



NEW YORK BICYCLE ACCIDENT GUIDE

*Important Injury Advice
For Cyclists*

RICHARD NICOTRA

ANDREWS, BERNSTEIN,
MARANTO & NICOTRA, PLLC
EXPERIENCED PERSONAL INJURY ATTORNEYS



Riding a bicycle is a great way to get exercise, enjoy the outdoors and get around town without leaving a carbon footprint. But with an ever-increasing amount of motor vehicle traffic on the roadways, and salt and ice damage from New York's punishing winters, bicycle accidents are becoming more and more prevalent

than ever. When cyclists have accidents, they sustain serious bodily injuries, as bicycles do not offer protection from the harsh concrete pavement or the front-end of a motor vehicle. Although broken-down roadways, defective bicycles and other pedestrians play a hand in many cycling injuries, motor vehicles are generally the most common cause of bike accidents.

Sadly, statistics indicate that upwards of 50,000 cyclists sustain bodily injuries and that over 800 people lose their lives as a result of bicycle/motor vehicle accidents each year in the United States. Few cyclists ever want to believe that they will be the one injured in a roadway accident as a result of another's negligence, but when they do suffer cycling injuries due to the fault of another, they are often left with critical life-altering injuries and a myriad of financial concerns that need to be addressed immediately. The injured cyclist needs an experienced New York injury attorney to address their questions and concerns and ensure that they get all the compensation they are owed by the at-fault party.

POSSIBLE COMPENSATION FOR A BIKE ACCIDENT

Given the severe nature of their injuries, one of the most immediate and pressing concerns to arise for the victim of a bicycle/motor vehicle accident is who will pay their medical bills. Under New York's "no-fault" insurance law, the other driver's no-fault insurance covers the injured cyclist's medical expenses without regard to who caused the accident. But often times,

the payment of medical bills alone is simply not enough. In cases where the injured cyclist suffers “serious” injuries due to the fault of the driver, or in cases where the cyclist’s medical expenses exceed \$50,000, New York law then permits the injured cyclist and/or their family to pursue a personal injury claim against the at-fault driver.

Generally speaking, injuries are deemed “serious” under New York law if they result in death, fracture, disfigurement, or permanent loss or use of a body organ or body part. In such cases, the injured cyclist can pursue a claim for economic damages and non-economic damages in court. Economic damages include all past and future medical expenses related to the accident, along with past and future lost earnings, property damage, and any other out-of-pocket expenses or losses the cyclist incurred as a result of the accident. Non-Economic damages include compensation for pain and suffering, permanent scarring and disfigurement, and loss of society or a spouse.

But what if the cyclist was partially at fault for causing the accident? Unlike with some states, New York law still allows a party to recover damages if they were partially at fault for causing the accident. However, under the State’s pure comparative fault law the amount of recovery the injured cyclist may recover is reduced by his portion of the fault. For example, in a case where the injured cyclist was awarded a recovery of \$100,000 and the cyclist was determined to be 40% at fault for the accident, he would receive \$60,000, which represents the 60% fault that was apportioned to the adverse driver.

BENEFITS OF HIRING A NEW YORK BICYCLE ACCIDENT ATTORNEY

If you are a cyclist who was injured through the fault of another in a motor vehicle accident, it is important to call an experienced full-time New York injury lawyer today. At-fault drivers and their insurance carriers routinely

deny injured cyclists their due compensation, claiming that the party's injuries were not "serious" injuries within the meaning of the law. An experienced attorney knows how to fight back to ensure that the injured cyclist receives all of the compensation he is owed for his injuries, so that he is made whole again. Don't let the insurance companies dictate to you the value of your case! Call today and put the power back in your hands.

Of, course not all serious bicycle injuries are caused by motor vehicles. In cases where a damaged or neglected roadway or defective bicycle caused the cyclist's injury, no-fault insurance is not applicable. In these types of cases, the injured cyclist can pursue a court case against the city, township, or municipality who neglected proper road repairs, or the manufacturer or designer of the defective bicycle. In these cases, the cyclist must prove that they sustained injuries as a direct result of the at-fault party's negligence. Upon such a showing, the injured cyclist may then recover both economic and non-economic damages as discussed above.

