

## 在纽约提交一起交通事故诉讼的五个步骤

如果您以前曾是交通事故的受害者，您肯定知道在交通事故中遭受到的损失远远不止修理汽车的花费。你也许会在交通事故中受伤，而且您的伤势可能需要几周或几个月的时间来恢复。您的事业，家庭生活和其他责任义务都会受到因为受伤而受到影响。您甚至可能会遭受到心理和情绪的伤害。交通事故带给您的压力和后果会让您开始考虑您是否可以提起一场交通事故诉讼来为您的损失争取充分的赔偿。

保险公司不能总是完全弥补您因为车祸遭受到的损失会是您想要采取法律行动的一个原因。在您恢复伤势的期间，如果您的雇主不能或者不愿意向您支付病假工资，您的收入损失和您的医疗费账单加起来将是一大笔费用，这笔费用远远超过了保险公司愿意赔付的范围。

如果您正在考虑提起法律诉讼，在开始之前有几件事您应该要了解。我们整理了五个步骤帮助您来决定是否起法律诉讼以及怎么样进入法律程序：

### **第一步：决定提起法律诉讼是否是最好的选择。**

在一些情况下，保险公司确实会对交通事故的受害者进行充分的赔付。但不幸的是，这些情况发生的概率非常低。

有许多州实行的政策是，如果您在一场交通事故中受伤了，而且您能够证明该事故的另一方司机是过错方，您仅仅能够向该司机的保险公司索赔。这会是非常冗长的一个过程，而且您的索赔请求有可能会被保险公司拒绝。不用提的是，要是事故另一方的司机也许没有投保车险，所有的账单都得您自己来负担。

但是，即使您居住在像纽约这样实行无过错责任政策的州，并且您可以向您的保险公司提起索赔，您也不一定保证就能与保险公司达成一致的赔付解决方案。换言之，在一些情况下，提起车祸诉讼也许是确保您为您的损失争取到充分赔偿的最佳选择。

这些初步的阶段是开始整理对您有利的任何证据的最佳时段，您可以整理好您在交通事故现场拍下的照片，目击证人提供的证词和相关的日期和时间。

## **第二步：提交起诉状。**

对您来说下一步就是作为原告提交起诉状。在一些州，这个步骤被引述为申诉。起诉状记录了交通事故发生时发生的一切，罗列了您遭受到的一切损失，不论和心理上的，情绪上的，或者是金钱上的损失。

最重要的是，您一定要在交通事故发生后尽快提起诉讼以免您的案子超过诉讼时效。交通事故的诉讼时效一般是 12 个月和 24 个月。所以，如果您没有在这个时间段

内采取法律行动，您会失去起诉的权利。

一个纽约的交通事故律师在提交起诉状这个阶段会对您的案子起关键作用。他们可以根据您掌握的证明文件来建立您的案子，并且整理出您的交通事故法律诉讼的法律起诉根据。

### **第三步：将起诉状送达给被告。**

被告（为交通事故承担责任的人）拥有知道自己被起诉了的权利，并且他们也有权提出合法的抗辩。通知被告他们被已被起诉的程序被称为“送达”起诉状。

被告将会拿到一份起诉状复印件和一份法院的传票通知被告在规定的日期去法院应诉。

如果被告觉得原告在诉状中提出的主张是不准确的或错误的，他们会在初次应诉时提出反诉。被告也会提起一系列会影响到您案件的动议。以下是一些他们可能会提起的动议：

1. 变更法官或起诉地的动议
2. 将案件从州法院转移到联邦法院的动议（此种情况通常发生在案件的核心是涉及联邦法律时，或者被告与原告来自不同的州时。）
3. 撤销案件的动议。被告可能会争辩案件的事实，促使案件在法律上无法获得救

