



## **WHAT TO DO AFTER A BIKE SHARE CRASH**

*By Daniel Flanzig, Esq. and James B. Reed, Esq.*



On Memorial Day New York City launched its long awaited Bike Share Program. With an initial start of 6000 bikes, the program will continue to grow through with an additional 4000 bikes throughout the remainder of Manhattan and the outer boroughs. The bike-share seems to be a success with over 7500 rides in its first three days and over 20,000 users signed up and ready to ride.

On the day of the launch I was able to take a Citi-Bike for a short trip around my neighborhood. However; it wasn't until this past weekend that I utilized the bike for the purposes of commuting from my Wall Street apartment to my gym in Tribeca. The bikes are very easy to unlock and the seat is simple to adjust. The bike is comfortable, especially in comparison to my road bike or my other vintage Peugeot which I normally use around the City. I also love no longer worrying about where I will lock up my bike. Simply get to the next station, lock it in, and walk away.

Tourists have also taken to the bikes. Hundreds can be seen being riding over the Brooklyn Bridge. The bikes are fast becoming a method to sightsee around New York.

Also quite obvious are the number of novice "city" riders who are painfully unfamiliar with cycling in Manhattan. I have seen a number of Citi-Bike users riding against traffic, running red lights, not using available bike lanes, all of which will make them susceptible to a crash. Having discussed my observations with Jim, we felt it was appropriate to dedicate this month's column on what to do if you are unfortunately involved in a Citi-Bike or Bike-Share Crash.

Historically, bike share programs tend to show a very high safety record. Bike-Share programs in D.C., Madrid, Barcelona and London, all have low crash rates. A portion of this is attributed to the bikes themselves. They are relatively slow, heavy, stable and highly visible due to their colors and onboard lights. To date, only a few crashes have been reported in New York City, but remember this program is just at its infancy. New York's biking infrastructure still has a long way to go and riding in this New York City is like riding nowhere else in the world.

### **What does Citi-Bike Suggest You Do After a Crash?**

On the City-Bike website they offer advice as to what to do after you are involved in a crash. Similar to the advice we would give, they suggest you call 911 and report the crash. Citi-Bike also requires that within 24 hours of the incident you notify customer service by calling 1-855-BIKE311 and report the crash. There they will provide you with a Citi-Bike crash report to prepare. Even after a crash, Citi-Bike reminds you that you remain responsible for the Bike until such time as it has been properly returned to a dock or turned over to a Citi-Bike representative. Remember, if you fail to return the Bike within 24 hours of the rental a fee of **\$1000.00**, plus administrative fees, will be charged to your credit card.

### **What We Recommend You Do After a Citi-Bike Crash**

Jim and I suggest you follow the protocols of Citi-Bike. We give this advice assuming you are physically able to do so after the crash.

- Obviously, your health is the first priority and if you are injured, get medical treatment right away.
- Call 911 and report the crash. Even if not injured, call the police and wait for them to take a report. Jim and I cannot stress this enough. Too many of our clients have later regretted not calling the police.
- As per Citi-Bike's directive, call the 800 number and report the crash as well.
- If you are physically able, collect your own crash data. Don't rely upon the police to perform a proper and complete investigation.
  - Obtain vehicle information, drivers name, vehicle owners name and the license plate.

- If there are witnesses, get their contact information as well. You may be very surprised that the witness information may not be found on the police report when you pick up a few days later.
  - If the driver will provide it, get the insurance company who insures the vehicle. You will need this information if you are injured and medical bills have to be paid.
- If you have an I-Phone or Android phone, and you haven't already, download one of our Apps. Jim and I have both developed smart phone Apps to be used after a crash. Again this assumes you and your phone are ok. The Apps can be found on our respective websites [Zifflaw.com](http://Zifflaw.com) or [Newyorkbikelawyers.com](http://Newyorkbikelawyers.com). Keep them handy and ready to use.
- Take photos with the App or your phone. Photograph the crash scene, car(s), the Citi-bike, and conditions that may have contributed to the crash. These can be very useful down the road.
- Again, if you are injured, seek immediate medical assistance. Many people are worried about being stuck with hospital or medical bills if they are involved in a crash with a motor vehicle. In New York State if you are involved in a crash with a motor vehicle, that other motor vehicle's no-fault insurance coverage provides up to \$50,000.00 in benefits for your medical expenses and lost wages. Do not be afraid to go to a hospital because you don't have health insurance or you are worried about being stuck with an ambulance or Emergency Room bill. If you secured valid auto insurance from the driver, these expenses, among others, will be covered.

