

7 COSTLY MISTAKES

When Settling Your Car Accident Case



by Shane Smith *Personal Injury Lawyer*



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ADVOCATE FOR THE INJURED

INTRODUCTION

After handling hundreds of personal injury cases I have identified the seven most costly mistakes you can make when settling your car accident case.



My clients have not done anything wrong and their lives have been totally disrupted by someone else. Instead of the insurance companies taking responsibility, I frequently see them fight about the amount of the doctor bills, or that the treatment was unrelated or all sorts of excuses. I feel that my clients need someone who has dealt frequently with insurance companies to help them get a fair settlement from the insurance companies.

- R. Shane Smith

1 Thinking the adjuster is your friend.



This is quite common.

You may not know this, but adjusters have hours and hours of classes

which teach them how to bond and remain sympathetic and friendly with an injured party

or claimant. The reason they do this is: one, it's just more pleasant if you think that they are your friend—you will give them things, and the benefit of a doubt whenever they make a statement. Secondly, if you are their friend you may not want to go get a lawyer because you think things are going so well, and third it's much harder to sue your friend than it is somebody else. So therefore, by trying to establish that bond with you in the beginning it will make you less likely to go to a lawyer. Also if you think you are their friend you may or may not want to consult with a lawyer. I caution you, adjusters have lots of training in how to appear as if they are your friend.

2 Giving a recorded interview or statement to the car insurance adjuster.

Almost every insurance company will call you after a car accident and the adjuster will say, “Hey, just as part of my processing of the claim, I have to get a recorded statement from you.” If you protest they will say, “This is just all part of the process, we always just have to do it.” Then they try to get this recorded interview with you going over the details of the accident, but also attempting to find out all your medical treatments you are receiving, what is hurt and what is not. They will try to do this as quickly as they can after the accident.

This mistake can cost you thousands of dollars sometimes.

I have seen insurance companies call you the very same day and try to get a recorded statement from you regarding the accident. If you have ever had back and neck injuries you know that they continue to get worse over the period of two to three days—therefore if they can do a recorded statement on day one, you may not be in as much pain as you are on day

three. When you complete your recorded interview be careful what you say. If you say you are not hurt and then go to the doctor you can greatly diminish the value of your case. This mistake can cost you thousands of dollars sometimes.

Also, something may take a few days to develop after the car accident or the pain can be so distracting from, say, your neck or head that you fail to mention your knee. This oversight on your part can cost you thousands of dollars or force your case into litigation. Additionally, the reason for a recorded statement is so that later on if you do go to court they have another statement from you with which to try to impeach you on or challenge all your testimony. They can try to paint you out like you've changed your story in front of the jury—because you may or may not have mentioned something in one statement as opposed to the deposition you gave, or opposed to your testimony in front of the jury. **All a recorded statement does is give the insurance company one more weapon against you with which they can reduce the value of your case.**

3 Delaying medical care.

I see this quite commonly; people will delay their medical care for several reasons. They delay medical care because they do not like going to the doctor, they are busy, or their lives are hectic. So they hope that the pain they feel will go away, and delay going to the doctor. Maybe you do not have insurance and are trying to wait to have the adjuster pre approve you going to the doctor. Or maybe you do not have a doctor to see since you do not have insurance. All of these scenarios work to the adjuster's benefit.



If you are hurt and you need to go to the doctor, go right away.

Adjustors will make you wait days at times to give you the name of a doctor or to pre approve a doctor's visit. Every day delayed can cause problems when the case comes to settlement. The adjustor may claim it took you several days to go

to the doctor proving you were not hurt bad. This is exactly how their defense lawyers will present to a jury to diminish the value of your case and cost you money. **If you are hurt and you need to go to the doctor, go right away.**

Go to your family doctor, emergency room, chiropractor, or a physical therapist. You can also try to find a doctor who will work with you on credit or are willing to wait to be paid when your case settles if you do not have health insurance. Many doctors will work out a payment plan.

4 Not filing anti-litem notices or AL.

If you are involved in a car accident against a city, state or county vehicle or a city, state or county government, there are certain notice requirements you have to do—otherwise, your case goes away. If it is a city, you have to notify them under certain rules and laws within six months. If it is a county or state, you have to do it within one year.

This is one of the seven costly mistakes for many reasons. **If you fail to do this, complete it incorrectly leaving out information required, send it to the wrong person, or do not keep the certified return receipt your case is gone and you are not eligible to get anything.**

Anti-litem notices are very fact-specific and they require certain detailed information. If you're hit by a city, county or state government or the accident is their fault, you really are risking thousands and thousands of dollars not to have an attorney familiar with this process help you with the case.

5 Missing the statute of limitations.



This is the most costly mistake you can make because it destroys your claim.

In Georgia under regular circumstances, you have a two-year statute of limitations with which to file your case in court--and within a short period time after that to get the defendant served. You have to show due diligence showing that you were trying to serve them every single day after that two-year statute of limitations. If you have not filed your case prior to the end of the two years, unfortunately your case is gone. You get nothing and it's as if it never happened as far as suing the defendant.

