

The background of the entire page is a photograph of the front of a red car. The car's headlight is shattered and cracked, and the front bumper is crumpled and bent. The car is parked on a dark surface.

# YOUR GUIDE TO HANDLING A **CAR WRECK INJURY CLAIM**

**TLB**

TIMBERLAKE,  
LEAGUE, &  
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**We wrote this guidebook for you.  
Yes, you.**

You or a loved one was hurt because someone else was driving carelessly. You are probably overwhelmed, frustrated, and searching for answers. Breathe deep. This guide will answer your questions.

## IN THIS GUIDEBOOK, WE WILL COVER:

- The Fundamentals of Personal Injury Law
- First Steps After a Car Wreck
- Know Your Enemy: Common Tactics of Insurance Adjusters
- Types of Insurance Coverage
- Handling Your Own Car Accident Claim
- Determining the Value of Your Personal Injury Claim
- Pros and Cons of Hiring a Personal Injury Attorney
- How to Choose the Right Law Firm

## A WORD OF CAUTION

Before you dive in, know that this process is an uphill battle. Insurance companies have thousands of trained professionals all working to pay you as little as they can. They get bonuses and promotions for not paying you a fair amount. They take hundreds of hours of training courses to learn how to short you. Many of them have been handling injury claims for decades.

This is not said to discourage you but to prepare you and commend you for taking the first steps. Everyone deserves to receive fair payment for their injuries and understand their case. We hope you will be a little less confused at the end of this guide. And if you still haven't found the answers you're looking for, just pick up the phone and call us. It won't cost you anything.

Let's get started!





# FUNDAMENTALS OF PERSONAL INJURY LAW

This section covers some of the most basic personal injury terms that you will need to know as you take on your case.

## STATUTE OF LIMITATIONS:

An imaginary clock starts ticking as soon as the wreck happens. This clock is called the statute of limitations. This is the time period in which you are able to get your claim settled or file it as a lawsuit. If you wait too long to take action, the statute of limitations prevents you from continuing your claim.

The amount of time you have depends on what state the wreck occurred in.

- Alabama Statute of Limitations – 2 Years
- Georgia Statute of Limitations – 2 Years
- Tennessee Statute of Limitations – 1 Year

One important exception that can shorten your time frame is if a city or county employee caused the wreck. If a city or county employee hit you, it is in your best interest to call an attorney immediately!

If you are trying to handle your own personal injury claim, keep in mind that the clock is ticking. If you think you will need an attorney, you should contact one at least a few months before the end of your statute of limitations period. They need time to do their due diligence on the case before filing a lawsuit.

Don't forget, if you haven't settled your case or filed a lawsuit in time, your claim is over. There are no "do-overs." The statute of limitations doesn't care that you forgot to file the lawsuit. It doesn't care that a family member was sick. It doesn't even care that you are still receiving medical treatment related to the wreck.

The statute of limitations is unforgiving. So don't forget the imaginary clock!



# NEGLIGENCE

Negligence is a set of four things that an injured person must prove to receive compensation after a car accident. You can only hold the other driver liable if he was indeed negligent in causing your injuries.

Look at negligence like a recipe for compensation. The following are the ingredients:

1. **Duty**
2. **Breach of the Duty**
3. **Causation**
4. **Damages**

If you don't have even one of the ingredients, your recipe won't make anything. In other words, if you cannot prove one of the four requirements, you are not entitled to compensation. Let's break each of these requirements down.

**Duty** – In the case of a car wreck personal injury claim, you must prove the other driver had a duty to operate a motor vehicle in a reasonable manner. All states have statutes known as the "Rules of the Road." These rules establish how we are supposed to drive and say we all have a duty to follow the rules.

**Breach of the Duty** – To prove a "breach," you need to show that the other driver did not follow a "Rule of the Road" or did something unreasonable under the circumstances. Potential breaches include the other driver being distracted, following too closely, failing to stop at a red light, etc.

**Causation** – Causation means that the other driver's breach of duty caused you harm. In many cases, this is straightforward. However, it can be complicated if you have pre-existing conditions like back pain that worsens because of the wreck. Medical conditions like headaches, dizziness, or pregnancy complications also complicate proving causation as it can be unclear if they were related to the auto accident.