济，或者提出该案已经超过了诉讼时效。

除非该动议被法院批准，不然，您的案子还是可以正常进行法律程序。

#### **第四步：开庭前调查。**

下一步就是庭审前调查时期。在该阶段，原告和被告交换与案件相关的信息。

通过庭前调查，原被告双方都能够看到所有与案件有关的事实，此阶段有助于原被告或者他们的律师构思针对此案件的法律策略，建立证据以及准备有助于他们主张的辩护意见。

如果有证据可以支持各自的主张，在展开庭前调查之前，原被告双方也许可以达成一个解决方案。

#### **第五步：庭审。**

现在，您和被告已经准备好了您的案子并且收集到了足够的证据，而且您和被告在庭审前没有成功达成和解协议，那么您和被告下一步就是进入庭审程序。

庭审时，您和被告将会呈现您们掌握的证据，并且你们要交叉询问对方的证人。

法官将会衡量所有的证据，并做出您是否有权获得赔偿的裁决。

庭审总共分为两种形式，一种是法官审理（裁决仅有法官来做），一种是陪审团审理。在陪审团审理当中，法官仍旧有权决定案件适用哪个法律，但是由陪审团来做

最后的裁决。

大多数的交通事故案件都进行不到庭审这一步。为了避免花费和庭审后的潜在不利结果，被告往往会试图达成庭外和解。您的律师会建议您是否可以接受庭外和解，但是最终您是唯一可以决定是否继续庭审的人。

### **为什么向人身伤害律师咨询很重要**

尽管根据法律的规定，您完全可以自己提交交通事故法律诉讼，但是非常不建议您这样做。保险公司一般会比较富有攻击性地拒绝申请人的索赔申请。除非您的案子无懈可击，不然被告律师也会利用您案子最轻微的弱点来让您无法获得法律上的救济。

所以在提起诉讼之前与一个人身伤害律师咨询一下是非常明智的。他们可以给您建议最有利于您的方式来进行诉讼程序，包括怎么样提起诉讼，怎么样准备证据，以及如果您的案子要进行到庭审这一步，将会对您的案子有什么影响。

一个人身伤害律师可以帮助您最大可能地建立一个较强的案子。他们会结合对州法律和联邦法律的理解，来分析您案子的具体情况，从而确保您能得到一个最公平合理的结果。

如果您想和我们经验丰富的人身伤害律师们交流一下，您可以填写我们的线上案

件免费评估表，或者您可以拨打(844) 860-0949。所有案件的评估都是保密的，而且，

案件评估结束后，您也并没有一定要将案子进行下去的义务。

## **5 STEPS FOR FILING A CAR ACCIDENT LAWSUIT IN NEW YORK**

If you've been the victim of a car accident, you know that the damages usually go beyond needing a few auto repairs. You may sustain injuries that take weeks or even months to recover from, which can impact your career, family, and other obligations. You may even experience psychological or emotional damage. The stress of the accident and its aftermath can leave you wondering whether you should file a car accident lawsuit to pursue adequate compensation for your losses.

One reason you might take legal action is that insurance companies don't always recoup the losses you've suffered in a car accident. If your employer is unable or unwilling to provide sick pay while you heal from injuries sustained in the accident, loss of earnings combined with costly medical bills can add up to a sum beyond what insurance companies are willing to pay.

If you're considering filing a lawsuit, there are a few things you should know before you get started. We've put together a list of five steps you can take to determine whether you want to file a car accident lawsuit and how to jump into the process:

### **STEP ONE: DECIDE IF FILING A CAR ACCIDENT LAWSUIT IS THE BEST OPTION**

There are some occasions where insurance companies do adequately compensate the victims of car accidents. Unfortunately, these instances tend to be few and far between.

Many states follow a policy that says if you are injured in a car accident, you can only issue a claim against another driver's insurance company if you can prove that he or she was at fault for the accident. This can be a long, drawn-out process, and your claim may still be denied. Not to mention, the other driver may not have auto insurance at all, leaving you to foot the bill.

But even if you live in a no-fault state like New York and you can submit a claim to your own insurance company, you're not guaranteed settlement. In other words, there are instances in which filing a car accident lawsuit may be your best

option to ensure you receive sufficient compensation for your losses.

