

# WHAT TO DO IF HIT BY A CAR WHILE RIDING A MOTORCYCLE

Compiled by Kenneth Vercammen, Esq. from various sources

## - At The Accident Scene

1. Stop . . . do not leave the scene of the accident CALL THE POLICE, tell them where the accident occurred and ask for medical help if needed. 2. Get names, addresses, and license numbers of all drivers involved. 3. Get description and registration number and insurance information of all cars involved. License Plate Number \_\_ Registration # \_\_ Make \_\_ Year \_\_ Damage \_\_ Insurance Company \_\_ Insurance Policy Number \_\_
4. Get names and addresses of all witnesses Witnesses will be a tremendous help to you in any subsequent court action, if there is any question of liability involved. Get the names and addresses of as many witnesses as possible. If they refuse to identify themselves, jot down the license plate numbers of their automobiles. Do not discuss the accident with the witnesses. Do not give the witnesses' names to anyone but the police, your attorney or your insurance company.
5. While waiting for police, write down- Accident Information Date \_\_ Time \_\_ Location \_\_ No. of vehicles involved \_\_ Weather \_\_ Road conditions \_\_ Damage \_\_ Speed of the other car \_\_
6. Summary of accident \_\_
7. Diagram of accident
8. Call an ambulance. If you have any reason to suspect you were injured in the accident, go to a hospital immediately or see a physician promptly. You'll want it on record that you sought treatment right away -not in a week or so .
9. Name of Police Officers, Department and Badge Number
10. Do not assign or accept blame for the accident. - The scene of the accident is not the place to determine fault. Discuss the accident only with the police, your attorney and with representatives of your insurance company. Give the other party only your drivers license number, registration number and insurance information. - Be cooperative with the police.

11. Seek hospital/ medical attention.
12. Call your motorcycle insurance company to report the accident.
13. Call a personal injury attorney, not a real estate attorney : Call Kenneth A. Vercammen- Trial Attorney Attorney At Law (732) 572-0500 When you need help the most, we will be ready to help you.
14. Never give a signed statement to the claims adjuster representing the other driver's insurance company. The same goes for a phone recording. They may be used against you in court to deny your claim. Speak with your personal injury attorney first.

#### IF YOU HAVE BEEN HIT BY A CAR WHILE RIDING YOUR MOTORCYCLE, WHILE YOUR PERSONAL INJURY CASE IS PENDING;

It is important that you -- 1. DO NOT discuss your case with anyone except your doctors and attorney. 2. DO NOT make any statements or give out any information. 3. DO NOT sign any statements, reports, forms or papers of any kinds, . 4. DO NOT appear at police or other hearings without first consulting with your attorney. INFORM YOUR ATTORNEY PROMPTLY of any notice, request or summons to appear at any such hearings. 5. Refer to your attorney, anyone who asks you to sign anything or to make any statement or report or who seeks information concerning your case. 6. Direct your doctor and other treatment providers not to furnish or disclose any information concerning your case to any entity other than your insurance company without YOU AND YOUR ATTORNEY'S WRITTEN PERMISSION. 7. You may have insurance coverages such as liability, collision, accident, Blue Cross, Blue Shield or Major Medical which require prompt attention. However, be sure to have your treatment providers send bills immediately to all of your Major medical insurance companies. Your car insurance does not pay medical bills if you are injured while riding a motorcycle. 8. Notify your attorney promptly of any new developments. Small things may be important. Keep your attorney informed. 9. Maintain accurate records of all information and data pertaining to your case. 10. If you or any witnesses should move, be sure to notify your attorney of the new address.

#### Financial Recovery for motorcyclists hit by cars and injured

1. Kenneth Vercammen Helps Injured persons A person who is injured as a result of the negligence of another person is what we in the legal profession refer to as a personal injury claimant. In other words, they have been injured as a result of an accident, and now wish to prosecute a claim against an opposing party. As the attorney of record, I will be bringing this action for the injured

person. Therefore, I request that all clients do as much as possible to cooperate and help in every way. The purpose of this article is to describe the procedure that we may follow and give you sufficient instructions to enable you to assist us in this undertaking. Needless to say, helping us is just another way of helping yourself. If you have been injured, but not in a car accident, most of this brochure is still applicable to an accident case, whether it is a fall down, dog bite or other injury.

