



Pre-existing conditions sit at the fault line between medical complexity and legal proof. They are where an honest injury story can be twisted into a narrative of blame shifting or exaggeration, and where a claim can shrink or grow depending on how well the evidence is framed. A seasoned car accident attorney does not treat pre-existing issues as a problem to bury. Instead, they approach them like a map, a record of the body's history that, if read carefully, can show the difference between old aches and new harm.

## Why this matters

Crash forces do not check medical charts. A low back with mild degenerative changes might tolerate a lifetime of desk work, then one rear-end collision turns a manageable ache into a daily limitation. Jurors understand this intuitively, but insurers invest in doubt. If the chart shows anything resembling a prior complaint, they will argue the car accident changed nothing. The gap between lived experience and litigation strategy is precisely where an attorney earns their keep.

## The legal bones: rules that govern these cases

Two doctrines shape how a car accident lawyer frames pre-existing injuries. The first is often called the eggshell plaintiff rule. Defendants take victims as they find them. If a driver harms someone whose neck was vulnerable, they are responsible for the full extent of the aggravation caused by the crash, even if a more resilient person would have fared better.

The second is apportionment. Juries can separate damages caused by the car accident from those attributable to prior conditions, but only if there is evidence to guide the split. In practice, this often becomes a debate between treating physicians and defense experts about before and after functionality. An attorney's job is to make that line as visible and credible as possible.

Burden of proof lives with the injured person. The standard is preponderance of the evidence, more likely than not. That phrase sounds soft until you realize how it operates in a real courtroom. If your neck was largely fine for years, then one crash triggers a herniation visible on MRI and consistent with new neurologic deficits, you can meet that burden with the right testimony.

Comparative fault statutes can complicate the picture, but they rarely justify discounts based on pre-existing problems alone. Fault is about conduct at the scene. Pre-existing conditions go to causation and damages.

## **The first meeting: building the baseline**

The first conversation with a new client sets the tone. I ask about the crash, the first 72 hours, pain patterns, and what life looked like the month before impact. Not the year before, not a decade back, but the recent baseline. Could you sleep through the night, carry groceries, sit through a meeting, mow the yard without breaks? That specificity anchors the claim in practical detail rather than sweeping statements.

A car accident attorney also asks, in plain terms, what is in the medical history: old sports injuries, prior physical therapy, chiropractic care, workers' compensation claims, even a lingering ache that never sent you to a doctor. I make it clear that nothing sinks a case faster than surprises. I would rather see every prior x-ray now and integrate it into the story than let a defense lawyer pull it out during deposition.

Timing matters. If a client waited two weeks to see a doctor, I want to know why. Transportation, childcare, trying to tough it out, or hoping rest would help are all human reasons. They need to be documented early, before an insurance adjuster calls it a gap that proves nothing was wrong.

## **Records, images, and the anatomy of proof**

Medical records are the raw material. A car accident lawyer reads them with two questions in mind. First, what is objectively new? Second, what is subjectively different and described consistently?

Objective markers include visible fractures, disc herniations impinging on a nerve root, rotator cuff tears, or changes in reflexes and strength. Subjective reports include pain ratings, sleep disruption, headaches, and stiffness. The strongest cases braid these together across time, so a jury can track the arc from immediate complaints, to diagnostics, to treatment.

Imaging is both a friend and a trap. MRIs of the spine nearly always reveal some degree of degenerative change by middle age. Insurers love radiology phrases like "degenerative" or "chronic." The counter is context. A small, stable bulge can be asymptomatic for years, then a crash turns it into a true herniation associated with radiating numbness and reduced strength on the same side. A good attorney works with treating doctors to explain that shift in plain language, often through comparison of pre and post imaging if it exists, or through correlation of new findings with fresh symptoms and exam results.

