



NAVIGATING YOUR CAR ACCIDENT CASE.

by Venus Poe

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The information you obtain in this report is not, nor is it intended to be, legal advice. You should not read this report to propose specific action or address specific circumstances, but only to give you a sense of general principles of law.

Application of these general principles to particular circumstances must be done by a lawyer who has spoken with you in confidence, learned all relevant information, and explored various options. Before acting on these general principles, you should hire a lawyer licensed to practice law in the jurisdiction in which you may have a case.



By its very nature a car wreck is an unexpected event that can turn your life upside down. After the accident you are thrown into a world of tow truck drivers, insurance adjusters, doctors, and lost time from work. You could be struggling to figure out how you are going to get your car fixed, what doctors you need to see, and when you can get back to work. With so much going on, it can be hard to understand where you need to begin. This is why it is very important that you are knowledgeable about your rights and the steps that need to happen in your car accident claim. You need all the compensation available to you so you can get your life back on track.

I have written this guide to help you better understand the process involved in bringing your claim to a conclusion, some of the insurance that may cover your claim, and, finally, what you should bring to your first attorney visit. The more knowledgeable you are about the issues surrounding your car accident, the more empowered you can be about your case. The more empowered and knowledgeable you are, the less stress you will be under when dealing with this sudden change in your life.



Before you can learn about the insurance that may apply to your case or what damages you can claim, you first should learn about the steps and processes that your claim will go through from beginning to end.

1. **Evaluation**-The first step in any car accident is to evaluate the case. The things we look at in our evaluation are: who was at fault in the accident? What injuries did you suffer as a result of the accident? Did you receive medical treatment for these injuries? Is there any insurance that would cover your damages? Depending on the answers to these

questions, we determine whether we will take your case for representation or not. If we cannot take your case for representation, we usually recommend other lawyers that you can speak with for a second opinion. At the end of the day, we want you to be comfortable and assured even if you are not our client.

2. Investigation and Treatment- If we decide to take your case, we immediately begin our investigation. This includes a variety of actions, depending on the facts of your case.

The investigation usually includes:

- obtaining the accident report from the Department of Motor Vehicles;
- sending the Freedom of Information Act Request (FOIA) to the Department of Public Safety;
- getting the names and interviewing all the witnesses;
- going to the accident scene and taking pictures; and
- obtaining pictures of your vehicle and injuries.

During this time you also still continue to get medical treatment. We must wait until you are completely better or you have reached maximum medical improvement before we can determine the value of your case. We are here to make sure that you get the care that you need and follow the progress of your treatment. You can always call on us if you are having trouble getting the care you need to get back on your feet and back to your life.

3. Demand-Once your medical treatment is complete, we collect all of your medical bills and all of your medical records from all of your doctors. We get those together along with any other documentation of damages such as loss wage statements, prescriptions, and any other costs that you may have incurred. We draft a demand for payment to the

insurance company and include all of the collected documentation. We use our experience of recent verdicts and settlements around the state and county to discuss with you the value of your case.

4. **Negotiation**-After we have sent this demand package to the insurance adjuster and the insurance adjuster has evaluated your case, we will begin negotiations. Sometimes this negotiation process is very quick and other times it takes time to get the best response from the insurance company. At the end of this negotiation process when we have been offered the top dollar for your case, we meet with you again. At this meeting we discuss with you if we think that the offer is fair and recommend that you should accept the settlement or if we do not think that the offer is fair and that we should proceed to file suit. Ultimately the decision to proceed to trial or to settle your case is always yours.

5. **Filing of Lawsuit**- If you and I together determine that the settlement offer from the insurance company is not enough to compensate you for your damages, we will file suit to take the case in front of a judge and jury. The way this is done in South Carolina is to file a Summons and Complaint with the court. Once the Summons and Complaint are filed with the court it must be served upon the Defendant. Once the Defendant is served they have 30 days to file an Answer with the court.

6. **Discovery**-Once a lawsuit is filed, the discovery process begins. This period takes up the majority of the time in a lawsuit and includes the parties exchanging Request for

Production of Documents; Interrogatories; any inspections; the discovery of experts and their opinions; and, depositions of experts, witnesses and the parties.

