

Eye Witness Statements Can Make Proving a Cycling Crash More Difficult

I find it curious how often the investigation of a cycling crash produces witnesses who contradict the cyclist's version of what happened. Adverse witnesses can really make a client's case more complicated. Experienced lawyers will agree that eye witness testimony can be extremely unreliable. Yes you read that correctly. Everything we see is filtered through the lens of our prejudices, our experience, our level of attention and our emotional state at the time the events were observed. To make matter worse, we become convinced what we "recall" is actually what happened even though it may be far from what went down. This is compounded by the fact that the average person mistakenly assumes the recollection of events by an eye witnesses should be highly reliable.

How do you rebut the testimony of an adverse eye witness? Often our client will be able to testify about what really happened. That a great start but it assumes they were conscious and saw it coming. Otherwise, one of the best ways is showing the accumulation of circumstantial evidence. This evidence doesn't have recollection issues and it doesn't change over time. Things like the presence and location of debris on the road, impact damage on a vehicle or on the bike, skid or tire marks on the road and photos or x-rays which show the direction of force and impact on the body is often much more compelling and accurate. In many cases we are fortunate to uncover good circumstantial evidence to prove the damaging eye witness testimony is totally unreliable and wrong.

This is why photos of an accident scene taken on a cell phone at the time can be so critically important. Once all the evidence is moved out of the way it is very hard to later recreate where things were after impact. Preserving the victim's bike and their damaged clothing and gear is vital. They are all pieces of a very large puzzle which may be used to undo the damage done by an inaccurate eye witness or someone with an actual anti-cycling bias. Believe me, they are out there.

Jim Dodson is an experienced bike accident lawyer, cyclist and bicycle safety advocate who has been representing accident victims for over twenty-five years. He represents injury victims throughout Florida. He is the author of the Florida Bicycle Accident Handbook, relied upon by hundreds of cyclists across the state. If you have a question about a cycling accident, contact Jim at www.jimdodsonlaw.com. There is never any charge to discuss your case.