

Car Accident Answer Book

From Pritzker Olsen Attorneys

After a car accident, whom should I talk to and what should I say?

Whether it's five minutes or five weeks after an accident, don't discuss it with the other person's insurance company representative. These people are called adjusters. They're not bad people, but their job is to get as much information about your accident or your injuries and then try to use it against you. You can talk about the accident with your insurance company. In fact, your policy says you must cooperate with your insurance company. But even so, your insurance company is going to look out for its own interests before it looks out for yours. That's why it's a good idea to talk to a lawyer before you talk to any insurance company.

The accident was not my fault. What rights do I have?

You have the right to have your medical bills paid and your wage loss reimbursed. This comes from no-fault coverage on your car. You also have the right to make a claim against the driver who caused the accident. In that claim, you may recover damages (money) for pain, suffering, disability, disfigurement, emotional distress, loss of earning capacity, and

I've just been in a car accident. What do I do?

1. Don't panic.
2. Call the police.
3. Find names, addresses and phone numbers of any witnesses.
4. Exchange information, including insurance data, with the other driver.
5. If there is debris from the accident, try to take photos. Our lawyers can do that if you call soon enough.
6. Don't discuss the accident with anybody except the police or state patrol. Tell the truth.
7. If you have been hurt, make sure you get medical care immediately.
8. Call your insurance agent and promptly report the accident.
9. Don't discuss your accident or injuries with the other person's insurance company.
10. Call an attorney. Our lawyers will drive or fly to meet you and begin our investigation immediately.

other losses that may have occurred. The money for these losses is paid by the other person's insurance company.

You also have the right to get your car fixed, or, if it's totaled, get the value of the car as it was just before the accident. This is called a property damage claim. It can be made against your company if you have what's known as "comprehensive" coverage. You may also have the right to collect that damage from the other person's insurance company.

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“We can tell you what your rights are, and make sure the insurance company doesn’t take advantage of you.”

The accident was my fault. Now what rights do I have?

If you were more than 50% at fault for the accident, you will not be able to make a claim for pain and suffering, etc. You will be able to recover no-fault benefits, however, and property damage if you have comprehensive coverage.

I’ve heard a lot about “no-fault” insurance. How does it apply to me?

In some states every car garaged is required to have insurance, including no-fault coverage. If you own a vehicle and it’s insured, you’re covered. Even if you don’t own a vehicle but live with a relative who does, you’re covered too. No-fault pays for medical bills (usually up to \$20,000) and wage loss (also usually up to \$20,000). It also covers replacement services, retraining, funeral expenses, and a few other items. The term “no-fault” refers to the fact that you are covered even if the automobile accident was your fault. Your no-fault coverage “follows” you, no matter whose car you were in when you were hurt.

Let’s say you’re injured when you’re riding as a passenger in your cousin Frank’s car. Even though the accident may have involved Frank’s car, it’s your car’s insurance that pays for your medical bills and wage loss. [Contact our law firm](#) for more information about “no-fault” insurance.

What is my car accident case worth?

To determine the value of a case, you have to look at many factors. First, as we already discussed, you have to consider fault. Any percentage of fault (up to and including 50%) placed on you reduces the value of your case by that percentage. Another factor, and the one that’s most important, is the severity of your injuries. Information about the severity of your injuries usually comes from your doctor in a medical report in which he or she comments on your injuries. Doctors usually wait at least a year after the accident to issue a final medical report.

Another important factor is how your injuries affect you. For example, a broken finger to most people is not that severe an injury. If you happen to be a concert pianist, however, a broken finger can be a terrible loss. Thus, it’s important that we know a lot about you and how your injuries have impacted your life. Other factors include the amount of your medical bills, the amount of your wage loss, whether you have any scars, what impact your injuries will have on your future earning capacity and a host of other issues.

Every case is different and it depends on the skill and experience of your lawyer to know what is fair compensation for your losses.

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What can I do if my no-fault insurance company refuses to pay something it should?

After a car accident, many people find out the hard way that their insurance company isn't the warm, fuzzy group portrayed in its commercials. Study after study has shown that in almost half of the claims submitted to insurance companies, legitimate requests for payment are denied. In many others, the injured person isn't aware of his or her right to receive benefits, and the insurance company doesn't go out of its way to set the record straight.

If this happens to you, first dig out your policy and see what it says. Then call us toll-free at 1-888-377-8900. We can usually tell you just what your rights are—quickly and at no charge—and make sure the insurance company doesn't take advantage of you.

What are my rights if the insurance company wants me to be examined by their doctor?

This is called an adverse examination. It's "adverse" because you have no say in selecting the doctor, the doctor is working for and paid by the insurance company, and the purpose of the exam is not to help you get better. Most importantly, the "adverse" doctor is most likely going to disagree with your treating doctor. The law and your policy require you to cooperate with your no-fault insurance company. This means

if you refuse to go to the exam, the insurance company will be allowed to cut off your benefits. Unfortunately, even if you go to the exam, the doctor is likely to say what the insurance company wants to hear, and you'll probably be cut off anyway. As you can see, this is a very important time in your case.

Before you go to an adverse medical examination,

talk to a car accident attorney at our law firm (1-888-377-8900). There are things that can be done. For example, the law requires the exam be conducted in the city where you reside. The law also requires the insurance company to pay all of your bills until you're notified of the results of the exam. Even if the insurance company cuts off your benefits on the basis of the doctor's report, you can appeal the decision and frequently get your benefits reinstated. If you've been notified that you are to attend an adverse exam, call us right away. We can explain your rights and help you before you lose your valuable benefits.