**Damages** – Damages describe all of the ways the wreck caused you harm. This includes vehicle damage, medical bills, pain, permanent injury, mental suffering, disfigurement, loss of income, loss of earning capacity, future pain, and future mental suffering. While you may not have every single damage in your claim, you want to collect all evidence on each element of damage.





# THE CONTRIBUTORY NEGLIGENCE DEFENSE

Alabama is one of four states in the U.S. that still follow this set of laws. Even if you prove the other driver acted negligently, you can't win your claim if you were contributorily negligent. In other words, if your own unreasonable actions contributed to the wreck, then you may lose.

Tennessee, and most other states, have comparative fault. This means if you were one percent at fault for the accident, you would collect 99 percent of your damages.

In Alabama, even one percent of fault means you get nothing. It's a harsh rule and something you must be aware of when interacting with the insurance company. *(See page 6 for more on this)*

When an insurance company says it is "accepting liability," that means it is admitting the other driver was negligent and that you held no fault. If the insurance company "denies liability," it is either claiming that the other driver was not negligent or that you were contributorily negligent.

## SUBROGATION & LIENS

You probably won't get to keep all of your compensation when you settle your claim. If you have health insurance (including Medicare and Medicaid), your insurance has a right to be reimbursed from your settlement. Its right to be reimbursed is called "subrogation." The health insurance company will want to collect all the money it paid for medical treatments related to injuries from the accident.

You MUST know all subrogation amounts before attempting to reach a settlement. It's an awful feeling to settle your claim for \$20,000 and then find out a few weeks later that your health insurance company is demanding \$25,000. We've seen it happen to people who called us too late.

Hospital liens may also cause you to lose some of your compensation. Even if you have health insurance, the hospital that treats you for your injuries may place a lien on your personal injury claim. Hospitals do this because they get paid more money from your claim than they do getting paid by your health insurance. The probate office records hospital liens, so check there to see if you have any hospital liens before trying to settle your case.



# FIRST STEPS AFTER A CAR WRECK

Now that you've got the essential legal terms down, we can walk you through the first steps. These are the first things you need to do after being injured in a vehicle accident. If you read this guide after your accident and didn't complete all the steps, consult a personal injury attorney on the best way to fill in the gaps.

- 1 If you are able, call 911 to report the wreck. If you can't, try to get someone else to do so.
- 2 Tell the police officer what happened. Keep in mind that they will write an accident report documenting what you told them.
- 3 Take photos of the scene of the accident if you can.
- 4 If there is a witness, get their name and contact information.
- 5 Get medical treatment immediately if you think there is even just a small chance you are injured. It is better to be safe than sorry.
- 6 Follow the doctor's instructions.
- 7 Follow up with your family doctor as soon as possible after leaving the hospital.
- 8 Take photos of any visible injuries.
- 9 Have a family member report the claim to your insurance company. If necessary, you can do it yourself.
- 10 Until you are sure of your plan, do not talk directly with the other driver's insurance company. Instead, have a family member talk with them on your behalf.
- 11 Obtain a copy of the police report.
- 12 Stay off of social media altogether.



# KNOW YOUR ENEMY – COMMONS TACTICS OF INSURANCE ADJUSTERS

As we said in the introduction, insurance adjusters are highly trained professionals who work to pay you as little as possible. It's important to know their tactics before you speak with them.

## RECORDED STATEMENTS

Inevitably, the insurance adjuster will ask to take a statement from you over the phone while they record it. Don't do it! There is no legal requirement for you to do this. There is, however, a requirement that you do this with your own insurance company if they request a statement.

