

Legally Speaking: What to do if you're hit by a car

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Photo: Bikelaw (TM)

Picture this: You are riding along on your regular training route and nearly home. The light is green ahead, so you stand up on the pedals. If you make that one, you will make the next three. You clear the first light. Sweet — Now you will be home in three minutes!

Then, it happens. Someone pulls out from a driveway as though you are invisible. You are knocked to the roadway, but miraculously, you are unharmed. Naturally, your thoughts soon turn to your bike, and that's when you discover that it didn't fare as well as you. The forks are snapped, and your wheels are both crunched.

Of course, the driver is apologetic. He practically jumps out of his vehicle. "Sorry, I didn't see you," he exclaims. After making sure that you are OK — You assure him that yes, you are OK — he offers to pay for the bike and other damage. He seems like a good guy, and

you take down his number.

Sound familiar? It does to me. I have received this call so many times; I know what is coming next. The “good guy’s” phone number is wrong, or he won’t pick up, or he now refuses to pay, pointing out that you “came out of nowhere” like “a bat out of hell.”

Why did the driver’s story change? It is a repeated pattern: A contrite driver starts to think about how the collision happened, and a possible latent injury. Now he’s looking at a claim of tens of thousands of dollars against his insurance. He starts worrying about his insurance rates. His version of events changes over night. It wasn’t his fault — so why should he be the one who gets jacked?

So now what do you do? You don’t have his insurance information. You didn’t get any witness names or contact info, and the police didn’t respond to the scene of the crash. You might not have his license plate number. What a mess — the bike and wheels are worth over \$10,000.

Fortunately, this is a preventable mess. Before anything like this happens to you, let me walk you through what you need to know when confronted with this situation.

What to do (and what not to do) after any collision:

DO call the police. That doesn’t mean they will always show up; they may not show up if you are uninjured. But are you sure that you are not injured? How do you know? A knee, shoulder, or hand injury may not develop for a day or two. What about that head knock? I’ve had many cases that began with the cyclist feeling “OK” immediately after the crash, only to have pain show up a few days later. So instead of emphasizing that you are OK, see if you can get the police to respond. If they ask if you are injured, tell them that you were hit pretty hard and need a medical exam.

DON’T volunteer that you are “OK.” Ever. If an entirely legitimate injury develops later, it will look fishy to the insurance company if you initially assured the driver that you were OK. If you feel you have to say something at the scene, be vague about your sensations, and be clear that you need to go to a doctor for a medical evaluation.

DO get the driver’s insurance, license, and contact information. If the cops don’t show up, you are taking his word that he will pay. Remember, he’s a complete stranger to you. You don’t know him well enough to take his word about anything. Get his plates, ask to see his driver’s license and insurance information, get his phone contact (have him call you to verify the number — but that is no guarantee either with pre-paid phone numbers).

Take pictures of his car, license plate, driver's license, vehicle, collision scene, your bike, and damage to vehicle.

DO get witness information. Ask any witnesses for their names and phone numbers in case you need somebody to say what they saw.

DO go to a doctor afterward. If the doctor gives you a clean bill of health, that's great. But if you tell everybody that you're fine and don't go to a doctor, and then injuries begin to show up afterward, you will have a harder time convincing the insurance company that you're not faking it and that their driver injured you.

DO preserve your evidence. You may want to get your bike repaired right away — DON'T! Leave your bike in exactly the state it was in after the crash. Take photos. Have a mechanic take a look at it but don't fix anything. What you need is the mechanic's expert opinion about the condition of the bike after the crash. Keep your bike in exactly that condition until after you settle with the insurance company.

One final note: In my experience, insurance companies are more responsive to cyclists who have been hit by their covered drivers when there is an injury — even a minor one. Conversely, I have noticed a trend of property damage-only claims being denied or ignored by insurance companies. So while you never want to fake an injury (that's insurance fraud, by the way), you have no reason at all to play down an injury. Save your toughness for race day, and let your doctor decide what injuries, if any, you have suffered.

Now read the fine print:

Bob Mionske is a former competitive cyclist who represented the U.S. at the 1988 Olympic Games (where he finished fourth in the road race), the 1992 Olympics, as well as winning the 1990 national championship road race.

After retiring from racing in 1993, he coached the Saturn Professional Cycling team for one year before heading off to law school. Mionske's practice is now split between personal-injury work, representing professional athletes as an agent and other legal issues facing endurance athletes (traffic violations, contract, criminal charges, intellectual property, etc.).

Mionske is also the author of "[Bicycling and the Law](#)," designed to be the primary resource for cyclists to consult when faced with a legal question. It provides readers with the knowledge to avoid many legal problems in the first place, and informs them of their rights, their responsibilities, and what steps they can take if they do encounter a legal

problem. If you have a cycling-related legal question please send it to [Bob](#), and he will answer as many of these questions privately as he can. He will also select a few questions to answer in this column. General bicycle-accident advice can be found at bicyclelaw.com.

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