

INVESTIGATING AUTOMOTIVE PRODUCT LIABILITY CLAIMS

What is automotive “product liability” litigation, and how does it differ from regular automobile accident lawsuits?

Generally speaking, individuals will sue one another based upon the wrongful or negligent act that led to the automobile accident. Most of these cases are settled between the insurance companies. In the cases that do go to trial the damages that are awarded (if any) are usually dictated by the limits of the insurance policy, and perhaps the assets of the guilty party. This is the manner in which most automobile accident cases proceed.

Product liability cases are a different breed of animal. Simply put, a manufacturer is responsible for the safe performance of their product once it is put forward into the stream of commerce. Sounds simple enough, but is it? Not really. Have you ever seen a 1954 Corvette on the road? Well, so long as it has received normal maintenance throughout the years, no matter how many owners there have been, the brakes, steering, power-train, and every other system in the vehicle is expected to work properly. If this concept applies to a 50-year-old product, it certainly applies to the everyday modern vehicle. In a “products” case, the plaintiff believes that a faulty vehicle was responsible for the accident. The damages that are awarded in “products” cases are limited only by the common sense of the juries and/or judges.

Product Liability cases require a different level of investigation.

As investigators we must recognize our place in the overall legal process.

WHAT WE ARE NOT:

We are not lawyers, yet we need to know the legal limits of our actions.

We are not engineers, yet we need to have an understanding of the product in question, the basic laws of physics, and a good eye for detail.

We are not EMT’s, but we need to have an understanding of what they do at accident scenes.

We are not automotive mechanics or technicians, yet we need to have a concept of normal vehicle operation, maintenance, and repairs.

We are not Firemen, yet we need to know their basic procedures at the scene of auto accidents and automobile fires, as well as their record keeping procedures.

We are not the police, yet we need to be especially aware of their actions at accident scenes and their follow-up investigation procedures.

WHAT WE ARE:

We are the front line eyes and ears for our clients.

We are the gatherers of facts, obtainers of records, locators of vehicles or parts thereof, interviewers of witnesses, photographers, safe guarders of evidence, liaisons with law enforcement, expeditors, and many others things.

As gatherers of facts it is our responsibility to obtain the most information possible. The term “knowledge is power” has real-world meaning to our clients. If we are able to provide them with specific facts, or witnesses that are not known to the opposition, it allows our client to better formulate their plan. On the other hand, should the opposition obtain information or witnesses that we are unaware of, it places our client at a distinct disadvantage. You will not keep clients if you continually leave them under-informed.

Where do we find facts and information? The sources of information are varied, yet fairly consistent. While we may from time to time find a new source, we can usually rely on the following: Print and Broadcast Media, Police/Fire/EMS records, witness accounts, vehicle maintenance and repair records, DMV records, manufacturer and government recall records, weather records, Department of Transportation or Highway Department records, tow truck records, etc.

WHAT WE DO:

So, a client has called you in to investigate an automotive “products” case. Let’s assume that you’re lucky enough to be brought in at or about the time of the accident rather than five years later on the eve of trial.

Now is your time to listen. Naturally, your client will provide you with the basic facts, but more importantly you will learn what the alleged defect claim is. It may turn out to be a seat belt claim, unwanted acceleration, brake failure, a pressurized fuel system fire, or a host of other system failures, each having their own specific investigative requirements. Make sure you learn from the client, or from your client’s experts, what it is that they want you to look for in these different types of cases. These issues are too varied and involved for me to delve into at this point, but they do exist and you should develop a good understanding of these disparate investigative requirements.