Will my rates go up if I make a claim?

If the accident was not your fault, your rates won't go up.

Do I need a car accident lawyer to obtain fair compensation?

Most of the time. As you can see, there are a great many factors and issues that need to be assessed in order to obtain a fair recovery. Also, you're going up against a giant insurance company. Companies have scores of adjusters, lawyers and other personnel who spend all of their time dealing with cases just like yours. It's unreasonable to think that you, who have probably never had to deal with something like this, can match experience and resources with a company that does nothing but work on accident claims. There's also the matter of time. Bringing a claim takes a lot of time and energy. Most people hurt in a car accident are short of both.

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What does it cost to hire a car accident attorney?

You should not have to pay any money up front. Virtually all attorneys who limit their practice to personal injury, including auto accident attorneys, charge a percentage of the recovery, usually one-third. If there's a recovery the attorney gets paid out of that. If there's no recovery, most car accident attorneys won't charge you any fees at all. You don't have to pay any hourly charges or lump sums called "retainers."

There's also the issue of costs. "Costs" are out of pocket expenses like the amount of money a hospital charges for duplicating your medical records, or the filing fee the courts charge for filing a claim. Most law firms (like ours) pay those costs. We're reimbursed for those costs when the case is settled.

What are some questions I should ask before hiring an attorney?

- Who in this firm is going to have direct responsibility for my case?
- How often can I expect to hear from my lawyer?
- Will he or she answer my phone calls?
- What is their plan for my case?

In the end, trust your gut feeling. If you don't feel comfortable with a lawyer, you should probably keep looking.

Will I have to go to trial if I choose to make a claim?

Most cases settle out of court. In fact, some studies show that only about 5% of personal injury cases go all the way to trial. Of course, if you want to go to trial, you have the right to do so. You always have the right to reject the insurance company's offer and let a jury decide the value of your case.

"You should not have to pay any money up front to hire a car accident lawyer."

How long will it take to complete my car accident case?

The average case takes about 14 to 22 months from the date of the accident to resolve. Of course, that's only an average. There's usually no way to predict how long a particular case like yours will take.

Remember, most doctors won't issue a final report until at least a year after the accident. Without that report, it's unwise to begin settlement negotiations. After the final reports are obtained and all the other information needed to evaluate a claim is available, your lawyer will usually begin settlement negotiations with the insurance company by preparing a settlement "demand" letter or brochure. This document sets forth all the information the lawyer thinks the insurance company should consider in deciding whether to settle the claim and how much the settlement should be.

In response to that settlement letter, the insurance company may make a counter offer. Negotiations will then take place. Sometimes the case is settled at that time. Frequently, however, the parties are not able to settle the case and it's "put in suit." Cases put into suit still usually settle, but it takes more time and often means getting closer to trial. Trial dates are scheduled by the court with little or no input from the lawyers. The scheduling of a trial date depends on which county the case is filed in and how many cases have been filed before it. Good lawyers do their best to move their cases along as quickly as possible.

After my case gets settled, can I go back for more if my injuries get worse or if I need more treatment?

Good question. It really takes two answers to respond to this question. Once you settle the case with the other person's insurance company, you usually can

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not go back for more. That's why it's so important to have an experienced lawyer representing you, one who knows your injury and what you can expect in the future. When you're hurt in a car accident, there are really two claims: the claim against the other person's insurance company and the claim against your no-fault insurance company for medical bills, wage loss, and other related losses.

As we have seen, the bigger claim is against the other person's insurance company. A settlement of that claim is not a settlement of the no-fault claim, however. Even after settling the claim against the other person's insurance company, you still have a right to make claims against your no-fault company. That claim stays "open" until you use up the \$20,000 limit, even if it's years in the future.

What if the person who caused the accident doesn't have enough insurance to fully compensate me or has no insurance at all?

Insurance policies should have underinsurance and uninsured motorist coverage. Some states require it. Underinsured motorist coverage (UIM) applies when the value of your case exceeds the amount of the other person's insurance. For example, let's say your claim has a value of \$50,000, but the person who caused the accident has only \$30,000 in coverage. You would collect their \$30,000 and then proceed against your company for the remaining \$20,000. This is not a gift from your insurance company; part of every premium dollar you pay goes for UIM coverage. Uninsured motorist coverage (UM), on the other hand, applies when the person who caused the accident had no insurance. In that case, your uninsured motorist coverage compensates you for the damage caused by the other driver. Again, this is coverage for which you have already paid.

Who pays for the damage to my car?

If you have "comprehensive" coverage on your policy (it's not required like no-fault coverage), you can collect for the damage from your own policy. You will be entitled to collect the amount of the repairs or for the value of the car, whichever is less, minus the amount of your deductible.

For example, if the repairs cost \$1000 and the deductible is \$500 you can collect \$500 from your insurance company. But if the car is worth only \$750, you will receive only \$250. If the accident was the fault of the other person, in some cases that person's insurance will pay for the damage to your car. If that happens there won't be any reduction for the deductible, you can get the full value of your loss.

Can I get a rental vehicle while my car is in the shop?

Yes, if you have coverage for rental vehicles on your policy or if the other person's company agrees to pay for it (they usually do if the accident was their insured party's fault).

What happens if I don't agree with the insurance company's estimate of value of my car?

It's best to get a few estimates from auto dealers or appraisers of what they think your car was worth before the accident. If the estimates are higher than what you're being offered by the insurance company, let the company know. If they still won't offer you what the car is worth, call an attorney.

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Fred Pritzker
has over 30
years of
experience
representing
victims of car,
truck and bus
accidents.

