

Personal Injury Law Podcast

by Rosenfeld Injury Lawyers

5 Crucial Steps to Take After a Car Accident

Jonathan Rosenfeld:

Hi everybody. I am Jonathan Rosenfeld. And today I am joined by my colleague and good friend, Gerald Bekkerman, who is a partner at Taxman, Pollock, Murray & Bekkerman, in Chicago, Illinois. And one of the things that I've always respected about Jerry is that he is a really a lawyer's lawyer if you will. I've known Jerry for over 10 years, and I've watched him develop as a lawyer, as a person, and really people, others have really started to grab onto what I sort of recognized early on, that he's really committed to his cases. He really is dedicated to his clients, people, other attorneys really respect him and enjoy his company, and these have not gone unnoticed by the legal world. Jerry is also... I'm not going to embarrass him too much, but Jerry has won numerous awards in the legal community recently, and over the past few years.

Jonathan Rosenfeld:

He is a 2018 Chicago Daily Law Bulletin, 40 under 40 very prestigious award, he is an Illinois super lawyer, a National Trial lawyers 40 under 40, top 40 in the country, he is a Illinois emerging lawyer for several years, and he's also a lifetime member of the million dollar advocates forum, and multi-million dollar advocates forum. Today, I am going to talk with Jerry and get his input about the steps to take after a car accident. And before we get into that, of all the different types of personal injury cases out there, every single person, I'm sure who's listening to this, can relate to being involved in a car accident, some type of motor vehicle accident, whether they are directly involved or they have a friend or family member involved, this is something that really impacts everyone. Before we started doing this, I just started looking around a little bit. And one of the shocking statistics that I saw was that in the state of Illinois, where we're located right now, there were almost 320,000 motor vehicle accidents last year.

Jonathan Rosenfeld:

And of those 300,000 plus accidents, there were 94,164 people who were injured, and 11,345 of those people sustained significant injuries which required extended hospitalization, or medical care. Over 1,000 people lost their lives, in motor vehicle accidents in Illinois last year. So this is an extremely pervasive problem that we have. And it is something that really everyone needs to be aware of. So, Jerry, I really appreciate you joining me today, and really looking forward to talking with you. I guess from the beginning, an ounce of prevention goes a long way. And I think a lot of times that people are aware of the things that they can or should be doing, after a car accident that can really go a long way towards helping them from a physical perspective, as well as helping them from a legal perspective, if they need to pursue a claim. So, first off, thank you for joining us.

Gerald Bekkerman:

Of course, John, thank you. And didn't embarrass me too much, I appreciate the kudos. Obviously we've known each other a long, long time and mutually respect what we've accomplished in the legal community, and I think podcasts like these are a great way to educate people on some of the missteps that I've seen, my 12 years of practice and what we see on a daily basis, almost in this firm. Auto accidents are the bread and butter of law firms. Even as large ones like us, we have 20 attorneys. We practice, everything from medical malpractice, civil rights work injuries, but the crux of the practice 80% of it is car accidents. Most of our clients come into our office as a result of injuries sustained in car accidents.

Gerald Bekkerman:

And as part of working with those clients over the years, we've picked up and some of the mistakes, some of the nuances in these cases, and unfortunately there's mistakes that are made and just steps that people aren't aware of. Maybe because they're just not educated enough. They've not experienced a car accident. They're shocked, they're surprised they're afraid. And they don't take certain steps that unfortunately wind up hurting them in the ultimate process of working with an attorney like myself, or here at our firm. So the main steps, the main things that people need to do, we can kind of go through them.

Gerald Bekkerman:

The five things that we always recommend somebody does when they get in a car accident, whether it's their first or their third, and they don't know what to do, are the following. First five are, so you check yourself for injuries. Are you hurt? Are you just in shock? Obviously, you can tell if you have a broken bone, you are going to be in excruciating pain, but are you unable to move your neck? Are you stiff? Did you feel something in your knee twist when you were putting your foot on the brake, did the seatbelt, give you scars and burns, and did the airbag go off and injure your face? There's a lot of elements involved pending on the severity of the crash. So first thing is check yourself for instance am I hurt? The second thing of course, and this one is commonplace. People do know that contact police, right? So get your cell phone. You know you have one in the car, OnStar or things like that with some vehicles. Get police, get law enforcement at the scene. Sometimes it might take a while.