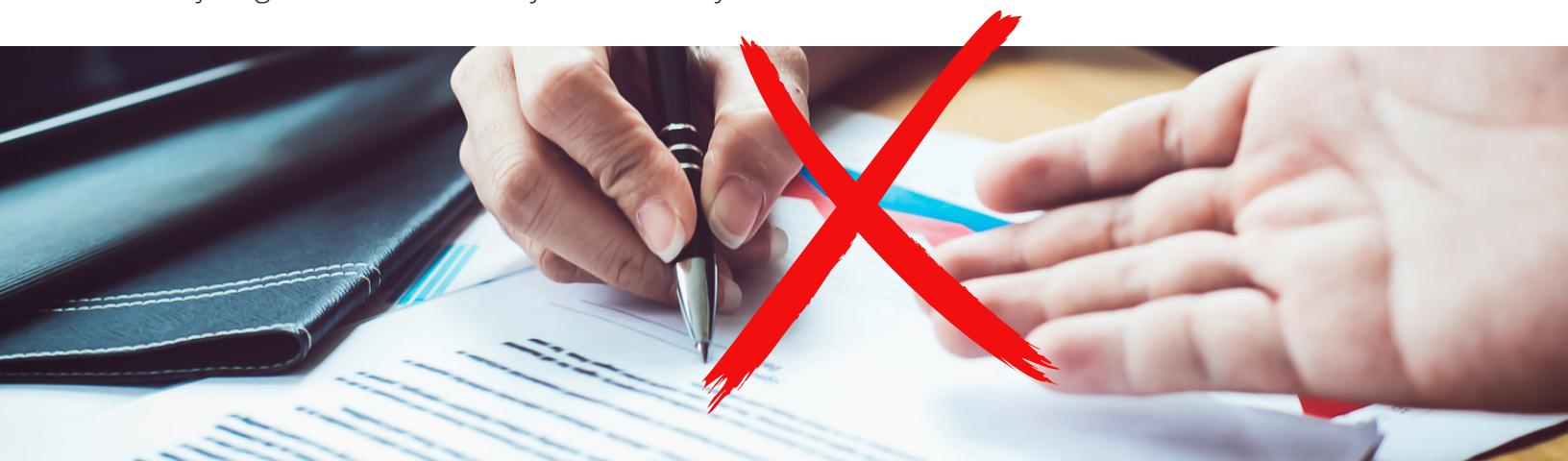
The main purpose of the recorded statement is to trick you into saying something that will discredit your claim. If you say you were going 50 mph when the other driver ran the red light, and it turns out the speed limit was 40 mph, your claim will be denied. You could also mention an old shoulder injury you had that healed years ago. However, if you injured that same shoulder in the wreck, the insurance company will use your words to discount your claim.

## HIPAA RELEASES

The insurance company will mail or email you a document asking you to give them permission to obtain all of your medical records. This is called a HIPAA authorization or HIPAA release.

***Don't sign it!***

You should be in control of what information you provide to the insurance company. By signing a HIPAA release, you give the insurance adjuster the ability to get your medical records from birth to the present. This gives the insurance adjuster the ability to potentially show that you had similar injuries from the past, that you already had pain in other areas of your body, or more. In other words, it just gives them the ability to discount your claim.



# ADVISING YOU NOT TO HIRE AN ATTORNEY

Many insurance adjusters will try to convince you that personal injury attorneys are only there to take a huge chunk of your settlement. What they aren't telling you is that they know people represented by attorneys obtain over three times more money in the settlement process on average. Remember, the insurance adjusters are working against you, not with you. Never forget that.

## OTHER COMMON TACTICS

Insurance companies usually take one of three approaches: (1) calling all the time, acting friendly, and then offering a small settlement amount; (2) stonewalling; (3) cash upfront. All three approaches are bad for you.

Insurance companies will use the friendly tactic in the hopes of you accepting too little for your claim. They want to settle your claim for cheap before you get fully diagnosed by your family doctor or a specialist. Again, they are just trying to pay you as little as possible, no matter how friendly they might seem.

The stonewalling tactic is becoming more common lately. You will be shocked when an insurance adjuster refuses to return your phone calls for months. They are simply hoping you will give up. In this instance, it is essential to remember that the statute of limitations ends your claim if you give up for too long.

For cash upfront, insurance companies may contact you early on and offer to pay for the medical bills you've already paid out-of-pocket or pay back your health insurance carrier for what they paid and a small cash settlement typically ranging from \$500-\$1500. Don't fall for this trick! Insurance companies know injuries from wrecks can often be worse than they first appear. If you accept the cheap, quick cash, your case is over. There is no way to go back and get fair compensation, even if you need surgery or can no longer work.





# THE TYPES OF CAR INSURANCE COVERAGE

As you pursue your claim, knowing what types of car insurance coverage may come into play is important.

## LIABILITY COVERAGE

The other driver should have liability coverage. It's required by law. The minimum amount that Alabama requires is \$25,000 per injured person and \$50,000 per incident.

