to help people involved in a car crash in Maryland to avoid the eight big mistakes that will prevent them from getting fair compensation for their claims. We hope to relieve some of the anxiety that car crashes can cause by guiding you to make smart decisions through an often chaotic and emotional process.

# MISTAKE ONE

## NOT GETTING THE NECESSARY FACTS AT THE SCENE

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When you've been in an accident, you might not be thinking about whatever evidence you might need to get at the scene. You could miss important information, especially when you're injured and receiving medical treatment. You can't rely on police officers to give full report—they might not even file a report if no one needs an ambulance and no cars have to be towed away.

Even if police respond to the scene, they might only give you an exchange of information form, which only identifies the other driver and often doesn't include any eyewitness information.

You'll need the names, addresses, and phone numbers of any eyewitnesses, who often leave the scene before police or medical personnel arrive. Use your cell phone to take photographs of the crash position of the vehicles if it's safe to do so.

Photograph the damage to all involved vehicles and if possible, take pictures of the other drivers. Take a picture of the other vehicle's license plate as well as the other driver's license, registration, and insurance card.

If the fault for the crash is disputed, an eyewitness testimony can often turn the case in your favor.

## MISTAKE TWO

### GIVING A RECORDED STATEMENT TO THE OTHER DRIVER'S INSURANCE COMPANY

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As soon as the crash is reported to the other driver's insurance company, that insurance company will generally reach out to get you to provide a recorded statement over the phone. They are skilled at getting you to commit to a story and will exploit any and all facts that support their plan to deny your claim or your injuries.

The recorded statement is a subtle interrogation and people often get confused or flustered by the process. Not only is every word transcribed, but your tone of voice while answering is also recorded and preserved for trial. If you come off as being confused or seem unsure of the facts, this can be used to say that you're unsure of exactly what happened, which could defeat your claim.

Maryland has a legal doctrine known as contributory negligence, which is an extremely harsh rule. The rule basically says that if someone making a claim was negligent (at fault) by even a small amount, they cannot recover any money. Insurance companies are experts at getting you to agree to something you feel may be an unimportant issue (for example, exceeding the speed limit by 5 mph) to argue that you contributed to the crash and that your claim should be denied on the basis of contributory negligence.

People are often angry at what happened and use harsh language in the recorded statement, which can be embarrassing if played at trial. It can also cause you to be judged negatively by a judge or a jury. Worse, the statement is usually given very soon after the crash and before you feel the full physical effects. That can mean you indicate you're not injured when actually you just haven't felt the effects yet. When the pain is fully realized the next day or days later, you reporting it late can result in your opponents doubting that those injuries are real.

Some people don't like to complain and will downplay their injuries, thinking this will put them in a good light with the insurance company. Insurance companies love to have you minimize your injuries—that plays into their hands so they can deny or diminish your claim.

The only insurance company you should speak with after a crash is your own, as you owe it a contractual duty to cooperate—it's in your policy. Even so, write out the sequence of events before giving your statement and don't minimize or downplay your injuries.

## MISTAKE THREE

### DELAYING GETTING YOUR INJURIES DIAGNOSED BY A MEDICAL PROVIDER

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As we just mentioned, some folks naturally downplay injuries and want to tough it out, thinking things will get better on their own. They wait to get medical care until weeks after the crash when things haven't gotten better yet. Those late medical reports create the impression that the claimed injuries aren't real and are actually made up later due to unhappiness at how the car repair claim was handled.

The earlier you're seen by a medical provider, the better the diagnosis and the better your provider can document the physical evidence of your injuries: bruising, swollen tissue, muscle spasms, and other observable signs. These objective findings can go a long way in establishing the injuries that were caused by the crash, but they fade over time.

Also, the sooner you're seen by a medical provider, the sooner you can get treatment to manage your symptoms and minimize your damages. This is the duty to mitigate which Maryland law requires. In addition, a medical provider can determine if it's necessary for you to be off work to help you heal, which will allow you to make a claim for any wages lost during that time off.