Gerald Bekkerman:

The city of Chicago police officers could come quickly at some areas and other locations, maybe more rural places it takes the Sheriff's office a while to get there, be patient. Make sure the police arrive at the scene. You might be running late to pick up your kids from soccer, or to an appointment, but having the police come is really, really crucial to build your evidence in a case. [inaudible 00:07:14] police report and we'll go through these in more detail is very critical. So make sure, check yourself for injuries, contact law enforcement, and then take some basic evidence gathering steps that are so crucial to attorneys like us. Take [inaudible 00:07:29] of the vehicle, maybe take a photo of the intersection, maybe call somebody, give a statement to somebody, check in, all right. Obviously the police wait for them and give them all the actual information on what happened. Hey-

Jonathan Rosenfeld:

Now Jerry, If I can stop you for a second.

Gerald Bekkerman:

Yeah.

Jonathan Rosenfeld:

I think one of the things that every single person, as far as I'm aware of today, walks around with... they basically have them glued to their hand is their cell phone. And a lot of times people, after an accident, they may not be thinking clearly, they are clearly shaken up, but certainly, in today's world where every cell phone has a camera on it, documenting that the damage to the vehicles, documenting the area of the accident, is that something that you would suggest that people do?

Gerald Bekkerman:

Very, very critical, it helps us. When you call and speak with an attorney, which is the fifth step we're going to get into, get your medical attention for your injuries, contact a lawyer. But when you contact us the three questions I'm going to ask you are, were you injured? Is there a police report? And do you have any photos of your car, the other car, your injuries, and the scene of the occurrence, right? And that's really where it's really critical for us as lawyers, because that makes us figure out what we need to do and how quickly we need to move. What's good evidence. If you are claiming that you can't move your neck and your shoulder because of this really huge rear end and by a pickup truck, it would be great to have a picture to show that, that really happened as opposed to, I don't know, we don't have any photos.

Gerald Bekkerman:

In that a month or two later, the insurance claim gets open and we get a photo of the back of your car, and there's not even a scratch on it. We're going to be like, "Well, I don't understand, I thought you said this was a huge... you got to hit a 50 miles per hour by this pickup truck, and where's damage?" And that doesn't mean you don't have a case or you weren't injured, but there'll just be a thing that we would look at with not suspicion, but with just curiosity and obviously the insurance company, defense lawyers, things like that would look at the intersection, the scene of the occurrence, the other vehicle, maybe your car doesn't have a lot of damage to it, because you have a nice big American built tank, you got rear-ended by a [inaudible 00:10:05] that folded like an accordion.

Gerald Bekkerman:

Well, that's good evidence for us that this was a large impact, that there was some trauma that could have resulted from significant forces. The intersection, when you said you had a green light, or you said that there was a construction zone, so you slowed down for the construction zone as you're required to do under the law, but you're claiming that the person that hit you didn't slow down. Well just take a couple of pictures. You have your phone in your hand, we're all glued to them. Show me a construction barrier, show me a work zone. It's really, really helpful because that work zone might be gone the next day, and so we're going to have to take a lot more steps to prove that there was construction going on in that day, and that was a cause of why somebody was negligent in how they were driving. So yeah, pictures, evidence, very important.

Jonathan Rosenfeld:

So after this accident, the police are there. The police are documenting everything, which is important for preserving the evidence and preserving the scene of the accident and how this incident occurred, and the photographs are taken. What is really... what should someone be thinking after that? Let's say that maybe their back or their neck, is giving them some problems after an accident, which is very common. Sometimes, people are in shock after an accident and they're just not thinking clearly, but at some point, a lot of times these are delayed onset conditions. At some point, would you suggest that someone get checked out by a doctor?

Gerald Bekkerman:

Yeah, absolutely. So most of the time when you call the police, you're also going to get an ambulance if you're in a car accident. So a lot of municipalities here in Chicago and all over, they're going to offer you an ambulance. And to offer, to take you to the hospital. A lot of times you actually have to refuse the ambulance ride. Now we always tell people, don't refuse if you're legitimately injured, go to the hospital because the shock is stimulants that could be making... effect your judgment, but I mean if you're hurt, and an ambulance comes and you're involved in a big accident, and you're feeling pain, you should probably go to the hospital, take the EMS.

