



Personal Injury

Know your burden of responsibility in an accident: Paciocco

By Tony Poland, Associate Editor



In the first instalment of a two-part series, Windsor personal injury lawyer Gino Paciocco discusses the legal principle of contributory negligence.

Don't let your burden of responsibility in an accident — also known as contributory negligence — deter you from filing a claim, Windsor personal injury lawyer [Gino Paciocco](#) tells [AdvocateDaily.com](#).

The legal principle of contributory negligence comes into play when a person fails to protect themselves from injuries that are a result of an accident caused by someone else, says Paciocco, a founding partner with [Paciocco & Mellow](#).

“The idea behind the concept is that if the plaintiff contributed in some way to their injuries, they should be held partially responsible for covering their own damages,” he says.

The [Negligence Act](#) mandates that if a plaintiff is contributorily negligent, they may be partially responsible for the legal costs of an action, Paciocco says. However, this is only an issue if a claim goes to trial and the plaintiff is successful in recovering damages, he says.

Being partially to blame for an accident or having to pay some costs doesn't mean you shouldn't consider filing a lawsuit, Paciocco says.

“Uncertainty should never stop you from speaking with a lawyer and having them evaluate your case,” he says. “Contributory negligence is a great example of why it's so important to tell your legal counsel the whole story when first speaking with them — to give a full picture of the case.”

As an example of contributory negligence, Paciocco points to a “negligent act of dangerous driving or following too closely in a car causing an impact with another vehicle where the injured plaintiff was not wearing a seatbelt.”

He explains it should be assigned based on blameworthiness rather than the cause of the mishap.

“Causation is about why an accident occurred, such as following too closely in a car, while blameworthiness is the extent an action contributed to the injuries, such as not wearing a seatbelt,” Paciocco says.

“In the case of not wearing a seatbelt, the maximum blameworthiness should only be allocated if wearing it would have prevented the plaintiff's injuries.”



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Paciocco says this is determined by a trier of fact, but a lawyer can help you understand what your burden might be based on precedent.

“The defendant will want to allocate the highest possible contributory negligence to reduce their damages,” he says. “A lawyer can help you argue why you could not have prevented your injuries and therefore are not contributorily negligent.”

Stay tuned for part two where Paciocco will delve into specific seasonal scenarios of contributory negligence.

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