2. Clients should provide my office with the following: 1. Any bills 2. All Hospital or doctor records in your possession. 3. Motorcycle Insurance Declaration Sheet [This determines who pays your medical bills, even if you were on a bicycle!] 4. Motorcycle Insurance Policy 5. Photos of damage to your cycle and property 6. Photos of accident site 7. Major Med Card 8. Paystub if lost time from work

3. Attorney- Client Confidential Relationship First, I want to thank our clients for giving me the opportunity to assist them in their case. I am a legal professional and I have great pride and confidence in the legal services that I perform for clients during our relationship as attorney-client. If you have concerns about your case, please call my office. (732) 572-0500 We feel that this case is extremely important-not only to you, but to this office as well. This is not simply a matter of obtaining just compensation for you, although that is very important; we take professional pride in guiding our clients carefully through difficult times to a satisfactory conclusion of their cases.

4. Submission of Bills to Major Medical Insurance You should submit your medical bills to your own major medical insurance company first. This means your insurance company, not the careless driver, pay the majority of medical bills.

Please provide insurance information to each doctor, MRI facility and treatment provider. Please request that they submit bills and attending physician reports to your major medical insurance company.

NJSA 39:1-1 definition "Motorcycle" includes motorcycles, motor bikes, bicycles with motor attached and all motor-operated vehicles of the bicycle or tricycle type, except motorized bicycles as defined in this section, whether the motive power be a part thereof or attached thereto and having a saddle or seat with driver sitting astride or upon it or a platform on which the driver stands.

5. Diary We want you to keep a diary of your experiences since your accident. In addition to this daily record, we also ask you to start describing a single day in the course of your life. In other words, describe what you do when you get up in the morning, the first thing you do after you go to work, what type of

work and effort do you put into your employment, what activities you engage in after work, etc. In other words, we need you to describe the changes in your working life, your playing life, your life as a husband or wife or child or parent. In your written description of your day, we would appreciate your explanation in the greatest detail possible and in your own words how the accident and subsequent injuries have affected your life, your personality, and your outlook. And remember that suffering does not entail mere physical pain; suffering can be emotional and can be transmitted to your family, friends, and co-workers. When you have completed this description, please return it to this office in the enclosed envelope. Keep a diary of all matters concerning this accident--no matter how trivial you think it may be. You should include notes on the treatments you receive, therapy, casts, appliances, hospitalization, change of doctors, change of medication, symptoms, recurrence, setbacks, disabilities and inconveniences. If you have any doubt about the propriety of including some particular information, please call the office and let us assist you.

6. Record expenses You can also begin to set up a system for recording the expenses incurred in conjunction with your claim in minute detail. Medical and legal expenses are a strong part of the value of your lawsuit, so good records of these expenses must be kept at all times. From time to time, however, there will be expenses incurred that you must keep track of yourself. We ask you to make every effort to avoid any possible error or inaccuracy as jurors have a relentless reverence for the truth. Keep your canceled checks and your list of expenses together, for we will need them at a later date. Your attorney will keep track of your legal expenses, which may include costs of filing, service of process, investigation, reports, depositions, witness fees, jury fees, etc.

7. Investigation and Filing of Complaint Procedurally, the following events occur in most personal injury cases. First, your Attorney must complete our investigation and file. This will involve the collection of information from your physician, your employer, and our investigator. We will need your Doctors to provide us with copies of all bills, medical records and possibly a medical report. When we feel that we have sufficient information to form an opinion as to the financial extent of your damages, we will commence negotiations with the opposition for a settlement. If the insurance company will not make an adequate offer, then a Complaint and Case Information Statement is prepared by your attorney. It is filed in the Superior Court, Law Division. Your attorney then will prepare a summons and have the defendants personally served with the Summons and Complaint. The defendant, through their insurance company, must file an "Answer" within 35 days.

