



# New York Car Accident Lawyers

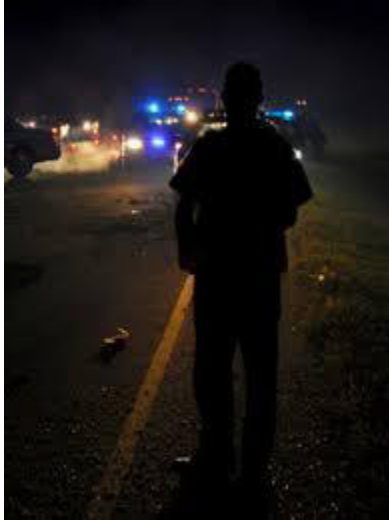
What you need to know when you are hurt in a car accident

An eBook by  
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**Car accident lawyers** protect the rights of those persons seriously injured in a motor vehicle accident. While this may sound simple, there are complex laws governing car accident claims and the **auto accident lawyer** must also have knowledge in a diverse range of disciplines, including medicine, engineering and bio-mechanical engineering.



Car accidents are a leading cause of injury. In New York, there were 294,757 motor vehicle accidents for the year 2012. Of these accident 1,082 resulted in fatalities and 123,296 produced personal injuries.

Auto accidents are also the leading cause of death of children, teens, and young adults (ages 5 to 34) and among the top ten causes of death for people of all ages.

When someone retains a lawyer to pursue an injury claim resulting from a car crash, the lawyer should immediately investigate the cause of the accident, hire an investigator and/or engineer if necessary, put the responsible party or parties on notice of the claim, send representation letters to the respective insurance companies and ensure that the no-fault application is filed.

The attorney will monitor the clients course of medical treatment and at the appropriate time gather all of the clients medical records. It is at this point that the attorney may enter into settlement negotiations.

Some lawyers differ as to when to start a lawsuit over the claim. Some like to start the suit right away, while others may wait to see if the claim can first be fairly settled. What is important is that the lawsuit is filed, if necessary, within the applicable statute of limitations. In New York, the statute of limitations for a motor vehicle accident claim is three years from the date of the accident.

## No-fault

No-fault benefits are provided regardless of who may be at fault for the accident. The benefits are part of the financial responsibility requirements of the New York Insurance Law that mandates that every owner of a motor vehicle registered in the State purchase certain minimum insurance coverages as follows:

- Minimum Liability Coverage
- Uninsured Motorist Coverage
- No-fault Benefits

No-fault benefits include payment of medical expenses, lost wages, property damage, towing and car rental. The part of the benefits that pays for medical expenses and lost earnings is called Personal Injury Protection.

In New York, a No-Fault application must be filed within 30 days of the accident in order to receive benefits.

The injured person must file for no-fault benefits with the insurance company for the car in which he/she as an occupant, either as passenger or driver.

If the injured party was a passenger in an uninsured vehicle, then in that event, the injured party may file an uninsured motorist claim with either his/her own motor vehicle insurance carrier or if neither the injured person or a household family relative did not own a motor vehicle and thereby had no insurance, a claim may be made with the Motor Vehicle Accident Indemnification Corporation(MVAIC).

## Types of Car Accidents

Types of **auto crashes** may include the following:

- A collision with another car
- A collision with a truck
- A collision with a bus
- Striking a stationary object
- A single car crash

## Causes of Car Accidents

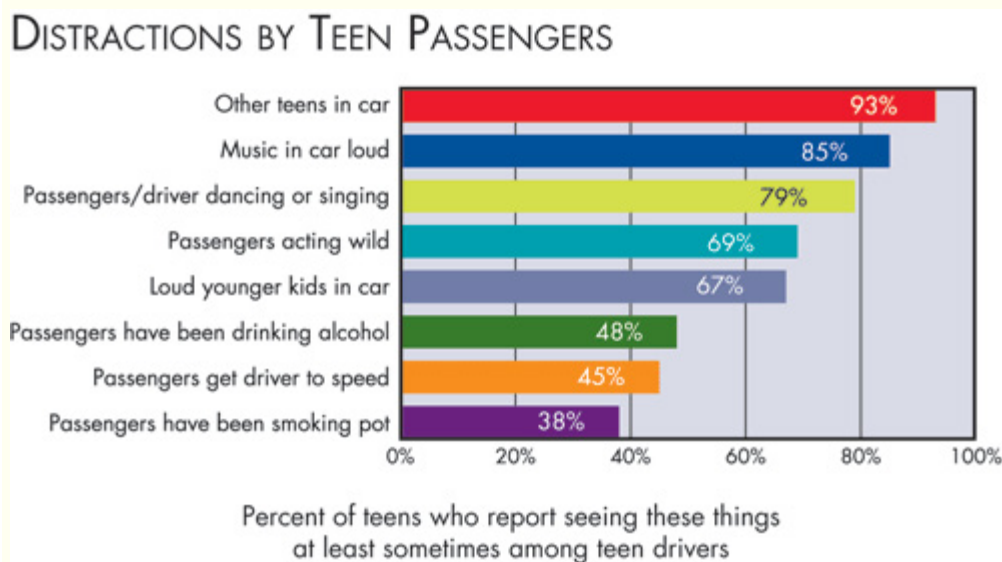
**Car accidents** may be caused by a variety of factors. These factors can include human error, mechanical failure, roadway defects, an animal or an act of God.