7. **Mediation**-Many counties in South Carolina have mandatory mediation. What this means is that before trial, but usually after discovery, the case must undergo mediation.

Mediation is the process by which the Plaintiff and Defendant come together with an attorney who is specially trained to try to come to an agreement and settle the case before trial. Venus Poe has mediated many cases as the attorney for either the Plaintiff or Defendant. She is also a certified South Carolina Circuit Court Mediator.

8. **Trial**-If the case is not settled at mediation, the case then will go to trial. Most cases in South Carolina are tried before a jury. A trial is where all of the admissible evidence is presented including: witness testimony, testimony from the parties, testimony from any relevant doctors and any other admissible documentarian evidence. A trial can last anywhere from a day and a half to several weeks. At the trial your case is in the hands of the jury, and whatever they decide as to the amount of money the Plaintiff is to receive is the final word unless there are any appealable issues. This amount can be less than or more than the amount that the defendant has previously offered to settle the case. No one can predict the way that a jury will rule in any given case, we can only make our best educated guess from prior jury awards and the facts and circumstances of the case.



INSURANCE

How does car insurance work when you are in a car accident?

Part of our initial evaluation of your claim will involve determining what type of insurance and how much insurance coverage is available. If another driver caused your accident, he or she is responsible for paying to have your car repaired and any personal injury, lost wages and pain and suffering you have incurred.

Liability Coverage

In most cases the other driver has insurance that will pay for these damages. Liability insurance covers damages that a driver is legally liable to pay. In South Carolina, every car is required to have liability coverage of at least \$25,000 per person, per accident. With the cost of medical treatment these days, this minimum amount can quickly be exceeded by an injured party.

If the at-fault driver's insurance coverage is not enough to cover all your damages, what then? There is other insurance coverage that may be applicable to your accident.

Underinsured Motorist Coverage (UIM)

Underinsured motorist coverage is sometimes referred to as UIM. If your damages exceed the at-fault driver's liability coverage your UIM coverage would then step in to pay the remaining damages. UIM compensates you, or other persons insured under your automobile insurance policy, for amounts which you legally may be entitled to collect as damages from an owner or operator of an at-fault underinsured motor vehicle.

Unfortunately, though, it's not always simple to collect UIM benefits. In order to qualify for your UIM insurance coverage, you must exhaust the other driver's liability limits, and then you must notify your insurance company of the other insurance company's settlement offer.

Do I automatically have UIM Coverage?

No. Your insurance company must offer you underinsured motorist coverage for an additional fee. Under South Carolina law, you have the right to be offered underinsured motorist coverage up to the limits of liability coverage which you will carry under your automobile insurance policy. Not everyone elects to pay the extra money to obtain underinsured motorist coverage. This is unfortunate because everyone should carry underinsured motorist coverage. This insurance is there to compensate you and is usually only a few dollars a month.

Medical Payments Coverage (Med Pay) and Personal Injury Protection (PIP)-What is it?

Medical Payments Coverage (Med Pay), also called Personal Injury Protection (PIP) coverage, is a type of optional insurance that you can choose to carry along with your automobile insurance. Med Pay is relatively inexpensive and can be very beneficial. All insurance companies that offer automobile insurance in South Carolina must also offer at least \$1,000 in Medical Payments Coverage as an option for you to purchase.

Med Pay is a no-fault insurance. This means that no matter who is at fault for the accident, the Med Pay will pay for any medical bills up to the amount of the insurance that has been purchased. Even if the accident is your fault, the Med Pay coverage will pay for a certain amount of your medical bills for you and anyone else in your vehicle.

If you were not at-fault in the accident, Med Pay is paid in addition to the at-fault person's insurance. South Carolina law states that Med Pay coverage is not mandatory but if you have Med Pay coverage, the coverage cannot be assigned or subrogated and is not subject to a setoff. That means if you are paid for your medical bills from your Med Pay policy, the at-fault driver can't say that they have to pay you that much less from their settlement. This always allows you to put more money in your pocket.

Many injured people mistakenly believe that the at-fault driver's insurer will pay for medical treatment as the bills are incurred. Instead, the insurance company will offer you a settlement once you have completed treatment. One element of the settlement is your medical bills. While you are waiting to complete treatment, your medical bills can pile up. If they are not paid, they may go into collections before you see any money from the at-

fault party's insurance. Medpay coverage can help get you through this time until you have completed treatment.