This coverage is where you are seeking compensation. \$25,000 might be enough to cover your claim, or it might not even be close, depending on how hurt you are.

It's important to know that the insurance adjuster will rarely tell you the coverage amount. For all you know, the other driver could have \$25,000 in liability coverage or as much as \$1,000,000.

## MEDICAL PAYMENTS COVERAGE

This is insurance coverage you might have under your own car insurance policy. It is not required by law.

Medical payments coverage usually comes in amounts of either \$1,000, \$2,000, \$5,000, or \$10,000. It covers medical costs up to the limit of the coverage. It will help pay for hospital and ambulance bills.

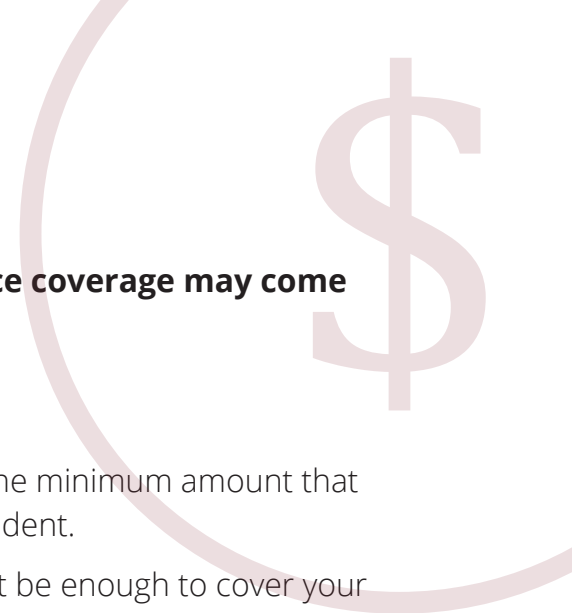
While medical payments coverage is helpful, it also grants your car insurance the right to subrogation (pg xx) for any medical payments it makes. Your insurance will get paid back out of your settlement for the amount it paid. Remember, you have to know the subrogation amounts before starting to negotiate!

## UNINSURED/UNDERINSURED MOTORIST COVERAGE

This is a crucial piece of insurance coverage to have if you don't already. A recent study has shown that 1 out of 5 drivers in Alabama don't have valid car insurance. What if they run a red light and severely injure you?

The only way to protect yourself from the reckless actions of uninsured motorists is by purchasing uninsured/underinsured motorist coverage through your insurance agent. You can get a small amount of \$25,000 or go up to \$500,000. Your uninsured/underinsured motorist covers your claim if the other person has no insurance or doesn't have enough insurance to compensate you.

In Alabama, you can "stack" uninsured/underinsured motorist coverage up to three times. So, if you have \$25,000 in coverage and own three vehicles, you actually have \$75,000 in coverage available for your claim.



# HANDLING YOUR OWN CAR ACCIDENT CLAIM

If you decide to go it alone in the claims process, you should only begin the settlement process once you finish getting medical treatment. Attorneys call this point in time "maximum medical improvement." It's important not to settle your claim too early. After all, once you settle, you can't reopen the process.

It's also important to begin the negotiation process only after you have collected all of the evidence and submitted it to the insurance adjuster. Here are the steps to follow if you decide not to use an attorney:

## 1. COLLECT ALL THE EVIDENCE

Remember the recipe for compensation? Collecting evidence is like shopping for the right ingredients. You need to gather all the evidence to prove negligence and collect compensation.

### Evidence you need includes:

- Accident report
- Photos of the vehicles/scene of the collision
- Witness statements
- Any social media posts from the other driver related to the wreck
- A background report of the other driver (if relevant)
- A copy of the "Rule of the Road" the other driver violated
- All relevant medical records of your medical treatment
- All medical bills
- All subrogation documents from your health insurance
- All hospital liens
- All documents proving your lost wages
- Photographs of your injuries
- Any other relevant documents showing how the accident harmed you





## 2. CREATE A SETTLEMENT BROCHURE

When you have collected all of the above, add a title page and table of contents. Put the insurance company's claim number on the title page. Send the whole thing to the adjuster in a pdf and call to let them know it's coming. Then give them at least a month to review it.

