

We Just Had a Traffic Accident... Now What Do We Do?

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My Background

- **20 years of handling insurance claims and lawsuits in Wisconsin, Illinois, and Minnesota.**
- **This includes field investigations of traffic accidents, general liability claims, construction accidents, utility hits, and property losses.**

The Focus Of This Presentation

- **Third-Party Liability Claims**
 - Outside people coming after you
- **Arising out of:**
 - Traffic Accidents
- **Preserving Evidence to allow you to collect damages from other at-fault Drivers**
- **There are too many missed opportunities because few people know what to do**

Your are guilty until proven innocent

- This is the mindset you should have.
- Be your own Best Advocate
 - Do NOT rely on others.
 - Do not rely on law enforcement
- Especially if it appears that you are not at fault.
“Minor” accidents can be big problems.
- “We’re not at fault”.

TOPICS

- Taking *Effective* Photographs and Videos
- Being Careful What You Say
- Securing Eyewitness Information
- Documenting the Investigation

Safe Driving Habits

Taking *Effective*
Photographs and Videos
Traffic Accidents

PHOTOS and VIDEOS

- The quickest, cheapest, and easiest way to document an accident.
- The most effective way as well.
- Today, almost everybody has a camera on them at all times.
- Video recording is another effective and easy way of documenting an accident scene.
- **DO IT SAFELY!**

Photographs of a Traffic Accident Scene

- Is there anything obstructing the drivers' or operators' views?
 - Buildings, trees, signs, snow or dirt piles, corn...?
- What does each driver's approach to the accident scene look like?
 - Hills, curves, construction zone...?

- Independent Witnesses.
 - What is their view of the accident?
- Are weather conditions a factor?
 - Rain, Sun, Fog, Snow
- Skid Marks? How long?

Photographs of Vehicles

- Try to get all involved vehicles
- Get all 4 sides.
 - “\$800 OBO”
 - Old Damage? May indicate old injury.
- Get Photos even when there is little or no damage. *Especially* when there is little or no damage.



























Speed and Distance

<u>MPH</u>	<u>Feet per second</u>
15	22.0
25	36.6
35	51.3
45	66.0
55	80.6
65	95.3
70	102.6
75	110.0
80	117.0

