NEW YORK CAR ACCIDENT GUIDE 2026

5 THINGS YOU MUST DO AFTER A NEW YORK CAR ACCIDENT



A Practical Guide to Protect Your Health, Your Rights and Your Compensation

PROTECT YOUR HEALTH
Get medical care right away and follow your doctor's instructions.

PROTECT YOUR RIGHTS
Report the accident, notify your insurer and preserve important evidence.

DOCUMENT EVERYTHING
Photos, videos and witness information can make or break your case.

KNOW YOUR OPTIONS
Understand No-Fault benefits and when you can sue for full compensation.

TALK TO AN ATTORNEY
An experienced lawyer can protect your rights and maximize your recovery.

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IMPORTANT DEADLINES:
As little as 10 days to report certain crashes and 30 days to notify your insurer. Don't delay. Protect your rights.

PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. | ATTORNEY ADVERTISING | THIS IS GENERAL INFORMATION, NOT LEGAL ADVICE.

IMPORTANT DEADLINES

DMV report: generally within 10 days.
Written No-Fault notice: generally 30 days.
Other claims have separate notice requirements.

After a Crash, Your First Decisions Matter

A serious crash can create medical, financial and legal problems at once. Protect your health, preserve evidence and obtain prompt advice about New York deadlines. This guide is for general information; the right steps depend on the people, vehicles, insurance and injuries involved.

FIVE KEY STEPS

1. Make the scene safe and report the crash.
2. Get appropriate medical care.
3. Preserve evidence before it disappears.
4. Protect No-Fault and other insurance rights.
5. Get advice before statements, releases or settlements.

1. Make the scene safe and report the crash

Call 911 when anyone is injured or killed or the scene is dangerous. Injury or death requires immediate police notification. Do not leave the scene without complying with your legal obligations. Follow police directions and move out of traffic if you can do so safely; do not risk injury to take photographs.

Exchange driver names, addresses, contact information, license details, vehicle registrations, license plates and insurance information. Obtain witness names, contact information, identify the responding police agency and report number.

DMV reporting is a separate responsibility

A driver involved in a New York crash causing death, personal injury or more than $1,000 damage to the property of any one person generally must submit a motorist crash report to DMV within **10 days**. DMV accepts the MV-104 form and provides an online reporting option.
Police attendance and notice to an insurer do not replace the driver's reporting obligation.

BE PRECISE

Report facts you know. Do not guess about speed, distance or what another driver saw. A police report can identify useful information, but it does not conclusively decide civil liability.

Updated October 17, 2026. The 2026 changes discussed here generally apply to actions and proceedings commenced on or after May 26, 2026. Earlier-filed cases can be governed by earlier law.

2. Get Care.

Put your health first

Get appropriate medical evaluation after a significant crash or when symptoms develop. Seek urgent care for urgent symptoms. Some injuries become apparent over time. Tell providers accurately about every affected body part, relevant prior injuries, medical conditions, and when symptoms began.

Follow medical advice and recommended follow-up. If care stops because of cost, denied benefits, inability to obtain appointments or a provider's advice, document the reason and tell your attorney. Do not exaggerate symptoms or obtain unnecessary treatment for a claim.

3. Preserve the Proof.

Preserve evidence safely and promptly

- Photograph the vehicles, visible damage, roadway, lane markings, signals, debris, weatherand visible injuries when safe.
- Preserve original dash-cam footage, photos, messages, location information and rideshare receipts. Keep full files and relevant surrounding context.
- Identify nearby business, building and traffic cameras. Tell counsel promptly: footage may beoverwritten before a routine records request is processed.
- Before repairs, salvage or disposal, ask counsel whether vehicle inspection or preservation ofelectronic data is needed. Coordinate promptly to address towing and storage charges.
- Keep actual imaging and reports, hospital and treatment records, prescriptions, receipts andwork-disability records.

DO NOT ALTER

Do not edit original evidence or delete relevant communications or existing social-media content. Keep secure backups and separate explanatory notes. Avoid new public posts about the crash, injuries or recovery.

Write a factual account while events are fresh, identifying approximate dates and uncertain recollections as such. Preserve existing versions. A note is not automatically protected from disclosure simply because you label it private or later send it to a lawyer; discuss preparation and sharing with counsel.

