



## MOTORCYCLE INSURANCE CLAIMS – WHAT DO I NEED TO KNOW?

It's a tragic truth that in a contest between 2 wheels/400 pounds and 4 wheels/4,000 pounds, bikes take a beating. Is there anything better than riding a powerful motorcycle through the mountains at sunrise or through the open country on a hot summer afternoon? The sound of the bike, the feel of the wind, the sense of being in the open that you never get in the closed cocoon of a car: that's why you "live to ride."

But we can't ignore the "ride to live" part of the equation. Unfortunately, motorcycle riders aren't the ones that usually cause wrecks. We ride in an environment where those big steel bullets that surround us are piloted by people that are tired, distracted, impaired, and less-than-fully abled. Cell phones, texting, megawatt sound systems, and GPS units with big screens and talking commands are constant distractions, not to mention talkative passengers, fussy children in back-seat car seats, drivers who don't remember when Bill Clinton was President or who remember when FDR was and, always, alcohol-soaked drivers (as many as 10% of the drivers on the road during certain hours and days), darkness, and bad weather.

Against all this, all a rider has is his/her wits, superior visibility, superior handling, superior acceleration and braking, and their safety equipment. The bottom line is that it will always be less important to the driver of a car to avoid a wreck with a motorcycle than it will be to the rider.

Many drivers consider riding a motorcycle to be dangerous – which is quite ironic given that cars are the primary danger. Unfortunately, many of those drivers feel that someone who undertakes the completely legal act of operating a motorcycle on the road is "assuming the risk" of whatever happens to them. Again, this is completely contrary to the law. You can't help but wonder, however, if these negative opinions don't actually influence the way some drivers drive. If you believe riders are "asking to get hurt," then how hard are you going to work not to hurt them?

What can you do about this? As a part of Boyd Trial Consulting, we conduct interactive focus groups in motorcycle cases. A question that we constantly ask our mock jurors is: **WHAT ARE THE CHARACTERISTICS OF A "GOOD" or "SAFE" MOTORCYCLIST?** Over and over, those jurors indicate that the more of these characteristics a motorcyclist had, the less fault they would assign to the motorcycle operator or passenger involved in a collision. It is, in fact, a good list on how to be safe while riding a bike:

- Be a courteous rider
- Be an aware rider
- Rider and passenger should wear safety gear (helmet, boots, protective clothing)
- Rider should follow the rules
- Rider should use signals
- Rider should use more caution than average because they are on a motorcycle
- Rider should give eye contact with drivers that are turning, etc.
- No weaving in and out of lanes
- Follow the law
- Ride “cruiser” style bike (vs. “crotch rocket” style bike)
- Take pride in bike, as seen in appearance of bike (clean and shiny)
- Don’t have “too much bike for the rider”
- Ride in appropriate weather
- Be an experienced rider
- Have good knowledge of what the bike will and won’t do
- Rider should be in good health

It’s not fair. Whether a knuckleheaded car driver pulls out in front of a cruiser or a ninja, the car is at fault. When it comes to dealing with the knucklehead’s insurance company, however, they will try to blame the motorcycle rider.

WE CAN HELP. The lawyers at Nelson Boyd have represented many, many riders in cases involving cars that caused a wreck with a motorcycle. The number one “excuse” of the driver is, as you have probably heard, “I didn’t see them.” However, the law is absolutely clear that this is *no* excuse: “Every person has a duty to see what would be seen by a person exercising ordinary care.” *WPI 12.06*. No motorcycle has yet been invented that is invisible, and no one exercising ordinary care can miss seeing a bike and a rider.

If you have been injured in a motorcycle collision, TALK TO US BEFORE YOU TALK TO ANY INSURANCE COMPANY, even your own. We can help you steer clear of the landmines that can flip your case against you. WE KNOW WHAT MATTERS.