## **Treating physicians and the right questions**

Doctors cure, lawyers explain. The two roles can pull against each other unless someone bridges the gap. I send concise letters to treating physicians, not fishing expeditions, asking focused questions:

- What was the patient's functional baseline in the six months before the crash, to the extent you can say?
- Are the current diagnoses consistent with the mechanism of injury described?
- Do you believe the crash aggravated any prior condition? If so, how and to what degree?
- What treatment is reasonably necessary because of that aggravation?

Those answers often carry more weight than an outside expert's report, because jurors trust the doctor who has seen the patient over time. When a treating orthopedic surgeon writes that a previously manageable degenerative knee worsened to the point of needing arthroscopy within six weeks of the collision, it reframes "pre-existing" as "made worse in a measurable way."

## **Insurance tactics you can predict**

Insurance adjusters are professionals at pattern recognition. The moment they see a reference to prior low back pain, they begin drafting arguments that the car accident did not change the trajectory. Expect a few moves.

Independent medical examinations are rarely independent. The defense doctor, often hired repeatedly by the same carriers, will concede soft tissue strain and attribute the rest to age or chronic wear. The report will cite selective entries from old records and downplay new deficits. Your attorney prepares you for that exam, insists on recorded history where allowed, and counters with treating physician opinions and objective testing.

Surveillance appears when damages climb. A few minutes of video showing you lifting a toddler can be spun into proof you are exaggerating. The only antidote is consistency. If your daily pain fluctuates, that variability should appear in your treatment notes and your own written journal long before any camera shadows your driveway.

Social media gives defense attorneys free context. A photo at a friend's wedding can morph into a claim that you danced all night. A car accident attorney will ask you to set strict privacy settings and to avoid posting about your health or activities while the case is active.

Gaps in treatment give carriers an opening to argue resolution. Real life causes gaps, including insurance changes and caretaking responsibilities. Those reasons belong in the medical notes. I would rather see a documented telehealth visit than a blank month.

## **Aggravation is a story, not a label**

Simply writing "aggravation of pre-existing condition" in a demand letter does not move numbers. You need to show what that means in life terms. I had a client, mid 50s, who gardened every spring. Her medical chart showed occasional ibuprofen use and six physical therapy visits two years earlier for stiff hamstrings. After a side impact collision, her MRI revealed increased degeneration at L4-L5, with a new annular tear and left-sided radiculopathy. She did not stop moving altogether, but she stopped kneeling for more than 10 minutes and quit lifting pots heavier than 15 pounds. We documented the change with her physical therapist's range-of-motion measurements, a neighbor who helped with soil bags, and her primary care notes reflecting sleep interruption three nights a week. When the insurer argued she was just older, the treating spine specialist walked the adjuster through the correlation between the annular tear and the precise dermatome of her numbness. The number moved.

## **Valuation in the shadow of uncertainty**

Placing a dollar figure on aggravation means thinking like a jury before you pick one. Economic damages, such as medical bills and wage loss, are only the start. The harder part is translating increased pain and reduced function into a persuasive number that survives skepticism.

Insurers often try to strip out all care they deem related to baseline degeneration. A careful attorney forces them to engage with medicine, not labels. If you had occasional chiropractic adjustments before the crash, then you underwent an epidural steroid injection and a course of traction afterward, those are different treatments in scope and invasiveness. If your job required lifting 40 pounds and you shifted to lighter duty at a 15 percent pay cut, that is a quantifiable loss. If your spouse picked up household tasks you once enjoyed, that is a credible loss of quality of life that should appear in your settlement presentation.

Multipliers are popular in casual conversation and unhelpful in serious negotiation. Adjusters understand evidence, not formulas. They respond to a file where time-stamped facts align, one that a defense lawyer would

rather settle than try because the apportionment argument looks risky in front of a jury.

## **Settlement, reserves, and the rhythm of negotiation**

Most carriers set an internal reserve early. That number anchors the adjuster's range. When pre-existing conditions are involved, the initial reserve is often conservative. Moving it requires substantive updates, not repeated demands. The timing that works best follows real inflection points, such as:

- A treating specialist links the crash to a new diagnosis with clear rationale.
- A period of conservative care fails and the doctor recommends a procedure.
- Work restrictions turn permanent.
- A defense IME backfires by admitting aggravation, even as it downplays severity.