It is the **auto accident's lawyer's** job to determine who may be at fault for the accident and why.

Some of the common causes of accidents that were due to the fault of another person or entity are as follows:

### Driver Inattention

According to the New York Department of Motor Vehicles' Statewide Statistical Summary, 49,781 crashes were due to driver inattention or distraction. Of these, almost half resulted in personal injury.



Distracted driving may include such factors as:

- Texting while driving
- Dialing a hand-held device

- Taking on a hand-held device
- Reaching for an object
- Eating
- Drowsiness
- Reading
- Applying makeup
- Looking at an external object

There is especially more awareness of the dangers of texting while driving, yet it is still a common practice.

### Driver Error

Driver error is the most common cause of **car accidents**. It can include failure to obey a traffic control device, driver inattention, following too closely, speeding, unsafe lane change, failure to yield the right of way, alcohol involvement, aggressive driving, drowsy driving and failing to keep right.

### Roadway Defects

Roadway defects can cause car crashes. They can be caused by improperly designed roads, failure to properly and adequately repair and maintain the roadway, or inadequate traffic control devices.

### Failure to Properly Service and Maintain a Car

The owner's failure to properly service and maintain a car is negligent. If someone is injured as a result of this negligence, the owner is subject to civil liability for the damage caused.

One example may be the failure to properly service and maintain the braking system resulting in brake failure.

### Product Liability or Defective Manufacturing

Everyone is aware that from time-to-time manufacturers recall automobiles for various reasons.

When an auto accident is caused because of poor design or there was an error in the manufacturing process, the manufacture can be held responsible.

A car accident may be caused by a design or manufacturing defect or error only. Also, there are times where another driver may be at fault for the accident, yet the design or manufacturing defect or error made the severity of the injuries worse than it should have been.

For example, it has been alleged that certain models of SUVs are more susceptible to rollovers.

Further examples would be the failure of the seat belt to properly restrain or the failure of the airbags to properly engage.

## Uninsured/Underinsured Motorist Claim

There are times when an automobile accident may be caused by an uninsured or hit-and-run driver.

In that event, the injured party may file an uninsured motorist claim with his/her own motor vehicle insurance carrier for personal injury damages. If neither the injured person nor a household family relative did not own a motor vehicle and thereby had no insurance, a claim for personal injury damages may be made with the Motor Vehicle Accident Indemnification Corporation (MVAIC).

There also occasions where the tortfeasor (responsible party) has a limited liability insurance policy that is inadequate to compensate the injured party for his/her damages. In that event, the injury party is entitled to seek compensation in excess of the tortfeasor's liability policy for personal injuries from his/her own automobile insurance carrier if his underinsurance policy is greater than the tortfeasor's policy.

## Damages

When someone is injured in a car crash due to the fault of another person or entity, they are entitled to bring legal proceedings against that party or entity to recover damages for such things as past and future pain and suffering, medical expenses and lost income.

## New York's Serious Injury Law

The New York Insurance Law limits a person's right to recover for personal injuries due to a **car accident** unless they sustained a "serious injury."

The Insurance Law defines a "serious injury" as a personal injury which results in at least one of the following:

- Death
- Dismemberment
- Significant disfigurement
- Fracture
- Loss of a fetus
- Permanent loss of use of a body organ, member, function or system
- Permanent consequential limitation of use of a body organ or member
- Significant limitation of use of a body function or system, or
- A medically determined injury or impairment of a non-permanent nature which prevents the injured person from performing substantially all of the material acts which constitute such person's usual and customary daily activities for not less than ninety days during the one hundred eighty days immediately following the occurrence of the injury or impairment.

This law can be complicated and only an experienced car accident attorney can advise an injured person whether they are likely to meet the threshold and thereby have a viable claim.

## Speak with a Car Accident Lawyer

If you or a loved one has been injured in an auto accident, it is important to speak with a **car accident lawyer** as soon as possible to protect your rights and assert your claim.