### **How to obtain No-Fault Coverage after a Citi-Bike Crash**

Once you obtain the information about the vehicle involved in the crash, whether it is a MTA bus, taxi, or private car, the insurance company for that vehicle should be contacted and given notice of the claim within 30 days and a request made for a no-fault benefit application. Try to refrain from giving detailed statements to the insurance company about the crash. These statements may be used against you later on.

**If you were injured in the crash, we highly recommend contacting a competent attorney who is familiar with bicycle crash litigation to assist you in obtaining the no-fault benefits.** If you choose to go it alone, try to have the no-fault benefit application completed and returned to the company as soon as possible, preferably within the 30-day time window. With that application you will be provided with a claim number. That claim number can be given to the hospital, doctor or anyone who you seek medical treatment for in order the bill the no-fault insurance company for your treatment for your injuries.

### **What if you crashed due to a negligent or defective road or street condition?**

If your crash involves a fall due to a defective condition in the roadway, and you would like to pursue a claim against the City of New York, or other Town, City or Village within the State, it is important that you document the condition that caused your crash as soon as possible. Take photographs of the location, measurements and other evidence necessary to preserve the condition. These conditions are often transient and can change quickly after a crash. If the condition was caused by the negligence of the City of New York, a Notice of Claim must be filed with the Comptroller's Office within 90 days of your crash.

### **What if I was involved in a crash with a City or Other Municipal Vehicle?**

If you were involved in a crash with a municipal vehicle such as a police car, fire engine or municipal bus operated by the MTA, New York City Transit Authority or some other municipal entity, a Notice of Claim must be filed against that entity within 90 days of that crash in order to preserve your right to bring a claim against the negligent operator of the bus or vehicle which caused your crash and injury.

### **What else should I do after a crash?**

Preserve all the evidence. If you are wearing a helmet or other protective gear, make sure it is put aside and kept safe in order to preserve it for trial. Do not give a statement to anyone about the crash. Insurance companies can be tricky and although they seem friendly when on the phone, they are not your friends. Be as brief as possible and do not get into details about the crash.

If you sustained a “serious injury” in the crash, the law allows you to obtain compensation above and beyond the no-fault benefits (payment for your medical bills). The law allows you to collect damages for both past and future pain and suffering, loss of enjoyment of life, as well as past and future medical expenses that are not covered by no-fault or other private insurance. If you are involved in a crash, and your injuries are serious, we highly suggest contacting a competent bike crash litigation attorney to seek assistance in pursuing a claim.

## **HOW TO AVOID A CITI-BIKE CRASH**

The following tips will assist you in avoiding a Citi-Bike crash in the first place:

- 1) Wear a helmet.
- 2) Follow the rules of the road.
- 3) Make sure you are visible to vehicles and pedestrians.
- 4) Utilize bike lanes when they are available.
- 5) Prior to using a Citi-Bike, check to make sure the tires are properly inflated, the brakes work, and the lights function properly.
- 6) Keep both hands on the handlebars at all times. It is the law.
- 7) Never wear earphones while riding. It is illegal to have earphones in both ears while operating a bicycle in New York State.
- 8) Only ride one rider on the bike. Do not carry anything too big or heavy that affects our ability to operate the bicycle.
- 9) Don't ride on sidewalks.
- 10) Be watchful for doors opening into your path. Try to ride outside the door zone. If you see a cab or other car stop, assume the driver or passenger will be exiting their vehicle.

These are some of our guidelines on what to do if you are involved in a Citi- Bike or Bike Share crash. As always do not rely upon this article to be your sole source of legal advice. If

you are involved in a crash and need legal assistance we strongly suggest contacting an attorney who is familiar with bike crash litigation for proper legal assistance.

***These are some simple guidelines provided by Daniel Flanzig Esq. of [NewYorkBikeLawyers.com](http://NewYorkBikeLawyers.com) (Flanzig and Flanzig, LLP) and Jim Reed, Esq. of [ZiffLaw.com](http://ZiffLaw.com). We are New York Attorneys focusing in the rights and protection of cyclists across New York. Nothing on this page should be construed as legal advice nor does the use of this page or column create an attorney/client relationship. The advice on this page offers a general overview of the laws in New York. Remember, every incident or claim is specific and the guidelines may not be applicable to your particular case. As always, we suggest contacting an attorney with any legal claim or issue before taking action on your own behalf.***