What if someone hits me who does not have insurance?

All cars are required to have insurance to be on the road but, of course, not everyone follows the law. If you are in a wreck caused by someone who does not have insurance, your uninsured motorist insurance coverage will cover your damages. Uninsured motorist coverage is automatically included in your own automobile insurance when you pay for even a basic policy. Therefore, if you are in an accident with an uninsured vehicle, you need to notify your own insurance company and your damages will be handled under your uninsured motorist coverage.

Can I get more than one policy?

Sometimes. Each case is different and each case will involve different layers of insurance. You may be entitled to collect multiple liability policies or multiple underinsured motorist policies if they are available. It is best to have an experience lawyer who has spoken with you in confidence, learned all relevant information, and explored various options look over your case so that you can insure that you know about and are receiving all the money available for your injuries and damages.



WHAT YOU NEED TO DO NOW.

What to bring with you when you meet with an attorney about your car accident.

If you have been in a car accident, it can be a confusing time. Knowing what is important to your attorney when you go for your first appointment can speed up the resolution of your case.

1. **The FR-50** that the officer gave you at the scene of the accident. This is the form that the officer wrote the insurance information for each car. This will help your attorney know the name of the person at fault in the accident and will help them notify the proper insurance companies so that a claim can be opened.
2. **The names of any doctors that you have seen since the accident.** The attorney will get the medical records and bills directly from the doctor or hospital. If you have already received any bills, bring those to the meeting too.
3. **The declaration page from your own insurance.** Your insurance agent can provide this to you. It shows all the insurance that was in place on the date of your accident. Although the at-fault driver's insurance is in play, you may have Med Pay as part of your policy to help with some of your medical bills. Most importantly, you may have underinsured motorist coverage that may be needed if the at-fault driver's insurance is not enough to cover all of your damages.

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4. **Your health insurance cards.** You should make sure that your doctors are submitting your medical bills to your health insurance company. We need your insurance information to make sure that everything with your medical bills is handled properly down the road.
 5. **The names and contact numbers for any witnesses,** if you have them.
 6. **The names and contact information for anyone that has contacted you from any insurance companies regarding the accident.** Many times the the at-fault driver's insurance company has already contacted the potential client before the first meeting. Make sure to save the adjuster's name and number. Knowing who is already assigned to your case at the insurance company saves your attorney from having to track that information down.
 7. **Receipts** for things you have had to buy or fix because of the accident.
 8. **Dates you have missed work.** Your attorney needs to know the dates you have missed work. If you can bring a recent paycheck stub, that would also be helpful to determining your lost wages.
 9. **Photos.** Most people have the pictures saved on their phones. We take a look at them during the initial meeting and then have our client email them to us after the meeting.
 10. **Anything else that you feel is important.** Every accident is different. Every person is different. If there is something you think is important, bring it with you.

Remember, if you do not have some of this information, your attorney can help you get it. If you have them at the beginning, your attorney can jump right to getting you on the right track to make sure the accident has as little impact on your life as possible.

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SHEALLY VENUS POE IS A MEMBER OF THE SOUTH CAROLINA STATE BAR, AND IS LICENSED TO PRACTICE BEFORE ALL STATE COURTS IN SOUTH CAROLINA, THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA, THE UNITED STATE COURT OF APPEALS FOR THE FOURTH CIRCUIT AND THE UNITED STATES SUPREME COURT.

PROFESSIONAL INVOLVEMENT

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COMMUNITY INVOLVEMENT

VENUS POE BECAME A LAWYER TO SERVE HER CLIENTS AND HER COMMUNITY. SHE IS A FORMER BOARD MEMBER OF THE SIMPSONVILLE CHAMBER OF COMMERCE AND FOUNDER OF THE SIMPSONVILLE CHAMBER OF COMMERCE FOUNDATION. SHE CURRENTLY SERVES AS A BOARD MEMBER FOR THE FOUNTAIN INN CHAMBER OF COMMERCE AND WILL BE PRESIDENT OF THE FOUNTAIN INN ROTARY CLUB IN 2017.

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