Now it’s your turn to shine. You can inform your client of what you plan to do at the very minimum: 1) Conduct a media search for stories relating to this accident that will enable you to identify witnesses, 2) obtain police accident records, photographs, test results, reconstruction reports, witness identities and statements, arrest records, summons records, 3) obtain Fire Department records, 4) obtain EMS records if possible under HIPPA, 5) obtain Dept. of Motor Vehicle records, certified copies of the police and motorist accident reports, drivers abstracts including accident history, summonses, convictions, and suspensions, registration and title ownership history records, 6) identify the dealership that sold and or serviced the subject vehicle, any non-dealership service

stations or gas stations that serviced the vehicle, and obtain repair and maintenance history, 7) obtain certified weather reports, 7) obtain records from the Dept. of Transportation and/or Highway Department regarding maintenance, repairs, reconstruction projects, traffic light outages and sequencing, 8) visit, photograph, and conduct a canvass for witnesses at the accident scene, 9) identify and interview police, fire, and EMS workers who were at or investigated the accident, 10) locate and photograph the vehicle, and arrange for the vehicle inspection by your clients expert, and 11) interview and obtain statements from witnesses. Needless to say, your client is now impressed and confident that he has made the correct decision in retaining you.

HOW WE DO IT:

MEDIA SEARCHING:

In day's gone bye, searching for news stories was left up to those of us who had access to costly proprietary databases such as Lexis/Nexis or Westlaw. Nowadays, anyone that has a computer with Internet access can quickly use any number of search engines to locate these stories. I would recommend using the free Google News search engine for this purpose. Most daily and local newspapers also allow for Internet access to their news archives. There are many media research firms that can offer you a brief summary of television and radio reports that covered your story, and they can usually get you video and audiotapes of the broadcasts so long as they occurred within 90 days or so of the accident. The public library in town will generally have copies of local, regional, and national newspapers.

POLICE RECORDS:

The procedures for obtaining police records vary greatly from place to place. Generally speaking, accident reports and follow-up accident investigation records, including photographs and test results are considered to be part of the public record and therefore available under the State Freedom of Information laws. Some police departments still hold to the theory that these records can only be released to the actual participants of the accident, or with their authorization, or by subpoena. Whatever the procedure may be it is in your best interest to develop a method for obtaining these records for your client.

One thing that all emergency public safety officers will usually have in common is that they were all notified to respond to the accident. Of course there are times when they may have actually observed the accident occur, but it is more likely that someone had called 911 to report the accident and that the 911 operator dispatched them to the scene. Make sure to obtain a copy or transcript of the 911 tape and subsequent communications between the Dispatcher and the responding units. You will now have the identities and telephone numbers of the reporting civilians, as well as the units that responded. Your quest for interviewing the first people at the scene has now begun.

By starting with the Police Accident Report (PAR) you can confirm the date, time, and exact location of the accident. You will be able to identify all of the vehicles that were involved by the registration plate numbers, sometimes Vehicle Identification Numbers (VIN), owners name and address. You will learn the names, addresses, and dates of birth of all the involved drivers, and at least the names, ages, and positions, and types of injuries to the passengers of all the vehicles. The names and contact information of witness are usually included in accident reports, as are the identities or badge numbers other police officers such as accident investigators who may have responded, EMS personnel, tow truck operators, and fire departments that responded. Traffic summonses are usually listed on the Police Accident Report, giving you the opportunity to obtain a copy of the summons, and if a hearing has been held to obtain a copy of the transcript. Additionally, most Police Accident Reports have now been designed to assist Motor Vehicle or Transportation Departments to accumulate statistical data such as lighting, weather, road surface, roadway character, the number of other accidents at the same location, whether there were traffic control devices at the scene, whether the vehicles occupants were wearing seat belts, if there was an airbag deployment, and other details that may not be written in the body of the report. There will usually be an area where the reporting officer can draw a diagram of the accident, or at least select from a standard list of accident types, i.e.; both vehicle traveling in the same direction, head-on, making turns, etc.