Under certain circumstances if a crime was committed or a traffic citation was issued to the other party there may be a tolling or delay of this two-year statute of limitations, however I would not ever encourage anybody to rely on this tolling statute. It is used as an extension of last resort

by some personal injury attorneys primarily when something has happened and you came to a lawyer late and they've researched it and found out this happened. I would never encourage anybody to rely on this tolling statute and I hesitate to mention it just because you could rely on it and hurt your case.

The rule of thumb in Georgia is you have a two-year statute of limitations with which to file your case in court against the person that caused your accident. Be careful of time when negotiating with the insurance adjuster. **If the two-year anniversary of your car accident rolls around and moves past, guess what—your case just went from whatever number it was at to zero because you won't be able to inherit anything.**

If you're a minor, it may be different. If you're in another state the statute of limitations may be different and you need to check an appropriate website or find an attorney in your state to handle this.

6 Sending incomplete records.

When it comes time to settle your case the adjuster is going to ask you for the medical records and lost wages, and any other documents that show the loss you suffered. You need to make sure that you have all the medical records pertaining to your accident and the bills. If you go to the emergency room you need the emergency room records. You need the emergency room doctor, you need the radiologist, and you need the ambulance bill. You need the reports from those doctors indicating what's wrong. You then need the records from any treating physicians. If you saw your family doctor you need those records.

You have to have complete records to get the full value of your case. If you don't have a medical record or a bill from a medical provider you will not be paid for that treatment. This is important. If you missed time from work you need a doctor's excuse and you need a letter from the doctor, or from your work indicating that you've missed that amount of days. If you miss some event because you were injured you need documentation to support that.

Without documentation the insurance adjuster will undervalue your claim and it will cost you money.

7 Believing the insurance adjuster will make a fair offer to you for your case.

If you believe that the insurance adjuster's going to make a fair offer to you for your case, I would encourage you to go onto the web and Google whatever insurance company you're dealing with and low ball offers or low offers. Just read some of the stories from various people all over website talking about the insurance company you're dealing with.

My assumption is that most every insurance company will make a low offer to you to try to see how badly they can get you to settle the case. Insurance companies make the minimum offer they think you will possibly accept. **Within the last couple of years as the economy's gotten worse, insurance companies have made worse offers.** They are doing this because many people are desperate for money because they've been out of work, or their house value has dropped, or their spouse is out of work and they know people need money more and they're under pressure and sometimes can't hold out for a fair offer.

For those reasons I would encourage you to keep in mind that the adjuster has had hours of training on how to make an offer to you, how to evaluate it for the lowest amount, and how to throw out arguments that may make sense to you—and even if you don't think they're fair, you can “understand where they're coming from.”

These are all techniques designed to make you accept the least amount of money. I would encourage you to keep that in consideration and when you're arguing with them and fighting with

them, think about the hours and hours and hours of training they've had, the classes they've been to, the continuing education classes, and every class they go to where they learn how to make low offers to people and save their company money and pad their bottom line.



Keep in mind that the adjuster has had hours of training on how to make an offer to you, how to evaluate it for the lowest amount, and how to throw out arguments that may make sense to you.

Free book from Shane Smith: *The Ten Mistakes that can Ruin Your Georgia Wreck Case*



We have had several clients tell us how my book saved them thousands of dollars or kept them from injuring their own case. To order your free copy, go to shanesmithlaw.com or call (770) 487-8999 and ask for Britney at Ext. 1

and she will be glad to take your name and address down and mail you a free copy of our book.

I hope you have found this information of value talking about the seven costly mistakes when trying to settle your personal injury case or your car accident case. If you have, that's great.

If you want more information I have a full book I would be happy to mail to you at no cost. It is *The Ten Mistakes that can Ruin Your Georgia Wreck Case*. It goes into these mistakes and several more in greater detail than this small PDF can do. We are happy to provide it to you at my website www.shanesmithlaw.com. You can fill out a form to order it or if you call my office at (770) 487-8999 you can ask for Britney at Ext. 1

If you do have questions and concerns about your case, please feel free to call us and we'll be glad to talk to you about this. Once again, in talking about the book, we have had several clients tell us it saved them thousands of dollars or kept them from injuring their own case. In the greater book we talk about some other mistakes that can cost you thousands of dollars. One of them is letting the insurance company pay your medical bills directly rather than allowing you or your attorney to do so, and the second one is in dealing with your health insurance after a car accident and what they should or should not pay. I wish you good luck.

If you have any questions feel free to call us (770) 487-8999.

ABOUT SHANE SMITH

I only do personal injury cases for a couple of reasons.

The first is that my clients need help either getting medical care or fighting the insurance company. My clients have not done anything wrong and their lives have been totally disrupted by someone else. Instead of the insurance companies taking responsibility, I frequently see them fight about the amount of the doctor bills, or that the treatment was unrelated or all sorts of excuses. I feel that my clients need someone who has dealt frequently with insurance companies to help them get a fair settlement from the insurance companies.

I only do personal injury cases because I feel that it is better to be very knowledgeable in one area of the law, than to try and know a little something about everything. Just as I go see specialists if I have a



medical problem, I expect my clients to want someone who has a great deal of expertise to handle their cases. I am a firm believer in the expression, “Jack of all trades, master of none.”

- R. Shane Smith



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