

## Hit and Run Accidents - Can I Sue? by Christopher Pyne, Esq.



This may have happened to you - riding along on your motorcycle or bicycle, a careless driver suddenly forces you off the road and into a tree, guardrail, sign post or other object causing you serious injuries. Incredibly, the driver then leaves the scene. Often there is no actual contact between the offending vehicle and the victim because the biker was alert and was able to avoid being hit.

Do you have the right to sue for injuries if you are run off the road but are not actually struck by another vehicle?

As an attorney, I see clients all the time who have experienced incidents similar to what I have described. Whether the client can bring a claim depends on the specific facts of the crash, but the answer is generally yes - even if the other vehicle flees. Physical contact between the vehicle and motorcycle or bicycle is not required to bring a claim for your injuries and losses in New Jersey.

In New Jersey, motorcycle and automobile insurance policies contain uninsured motorist (UM) coverage. If you are injured by a vehicle that has no insurance or by an unidentified hit and run vehicle, you will most likely be able to bring a claim for injuries depending on your own vehicle UM limits and subject to other laws governing personal injury claims. Whether a claim for property damage can be brought depends on the specific policy since there is no automatic right to this coverage.

The following guidelines are critical to remember if you are involved in a hit and run accident:

First, you must make “reasonable efforts” to identify the “hit and run” or “phantom” vehicle, and/or its owner and operator. Failure to make some “reasonable efforts” may lead to a denial of insurance benefits. Do your best to memorize or write down a description of the vehicle and driver if you saw him.

Second, report the accident “promptly” to the police and ask that a report be completed. Failure to call the police without a good reason may affect the fact finders’ (usually a jury) decision regarding your “reasonable efforts” at identifying the driver and owner.

Third, report the incident promptly to your insurance company. Be aware that your insurance company will be suspicious of any accident involving a “phantom” vehicle and will want to conduct an investigation - and it has a right to do so. I strongly recommend that you consult an attorney before giving recorded or written statements to any investigators.

Perhaps most importantly, I advise you to carefully review your policy limits to ensure that there is sufficient coverage to fairly compensate you for all potential losses including physical injury, medical bills, wage loss and property damage. Be aware that you cannot add or “stack” policies from different vehicles to provide more coverage so it is important to work with your insurance agent and purchase as much UM insurance as your budget permits.