Police Departments all have their own procedures for investigating serious automobile accidents. Some have a dedicated accident investigation unit that will conduct the entire investigation, some have their Crime Scene Unit take photographs and measurements, but regular Precinct or Troop detectives conduct the investigation and interviews, while other departments may use a combination of personnel. One thing does remain consistent however, all fatal or likely to die automobile accidents are investigated by some police official. These follow-up investigation reports, photographs, diagrams, and test results must be obtained as soon as possible. There is a great advantage to interviewing a witness when you already know what that witness has told the police investigator. The same holds true for interviewing the police officers and investigators.

FIRE DEPARTMENT/EMS RECORDS AND INTERVIEWS:

Fire Departments may be called to the scene for several reasons. Naturally, the most obvious reason is that at least one vehicle is on fire. They may also be there to extricate a trapped occupant; to provide traffic control; provide ambulance/EMS service, and to wash down and clean up the roadway. Keep in mind that not all automobile fires are the result of accidents. We've all heard of cars that caught on fire inside the garage or in the driveway of a home or business. That's right, spontaneous fires are another type of Product Liability investigation, and they have their own specific investigative requirements. But again, these specifics are too lengthy for me to discuss at this time but should you encounter this type of investigation I strongly urge you to speak with your client's expert to determine what he wants you to focus on.

Fire Departments file and maintain a standardized Incident Report that will usually indicate how and when they were notified, and sometimes by whom. It will document the equipment that was dispatched, the actions taken at the scene, and it may even provide a cause or point of origin. This incident report will usually identify the Fire Officer in-charge, but not all of the members who responded, either on the Truck or Engine, or in their private vehicles. That being the case, it is important to obtain the Roster of all those members who responded. This is usually easier when dealing with volunteer fire departments than with larger urban departments. If the Fire Department also provides EMS services, you should try to get a copy of the Patient Care Report (PCR), however this is becoming more difficult if not impossible with the expansion and implementation of the Health Insurance Portability and Accountability Act (HIPPA). You should learn the procedures of your area's Fire Department/EMS with respect to Patient Care Reports and inform your client immediately if a subpoena will be required.

For spontaneous vehicle fires you will want to obtain the reports of the Fire Marshall or fire investigator. His conclusions regarding the cause and point of origin will be beneficial to have prior to his interview.

MOTOR VEHICLE DEPARTMENT RECORDS:

In most States accident records are kept according to the driver's record, rather than the vehicle record. In the past the only methods of determining if a vehicle had been involved in a prior accident was to check the driver's abstracts of all previous owners, and by obtaining service records from dealerships or service stations. This was far from fool proof since owners are not the only persons who drive cars, and not all accidents are reflected in service records. Sure, you could take the time to determine the insurance companies for the various owners, and then try to obtain their records but this is time consuming and often a fruitless endeavor. In recent years I have been using the Carfax databases to assist in identifying additional accidents. I don't know how they accumulate this information, but they do.

The DMV should also be able to provide copies of the Certificate of Origin, Title and Registration applications and abstracts, certified copies of accident reports, summonses, convictions, and suspensions. In cases of fatal accidents there may also be an Administrative hearing at which the drivers, witnesses, and police officers may testify. A transcript of this hearing can be invaluable to your client as it may provide a snapshot of the testimony that may be given at depositions or trial. If a DMV Administrative hearing has not yet been held, you can notify your client and suggest that they attend this hearing in person, or perhaps assign you to attend it for them.

Have there been other accidents at this same location? Perhaps it is a dangerous intersection. Your DMV should be able to provide you with a listing of all accidents in the area over a specific period of time. If this information is not available from the DMV, it will likely be available from the Dept. of Transportation. You can also restrict the types of accidents you are looking for, i.e.; vehicle/pedestrian; motorcycle; vehicle/vehicle; etc.

DEALERSHIP & SERVICE RECORDS:

If you have been retained by the defendant in a Products case the task of determining the originating dealership, and obtaining records will be greatly simplified for you. Automotive manufacturers maintain a centralized database that can provide a printout of all service records and recalls that were completed or remain open on the vehicle. From this point on it is relatively simple to obtain the actual Repair Orders from each dealership that has serviced the vehicle. Naturally, if the owner(s) of the vehicle performed routine maintenance on their own, or if they used local service stations the task becomes more involved. You may have to canvass the local automotive repair shops that are near to the residence of the prior owners. If the vehicle is available to you, you should check the outer edge of the driver's door, pillar, and top left of the windshield for stickers from servicing agents.