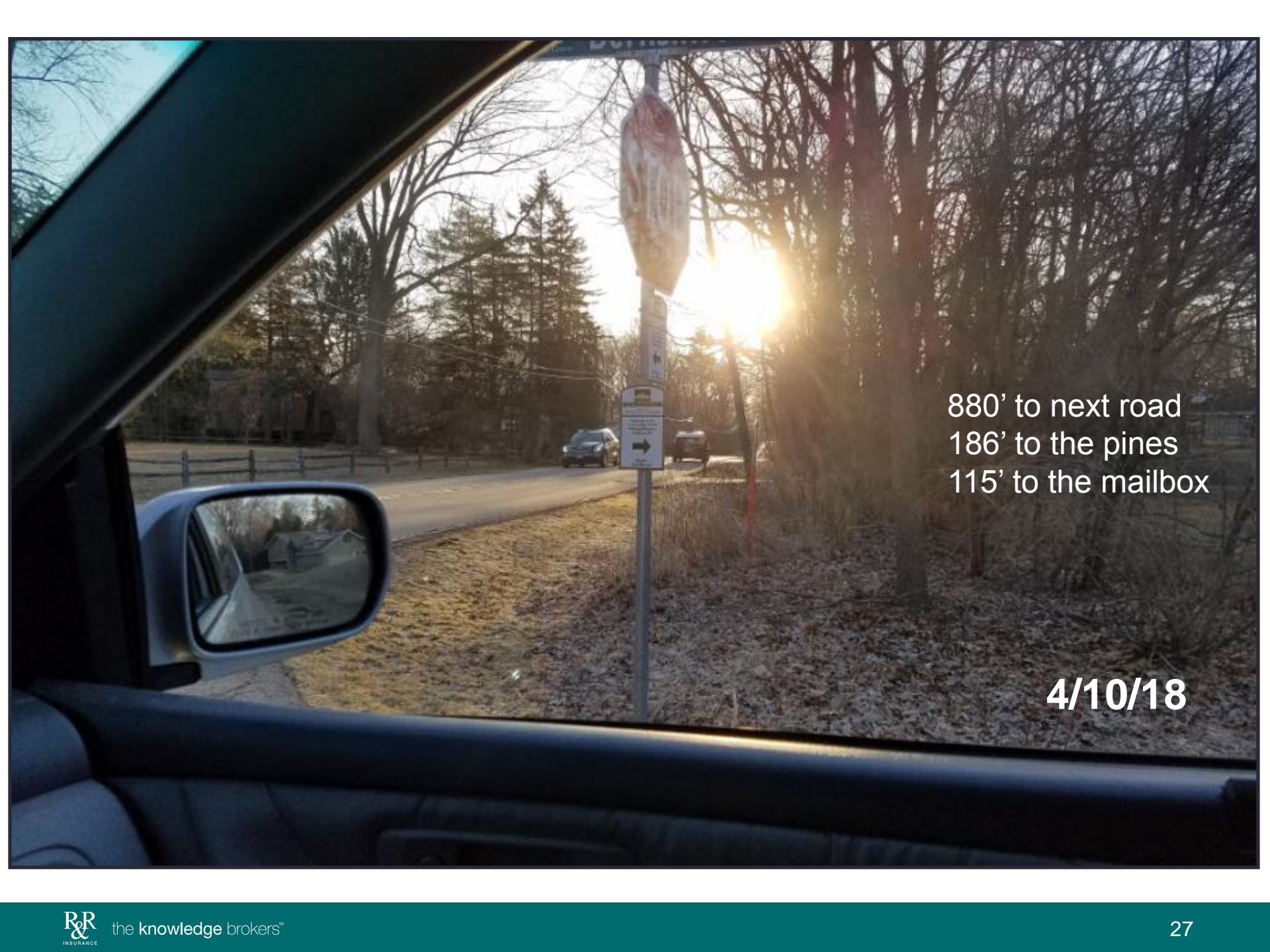
Same Intersection – Different Day

All Photos taken at approximately 7 a.m.

Note:

- How much and, how quickly, a scene can change.
- What objects or conditions hinder your view?
 - Taking time to double-check
- What about the other guy's view?





880' to next road
186' to the pines
115' to the mailbox

4/10/18





4/16/18







5/31/18



1/04/19 – Low Light & Disappearing Headlights



Being Careful What You Say
And
The Importance of Eyewitnesses

KEEP YOUR MOUTH SHUT AND YOUR EARS OPEN

**It's OK to Talk,
Just Be Careful What You Say**

- What you say at an accident scene can be used against you in Court.
- *Likewise*, what other people say can be used against them in Court.

Miranda Warning:

“You have the right to remain silent. Anything you say can and will be used against you in a court of law.”

Examples

- “What f---ing Stop Sign?”
- “I was hugging the centerline, maybe a little over, but you were back there. You had plenty of room I thought.”
- Law Enforcement uses video and audio.
- Recorded Statements to the other insurance company.

WITNESSES

(They can make or break you)

- GET NAMES AND PHONE NUMBERS.
- If they are reluctant, ask for their help.
- At traffic accidents, do not rely on the Police to get the names.
- Witnesses often leave the scene before Police arrive.

Documenting Everything

DOCUMENT EVERYTHING ASAP

- Versions of events that are recorded close in time to the event tend to be considered the most reliable.
- Your memory of events gets worse over time, not better.
- Diagram the Scene
- If you don't like to write, do a recorded statement or dictate the details.

Why do we want to document
so much every time there is
an accident?

How long do you have to sue?

Statutes of Limitation

Wisconsin

-3 years for an adult.

-2 years past the age of majority for a minor.

-6 years for property damage. (3 years for traffic accidents as of 2/6/16)

Illinois

-2 years for an adult.

-2 years past the age of majority for a minor.

-5 years for property damage.

Statutes of Limitations (cont.)

- This means that it may be years from when you are in accident until you are sued.
- Then, if you are sued, it will be months before your deposition is taken and even longer before you might be in front of a jury.
- *That is why it is so important to document.*

The Good News - Most accidents get resolved without a lawsuit.

As a result, better investigations *usually* win out.

A Word of Caution & Severe Accidents

- Your Investigation is Discoverable.
- If there is a severe accident, consideration should be immediately given to defense attorney involvement.
- Ideally, this should be done in conjunction with your insurance company

Real World Example













- The Sheriff Report blamed the truck and concluded this was a rear end accident.
- The photos at the scene showed the rear of the car. The photos from the other insurance company did not.
- The ticket was dismissed.
- I was able to obtain a recorded statement to establish the cell phone use.

Predicting Behavior



Most accidents are not this severe, but...

- Frequency breeds Severity
- Many accidents result in some level of claimed property damage and perhaps injuries.
- **Other drivers may be at-fault, but if they have passengers who are injured, you may have a legal exposure.**

- The best incident investigation does not beat good safety habits, giving a critical eye to your operations, and avoiding accidents in the first place.

Summary

- Stay Calm – Be Professional, Be Safe.
- Get Photos and/or Videos
- Be careful what you say and listen to what other people say.
- Document what happened as soon as possible.
- Protect Yourself and the Company. Get Guidance when something happens.

Thank you and Good Luck