Pursuing a case against a city, township, or municipality is not always easy, as an injured cyclist generally has only 90 days from the date of their injuries to initiate their claim against a governmental entity. These claims often necessitate investigative work like obtaining video evidence of the accident if available, investigating the duration the dangerous road condition was permitted to exist, and determining whether or not any other similar such accidents occurred as a result of the hazard presented by the defective roadway. Similarly, pursuing a product liability claim for the defective bicycle requires a great deal of initial leg-work, and the pre-litigation investigation often entails consulting with engineer and design experts who can testify that the bicycle and its components were negligently designed, manufactured, or assembled.

The best thing an injured cyclist can do when they suffer injuries due to a defective roadway or defective bicycle is contact a New York personal injury

attorney immediately so they can begin working on the case right a way to ensure the best possible outcome.



FREQUENTLY ASKED BIKE ACCIDENT QUESTIONS

What type of injuries are typical in a bicycle versus car accident?

One of the things that we noticed when we have clients who present with a bicycle versus car accident claim is the damages can be much more extensive. They don't have the protection of being in a vehicle. You don't have the structure, the airbags, or the seat belts. When we're dealing with a person on a bicycle struck by a car, the injuries can be much more extensive. Oftentimes, we're dealing with fractures. Often, there's head trauma because those are the most vulnerable parts of the body that are struck by these vehicles. Damages can differ significantly based upon impact, the points of impact, and what happened afterward. Was the person thrown into the air? Did they crumble up against the car? Did they go against the windshield? The damages can be much more extensive if you're dealing with a bicyclist versus car accident

How do I choose the best attorney for my bicycle accident claim?

I always advise that clients should ask the attorney of the law firm their familiarity with bicycle accident cases, how many they've handled, when was the last case like this they've handled, and what their approach is. Then you can feel comfortable with knowing what that attorney's experience is, how they handle cases, and also what kind of results they've gotten in the past. Although that does not really guarantee any future results, it gives you

an idea of their track record and maybe why and how they've gotten those results.

Should I talk to the insurance company after a bicycle accident?

Some clients ask if they're in a bicycle accident in New York state if they should talk to the insurance company for the car that struck them. My advice is always the same; definitely not. There's no reason for you to ever speak to them on your own or without your attorney present or handling that phone call or letter or information for you. That's why we're there. Because the insurance carriers often frame questions in a way to benefit them. It might not seem apparent to you initially, but because we only handle cases of negligence, we deal with insurance carriers all day, every day. They treat people who are unrepresented sometimes differently than people that have an attorney. We're there to protect them.

Even if you're not at fault, they still will frame questions in a way to benefit them, protect them, and to help limit their liability down the road. Therefore, the answer is always no. Just don't take the call, or take the call, get their name, phone number, and claim number, and then that is it. Don't discuss injuries, treatment, or how it happened without having your attorney present or handle it for you.

Should I accept the first settlement offer from the insurance company?

The answer is always no. That's for a good reason because the insurance carrier will deal with you differently than if you have an attorney. With us, they understand that if they don't deal fairly, we can escalate it to the next level of litigation, and push them in that way, and get the courts involved. When it's you on your own, I've never seen an initial offer be one that's fair compensation. We've never been able to not get a better result for our clients than what they were attempting to initially get themselves. It's for good

reason. If you are a specialist, or you learn your job trade, or your career, and if you're operating outside of that trying your own claim, you're doing so maybe to your own detriment. I would definitely turn that down and talk to an attorney about it. Let them help you and represent you to get the best result that you can.

Does your auto insurance protect you from a bicycle accident?

The answer is yes. In New York state, the car that strikes you is the primary insurance coverage for both the no-fault benefits we've discussed in other videos, and pain, or suffering, or bodily injury benefits. Your own insurance can protect you for additional no-fault benefits and for extra benefits as

well as excess or additional personal injury protection and additional protection for bodily injury, pain and suffering compensation depending on if your personal limits are higher than that of the car that struck you.



Can I get compensation if someone threw their door out in front of my bike?