Gerald Bekkerman:

Now, if you can't, you're concerned, because you have a child in the car that's not injured, or you're concerned about what happened to your car, tow truck's not there, or any other circumstance, do what you have to do at the scene, finish up with the police, finish up with the tow driver, or maybe drive the car home if it's salvageable and then get immediate attention that night go to an urgent care, maybe the next morning at the latest. There's so many urgent care facilities. Now, even in our, we have a new boom and private medicine in this country. There's so many different clinics. Obviously you got your classic emergency rooms, but go get medical care. One of the biggest issues we see that hinders our ability to recover the most amount of money for clients, is a delay in medical treatment. So, I'd call it the classic tough guy syndrome, although it applies to soccer moms as well. "I'll be fine. I can't lift my shoulder up and my God, I got tingling coming down in my feet from my back, but I'll be all right."

Gerald Bekkerman:

You wait a day, you wait a second day. "You know what? I'll call my primary care doctor. Oh, they won't give me until next Friday." Now we have a 10 day, we call gap in treatment. And you may well have great intentions, and try to hold off, and try to not go see a doctor, but in the insurance world, you're going to be flagged as someone that probably isn't hurt. And they're going to argue to a jury, a judge, or devalue your case, even if it's legitimate and say, "Well, wait a minute, no reasonable person would wait 10 days to go seek medical attention, if they claim they have a torn rotator cuff or herniated disc or any of these medical issues." So, sooner you can get medical attention, given your circumstances, the better. It's very, very important, it's one of the main, I call them case killers, an otherwise great case or an otherwise compensable claim, that's going to either be dragged out for years by defense, or undervalued, or rejected outright.

Jonathan Rosenfeld:

Now, if there are... you've seen hundreds and hundreds of car accident cases where various types of injuries and everything, but, if you had two different people, one person, goes to the hospital after the accident, the other person goes home, sits the couch, he's clearly in pain, they'd take some over the counter pain medication, they take it easy, maybe they take some time off from work, you're going to see potentially drastically different results, based on not even necessarily what the injury is, but the type of medical care that they received following the injury, the accident. And I guess as someone who's seen that, over and over and over again, would you agree that it's just really important that you not only get medical care initially, but that you actually follow through with the prescribed care, whether it's physical therapy, whether it's getting a medication, whether it's taking time off from work, can you talk a little bit about how those factors play into the eventual outcome of a case in terms of settlement or trial [inaudible 00:15:56]?

Gerald Bekkerman:

Yeah, absolutely. I mean, having tried dozens of cases, I've seen the arguments actually made by lawyers for insurance companies to jurors, and those arguments appeal to the common sense of 12 people in a jury box. Well, if they were so injured as they claim, two years ago, they should have gone to the emergency room and they didn't go for five days or alternatively, well, they went to the emergency room and they said that they were hurt, and then they were told to follow up with a pain management physician, or an orthopedic surgeon for the shoulder, and they never went for two months. Those are again, it's a continuation of that gap in treatment kind of argument.

Gerald Bekkerman:

And it makes sense. It resonates because there's a person sitting in a jury that's going to relate to your common sense because you're going to say, well, wait a minute. If I had a torn shoulder, or a herniated disc, and now I have to have surgery, or my knee was torn, I wouldn't for sure go to an orthopedic doctor if that's what they told me to do, or I would for sure go to physical therapy as the told me to do. And it makes you as the injured victim in a case seem almost less credible, if that makes sense. So, it's clearly really critical after you seek your first care, whether it be ER, urgent care or your primary the next day, and those are referral made you follow the steps.

Gerald Bekkerman:

And physical therapy, [inaudible 00:17:16] conservative care if you will. Four to six weeks and that's what's recommended, you go. If you improve great, if you don't, they usually recommend you see a specialist either for spine, orthopedic sports injuries, or pain management, go to those appointments. Ultimately they may say, well, we need more imaging of your spine, or your shoulder, or your knee, or your ankle, go get that MRI. If you don't take the steps that are recommended, obviously it's adverse to your health A, and B, it's going to come back to bite you, because a common sense argument can be made that well, if they're hurt, why aren't they following doctor's orders?

Jonathan Rosenfeld:

That makes sense. I've seen personally firsthand, people, a lot of times, especially when they're doing physical therapy, they may feel some initial benefit, they may feel some initial pain relief,

then they say, "All right, hey, I've been to two weeks of physical therapy, I've gotten some improvement, I've gotten some massage, I'm starting to feel better." And they decide, "Hey, all right, I'm done." And they decide to basically take a pause, and move on, and then life essentially gets in the way, and then a month or two months later, they really realize that they either plateaued out or actually regressed in terms of their healing.