If you have been retained by a plaintiff who was the original purchaser of the vehicle, you will already know the dealership, and where it has been brought in for service. Your client should also have access to all the Repair Orders and recalls through the dealership as well. If your client purchased the vehicle used, you will not have access to the records of any previous owner, the manufacturer, or the dealerships and service stations that may have performed work on the vehicle.

Regardless of whom you represent, if you have conducted a thorough search of the DMV records, you should have a clearer picture of all owners, auction houses, and dealerships. In those rare cases where the prior ownership of the vehicle remains murky, your clients can always resort to the Discover process during the litigation.

Service records are an important part of a Products case. Has the vehicle been serviced in accordance with the manufacturers warrantee requirements? Were there any previous complaints made about the system in question? Are there any open recalls on the vehicle? Have there been any changes made to the vehicle? Modifications that have been made can have a dramatic effect upon the outcome of these cases, as can the use of improper equipment such as oversized tires. Modifications can also produce additional or Third Party defendants such as after-market "stretch limo or conversion Van" companies. Was the vehicle involved in a prior accident, and if so were the repairs made correctly? For example, if there had been a previous air bag deployment were the air bag sensors replaced after the accident, or are the original sensors still in the vehicle? These are the types of issues that should be discovered during your investigation.

WEATHER RECORDS:

The simplest and best way to obtain certified weather records is from the National Climatic Data Center (NCDC), located in Asheville, North Carolina. You can obtain certified weather reports for the day and time of your accident, or for any period of time that you specify. This can be especially useful if you are looking to determine if there may have been a buildup of ice or snow over several days. Just because the sun was shining and it was 40 degrees on the day of the accident, doesn't necessarily mean that

the roadway was clear. The weather report in and of itself will not provide conclusive evidence of a slippery roadway, but along with testimony of police, Highway Dept. workers, and witnesses, it may provide a jury with the information they need to reach a conclusion.

There are other sources of weather data available to you, and some of these daily and hourly records are available at various websites and can be “cut and pasted” directly into your reports. Your State’s Climatologist will also be able to provide you with this data, but it is likely that they are getting this information directly from the NCDC anyway.

Newspaper archives will also give you the weather, but again a Certified Record from NCDC is the definitive source.

DEPARTMENT OF TRANSPORTATION / HIGHWAY DEPT. RECORDS:

Plans of the original construction, or re-construction of a roadway are usually available from the D.O.T., Highway Department, or from the municipal agency that is charged with maintaining the roadway systems. These “as-built” plans can be useful to your client’s accident reconstruction expert as he develops his theories. Many agencies also take and maintain photo-logs of these roadways, with new photos taken at fixed intervals, say every five years. In NYS, the Department of Transportation takes these “photo-logs” at 1/10th of mile intervals, and stores them on microfiche.

As discussed in the DMV section, these agencies may also be able to provide you with a listing of all, or similar accidents that have occurred in the vicinity of your case over time.

These agencies are also in charge of the traffic control devices on the roadways. They can provide you with information on the signage, and traffic signals including the timing and sequencing of traffic lights. You will also be able to get information of traffic light outages and repairs, street light placement and repairs, as well as resurfacing and remarking of the roadway.

THE ACCIDENT SCENE:

You should plan on visiting the accident scene as soon after the accident as possible. If you can arrange to meet the investigating police officer there, so much the better. Again, you are the front-line eyes and ears of your client who is depending upon you to intelligently provide an overview of the scene, and to include as much information as possible as to the conditions that existed at the time of the accident. At a minimum you will need a camera, a tape measure, and a reflective safety vest. Remember, you are not hired to be a Reconstructionist, but the more information you can provide the better.