A demand letter in these cases looks different from a standard narrative. It should separate baseline history from post-crash changes with crisp dates, summarize medical opinions using the doctor's own words where allowed, reference imaging findings without drowning in jargon, and attach a short, sworn statement from the client describing concrete limitations. I rarely push for fast settlement before maximum medical improvement when pre-existing conditions complicate causation. Rushing invites low offers and buyer's remorse.

## **Trial strategy when the file will not resolve**

Some claims do not settle. If a defense carrier believes a jury will attribute most of the condition to age or chronic wear, they will force trial. That is not a loss, it is an opportunity to educate with specificity and candor.

Jury selection becomes crucial. You are looking for panelists who understand that bodies wear over time but can still be hurt in a crash. You also need to listen for those who distrust soft tissue claims or believe anyone with a prior complaint should recover nothing more.

In front of a jury, medicine should feel like a guided tour, not a lecture. The treating physician is your anchor. A spine surgeon can show images on a screen and point out the differences in plain terms. Even if there is no pre-injury MRI for comparison, the doctor can correlate the timing of symptoms, the physical exam, and the known mechanics of the crash. Before and after witnesses add human scale. A colleague who saw you take the stairs two at a time, then watched you use the handrail for months, says more than a dozen adjectives.

Defense experts will harp on degeneration. Few jurors escape that label themselves. The key is to concede the obvious while holding the line. Yes, there was wear. No, it did not stop her from hiking three miles every weekend. Yes, the annular tear changed that. Jurors reward honesty about gray areas, and they discount hired-gun certainty that ignores how people live.

## **Special contexts: workers' comp, Medicare, and veterans' care**

Overlap with workers' compensation introduces a different set of rules. If a crash occurs on the job, you may have both a comp claim and a third-party claim against the at-fault driver. The comp insurer often pays early medical bills and then asserts a lien. Your car accident attorney must negotiate that lien, taking into account equitable reduction for attorney fees and, in some states, the degree of comparative fault. Apportionment questions get another twist if the comp carrier believes some of the condition predated the work accident. Clear timelines and physician opinions keep the narratives from colliding.

Medicare and Medicaid create mandatory reimbursement obligations. If treatment relates to the crash, conditional payments by Medicare have to be repaid from any settlement. Pre-existing conditions can muddy the

water because some care may be unrelated. That is why careful billing code review matters. If a physical therapy session addressed both chronic shoulder tendinitis and post-crash cervical strain, the bill should reflect that split. Sloppy coding inflates liens and erodes net recovery.

Veterans receiving care through the VA face their own reimbursement regime. The VA can assert rights similar to Medicare. Coordinating records and understanding how the VA documented causation helps ensure the lien reflects only crash-related care.

## What clients can do to help their own case

- Be transparent about your history, even the parts that feel minor. Surprises hurt more than old aches.
- Describe your limitations in concrete terms. Ten minutes of standing, two flights of stairs, lifting 20 pounds, not “it hurts a lot.”
- Follow through on treatment plans you agree with, and tell your doctor when something is not working so the record shows why care changed.
- Keep a brief weekly journal of symptoms and activities. Two or three lines beat memory lapses a year later.
- Guard your social media and avoid posts about your health or big physical activities while the claim is active.

## Common pitfalls when pre-existing conditions are in play

- Overstating prior health. Saying you were pain free if records show monthly chiropractic visits will damage credibility more than any defense cross-exam.
- Treating in silence. Skipping follow-ups without explanation reads as recovery, not frustration with scheduling.
- Ignoring objective testing. When symptoms indicate nerve involvement, ask your doctor whether EMG, nerve conduction studies, or updated imaging could clarify the picture.
- Accepting the IME at face value. Those reports can be challenged with data and treating opinions.
- Letting the demand letter talk in generalities. Precision moves numbers, vagueness stalls them.