These preliminary stages are a good time to start keeping track of everything that could support your case, including photos taken at the time of the accident, testimonies provided by witnesses, and relevant dates and times.

### **STEP TWO: FILE A COMPLAINT**

The next step for you as the plaintiff is to file a complaint. In some states this is referred to as a petition. This complaint documents everything that occurred at the time of the accident and outlines the damages you've sustained, whether physical, emotional, or monetary.

It's important to file your complaint as close to the date of the accident as possible so as to avoid the statute of limitations. This usually occurs between 12 and 24 months. So if you don't take action within this window, you could lose your right to sue.

[An auto accident lawyer in New York](#) can be especially helpful in this stage of filing a complaint. They can build your case around what you can prove with your documentation and outline the legal basis for a car accident lawsuit.

### **STEP THREE: SERVE THE COMPLAINT TO THE DEFENDANT**

The defendant (the person responsible for the accident) has the right to know about the charges made against them and be given the opportunity to mount their legal defense. The process of informing the defendant of the charges made against them is called "serving" them the complaint.

The defendant is given a copy of the complaint made against them and given a "summons" to appear in court at an allotted date.

The defendant may at this point make counterclaims if they feel the allegations made against them are inaccurate or false. The defendant can also file a range of preliminary actions (called motions) which may affect your case. Some of these motions are as listed:

Motion for change of judge or venue.

Motion for removal from state court to federal court (this usually occurs when the case is a matter of federal law or the defendant is from another state).

Motion to dismiss. The defendant may dispute the facts of the case, make a case that no relief is warranted or that the suit was brought after the statute of limitations had expired.

Unless the motion to dismiss is granted, your case will continue in the legal process.

#### **STEP FOUR: DISCOVERY**

The next step (and the last before going to trial) is the period of discovery. This is where the plaintiff and the defendant exchange any information that is relevant to the case. In most cases this will include statements and depositions made by persons close to the case, such as witnesses, doctors, and emergency responders.

Discovery allows both sides to see all the facts pertinent to the case so that they (and their legal counsel) can plan their legal strategy, building evidence and arguments to support their claims.

If there is evidence to support it, post-discovery resolutions can be made between the plaintiff and the defendant. This might include a motion for summary judgment, where the judge can decide the outcome of the case without taking it to trial.

#### **STEP FIVE: TRIAL**

Now that you and the defendant have prepared your cases and gathered your evidence, and there has been no success in settling up to this point, all that remains is to go to trial.

Here, you and the defendant will present evidence and cross-examine each other's witnesses. A judge will then weigh all the evidence and make a ruling that will determine whether or not you are entitled to compensation.

There are two kinds of trial, a bench trial (where the decision is made by a judge alone) and a jury trial. In a jury trial, the judge still maintains the right to decide which laws apply to the case, but the jury makes the final decision.

The majority of car accident lawsuits do not make it to trial. In order to avoid the expenses and potential consequences of a trial, the defendant will likely attempt to settle outside of court. Your legal counsel can advise you on whether or not to accept a

settlement outside of court, but ultimately you are the one who determines whether or not to move forward with a lawsuit.

#### WHY IT'S IMPORTANT TO CALL A PERSONAL INJURY ATTORNEY

While filing a car accident lawsuit on your own is perfectly legal, it is rarely advisable. Insurance companies can be aggressive when it comes to denying claimants a sum that reflects their loss. And unless you have a watertight case, defense attorneys can exploit even the slightest vulnerability and leave you out of pocket.

It's wise, therefore, to talk to a [personal-injury lawyer](#) before filing a claim. They can advise you on the best way to proceed, including how to file the claim, how to document evidence, and what to expect if your case goes to trial.

A personal injury attorney can help you to build the strongest possible case. They can bring their understanding of state and federal law to bear on the circumstances of your accident and ensure the most equitable outcome for you.

If you'd like to speak to our experienced personal-injury attorneys, fill out our [free online case evaluation](#) or call us at (844) 860-0949. All case evaluations are confidential, and you are under no obligation to pursue a case.