

# ACCIDENT RESPONSE GUIDE



If you have legal issues, you don't have to go through it alone. Kelly & West has handled thousands of cases both in North Carolina District and Superior Courts, so we can help you understand what to expect throughout the legal process. We stay on top of the latest developments in the law and put that knowledge to work for you. We keep you informed and draw on our experience with similar cases to increase the potential for a successful outcome. Call on Kelly & West Attorneys and get the support you deserve when dealing with legal matters.

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*"You treated me like a friend."*

*"I admired the courteous, prompt, understanding, patient, and professional attitude I experienced in your office."*

*"I liked the letters that I received from your firm to keep me up-to-date with my case... I couldn't have found a better law firm."*

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# ADVANTAGES OF AN ATTORNEY

## ADVANTAGES OF HIRING AN ATTORNEY

When you work with an attorney from the beginning of your case, you have the advantage of an advocate who is used to working with insurance companies. This experience usually results in higher awards for your pain and suffering than you would obtain on your own, even after deducting all fees.

Conversely, insurance companies take advantage of their experience when working against individuals that do not have an attorney in order to minimize the company's financial loss. The insurance company tries to settle those claims with low offers that leave those who choose to negotiate on their own with few options.

### PITFALLS AND TRAPS

Working through a claim is complicated, and an experienced attorney knows how to avoid pitfalls and traps and how to deal with insurance companies and others who are not working in your best interests. Keep in mind that insurance companies investigate your case looking for reasons not to pay anything in some cases and not to pay what you deserve in all other cases. Unlike other states, in North Carolina if you are also at fault, even if only 1%, you are not legally entitled to recover. Therefore, insurance companies work hard to get you or witnesses to say something or to admit something so they can deny your claim. You do not want to become locked into an amount that does not provide the compensation you deserve. An attorney hired as soon as possible after an accident can help you avoid these traps and protect your interests.

### PROVING YOUR CASE

Whether or not you file a lawsuit, you carry the burden of proving every part of your case. This includes having evidence for all aspects of your claim, from lost wages to pain and suffering, and knowing how to use the evidence you have. An attorney knows what evidence is good, and bad, for your case and what to do with that evidence to improve your recovery.

### COMPLEX INSURANCE POLICIES

There are a numerous types of insurance policies and coverages that may come into play in your case—liability, med pay, excess liability, umbrella, uninsured, underinsured, health insurance, Medicare, Medicaid, Tricare, and so on. Care must be taken, however, to discover all available insurance coverages early on and to send the proper notices and claims to protect those coverages. An attorney knows how to handle multiple policies and make them work together to provide you with all the insurance coverage available.

**HOSPITAL VISITS AND OTHER ARRANGEMENTS CAN BE MADE TO HELP YOU IF YOU CANNOT COME TO US.**

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### REDUCE STRESS

The combination of being injured and handling a legal claim can create loads of stress. Having an attorney will give you someone to call on whenever you have questions. It will also allow you to take a step back from your case and let an advocate deal with the headaches and complexities of pursuing a claim, giving you the chance to spend your time and energy taking care of your injuries and other things going on in your life.

### KNOW YOUR VALUE

It is often hard to determine on your own how much your case is worth. You may have lost a loved one, experience a great deal of pain from your accident, continue to receive medical treatment, or be unable to work as you did before the accident. Like an appraiser who knows how to place a value on a house or antique car, an attorney knows how to appraise your case and evaluate what is fair compensation.

### HAVE AN ADVOCATE

After an accident, you deserve someone who will fight for you and protect your rights. An attorney is someone on your side who is used to standing up to insurance adjusters and defense attorneys and is prepared to argue your case before a jury.

**CHOOSING THE RIGHT ATTORNEY IS AN IMPORTANT DECISION, AND IT IS BETTER TO HIRE ONE SOONER THAN LATER.**

**KELLY WEST**

ATTORNEYS, P.A.

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# ACCIDENT RESPONSE GUIDE

## WHAT YOU SHOULD KNOW IF YOU HAVE AN ACCIDENT.

Follow these steps to document evidence and protect your rights immediately following a motor vehicle accident.

In North Carolina, if you are in a motor vehicle accident and file a lawsuit, you cannot recover for your damages and injuries if a jury finds you even slightly at fault. Therefore, immediately after an accident, you should begin following these steps to document evidence and protect your rights.

### TAKE PHOTOS AT THE SCENE

Whenever possible, take photos of the accident scene from various angles to show the position of all vehicles, the road conditions, and the actions of the post-accident response team. If you don't have access to a camera, use your cell phone, if available.

### GET WITNESS NAMES AND NUMBERS

Police reports usually provide accurate information, but witnesses who stop to help may also be useful. Sometimes these witnesses leave without an accurate recording of the facts from their viewpoint. Record all names, contact numbers, and permanent addresses of those who stop to volunteer their time and testimony. These independent witnesses may later provide information that helps establish legal liability.

### GET POLICE CONTACT INFORMATION

Though responsibility for the accident report will fall to a single officer, several officers may respond to an accident. Ask each officer to provide you with a business card, badge number, and contact information. They may prove to be valuable witnesses when the full details of the accident are needed.

### TAKE VEHICLE PHOTOS

If you have been unable to take photos at the accident scene, be sure to get photos as soon as possible of the vehicle you were riding in at the time of the accident. Take photos from several angles and distances. Also document the inside of the vehicle, showing the condition of the airbags, interior, and vehicle contents. Whenever possible, get photos of the inside and outside of other vehicles involved in the accident, showing as much detail as possible. The police report has information on where all vehicles are taken after an accident.