We actually do get claims from people who are riding a bicycle and are injured when somebody who was in a parked car opens their door into their path of travel.

A bicycle does have a right to be on the roadway and in the traffic lanes, and so if, in fact, you are traveling in that lane of travel and somebody opens the car door into you, you may have a right to a claim against the owner or operator of that vehicle.

Do I have a claim if I was injured because of a pothole?

Bicyclists are often injured while riding along the road because of potholes or other road conditions, and this happens more and more frequently now that bicycling on our city streets is becoming more popular.

Individuals who ride bicycles in a city like Buffalo – whose roadways are subject to regular freeze and thaw conditions – assume a certain amount of risk, so it is important to recognize the difficulty in bringing a claim for a pothole incident.

It would be helpful in such cases to have proof that the city was on notice of the hazard, that it was repaired improperly, or that it was part of an improperly protected excavation.



Can I be partially at fault for a bicycle accident?

Sometimes we get questions regarding if potential clients have a right to file a claim for a bicycle accident claim in New York if the bicyclist is partially at fault. The answer is of course. In New York state, it's a comparative negligence state, so either person in an accident, whether it be with a

car or a bicycle, may have a claim even if it's shared liability. In fact, it's not uncommon for there to be some shared liability unless the accident is so clear cut like a rear-end accident. Both sides will tend to argue some percent of fault on both operators. The answer is absolutely, but your damages in the end will be diminished by whatever percent of fault you may share.

What type of benefits are available after a bicycle accident?

People ask, “What kind of benefits are available to you if you’re injured riding a bike and hit by a car in New York state?” Those benefits are the same as if you were a passenger in that vehicle, in that you get the no-fault benefit, but it comes through the insurance carrier for the vehicle that struck you. Those benefits are the basic no-fault benefit of your lost wages for three years, medical mileage for one year, and medical treatment potentially forever until you either exhaust that vehicle’s no-fault benefit limit, or the insurance carrier attempts to cut you off by way of one of their medical exams. That’s the first layer of coverage. Then there are additional benefits possible available through your own personal policy or from your parent’s household policy as well.

How long will my bicycle accident case take to settle?

One of the most common questions from clients is, “How long will my bike accident injury that occurred in New York state take to resolve?” The answer is it depends; every case is different. For example, the extent of your injuries compared to the policy limits available are often one factor. If negligence is clear or if they’re disputing it, that’s another major factor. How long it takes you to recover from your injuries matters. What kind of procedures you have to endure and then how you recover from those matters because the insurance company won’t be able to fully value a claim until you are recovered from or plateaued from any treatment or procedures and we know what your permanency level might be.

CONTACT OUR BUFFALO OFFICE TODAY

If you or a loved one is the victim of a bicycle accident, you need knowledgeable and experienced New York accident attorneys by your side. We have decades of experience in handling injury cases in Buffalo and the greater Western New York area. Let us begin work on your case today. An early and exhaustive investigative effort is important to ensure your best possible outcome. With the passage of time, crucial evidence may disappear and vital witnesses' memories fade, which is why it is so necessary to allow our office to begin working on your case as soon as possible.

We will inspect and photograph the accident scene, hunt down any relevant video footage, and thoroughly interview all necessary witnesses to your accident. Additionally, our office will collect all of your medical records and bills, and hire experts such as doctors, economists and life care planners, when necessary, to be sure that all of your past and future losses are accounted for when it comes time to resolve your case. Best of all, it will cost you nothing, as we work on a contingency fee basis. We are full-time accident and injury attorneys dedicated to helping injured cyclists make full financial recoveries. Call us today so that we may begin work on your case right away!



ABOUT THE AUTHOR

A graduate of University of Toledo College of Law, class of 1995, Attorney Richard A. Nicotra concentrates his practice on all areas of personal injury, focusing on motor vehicle accidents, dog bite incidents and slip and fall incidents. He is admitted in all New York State Courts, including the Western New York Bankruptcy Court and Federal Court.

Attorney Nicotra has won million-dollar verdicts and settlements and is the current President of the New York State Trial Lawyers – Western Region Affiliate. Mr. Nicotra is also an active member of the Erie County Bar Association and a member of the Order of Barristers.

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