Jonathan Rosenfeld:

And I've really seen that destroy a case in terms of a settlement for them, because they really do have a legitimate injury. And that's an unfortunate thing. So I really agree with you that, really seeing things through, is really the key in a case like this, because as a trial lawyer, you're basically limited to the evidence that you have. And you can be the best lawyer in the world, but if someone is not following doctor's orders, they're not doing the things that they need to do, there's only so much that you can do as a lawyer to really help improve the value of their case and position it for a good outcome. So-

Gerald Bekkerman:

We got to come up with excuses for you then. You're going to have to explain that you didn't have babysitting and you had too many errands or work would let you go. I mean, there's obviously common sense answers to the criticisms, but you're just creating more work, creating less credibility in your case and adversely potentially affecting your health. So, follow doctor's orders.

Jonathan Rosenfeld:

All right. That's good. Well, I mean, maybe my kids can contact you if they lose their homework or something, they'll get the Jerry Bekkerman, excuse-

Gerald Bekkerman:

Absolutely. We got all the excuses. Yeah, medical attention is really key. And the fifth thing in our five step process here, is consult with an attorney. That's kind of the last thing after you've done all these steps, I think we've covered it really well. The only other thing I think we didn't address besides collecting evidence with the phone, when the police come, do your best to find a witness. Do your best to give the police evidence. The officers that do traffic reports are typically, you're very level, entry level, new guys on the scene, the traffic cops, they do hundreds of these, and a lot of times they just don't, not all, sometimes when they're busy, they don't create very factually thorough reports, okay?

Gerald Bekkerman:

And you could have been in a bad accident where it's a green light, red light issue, and you got three people that were at the scene there, and they're going to be like, we'd love to give you our name and number, and you're going to assume the police took their info but a lot of times they're not going to. So, you know somebody that witnessed it, get a name, get a number, a witness to your case is big. Tell the police, this guy Joe over here gave me his name. He saw everything that happened. That's a non-interested party. That's also helpful. So that's the only thing I would add about the information gathering phase, with addition to the photographs, grab a witness if there is one on the scene, and tell the cops very good and thorough story.

Jonathan Rosenfeld:

I think that's excellent, excellent advice. In terms of contacting an attorney, and again, it sounds a little bit, self-serving obviously, two lawyers talking about contacting an attorney, but the truth is that getting some input from an attorney who has experience with the particular type of case, can go a long way, in terms of positioning your case for a better result down the road. Someone who waits over year after an accident, there's only so much that you can do at that point, in terms of giving advice or suggestions for them. So I would just add, sure if you would agree, but to basically reach out to an attorney before you're in a situation where, "Hey, I got to get the case settled, I'm sort of up against a Statute of Limitations deadline." And contact that attorney early on. So you can get some input, so to help position your case for a better result down the road.

Gerald Bekkerman:

Yeah. Earlier the better. I mean most states have two year Statute of Limitations, the state Illinois does, but Tennessee is one year. So a lot of people just don't know that some states have a one year statute, some have three, some have four, most have two, but even the Statute of Limitation, and that means that's your limit for filing a claim to get compensation. Even without that, the earlier you contact a lawyer is better because we're going to be able to make sure that these holes, that the fence pokes in your case don't exist.

Gerald Bekkerman:

So if you're not getting medical attention, the lawyers are going to remind you, "Hey, why aren't you going to see the neurologist that you were told to follow up with for your brain injury? Why aren't you seeing the orthopedic sports doctor for the knee that you can't walk on? Why aren't you going to therapy like you were recommended? Hey, help me out. You said, there's a witness on the scene. You said his name was Joe, and he lived in the neighborhood, what did he look like? We'll send an investigator to go him and make sure we get a recorded statement." Little things like that, that are so vital in the first couple of days, and weeks or even weeks at the latest after an accident are crucial, to making sure that the case is as sound as possible, for a potential trial or resolution, a year or two away. But any of those little gaps or mistakes, sometimes we can't catch up, if you call us a year later and tell us about your accident, and unfortunately you've lost out on an opportunity to get a compensable case.

Jonathan Rosenfeld:

Jerry, I appreciate your input, and your time, and I really think this was good dialogue and really hopefully helpful information for people who may have been involved in an accident recently, or may have a friend or family member who, who was. So, thank you and I appreciate it.