Serious Injury and Comparative Fault

When can pain and suffering be recovered?

In claims governed by Insurance Law section 5104(a), recovery for non-economic loss generally requires a statutory **serious injury**. The rule does not operate identically in every motor-vehicle claim, and the parties' covered-person status and vehicle type can matter.

CURRENT CATEGORIES	Death; dismemberment; significant disfigurement; fracture; loss of a fetus; permanent loss of use of a body organ, member, function or system; permanent consequential limitation of use of a body organ or member; or significant limitation of use of a body function or system.

For actions and proceedings commenced on or after **May 26, 2026**, the former 90/180-day category has been removed. Earlier-filed cases may remain governed by the former definition. Removal does not eliminate every claim involving a nonpermanent injury: another category, such as significant limitation, may apply if the proof supports it. A diagnosis or MRI finding alone does not automatically establish the required legal category or causation.

The 2026 comparative-fault change

CPLR 1411(b) now bars recovery in personal-injury actions subject to Article 51 when the claimant's culpable conduct is greater than that of the person against whom recovery is sought, or greater than the combined culpable conduct of the persons against whom recovery is sought. If the bar does not apply, the claimant's own fault can still proportionally reduce damages.

Two-party example: A claimant found 51% responsible against a defendant found 49% responsible is barred under this provision. At 50/50, the "greater than" test is not met, although recovery is reduced for the claimant's share. Multiple-defendant allocations require careful analysis of the statutory language and applicable court decisions.

This amendment applies to actions and proceedings commenced on or after May 26, 2026, even when the crash occurred earlier. Wrongful-death and property-damage claims remain under the pure comparative-fault rule of CPLR 1411(a).

IMPORTANT	No-Fault benefits and a lawsuit against a responsible party are different claims. Ordinary fault allocation does not itself determine No-Fault eligibility. Coverage exclusions and policy obligations still matter.

Another 2026 Rule: A Limited Damages Cap

Insurance Law section 5104(d) creates a **$100,000 limit on non-economic recovery in specified cases**. It is not a general cap on car-accident compensation.

The provision concerns an injured person who bears fault, is not barred from recovery under CPLR 1411 and also falls within one of these statutory situations:

UNINSURED OPERATION	The person was operating an uninsured motor vehicle and was responsible under Vehicle and Traffic Law Article 6 for insuring it. The statute excepts a lapse in coverage shorter than 30 days.

IMPAIRED OPERATION	The person was operating a motor vehicle while impaired when the accident occurred and was convicted of that offense.
FELONY / FLIGHT	The person was operating a motor vehicle in the commission of a felony, or immediate flight from it, when the accident occurred and was convicted of the felony.

The provision excludes actions for damages for injuries resulting in death. It limits non-economic loss, such as pain and suffering, rather than imposing a universal $100,000 limit on every type of damage. Counsel must evaluate all statutory conditions and the applicable effective-date rules.

The sequence of issues also changed

The 2026 amendments to section 5104(a) address the order in which the factfinder determines fault, serious injury and liability for non-economic loss. The practical effect on trial procedure should be evaluated under current court decisions rather than assumed from a general guide.

DO NOT SELF-SCREEN	Do not assume that partial fault, a lapse in insurance, a serious diagnosis or an earlier crash date answers whether you have a claim. The actual facts, filing date, statutory provisions and evidence require review.

Primary authorities: Insurance Law 5102(d) and 5104; CPLR 1411; Laws of 2026, chapter 58, Part EE. Links appear in the references.

4. Protect Your No-Fault Benefits

No-Fault, also called personal injury protection (PIP), generally pays covered accident-related economic losses without deciding who caused the crash. It generally pays before health insurance for covered treatment, subject to eligibility, exclusions, offsets and policy terms. It does not pay for vehicle repairs or pain and suffering.

Basic coverage is a combined limit

Basic No-Fault generally provides up to **$50,000 per injured person in combined benefits**, including necessary medical care under applicable fee schedules; generally 80% of lost earnings up to $2,000 monthly for up to three years; and qualifying other necessary expenses up to $25 daily for up to one year. Benefits share the basic limit and can be affected by statutory offsets. Optional additional coverage may be available under the policy. A separate $2,000 death benefit may apply.

