In almost every serious crash I have worked on, the other side tried to hang their hat on the same line: your client was already hurt. Sometimes they are right about the history, and very wrong about what it means. Most of us carry some wear and tear, whether that is an old sports injury, a prior surgery, or a back that aches after yard work. The law does not wipe those facts away. Instead, it asks a practical question: what did this collision do to this person, given who they were on the day they were hit? A good attorney answers that with evidence, not guesswork.

What follows is a close look at how a seasoned car accident lawyer navigates claims involving pre-existing conditions, from the first meeting to settlement negotiations or trial. This is where medicine, law, and human storytelling meet. The work is detailed, sometimes tedious, and it matters.

Why insurers fixate on “you were already hurt”

Insurers do not have to prove you were perfectly healthy before the crash. They only need to create enough uncertainty to shrink a payout. Pointing to degenerative disc disease on a scan, an old shoulder tear, or a workers’ comp claim from years ago is a familiar tactic. Juries know that backs and knees wear down with age, and insurers know that, so they frame the collision as a minor bump that did not change the baseline. If they succeed, damages fall, sometimes to zero.

Legally, two counterweights balance that tactic. The first is the eggshell plaintiff rule: a defendant takes a plaintiff as they find them. If a gentle crash causes a serious consequence because of a vulnerability, the negligent driver is responsible for that harm. The second is the rule on aggravation of a pre-existing condition: the defendant pays for the worsening, not the whole condition. Those rules are simple to say, hard to prove. The proof turns on the timeline, good medicine, and transparent storytelling.

The first meeting: honesty over polish

If there is one unbreakable rule, it is this: do not hide prior medical history. I tell clients that if I have to learn about a back surgery from the defense rather than from them, we have already lost ground. Almost any pre-existing issue can be managed if it is surfaced early. Surprises kill trust. A frank conversation early on also helps set expectations. If you had daily neck pain before the crash, and after it the pain became constant and severe with new numbness down the arm, that is a different case than a completely new onset from zero.

In these meetings, I ask for specifics, not generalities. What did your day look like the month before the crash? How many hours did you stand at work? What could you lift? How many pain pills per week? If you had a flare up once a quarter and after the collision it is weekly, write that down. Details anchor the narrative later.

Building a medical baseline

You cannot prove aggravation without knowing the baseline. That means documents, and it means context. A lawyer who waits for the defense to pull the records is asking to be boxed in. I prefer to chase down treatment records from at least five years before the crash, often longer if there was a major injury. Primary care notes, imaging reports, PT discharge summaries, orthopedist follow ups, pharmacy fills, even chiropractor visits, all of it helps.

The baseline is not just “had neck pain” or “did not have neck pain.” It is often more nuanced. For example, a 52 year old may have mild multi-level cervical spondylosis visible on MRI long before a crash, most of it

asymptomatic. After a rear end impact, they develop a C6 radiculopathy, with triceps weakness and decreased sensation in the thumb and index finger. The records may show no radicular complaints before. That difference is gold. It reframes the MRI from a defense talking point into a map: these prior changes existed, then the crash happened, and now a nerve root is irritated. You are not arguing perfect health. You are showing a new problem on top of an older landscape.

Distinguishing flare, aggravation, and new injury

Doctors use different words for similar ideas, and insurers like to blur them. Flare suggests a temporary increase in symptoms that will return to baseline. Aggravation implies a lasting, measurable step up in severity or frequency. New injury means tissue that was not previously damaged is now injured.

Getting the treating provider to commit to the right description matters. That often means sending a focused letter that asks clear questions: what were the prior diagnoses, what were the symptoms and functional limits before, what changed after the crash, and is that change permanent or expected to improve to a new steady state? I do not send fishing expeditions. Doctors are busy, and vague forms produce vague answers. A simple, targeted set of questions, paired with a summary of the patient’s own account, gets better results and is fair to the clinician.

Imaging is a tool, not a verdict

Defense counsel love to point to the words degenerative, chronic, or age appropriate on an MRI report. Those words are common. A 40 year old with a desk job can have disc desiccation without any pain. After a crash, that same person may have a fresh annular tear or a protrusion contacting a nerve. Radiology rarely gives you a smoking gun, but serial imaging can help if you use it honestly. Comparing pre and post images with a musculoskeletal radiologist can reveal subtle changes that support aggravation.

Here is a practical point: radiology reports are written for doctors, not juries. If a radiologist will not testify, I prepare a treating specialist to explain the difference between pre-existing degeneration and a new post-traumatic finding in plain language. Jurors do not need a lecture on T2 weighting. They need to know that a thing that looked one way before, looks a different way now, and that change maps to the patient’s symptoms.

The day-by-day story

The first 30 to 60 days after a collision often decide the arc of a case. Gaps in treatment hand the defense a narrative: if you were hurt, you would have gone to the doctor. Sometimes people wait because they think they will get better, or they lack transportation, or they have a high deductible. Those are real barriers. The job is to document the reasons now, not explain them later under cross examination.

