

Buckle Up: Seatbelt Use May Affect Personal Injury Recovery in a Motor Vehicle Accident

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Wearing a seatbelt is smart. The belt is a safety feature, of course, but it is also required by law. In New Jersey, all drivers and passengers (including the rear seat passengers) who are at least 8 years of age or at least 57 inches tall are required to wear a properly adjusted and fastened seat belt while on a street or highway. Drivers are responsible for proper seat belt use by all occupants who are under the age of 18.

The failure to wear a seatbelt is not a crime, but it is a motor vehicle violation, and you may get a ticket. If you are in a [motor vehicle accident](#), the question of whether your seatbelt was on or off at the time of the accident may play a role in decisions about financial recovery for personal injuries sustained during the crash.

As a personal injury attorney, I meet with clients who suffered injuries as the result of a car accident, but no two accidents are the same. Most personal injury cases arising from a car accident resolve through settlement, which is an agreed upon financial recovery paid by the insurance company of the driver who caused the accident.

Accident scenarios vary in terms of their details, the time of day or night, the speed of the cars involved, the weather, driving conditions, and so on. A question that I am often asked is whether it matters if a seatbelt was worn at the time of the accident. This blog addresses frequently asked questions regarding automobile accidents, personal injury lawsuits, and the use of a seatbelt. However, this article is provided for informational purposes only, and should **not** be construed as **legal advice** on any subject matter.

Does wearing a seatbelt matter in a personal injury case?

While many cases do settle before going to court and having a trial, the failure to wear a seatbelt may influence the insurance company's offer to settle the case. The insurer may offer dramatically less money than if a seatbelt had been worn or may not offer any financial recovery at all. That means the matter will go to trial to let a jury decide or the case will be dismissed with no recovery.

Will my insurance company still pay for my injuries if I was not wearing my seatbelt?

Your medical bills are paid for by the personal injury protection (PIP) coverage from your own [automobile insurance](#) policy. Your insurance company will pay your medical bills arising from the accident, subject to the terms of your policy, whether you were wearing a seatbelt or not.

Does the police report say I was not wearing my seatbelt?

At the scene of the accident, the police officer may have directly asked you if you were wearing your seatbelt when the accident occurred, and that information is included in the accident report, along with information about the type of seatbelts available in the vehicle.

What if there was no police report?

Even if there was not a police report, there may be evidence of your nonuse of a seatbelt. In addition, your treating doctors may have asked if you were wearing your seatbelt, and that information will generally be reflected in your medical records.

Can I still bring a lawsuit to recover for my injuries if the police report or medical records say I was not wearing a seatbelt?

If you were not wearing a seatbelt, you can still bring a lawsuit, but you'll need to "buckle up" for what could be a bumpy road in your lawsuit. The reason is that seatbelt usage may affect how much you recover for your injuries, and even if you can recover at all.

Why does it matter if I was not wearing a seatbelt when I didn't cause the crash?

Under New Jersey law, if your injuries could have been completely avoided by wearing a seatbelt, that may prevent you from recovering money for your injuries, even if you did not cause the accident. This possibility applies regardless of who caused the accident, and regardless of whether you were the driver, the front seat passenger, or a passenger in any of the back seats.

Would a jury consider seatbelt usage in determining recovery?

Whether you wore a seatbelt is one factor a jury can consider when deciding whether you should receive money for your injuries, depending on the circumstances of your case. The jury may hear evidence from doctors and other experts regarding how the failure to wear a seatbelt caused any enhanced or increased injuries. They can then weigh that information when deciding whether to award you money for your injuries. This evidence can have an enormous impact on your case.

Does an expert provide testimony about seatbelt usage?

Sometimes in cases where the injured party was not secured by a seatbelt at the time of the accident, the attorney for the defendant's insurance company will introduce the jury to an expert witness who is usually a biomechanical expert who will offer testimony about their opinion of whether the injuries were related to not wearing a seatbelt, and further, if the severity of the injury was related to not wearing a seatbelt.

How does the jury make a decision?

Before the jury leaves the courtroom to render a decision about the amount of financial recovery, the Judge provides instructions to the jury. With regard to seatbelt usage, the jury's instructions will include a series of questions. The questions help the jury determine which injuries were increased or enhanced because of your failure to wear a seatbelt. They will then assign a percentage to the injuries that were enhanced or increased by not wearing a seatbelt. Your recovery will be reduced by that

percentage, which could result in a sum of zero to you.

Summary

Every case is fact-sensitive, but the failure to wear a seatbelt may have a major impact on your case and may prevent you from receiving any type of financial recovery. Contact the [personal injury attorneys](#) at Einhorn Barbarito in Denville for an in-depth analysis of your case.