30 DAYS: NOTICE	Give written notice as soon as reasonably practicable, generally no later than 30 days after the accident. Clear and reasonable justification may excuse late notice.

45 DAYS: MEDICAL	Written proof of medical expenses generally must be submitted as soon as reasonably practicable, no later than 45 days after services are rendered.
90 DAYS: OTHER LOSS	Written proof of work loss and other necessary expenses generally must be submitted as soon as reasonably practicable, no later than 90 days after work loss is incurred or the other necessary services are rendered.

Recognized late-submission justifications can apply to proof requirements. Preserve copies and proof of submission. A telephone call to an agent does not necessarily satisfy written notice requirements. Obtain the claim number, return required forms promptly and coordinate with providers and your employer.

Which insurer handles the claim?

Car occupants generally apply to the insurer of the occupied vehicle; pedestrians generally apply to the insurer of the striking vehicle. Exceptions include certain bus, work-related, uninsured and out-of-state situations. Do not assume every passenger follows the same priority rule.

Motorcycle exception: Operators and passengers generally do not receive ordinary No-Fault benefits. See the special-situations section.

5. Statements, Releases and Insurance Rights

Insurance companies investigate quickly. Get advice before unnecessary recorded statements, broad medical authorizations, releases or settlements. A statement can affect disputes about fault, causation and injuries.

Cooperate with legitimate policy requirements

Your own insurance obligations differ from a request by the other driver's insurer. Do not ignore correspondence, verification requests, medical-examination appointments or examinations under oath. Ask counsel promptly about disputed or unclear requests. Explain what you know accurately, and do not guess.

Uninsured, underinsured and hit-and-run claims

Potential sources include uninsured motorist (UM) coverage, supplementary uninsured/underinsured motorist (SUM) coverage, and qualifying household or occupied-vehicle coverage. The policy, insured status, available liability limits and notice requirements determine what applies. Do not assume every household policy covers every person or that all policy limits can be added together.

If no other coverage applies, eligible people may seek help through the Motor Vehicle Accident Indemnification Corporation (MVAIC). Qualification is restricted, and the notice requirements vary by claim. Insurance Law section 5208 generally distinguishes identified uninsured vehicles
(a 180-day affidavit requirement) from hit-and-run claims (a 90-day affidavit requirement and a

24-hour reporting requirement), with statutory exceptions and other conditions. Separate No-Fault requirements may also apply. Contact counsel immediately rather than relying on the longest period.

BEFORE SETTLING	A release of an at-fault party can jeopardize a SUM claim. Counsel should address applicable consent, notice, release-or-advance and subrogation-protection procedures before settlement. Do not assume signing one insurer's release affects only that insurer.

If benefits are denied or delayed

Send denials and requests for information to counsel promptly. A denial does not automatically establish that the insurer is correct. Depending on the dispute, review, arbitration or court proceedings may be available, each with its own requirements.

Deadlines Depend on the Claim and Defendant

Investigate immediately. A negotiation, insurance investigation or request for records does not by itself pause a deadline. These are general rules, not a calculation for an individual case.

PERSONAL INJURY	Generally three years from the crash under CPLR 214(5), subject to exceptions, tolls and different rules for particular claims or defendants.
WRONGFUL DEATH	Generally two years after death under EPTL 5-4.1, brought by a duly appointed estate representative. The underlying claim and separate survival claims also require timely review.
MUNICIPAL CLAIMS	A notice of claim generally must be served within 90 days after accrual where required. Covered municipal personal-injury actions generally have a one-year-and-90-day lawsuit period. Under GML 50-e, wrongful-death notice timing generally runs from appointment of the estate representative; the lawsuit generally has a two-year period.
NEW YORK STATE	Court of Claims rules differ from municipal notice-of-claim rules. Negligence personal-injury claims generally require filing and service within 90 days, or timely service of a proper notice of intention that generally permits filing and service within two years. Method of service matters.

NO-FAULT / DMV	Generally 30 days for written No-Fault notice; 45 days for medical proof and 90 days for work-loss/other-expense proof, measured as explained earlier. A required DMV motorist report is generally due within 10 days.
UM / SUM / MVAIC	Separate notice, reporting, consent and filing requirements apply. Do not assume the ordinary lawsuit period preserves insurance benefits.
GET PROMPT ADVICE	Public entities have different governing statutes. State wrongful-death deadlines differ. Limited late-notice or late-claim relief may exist, but is discretionary. Children and people with disabilities also need individualized deadline review.