8. Interrogatory Questions and Discovery The Answer is followed by a request for written interrogatories. These are questions that must be answered by each

party. The Superior Court has set up certain "Form" Interrogatories which are contained in the Rules of Court. Generally, written interrogatories are followed by the taking of depositions, which is recorded testimony given under oath by any person the opposition wishes to question. The deposition is just as important as the trial itself. In the event you are deposed during the course of this action, you will receive detailed instructions as to procedure and will be requested to watch a videotape. After taking depositions, the case will be set down for an Arbitration. If the parties do not settle after the Arbitration, the case will be given a trial call date. Altogether, these procedures may take from six months to several years, and your patience may be sorely tried during this time. However, it has been our experience that clients who are forewarned have a much higher tolerance level for the slowly turning wheels of justice.

9. Doctor/ Treatment It will help your case to tell us and your doctors about any injury or medical problems before or after your accident. Good cases can be lost by the injured person concealing or forgetting an earlier or later injury or medical problem. Insurance companies keep a record of any and all claims against any insurance company. The insurance company is sure to find out if you have ever made a previous claim.

Tell your doctors all of your complaints. The doctor's records can only be as complete as what you have given. Keep track of all prescriptions and medicines taken and the bills. Also save all bottles or containers of medicine.

10. Bills Retain all bills which relate to your damages, including medical expenses, hospital expenses, drugs and medicines, therapy, appliances, and anything needed to assist you in your recovery. If possible, pay these bills by check or money order, so that a complete record may be kept. If this is not possible, be certain to obtain a complete receipt with the bill heading on it, to indicate where the receipt came from and the party issuing it.

11. Evidence Be certain to keep anything that comes into your possession which might be used as evidence in your case, such as shoes, clothing, glasses, photographs, defective machinery, defective parts, foreign substances which may have been a factor in your accident, etc. Be sure to let the office know that you have these items in your possession.

12. Photographs Take photographs of all motor vehicles, accident site, etc., that may be connected--directly or indirectly--with your accident. Again, be sure to let the office know that you have such photographs.

13. Keep your attorney advised Keep this office advised at all times with respect to changes in address, important changes in medical treatment, termination of treatment, termination of employment, resumption of

employment, or any other unusual change in your life.

14. Lost wages Keep a complete record of all lost wages. Obtain a statement from your company outlining the time you have lost, the rate of salary you are paid, the hours you work per week, your average weekly salary, and any losses suffered as a result of this accident. Where possible, also obtain other types of evidence such as ledger sheets, copies of time cards, canceled checks, check stubs, vouchers, pay slips, etc.

15. New information In the event that any new information concerning the evidence in this case comes to your attention, report this to the attorney immediately. This is particularly true in the case of witnesses who have heretofore been unavailable.

16. Do not discuss the case

The insurance company may telephone you and record the conversation or send an adjuster (investigator) who may carry a concealed tape recorder. You should not discuss your case with anyone.

Obviously, we cannot stress too strongly that you DO NOT discuss this matter with anyone but your attorney or immediate, trusted family. You should sign no documents without the consent of this office. Remember that at all times you may be photographed and investigated by the opposition. If you follow the simple precautions which we have set out in your checklist, we feel that we will be able to obtain a fair and appropriate amount for your injuries. If you get any letters from anyone in connection with your case, mail or fax them to your attorney immediately.

17. Questioning If any person approaches you with respect to this accident without your attorney's permission, make complete notes regarding the incident. These notes should include the name and address of the party, a description of the person, and a narrative description of what was said or done. Under no circumstances should you answer any question(s). All questions should be referred to your attorney's office.

18. Investigation by Defendant Insurance Company Permit us to reiterate at this time that the opposition's insurance company will in all probability have a team of lawyers and investigators working diligently to counter your claim. During the course of their investigation, it is quite possible that they may attempt to contact you through various (and sometimes, devious) methods. Please do not make their jobs any easier for them by answering their questions.