### 3. NEGOTIATION

Make the insurance company make the first offer. You may have seen the show "Pawn Star." If so, you know that the pawnshop employees always make the customer suggest the first offer.

If they refuse to make the opening offer, then you need to make a high settlement demand. In the next section, we go over how to put a value on your claim. For now, just know that you should stay high and only come down when they come up.

Take it slow. This is your one chance, and you don't want to seem eager to settle.



# DETERMINING THE VALUE OF YOUR PERSONAL INJURY CLAIM

People always want a formula to determine what their claim is worth. Unfortunately, there is no such thing. The only way to estimate what your claim is worth is by comparing it to similar claims that were filed as lawsuits and went to trial.

The biggest drawback of not having a personal injury attorney is that you will probably be clueless about the value of your claim. However, consider the following relevant factors to help you arrive at a fair settlement amount.

## IS LIABILITY CLEAR?

Does the insurance company have a legitimate argument that you contributed to the wreck? If the wreck occurred in Alabama, that could strongly impact the value of your case (see pg xx). You may want to consider taking a little less than you had hoped for because you may not get anything at trial.

## IS LIABILITY AGGRAVATED?

Was the other driver drunk? Excessively speeding? If so, then your claim has more value. A jury is more likely to return a larger verdict if the other driver's actions were ridiculously dangerous.

You could also be entitled to punitive damages. A court awards punitive damages when the other driver was driving in a manner they knew was dangerous to other drivers.

## HOW LIKEABLE IS THE OTHER DRIVER?

If the other driver is a grandma who rear-ended you on her way to church, then this is something you have to take into account. While it may not seem fair, juries tend to be lenient to nice people who made a simple mistake. On the other hand, if the other driver is a career criminal who was on his way to the liquor store, then your claim may have increased value.





## DAMAGES

This is usually the most important factor. You need to total the subrogation amounts, the liens, your out-of-pocket medical expenses, and your lost wages. Combined, these create the base value for your case.

The other damages you may be entitled to are more intangible and difficult to define. Things like pain, suffering, mental anguish, and permanent injury don't have a definitive value. However, you must try to quantify them and be able to justify them to the insurance company.

Ultimately, no one can compare two cases apples to apples. Juries are unpredictable, and every case is unique. With that said, the value of your case should exceed your base amount to compensate for the intangible damages of pain, suffering, and mental anguish. How much it exceeds your base amount depends on the factors discussed above, the nature of your injuries, and how your injuries affected your quality of life.



## VENUE

The county in which your accident occurred is usually a crucial factor. In Jefferson County, Alabama, juries award different amounts than in Shelby County, Alabama. It could be the exact same case, but if one happened in Jefferson County and one happened in Shelby County, the cases would have different settlement values.

The only way to know whether a certain county is a good venue or a bad venue is by talking with an attorney. They can tell you your odds with a jury trial in that specific county. People in some counties are more skeptical of personal injury claimants, while people in other counties give them huge verdicts.