Special Crash Situations

Rideshare and app-based vehicles

Uber, Lyft, taxi, livery and delivery claims require identification of the service, licensing arrangement and driver's app status. Preserve trip receipts, screenshots, driver identity and timestamps. Coverage may depend on whether the driver was offline, available, traveling to a pickup or carrying a passenger. NYC for-hire vehicles and vehicles outside NYC may follow different insurance frameworks; do not assume one universal coverage limit.

Commercial vehicles and work-related crashes

Responsibility may involve the driver, vehicle owner, employer, maintenance provider or another entity. Counsel may need driver records, dispatch information, employment evidence, maintenance files, video and electronic data. Preservation should occur before routine deletion or vehicle disposal.

If the injury occurred while working, notify your employer and obtain advice about workers' compensation and any third-party claim. Workers' compensation can affect the priority of benefits, No-Fault offsets and reimbursement or lien issues. Do not assume benefits under one system replace every other claim.

Public vehicles and unsafe road conditions

A municipal vehicle, bus, road defect or work zone may involve special notice, defendant-identification and liability rules. Some road-defect claims involve prior-written-notice requirements and exceptions. Photograph the condition safely and preserve its precise location, appearance and timing.

Passengers, pedestrians, cyclists and motorcycles

Potential claims and insurance sources depend on the person's role and the vehicles involved. A passenger may have claims against more than one driver. Cyclists and pedestrians may have a No-Fault claim through the striking vehicle.

Motorcycle operators and passengers generally lack ordinary No-Fault benefits for their own injuries, and their claims generally are not subject to the ordinary serious-injury threshold in the same way. A pedestrian struck by a motorcycle is treated differently.

BUILD THE PROOF	A disputed intersection, lane-change, sideswipe or multi-vehicle crash may turn on video, witness observations, vehicle positions, damage patterns and traffic controls. Do not assume the first account or police-report conclusion is the final answer.

Compensation and How Ask4SAM Helps

Recoverable damages depend on liability, causation, serious-injury requirements where applicable, comparative fault, coverage and any statutory limitation. A serious injury does not have a fixed value.

ECONOMIC LOSS	Qualifying medical and rehabilitation expenses, past and future earnings loss, care needs and other proven costs. In covered-person claims, section 5104 limits recovery of basic economic loss; benefits, offsets and reimbursement rules require review.
NON-ECONOMIC LOSS	Pain and suffering, disfigurement and other legally compensable effects on daily life. Loss of enjoyment of life is generally considered within pain-and-suffering damages rather than a duplicate award.
PROPERTY DAMAGE	Vehicle and other property losses belong to a separate analysis. The serious-injury threshold does not govern ordinary property-damage recovery, and No-Fault does not pay vehicle repairs.
DEATH-RELATED CLAIMS	Wrongful-death damages generally concern qualifying pecuniary losses and expenses; survivors' grief alone generally is not recoverable. The estate may have a separate survival claim, including recoverable conscious pain and suffering before death.

Silberstein & Miklos, P.C.

The firm represents seriously injured people throughout New York City and Long Island. The work includes investigating liability, preserving evidence, evaluating medical proof and losses, and developing accepted cases for negotiation or trial. Clear communication helps clients understand what the evidence supports and what remains uncertain.

WE BUILD THE PROOF	Serious cases require serious preparation. The value of a claim depends on evidence, not promises or a settlement formula.

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Accepted personal-injury matters are handled under a written contingency-fee agreement. Attorney fees and case expenses are separate subjects; the retainer explains the fee, deductions and responsibility for expenses, including if there is no recovery. Prior results do not guarantee a similar outcome.