Where possible you should take measurements and photographs of the roadways, the lanes, the shoulders, crosswalks, any potholes, and any marks on the roadway surface such as skid, yaw, scuff, and gouges. You should document the traffic signs and devices,

street lighting in the area, and the type of roadway surface material. I also advise taking a series of “panoramic” photos, which when put next to each other will provide an overall view of the area. You should photograph the area from all directions, specifically noting any obstructions, set backs, curves or hills that would impair the visibility of those involved. Your client may also ask that you take a videotape of the area at about the same time of day as the accident to document traffic patterns and lighting.

Once you’ve taken your photos and measurements you will no doubt have peeked the curiosity of anyone who has been watching you. Naturally, if you are in a very rural setting there may not be anyone aside from the wildlife that has been observing you, but if you are in an area where people and businesses are located you have probably caught someone’s attention. You may see a person watching from an apartment house window, or a storefront, or perhaps a sidewalk vendor who has been paying attention to you. These are the first people that I would interview regarding the accident. If they are the “mayor” of the block, they will probably know about your accident, and if they did not witness it themselves they may know someone who did. Next I would expand the canvass for witnesses to any businesses located at the scene, and then onto any residences in the area. Keep in mind that there are times when witnesses who were behind the accident may be more important than witnesses that were at or in front of the accident. This is particularly important in “unwanted acceleration” cases, where the driver has indicated that he/she was stepping on the brake but the vehicle kept going faster. By finding witnesses who were behind the accident, you may be able to confirm or disprove that the brake lights came on. By finding witnesses that the police are not aware of you have provided your client with an advantage. If these witnesses are favorable, your client will seek their depositions, and if they are unfavorable then your client will have had the time to prepare for their testimony if the adversary investigator was good enough to locate them as well. You do not want to be the investigator who does not discover this witness!

What other pictures are available? You’ve already sent for the police photos, you’ve gotten the videotapes of the TV Stations, and the newspaper photographs, but are there other photos that may be available as well? Yes! Not every photo that was taken by the newspaper photographer has made it into the newspaper. You can contact the newspaper photographer or the Freelance photographer directly and ask to view a contact sheet of all photographs that were taken. The television stations may also have footage that did not make it into the newscast. If the footage is still available (usually 90 days) you can ask to view and purchase these outtakes. These photos and videos may provide you with additional witnesses and facts that you may not have been aware of.

You should also take note of any security cameras at local businesses or buildings, as well as traffic cameras at the location, and be aware that civilians may also have taken photos and videos at the scene.

You can obtain Aerial Photographs of the area from government or private sources, and you can view and order photos of the area On-Line at websites such as GlobExplorer.

INTERVIEWING POLICE/FIRE/EMS/TOW TRUCK OPERATORS:

If you have been able to obtain the police departments accident and follow-up accident reports and photographs prior to your interviewing the responding and investigating officers you will be in a better position to ask informed questions. With the exception of interviewing a Fire Marshall or Fire Investigator, this is less important than when interviewing the firefighters who either performed rescue or firefighting functions at the scene since their reports are more general in nature.

Whenever possible, you should attempt to interview these officers at the scene of the accident. The first officers at the scene will be able to provide you with their recollections of the point of impact; the physical and mental status of the victims; the location and position of the victims; the position and damage to the vehicle(s); the identity of witnesses whose names may have not made it into the reports and what they may have said, the location of the debris field; accident marks such as skids, and gouges, etc.; the condition of the roadway both before and after the accident; traffic control devices; pre and post accident actions and conversations of the involved parties. Were there any complaints made regarding the failure of a vehicle system? You should pay particular attention to what, if anything was done to the vehicle(s) at the scene. Was the vehicle still running? Did the officer move it? Test the brakes? The throttle? Did the air bags deploy? Were seat belts used?