## MISTAKE FOUR

### NOT GIVING A FULL AND TRUTHFUL HISTORY TO YOUR MEDICAL PROVIDERS

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Every health care provider, whether in a hospital or clinic setting, will have you provide a medical history. Important questions asked include whether you've had any prior medical issues with the body parts that were injured because of the crash. The medical provider's diagnosis and opinion as to the cause of your injuries will rely on this information.

It's easy to forget about an old claim many years back, or to try to minimize prior injuries that have long since resolved. However, it's critical to your claim and to the assessment of your truthfulness that you state all such prior instances. The insurance company will research your prior claims history on a nationwide database that they all subscribe to. If your case proceeds to trial, they will subpoena all prior medical records, including your primary care providers, clinics, and hospitals in search of records to establish that you had a prior issue that you failed to disclose. This can be devastating to your claim. It can make you out to be unworthy of belief and indicate that your medical providers' opinions are based upon falsehoods.

The truth can be explained and managed, falsehoods and half truths are the death knell to a claim. They will find out easily if you're lying about prior injuries, so lying about any you might have is both immoral and counterproductive.

## MISTAKE FIVE

### NOT FOLLOWING THE TREATMENT PLAN SET FORTH BY YOUR HEALTHCARE PROVIDERS

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Most medical providers will develop a treatment plan for you to follow. It will usually span many weeks with frequent follow-up appointments. Physical therapy and chiropractic care are usually most effective if received every other day. This can put a strain on our work and family life, and some people will not keep scheduled appointments.

Every missed appointment can raise the argument that the care must not have been needed. A gap in treatment of days or weeks creates a bigger question as to the legitimacy of the claim. As a claimant, you have a duty to mitigate your damages, meaning you should receive all reasonable medical care to help you heal and get you back to your prior status. If you had a broken arm and the doctor wanted to cast it to allow it to heal in about 6 weeks but you refused the cast and it takes 6 months to heal, this would be a failure to mitigate your damages.

When you fail to get the treatment suggested by your healthcare provider, the insurance will often say that failure is why your injuries persisted and your award should be reduced as you didn't mitigate your damages. In the example with your broken arm, the insurance company would argue that no claim for injury should be allowed after the normal 6-week healing period.

# MISTAKE SIX

## NOT ADDRESSING HEALTH INSURANCE AND OTHER LIENS

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Even though health insurance is an important thing to have, there's a drawback. If the insurance company pays your doctor bills after a car accident, they will want all their money back after you settle your case or get a verdict. And they get the first cut! This is known as the right of subrogation.

Many people don't understand this right and might be willing to settle their claim for an amount, not realizing they'll then be forced to repay money to their own health insurance company or to Medicare or Medicaid. Insurance companies usually won't advise you of this before getting you to commit to a settlement amount, especially if you used your private health insurance.

If you don't satisfy this subrogation lien that the health insurance company requires, they can pursue legal action against you to get back that money—plus legal fees and expenses. However, the biggest risk is that they can also deny paying any other health insurance claims because you didn't fulfill your legal obligation to them.

Subrogation liens might also come up if you make a claim for workers' compensation benefits, short-term disability payments, or extended sick leave due to your injuries, which are paid by your employer or a short-term disability insurance company.

Many times, the lien may include charges for medical services that are not part of your treatment and must be challenged as inaccurate.

Medicare, Medicaid, and most health insurance subrogation claims can be negotiated by a lawyer and will be reduced if a lawyer is representing the claimant—this is known as the cost of procurement reduction.

Not understanding the existence of subrogation liens and not calculating them into the settlement process can result in bad outcomes. Unfortunately, ignorance isn't grounds to back out of an agreed-upon settlement. It's not helpful for you to accept a \$10,000 settlement when you'll be required to pay \$9,000 of that right back to your health insurance carrier—leaving you with just \$1,000.