I ask clients to keep a pain and function diary for the first 90 days. Not a novel, just a few lines each day: pain level, activities attempted, medications taken, https://pr.washingtoncitypaper.com/article/Weinstein-Firm-Addresses-Decatur-Truck-Accident-Evidence-Risks/6aa82ec7501a9c00023227e7 and any physical limits at work or home. That diary does not replace medical records, but it adds texture. When a client writes that before the crash they lifted their toddler without thought, and now they need help at bath time three nights a week, that human detail sticks.

Independent medical exams and how to handle them

At some point, the defense will schedule an independent medical exam, which is neither independent nor a full treatment evaluation. The examiner's job is to evaluate, not to care. I prepare clients for these visits the way I would for a deposition. Be honest, be consistent, answer the question asked, do not volunteer. If you cannot perform a test because it hurts, say so. Do not overdo effort to please. Examiners are trained to spot Waddell signs and to note symptom magnification. What they too often miss is the ordinary person's instinct to be polite and power through pain.

I also remind clients to show, not perform. If you cannot bend to tie your shoes without pain, do not force it in the exam room just to prove something. Describe the ordinary tasks that hurt, and let the examiner document what they observe.

Apportionment and the math of causation

In some jurisdictions, juries are instructed to apportion damages between pre-existing conditions and injuries caused by the crash. Insurers will push hard for a high apportionment to the prior condition. The wrong way to respond is to argue zero pre-existing impairment if the records do not support it. That invites impeachment. The right way is to quantify, with help from treating providers, how function changed.

Say a warehouse worker with a chronic low back condition could lift 30 pounds repeatedly and miss about one day of work every two months. After the crash, she can lift 10 pounds occasionally and misses two to three days most months. Her doctor assigns a 7 percent whole person impairment pre-crash and 18 percent after, using a standardized guide. You are not asking the jury to ignore the 7. You are showing that the crash added 11. Numbers are not perfect, but they give shape to the idea of aggravation and anchor settlement talks.

Vocational and life care planning

When a crash worsens a pre-existing condition enough to change a person's work life, vocational experts help. They translate medical limits into job market realities. If a commercial driver had a prior shoulder impingement that was manageable, then a collision causes a cuff tear and a permanent lifting restriction, the question becomes what jobs are open to that person now, at what pay, with what training time. Life care planners do similar work for future medical needs, especially in cases with hardware implants, chronic pain management, or recurrent flares expected over decades.

I have seen defense counsel argue that because the plaintiff already had degeneration, their future care is not causally related to the crash. That misses the mark. If a person's prior care was an occasional anti inflammatory and home exercise, and after the crash they now need a series of injections every year and likely a surgery within five years, that is crash related care. Make the delta clear.

Surveillance, social media, and the story on video

If a pre-existing condition is in play, expect surveillance. A 30 second clip of you carrying groceries can be used to suggest you exaggerated. It rarely shows context. Maybe you paid for that lift with two hours on the couch and ice packs. Juries understand that people live their lives even when they hurt. Still, I counsel clients to assume they are being recorded in public and to avoid heroics.

Social media can be worse. A smiling photo at a nephew's birthday does not reveal pain levels, but it can undercut a narrative if you have testified to being housebound. Lock down accounts and post with care, or better, not at all, during the pendency of a claim.

Negotiation strategy when the defense insists “it is all degenerative”

I hear the same refrain in mediations: we do not pay for arthritis. Good, because I am not asking you to. I am asking you to pay for the pain spike, the new numbness, the lifting limit that cost my client overtime, the cost of injections and the risk of surgery. I come armed with a medical chronology that shows the contrast: three chiropractic visits a year for maintenance before, weekly PT for twelve weeks after, then two epidurals and a rhizotomy. I bring a letter from the treating physician that uses the word probable rather than possible when describing causation, if the facts allow.

Numbers help in negotiation more than adjectives. I sometimes present a side by side chart comparing pre and post crash metrics: work attendance, medication counts, pain scale averages by month, range of motion degrees from therapy notes. Insurers expect sentiment. They pay attention to deltas they can summarize to a claim committee.

Juries and the power of ordinary truth

Most jurors walk in with some skepticism about injury claims. They also walk in with bodies that have creaked, hurt, and healed at different paces, or not at all. When they see a plaintiff who owned their history and told a clear story about what changed, they sort it out. The most damaging witness for the defense is often the treating doctor who says, with calm authority, that the patient had X before and now has X plus Y because of the crash. Expert witnesses hired by either side matter less than the clinician who saw the person month after month.

I avoid overclaiming. If sleeping was sometimes disturbed before, I do not pretend it was perfect. I show how it changed. A juror can forgive a body with flaws. They do not forgive a glossed past.