We cannot emphasize too strongly that you should refrain at all times from

discussing this matter with anyone--and that includes your employer, your relatives, your neighbors, and even your friends. Of course, there are exceptions to this rule.

If there are friends or neighbors or relatives who know all of the facts and circumstances surrounding the accident and can be of assistance to you, then they should be referred to this office so that their natural sympathy can be channeled into an effective asset for you.

Insurance companies pay money to claimants when they are satisfied that there are both liability and damages that support a recovery. They can be expected to thoroughly investigate the facts of the accident and any past injuries or claims. The insurance company will obtain copies of all of the claimant's past medical records.

19. Surveillance by Insurance Companies Remember at all times that you may be under surveillance and, therefore, subject to being photographed or filmed by the adverse party. Be advised that there are cases where photographs and films have been introduced in court showing claimants who were allegedly in serious condition participating in activities which they alleged they were unable to do. You do not have to live in fear of being photographed, of course, if your cause is a just one.

However, when carrying on your usual activities, keep in mind at all times that you are subject to investigation. If you have been seriously injured, do not do anything that will jeopardize your case during the course of your daily life. You should always follow your doctor's advice. If you have to do things which cause you pain, this can usually be explained to the full satisfaction of any court or jury.

There are cases where the insurance agent has attempted to discredit a personal injury plaintiff by taking movies of the claimant engaged in various physical activities. In one case, large rocks weighing over one hundred pounds were placed at the door of the garage during the night so that claimant would have to be forced to remove the rocks in order to drive to work. This, of course, was filmed and used to discredit the plaintiff's claim in court.

20. The value of a case depends on the Permanent Injury, medical treatment and doctor's reports Undoubtedly, you have questions as to how much your case is worth. We are going to be frank. The fact of the matter is there can be no answer to this question until we have completed the investigation in your case. Once we complete our investigation, of course, we can make a determination as to the amount of the defendant's liability, if any, and even at that we will only be at a starting point. After that, we must obtain all necessary



information concerning your lost wages, your disability, your partial disability, your life changes, and your prognosis. You may rest assured of one thing, however, and that is the fact that your case will not be settled below its true value, that is the fair compensation for the injuries you have received. You may also rest assured that no settlement agreement will be entered into without your consent.

Conclusion We appreciate that this is a great deal of information to absorb. We also appreciate that our requests for client's assistance have been numerous. However, we are certain that our clients appreciate having this information from the outset. Each request and bit of information given here represents an important part in recovering full value for your injury. Therefore, we respectfully request your full cooperation. If you have questions or concerns regarding these instructions, we encourage you to feel free to contact the office at any time.

CALL KENNETH A. VERCAMMEN, ESQ. 732-572-0500 for an appointment

About Kenneth Vercammen:

Kenneth Vercammen is a Litigation Attorney in Edison, NJ, approximately 17 miles north of Princeton. He often lectures for the New Jersey State Bar Association on personal injury, criminal / municipal court law and drunk driving. He has published 125 articles in national and New Jersey publications on municipal court and litigation topics. He has served as a Special Acting Prosecutor in seven different cities and towns in New Jersey and also successfully defended hundreds of individuals facing Municipal Court and Criminal Court charges.

In his private practice, he has devoted a substantial portion of his professional time to the preparation and trial of litigated matters. He has appeared in Courts throughout New Jersey several times each week on many personal injury matters, Municipal Court trials, matrimonial hearings and contested administrative law hearings.

Since 1985, his primary concentration has been on litigation matters. Mr. Vercammen gained other legal experiences as the Confidential Law Clerk to the Court of Appeals of Maryland (Supreme Court), with the Delaware County, PA District Attorney Office handling Probable Cause Hearings, Middlesex County Probation Dept as a Probation Officer, and an Executive Assistant to Scranton District Magistrate, Thomas Hart, in Scranton, PA.

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