These same issues should be covered when interviewing the follow-up investigating officers. The accident investigator will have a file that may contain information that has not been entered in their reports. If you have any question regarding the photographs or measurements that were taken at the scene, these investigators will be the ones with the answers.

The accident investigators have usually received specialized training in accident investigation and reconstruction, and their primary responsibility is to determine if criminal charges should be filed against one of the drivers. They may request mechanical testing of the vehicle by their own Police Department mechanics, or by an outside "contract" mechanic who performs tests for the police. Most of these tests are limited to standardized tests that mirror the States vehicle inspection laws. This testing is non-destructive and would include brakes, lights, glass, tires, signals, etc. In some cases these mechanics may be asked to check the throttle linkage as well. If these tests have not yet been performed you should notify your client and suggest that they request that their expert be allowed to attend, or at the very least to have you attend to videotape the inspection. If these tests have already been performed you should be certain that the test results are contained within the reports you have received or requested.

In addition to obtaining the factual information from these officers, it is also important that you determine the officer's opinion of your client. You may learn that the officer is upset that the District Attorney did not prosecute one of the drivers, or that he believes that the manufacturer was at fault. Either way, you may get an indication of the officer's future cooperation, and his demeanor when called to testify. Your client will want to

know of any hostile feelings well in advance of any testimony. One thing that all clients dislike is surprises.

FIREFIGHTERS AND EMS:

As with the police records, it is an advantage to have these records in your possession prior to interviewing the responding members. When interviewing firemen and EMT's you will want to determine who was first on the scene, and what that individual observed with respect to seat belt usage, air bag deployment, consciousness and responsiveness of the victims, point of origin of the fire, or the smell of alcohol on victims. You will also want to determine the color of the smoke and flames, the intensity of the fire, the spread pattern, and how it was extinguished, i.e.; chemical or water. It is also important to determine from where the fire was fought. Did they wash down the roadway and disturb the debris field? Were the windows broken out by the firemen, did they remove the gas cap, did they insert a hose into the filler neck to flush the gas tank? Did any firemen take photos at the scene for their personal use?

The EMT's are best suited to comment on the victim's consciousness and mental state. They are trained to test for responsiveness, and they can be invaluable to your client in determining issues of conscious pain and suffering.

TOW TRUCK DRIVERS:

Auto wreckers are usually the last accident personnel to arrive at a scene. Many times they arrive after the victims have been removed. On the other hand, these individuals are usually more aware of the damages to the vehicle since they are usually associated with an auto body shop. Their observations regarding the condition of the vehicles can be very useful. They may recall whether air bags had deployed, whether the steering wheel was damaged, the condition of the front suspension, brakes, tires, seats, gas tank, battery, if and where they picked up any parts of the vehicle at the accident site, and the current location of the vehicle(s). If the tow truck driver works for the body shop that has made the repairs, or provided an estimate of repairs to the insurance company, you are already ahead of the game.

As I previously indicated, there are many different types of automotive Product Liability claims based upon the different systems within the vehicle. Whether it is a crashworthiness issue, seat belt, air bag, steering, brakes, or fire, I would suggest that you work with you're your client or his expert to develop a check-list of questions to be asked of emergency personnel for each type of claim.

THE VEHICLE(s):

The quicker that you can get to and photograph the vehicles the better off you will be. By moving quickly you may also be able to arrange for an inspection by your clients expert, before the other parties put everyone on notice or file restraining orders with the Court. But again, your primary purpose is to locate and document the condition of the vehicle

for your client. Before going to photograph the vehicle, make sure that you speak with your client's expert to develop a checklist of required photographs.