# MISTAKE SEVEN

## NOT DOCUMENTING THE EFFECTS OF YOUR INJURIES

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People often get tired of receiving medical treatment, even though they still have discomfort, and just stop going to their healthcare providers. Worse, some people tell their doctors they feel fine just to stop having to go in for treatment.

The records of your medical treatment are like a book, with a beginning and an end. When you just stop going, the final chapter of the book is left unwritten. If you claim to be fine when you're not, it creates a false ending. It's important to finish all treatment and get to an end point that your doctor can record.

When you complete treatment as recommended, your doctor will indicate whether you have fully recovered or have reached maximum medical improvement. Maximum medical improvement means you have received all the benefit that treatment can give you for your injuries. If you can't return to your pre-accident state of health, that can be documented and described as residual symptoms you have to live with. It's very important for you to have your doctor document it any time you haven't had a full and complete recovery.

# MISTAKE EIGHT

## HANDLING YOUR CLAIM WITHOUT A LAWYER

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There are some claims that don't involve any of the other issues we've talked about or where the physical injury and treatment expenses are minimal, that can be handled without a lawyer.

Hiring an attorney will cost you a percentage of the ultimate recovery—usually 33% of the total—so you may be inclined to handle it without a lawyer to “save” that money. In a simple claim without much damage or injury, that might be a good option.

However, most claims have at least some of those issues we've talked about. These claims would benefit from a lawyer working on your behalf.

In every claim, the settlement offer as determined by the insurance company by comparing what they're willing to pay against what they might be forced to pay if it goes to trial. That's the nature of compromise of a claim.

A claim where there is no lawyer involved has a much lower threat to turn out badly for the insurance company, and they'll try to settle the case for a much lower amount. They understand what a challenge it is for an individual to represent themselves in court and figure they can get the matter settled very cheaply.

A claim that is being handled by a successful and competent lawyer is much more threatening to the insurance company, and they will usually settle for a much higher amount. Your lawyer will also be able to perform an evaluation of the likely outcomes and will provide sound advice on the wisdom of settling or taking the matter to trial.

Most importantly, having a lawyer involved from the start of your claim will help you avoid all the mistakes you could make and will let your lawyer be fully prepared to secure the best possible outcome for you.

# NEXT STEPS

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After a car crash where you were injured, you have two options. The first is to try to sift through the murky area of negotiating with insurance companies alone. We hope this guide will help make your car crash claim a little easier to bear and more successful if you choose to go this route.

Your second option is to hire an experienced law firm that will deal with all of the stress and fight to get you fair compensation. The Parker Team stands ready and able to handle all aspects of your claim from the initial needs for a rental car to getting car repair or replacement, reimbursement for lost wages, all the way through your course of medical treatment, settlement negotiations, and, if necessary, trial.



## THE PARKER TEAM

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Nearly forty-five years ago, Ron Parker founded this law firm from a strong desire to help people deal with their legal problems. Having spent his lifetime committed to serving others, he has represented thousands of clients as well as been involved in many community and civic activities, including being an active member of the Boumi Shrine and Mt. Nebo Masonic Shrine and a leader in the White Marsh Business Association and Route 40 Business Association.

Ron assembled the Parker team by recruiting attorneys who are also committed to providing legal services and will put their all into your claim.

Our attorneys share a commitment to competently serving their clients and the greater community as a whole. Each person has different areas of expertise within the legal field, including a retired judge, a former police officer, a former prosecutor, and three former insurance defense attorneys. These differences make us a wellbalanced law firm, ready to take any approach to help our clients.

# CONTACTING THE PARKER TEAM

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We have offices in White Marsh, Overlea, Abingdon, and Perryville, we serve all of Baltimore County, Harford County, and Cecil County.

To learn more about our firm, call us at 443-LAWYERS, visit us at [www.ppsrlaw.com](http://www.ppsrlaw.com), or follow us on [Facebook](#) or [Instagram](#).

Put the Parker team to work for you! You get ten attorneys on your side instead of just one!