## Soft tissue and the tyranny of “normal”

Not every injury generates dramatic images. Many neck and back injuries are ligamentous or muscular, living in pain scales and functional limits rather than scans. Defense attorneys use the word normal as a cudgel when imaging does not glow. A good attorney reframes normal by leaning on exam findings and treatment response. If your range of motion dropped by 30 percent for six months, if headaches arrived three times a week after the crash and resolved only after targeted therapy, that is not nothing. Put times, dates, and outcomes on those changes.

Physical therapy notes are underrated evidence. They contain serial measurements and functional milestones. A therapist documenting that you could not tolerate prone lying for more than three minutes early on, and later increased to 15, sketches a recovery path that contradicts accusations of malingering. Pain diagrams, where you [Homepage](#) shade numbness or burning, give jurors a visual they can trust.

## When surgery enters the frame

Surgery highlights the stakes. In cases with pre-existing degeneration, defense lawyers often argue that any surgery was inevitable. The medical answer revolves around timing and indication. A surgeon who explains that

conservative care failed, that specific findings like nerve compression matched the patient's new deficits, and that surgery was not medically indicated before the crash, can carry the day.

Post-surgical outcomes add another layer. Not every operation yields perfect relief. Under the eggshell rule, the defendant remains responsible for reasonable medical care pursued in good faith, even if recovery is incomplete. Candid testimony about what improved and what did not helps jurors award fair damages without feeling manipulated.

## **The quiet power of daily life evidence**

Work restrictions and medical bills take center stage, but the part that resonates in negotiation and trial is the daily grind. A father who stops coaching his kid's soccer team because sprinting lights up his hip, a nurse who shifts from floor duty to a desk and takes home smaller paychecks, a retiree who loses the ritual of morning swims, each tells a story that integrates the pre-existing and the new. Attorneys who collect those details early, through short statements and a few photos of life before and after, build a file that feels real rather than rehearsed.

## **A note on credibility and humility**

Jurors have good instincts for sincerity. An attorney who acknowledges the messy parts of a medical history earns trust. I have stood in front of panels and said plainly that my client had an imperfect spine before the crash. Then I showed them how the car accident made it worse, using the doctor's words, the therapist's measurements, the employer's letter about reduced duties, and the client's own modest, consistent description. That humility did not shrink damages. It armed jurors to push back when the defense tried to turn normal aging into a shield against accountability.

## **Bringing it together**

Pre-existing conditions do not doom a case. They change the work. They demand sharper timelines, clearer language from doctors, and tougher conversations with clients about expectations. A car accident attorney who embraces that work, who treats the medical chart like a story to be understood rather than a hurdle to be jumped, can convert insurer doubt into a practical settlement or a persuasive trial narrative.

The best files read like real life. They admit the old and prove the new. They respect medicine without ceding the field to hired experts. They show that a car accident can turn a tolerable condition into a life-altering one, and they do it with specifics that leave little space for cynicism. That is the craft. It is also the difference between a claim that stalls at the word "degenerative" and one that resolves for a number that reflects what actually changed. When a lawyer brings that discipline to the case, pre-existing conditions stop being the defense's favorite refuge and become what they truly are, part of the truth the jury needs to hear.

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## **FAQ About Car Accident Attorney**

### **Is it worth getting an attorney for a vehicle accident?**

Hiring a car accident lawyer in California does not guarantee compensation, but it can make a significant difference in how your case is handled. Many accident victims wonder, "is it worth hiring an attorney for a car accident" The answer in most cases is yes.

### **Can sleep apnea be caused by a car accident?**

Yes, a car accident can trigger or worsen sleep apnea, primarily through physical trauma to the neck, spine, and brain. While many assume sleep apnea causes wrecks, collisions themselves can also induce it.

### **What not to say to car insurance after accident?**

Stick strictly to basic facts—like when and where the crash happened. Never speculate about details, apologize, guess about your speed/distance, or give a recorded statement until you are ready.

The safest strategy is to avoid these specific phrases and topics when talking to any car insurance adjuster