I like to start with a 50mm lens, a flash (even outdoors), and a polarizing filter, and take a standardized set of basic photographs of every vehicle. As if using the points of a compass, I will start at the front of the vehicle taking the first photo head on while bending at the knees to the approximate height of a driver, and then move either clockwise or counter-clockwise at each position of the compass (N, NE, E, SE, S, SW, W, and W) with north being directly in front and south being directly behind. Try and frame the entire vehicle within your viewfinder by moving forward or backwards, rather than by zooming so that you can maintain the 50mm aperture. I then move to the VIN plate, registration, and inspection stickers, followed by the manufacturer's information on the door or frame, as well as any services stickers, dealer's names, decals, parking permits, bumper stickers, etc. Moving inside the vehicle, if the keys are available and battery charged, I photograph the dashboard instrumentation panel in the on position to document the mileage, fuel tank, etc., and then move on to the condition of the dashboard, steering wheel, sun visors, seats, glass, and console. I pay particular attention to the driver's side floor well and photograph the brake, gas, and emergency brakes, as well as the floor mats and any debris in the area. Next, I move on to photograph the seatbelts to document if they are fully retracted, if the metal D-Rings have visible marks, and the webbing for signs of stretching. Even if this was a one-occupant accident, I strongly urge you to inspect all of the belts since this may reveal that the car had been involved in a previous accident. You should also photograph the contents of the glove compartment, console, trunk, and any loose articles within the vehicle. Once you've documented the general condition of the vehicle, both in and out, it is time to check the list that your expert has provided you with. He may want you to take close up photos of the gas filler neck and gas cap, or he may wish you to take close up photos of the air bag sensors, or he may want close up photographs of the crush damage. You will also want to photograph the tires, and rims paying special attention to any scratches or grooves.

What happens to the vehicle next? Early preservation of the vehicle is important in product liability cases. Your client may seek to purchase and safeguard it, or if this is not possible they will want to put the other parties on notice and obtain a court order to prevent any destructive testing. If the vehicle is not safeguarded and preserved at or about the time of the accident, you can expect that you will be asked to find it, or its parts at some time during the next several years.

INTERVIEWING WITNESSES:

By this time you should have become aware of all the participants and witnesses. Armed with the knowledge that you have obtained from the media, police, canvass, and inspection of the scene and the vehicle, you are now ready to interview the witnesses. Review your checklist that you have developed from the meetings with your client or his expert. Make sure that you know the specific issues for each type of product claim. Make sure you know under what circumstances your client wants, or does not want a written or recorded statement.

While this article is not meant to be a primer on witness interviews, it is important to make sure that you obtain good pedigree information on each person so that they can be located several if not more years down the road when this case is ready for a trial. You will also want to assess their mental capacity, and their attitude towards your client. You can then proceed in your own fashion to determine the who's, when's, what's, where's how's, and why's.

When conducting interviews of all of the emergency personnel, participants who have not filed suit, and witnesses, you should keep in mind that you will want to be able to construct a time-line for this accident. Time-lines are important since there is usually a progression of events that led up to the accident, as well as those that followed it.

The Automotive Product Liability Investigation To Do List:

- 1) Conduct a media search for stories relating to this accident that will enable you to identify witnesses.
- 2) Obtain police accident records, photographs, test results, reconstruction reports, witness identities and statements, arrest records, summons records.
- 3) Obtain Fire Department records.
- 4) Obtain EMS records.
- 5) Obtain Dept. of Motor Vehicle records, certified copies of the police and motorist accident reports, drivers abstracts including accident history, summonses, convictions, and suspensions, registration and title ownership history records.
- 6) Identify the dealership that sold and or serviced the subject vehicle, any non-dealership service stations or gas stations that serviced the vehicle, and obtain repair and maintenance history.
- 7) Obtain certified weather reports.
- 8) Obtain records from the Dept. of Transportation and/or Highway Department regarding maintenance, repairs, reconstruction projects, traffic light outages and sequencing.
- 9) Visit, photograph, and conduct a canvass for witnesses at the accident scene.
- 10) Identify and interview police, fire, and EMS workers who were at or investigated the accident.
- 11) Locate and photograph the vehicle, and arrange for the vehicle inspection by your clients expert, and arrange for safeguarding of the vehicle.
- 12) Interview and obtain statements from witnesses.