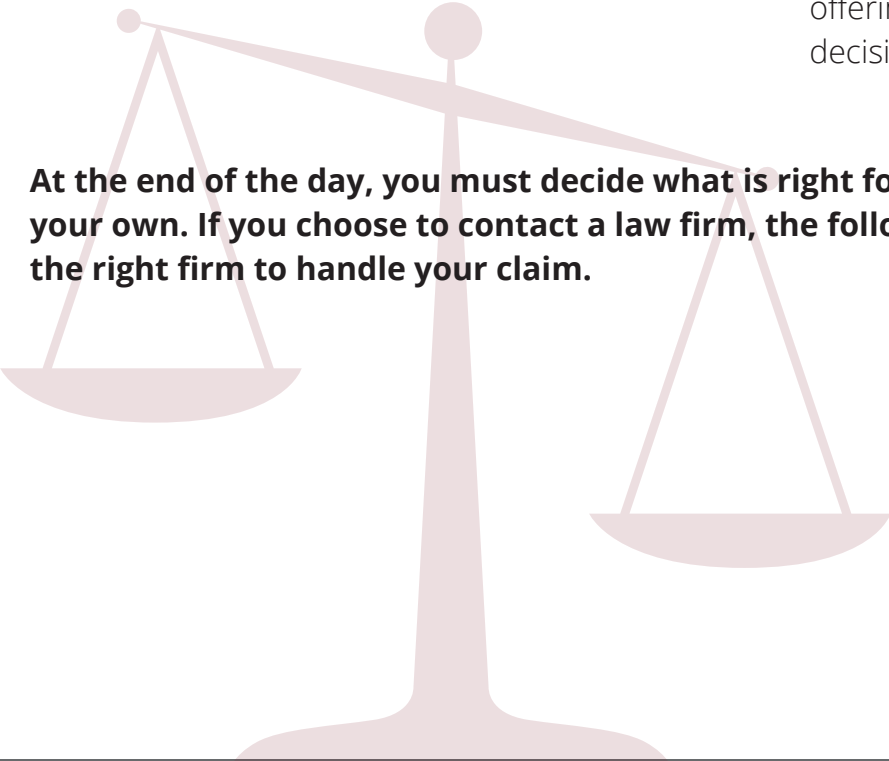
# PROS AND CONS OF HIRING A PERSONAL INJURY ATTORNEY

## PROS

- You will likely get a higher settlement amount. Studies show that people with attorneys get approximately three times as much money.
- You can avoid the headaches and stress that come with the process. It takes time and effort to handle a personal injury claim properly. There are numerous phone calls, letters, emails, not to mention a lot of confusing paperwork. Many people feel relieved when they hire someone to handle everything for them.
- Those pursuing their claim can avoid second-guessing themselves because their attorney knows if a settlement amount is fair.

## CONS

- Personal injury attorneys charge a contingency fee, ranging from 33.3% to 45%. Our firm typically charges 33.3% in car wreck cases, which is fairly standard in Alabama. A contingency fee states that if and when your case is settled, the attorney keeps a percentage of your settlement amount. If you file your claim on your own, you don't lose that fraction of your settlement.
- Some people feel like they lose control over the process when hiring a law firm. This can be somewhat true depending on which personal injury firm you hire. Personal injury attorneys know what they are doing and aren't always the best at taking input from the client. With that said, our firm prides itself in keeping the lines of communication open, offering advice, and leaving important decisions in the hands of our clients.



**At the end of the day, you must decide what is right for you. You may be able to do it on your own. If you choose to contact a law firm, the following section covers how to select the right firm to handle your claim.**

# HOW TO CHOOSE THE RIGHT LAW FIRM

Marketing in the personal injury arena has gotten crazy over the last decade. Billboards and TV ads are everywhere. So how can you know which firm is right for you?

The most important factor to consider is whether the lawyers in the firm have experience taking cases all the way to trial. You don't want a law firm that just settles every single claim they handle. You want a law firm that the insurance company knows will take the case to the courthouse if necessary. Hiring a local attorney is also important. You don't want a law firm based in Florida handling your case that happened in Madison County, Alabama. This is because much of handling a case is local knowledge. Being familiar with judges, venues, local procedural rules, and local defense attorneys goes a long way in getting you the compensation you deserve.

Another marker of a good personal injury firm is that you get to speak with an actual attorney instead of a "client intake specialist," "liaison," or paralegal when you contact the law firm.

You should avoid choosing a law firm based solely on advertising. Every firm can advertise. We recommend talking with family and friends who have been through personal injury claims. Ask them which law firm they used and whether they had a positive or negative experience.

Be sure to research law firms online as well. Look at their websites, social media pages, and Google reviews. See whether they have any designations such as "Best Law Firms" by U.S. News & World Report.

In short, you need to do your homework before contacting a personal injury law firm. Not every firm is the same, and you want the right one to handle your claim.





# ABOUT TIMBERLAKE, LEAGUE, AND BROOKS

For Alabama, Tennessee and Georgia injury victims who deserve compensation after an accident, Timberlake and League provides professional, responsive and effective representation. Our experienced trial lawyers help every client navigate the hurdles of a personal injury case with the dignity, concern and respect they deserve.

At Timberlake, League, and Brooks all of our clients receive quality care provided by qualified attorneys who, combined, have over 75 years of experience. We know it can be confusing and overwhelming trying to comprehend your legal rights while navigating injuries after an accident. We make sure our clients understand their rights and provide additional guidance as they deal with the aftermath of their accident and the stress of an impending case. In the end, we help injury victims get the compensation that deserve.