Your One-Page Accident Checklist

1. Get to safety and obtain emergency assistance when needed. Immediately notify police ifsomeone is injured or killed.
2. Exchange driver, vehicle and insurance information.
3. Photograph vehicles, roadway, traffic controls, debris and injuries when safe.
4. Get witness contact details, the responding agency and report information.**5.** Identify nearby cameras and preserve original dash-cam footage promptly.
6. Get appropriate medical care; report symptoms and relevant medical history accurately.
7. Preserve treatment records, actual imaging, receipts, prescriptions and work notes.
8. Submit the required DMV motorist crash report, generally within 10 days.
9. Give timely written No-Fault notice, generally within 30 days; track separate medical andwage-loss proof requirements.
10. Notify counsel promptly of insurer requests, denials, examination appointments andsettlement offers.
11. Preserve relevant digital evidence and existing social-media content. Avoid new publicposts about the claim.
12. Coordinate vehicle inspection and evidence preservation before repair, salvage or disposal,while addressing storage charges.
13. Do not sign releases or give unnecessary recorded statements without understanding theireffect on every potential claim.
14. Seek immediate legal review for public entities, hit-and-run or uninsured vehicles, rideshareor commercial vehicles, work injuries and serious or fatal injuries.

KEEP THIS GUIDE	Save it with your accident records. You do not need every medical record or a complete diagnosis before calling an attorney about deadlines.

General educational information only. This publication does not create an attorney-client relationship and is not a substitute for advice about a particular accident. Laws, insurance rules and court interpretations can change. Legal information reviewed October 17, 2026.

New York Sources: Liability and Deadlines

Primary and official sources supporting the guide. Links open the underlying source. This is not an exhaustive list of applicable law.

2026 enacted amendments - Laws of 2026, chapter 58

Part EE of S9008-C / A10008-C: serious injury, comparative fault, section 5104 changes and effective-date provision. www.nysenate.gov/legislation/bills/2025/S9008/amendment/C

CPLR 1411 - Comparative fault

General rule and Article 51 personal-injury exception. www.nysenate.gov/legislation/laws/CVP/1411

Insurance Law 5102 and 5104

Serious injury, basic economic loss, covered-person claims and specified non-economic damages limitation.

www.nysenate.gov/legislation/laws/ISC/5102 nysenate.gov/legislation/laws/ISC/5104

CPLR 214 - General personal-injury limitations

Subdivision (5): general three-year period, subject to applicable exceptions. www.nysenate.gov/legislation/laws/CVP/214

EPTL 5-4.1 and 5-4.3 - Wrongful death

Personal representative, general filing period and damages.

www.nysenate.gov/legislation/laws/EPT/5-4.1 nysenate.gov/legislation/laws/EPT/5-4.3

General Municipal Law 50-e and 50-i

Municipal notices of claim, conditions for suit and limitations.

www.nysenate.gov/legislation/laws/GMU/50-E nysenate.gov/legislation/laws/GMU/50-I

Court of Claims Act 10 and 11

State-claim timing, notices of intention, filing and service.

www.nysenate.gov/legislation/laws/CTC/10 nysenate.gov/legislation/laws/CTC/11

Sources: Insurance and Crash Reporting

New York DMV - Motorist crash reporting

When a report is required, immediate police notification for injury/death, online reporting and MV-104.

dmv.ny.gov/records/file-a-motorist-crash-accident-report dmv.ny.gov/forms/mv104.pdf

New York DFS - Auto insurance consumer information

Basic No-Fault benefits, coverage exclusions, insurance priority and claim procedures. www.dfs.ny.gov/consumers/auto_insurance

Regulation 68 - Prescribed endorsements and claims

11 NYCRR Part 65: written notice, proof of claim, verification, benefit obligations and dispute procedures. www.dfs.ny.gov/apps-and-licensing/property-insurers/nofault/full-reg68-text

Insurance Law 5208 - MVAIC notice of claim

Different requirements for identified uninsured and hit-and-run vehicles, including statutory exceptions.

www.nysenate.gov/legislation/laws/ISC/5208

MVAIC - Eligibility and claim information

Review current qualification requirements and claim materials. mvaic.com/

Kemper Indemnity Insurance Co. v Brown

2026 NY Slip Op 00131 (2d Dept): settlement without required consent can defeat SUM arbitration rights.

www.nycourts.gov/reporter/3dseries/2026/2026_00131.htm

Brito v Gomez

2018 NY Slip Op 08105 (1st Dept): loss of enjoyment of life as a factor in pain-and-suffering damages.

www.nycourts.gov/REPORTER/3dseries/2018/2018_08105.htm

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