Medicare, Medicaid, and private liens

Aggravation cases frequently involve older claimants, which means Medicare may be in the mix. Conditional payments must be identified and satisfied. When future medical is anticipated, consider whether a Medicare set aside is needed, especially in larger cases. For Medicaid recipients, state lien statutes vary, and recent case law in some states limits how much a program can take from a settlement. Private health insurers and ERISA plans may assert subrogation rights. Plan language rules. Getting those numbers right protects the client’s net recovery and avoids ugly surprises.

A brief anecdote: the quiet back

A client in his late 40s worked maintenance at a hospital. Ten years earlier he had a herniated disc at L5 S1, treated with PT and one injection. Since then, he managed with home exercises. His supervisor’s notes showed no restrictions. A delivery truck clipped his car at about 20 miles per hour. The bumper damage looked modest. Within a week, he developed shooting pain down his right leg and foot numbness. An MRI showed a larger protrusion at the same level with contact on the right S1 root. He completed conservative care, then had a microdiscectomy. He returned to work with a 25 pound lift limit and could not do overtime on the heavy floor work.

The insurer’s first offer, after pointing to the old MRI, was a figure that would not cover his copays. We built the baseline with his earlier imaging and therapy discharge from years ago, listed his pre crash overtime hours, and obtained a clear letter from his surgeon stating that the need for surgery was more likely than not caused by the collision aggravating a pre-existing disc condition. At mediation, we walked through a timeline: ten years of stability, one crash, then a cascade of care never before needed. The case resolved for a number that paid his wage

loss, medical expenses, and a meaningful sum for pain and loss of enjoyment. The 10 year quiet period mattered more than the word degenerative.

Practical steps clients can take early

- Tell every provider, from urgent care to PT, about prior injuries and how your symptoms now differ. Use plain words and let them write it down.
- Keep a short daily pain and activity log for at least 90 days after the crash.
- Gather pre-crash records you already have at home, such as prior MRIs, surgery reports, or PT plans, and give copies to your lawyer.
- Avoid social media posts about your health or activities while the case is pending.
- Follow treatment recommendations or, if you cannot, tell your provider why and make sure that reason appears in the notes.

The ethics of telling the whole story

Clients sometimes ask whether bringing up prior pain will tank their case. My answer is that hiding it will. The duty to tell the truth is not just a legal rule. It is a strategy. When you own the facts, you can frame them. When you dodge them, the defense frames you. I have told juries in opening that my client is not a porcelain doll. They had aches. They worked hard anyway. This crash pushed them across a line. Here is where that line sits, and here is how we know.

How a lawyer knits the pieces together

By the time I send a settlement package or walk into mediation, the file has a few anchors:

- A short, readable chronology that separates pre and post crash care and flags key deltas.
- Treating provider opinions that use the language of probability and causation appropriate to the jurisdiction.
- A functional narrative that moves beyond pain scores into tasks lost, time missed, and adaptations made.
- Clear handling of liens and future care needs so numbers are real, not wishful.
- Honest acknowledgement of prior issues, with evidence showing what is new.

That package is not glossy. It is boring in the right ways, dense with facts, and built to answer the two or three doubts an adjuster or juror will circle. It invites a fair resolution but is ready for trial if needed.

Edge cases worth naming

Low speed impacts can still injure. Biomechanics matter, but so do bodies. I have seen minimal vehicle damage paired with significant injury where head position, body rotation, and bracing created a bad force path. Conversely, some high energy crashes produce soft tissue injuries that resolve fully. Do not promise a result based on photos.

Psychological aggravations are real and often missed. A person with controlled anxiety may develop panic episodes behind the wheel after a T bone crash. Prior trauma history can make post crash adjustment harder. Document it. Therapy notes tell a story medicine alone does not.

Latency can complicate causation. Not all injuries present in the ER. A cervical radiculopathy may manifest a week later as inflammation worsens. The lack of immediate complaints is a defense point, but not a case killer, if the timeline is plausible and supported by providers.

When to file suit and when to hold

If the records are still developing and the client is early in care, rushing to demand seldom helps. On the other hand, if the insurer digs in on a degenerative theme despite clear evidence of aggravation, filing suit can reset the conversation. Litigation opens discovery. That lets you depose the treating providers, pin down defense experts, and subpoena prior records the insurer hints at but never produces. A filed case with tight, credible medical proof often shakes loose adjusters stuck in default positions.

The quiet power of restraint

A claim built around aggravation does not win with fireworks. It wins with restraint, with the confidence to concede the ordinary truth and then show the change the collision made. The client’s voice matters. So does the tone of the treating doctor. So do small, human details: the way a father now sits on a stool to wash a toddler’s hair to avoid bending, the wedge pillow a mother uses to ease night pain, the overtime shifts missed and the birthday parties left early. Those are not embellishments. They are the lived cost of an aggravated condition.

A skilled car accident lawyer brings those pieces together without pretending the past was clean. The best files I have carried did not hide arthritis or old tears. They tracked what the crash did to a real person with a real history. When you show that with care and precision, the law’s promises about eggshell plaintiffs and aggravation stop being slogans and start being outcomes.