### GET A MEDICAL EVALUATION

An accident can have both obvious and more subtle impacts on your health. You should not take your health for granted. Medical records can also play a part in the settlement value of your personal injury case. Ask your primary care doctor for a thorough examination and be sure to inform him or her of any pain and every symptom you have. Follow all prescribed treatments and all doctors' instructions as completely as possible. Insurance companies will consider your medical records and bills when determining the extent of your pain and suffering.

### TAKE PHOTOS OF YOUR INJURIES

Make a record of any visible cuts, bruising, or other injuries. Take these photos as soon as possible after the accident and continue to take photos as long as your condition lasts. This helps show the extent of your injuries and that your injuries were not exaggerated, which is what the defense likely will argue. If you have 35mm film available, use it rather than a digital camera so that there can be no claim that the photos were manipulated in the computer. If you don't have a 35mm camera, use any camera available.

### REVIEW POLICE REPORTS EARLY

Police reports prepared after a collision contain statements and diagrams that are often critical evidence in a personal injury claim. You should review the police report as soon as possible to confirm its accuracy. It is important to contest any errors in the report at the earliest possible time.

### DO NOT SIGN MEDICAL AUTHORIZATIONS FOR INSURANCE ADJUSTERS

Insurance adjusters will seek information from your medical history in order to build a case against you. If you sign a medical authorization, they will use it to search out pre-existing conditions, your prior history with similar symptoms, and any other condition from your medical history to use as proof to deny your claim. Always seek the advice of an attorney to protect your rights before signing a medical authorization.

### DO NOT PROVIDE WRITTEN OR RECORDED TESTIMONY TO INSURANCE ADJUSTERS

It is the insurance adjuster's job to be friendly so they can gain your trust and, in turn, gain evidence that helps minimize your claim. They will use statements you provide to them to discover information that weakens your case or as a basis to deny your claim. Contact an attorney before you provide any written or verbal statement.

### SETTLE PROPERTY DAMAGE CLAIMS WITHOUT MENTION OF INJURY OR DETAILS OF THE ACCIDENT

It is completely safe to handle and resolve property damage claims with the liability insurance carrier. Laws protect your right to early payment for property damage without causing any loss to your rights to fair compensation for injury claims. However, it is always best not to discuss your injuries and best not to discuss how the accident occurred so that any comments you make cannot be taken out of context and used against you.

# ACCIDENT RESPONSE GUIDE

## DOCUMENT EVERYTHING REGARDING YOUR ACCIDENT

Memories have a tendency to fade with time. It is important to keep a journal describing as much of the accident as possible and all the related issues that arise as a result of your accident. It should also document the injuries you sustained and your recovery from those injuries.

## SAVE PHARMACY RECEIPTS

The medications you are prescribed as a result of your injuries are vital proof of your injury claims. Retain your receipts to show that you have been following your doctors' instructions and keeping your medical records as complete as possible.

## KEEP A RECORD OF YOUR EXPENSES

You should keep a record of all expenses that result from your accident. Keep your receipts for over-the-counter medications, bandages, or other medical supplies. Also record any expenses related to help with household needs, mileage for accident-related travel, or any other costs resulting from the accident.

## ASK YOUR DOCTOR FOR A NOTE TO EXCUSE YOU FROM WORK

If you miss work and lose pay as a result, you may be entitled to full payment for all lost wages. While your employer may not require an excuse, the insurance adjuster will. Ask your doctor to provide you with a document that states when you can safely return to work. Be sure to follow your doctor's orders to prevent further disability.

## FOLLOW INSTRUCTIONS FROM YOUR MEDICAL ADVISORS

Taking care to follow all instructions from your medical advisors helps to verify that your symptoms are legitimate. Show your cooperation by attending all medical appointments, listening to your doctors, and following all of their recommendations.

## USE PERSONAL HEALTH INSURANCE TO PAY FOR MEDICAL CARE

Regardless of the type of health insurance you carry, make sure that you file all your medical bills on your personal insurance policy. This will protect your credit and help you access all the necessary treatment to address your injuries.

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## FIND OUT IF YOUR HEALTH INSURANCE HAS CLAIMS AGAINST YOUR RECOVERY

In some cases it is possible to use your health insurance to pay for care and still legally collect for those bills in your claims against those responsible for your accident. In other cases, you are required to reimburse your health care provider. When you determine your insurer's rights early, you are able to avoid legal complications going forward.

## OBTAIN MEDICAL PROOF OF LONG-TERM INJURY AND ONGOING MEDICAL COSTS

No one is prepared to live with the impact of a long-term injury. It can affect your ability to work, take care of yourself, and deal with the tasks of everyday living. If your injury is capable of impacting your life permanently, obtain a statement from a qualified medical expert stating the lasting extent of your injuries and the ongoing costs involved. This will help you get payment for future medical care expenses.

## OBTAIN PROOF OF LOST EARNING CAPACITY

When you have been seriously injured, it can impact your career path. You must prove to insurance companies what your anticipated losses will be. An economic expert can determine your lost earning capacity and expectations of a shortened work life so that you can collect for these losses.

## DISCUSS YOUR SITUATION WITH A PERSONAL INJURY ATTORNEY

Kelly & West offers a free consultation to discuss your case. You should take advantage of this opportunity and speak with an attorney about your options. These attorneys understand all the complexities involved in a successful personal injury claim and can provide friendly advice and guidance. They are prepared to deal with insurance adjusters who work to oppose your claims and minimize your compensation for the injuries you have sustained.



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