

## LEGAL ISSUES OF A CAR CRASH

## REPORTING THE CRASH

vehicle is being repaired or until a reasonable offer is made for the value of a totaled vehicle.

## MEDICAL BILLS

The injured party must obtain the medical care required to diagnose and treat any injury suffered. The injury requires proper care. Also, medical documentation of the injury is necessary to substantiate the injury. You may have two insurance options to pay for the required care.

You can submit your medical bills to your health insurance company. The fact that the injury happened in a car crash doesn't relieve them of the obligation to cover the medical bills. Health insurance coverage will cover the bills (less any deductible or copay). If you later receive compensation for your injuries from the responsible automobile insurance company, you are obligated to reimburse your health insurance company.

Another option for paying for medical care is your car insurance. Under New Hampshire law, if you have liability insurance, a private passenger auto insurance policy must also have med pay coverage for your medical bills and for those of your passengers. The amount of this coverage depends on what you purchased. This medical bill reimbursement is available regardless of who caused the accident. This coverage is available even if you also have medical insurance to pay the bills. There is no copay or deductible. Your automobile insurance company is not entitled to reimbursement for medical bills paid under the health coverage, nor are they reimbursed out of any eventual recovery. If a medical bill is paid by your health insurance, your med pay coverage is not to reimburse the same bill, and vice versa.

Regardless of any such insurance payment, medical bills are part of what you are to be compensated for by the insurance company of the responsible driver. Your insurance doesn't relieve the wrongdoer of his responsibilities. The compensation you receive from the opposing insurance company for medical bills will be part of the final settlement payment or verdict. It isn't a reimbursement they make to you

A motor vehicle crash should be reported to the police and/or the Department of Safety. Although injury or vehicle damage may initially seem modest, any crash must be treated seriously. At the scene, exchange name, address, and insurance company information. If the police respond, they will make out a report. That report will be available at the local police department and/or the Department of Safety in Concord. You should file an Operator's Report with the Department of Safety, if there is no police report, if damage appears to exceed \$1,000.00 in value, or if there is personal injury.

Immediately advise your auto insurance company of the facts of the crash.

If possible, take photographs of any vehicle involved, as well as of the scene of the crash and any visible injury, to assure that you have complete evidence.

## DAMAGE TO YOUR CAR

The car insurance company of the responsible driver is to pay the cost for the repair of a damaged vehicle. If the repair would cost more than the value of the car, then the fair market value of the car must be paid.

If you had collision insurance, you have the option of having your insurance company take care of the property damage. Although, what they pay will be reduced by your deductible, it is usually easier to go through your company. They will then seek reimbursement for what they paid from the responsible driver's insurance company, and obtain deductible reimbursement beyond that for you.

In either case, the processing of the property damage claim requires that you make your vehicle available to be examined for an appraisal of the repair costs.

The responsible insurance company will also be obligated to pay expenses incurred for a rental vehicle, for a reasonable time while the damaged

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before then, nor is it a separate payment to you.

## **BODILY INJURY**

Get the medical care you need to receive an accurate diagnosis and the necessary treatment. That care is necessary for your health. Substantiation of the physical injuries is also necessary evidence to document the injury, in the event of a claim. It is important that medical care track the entire course of the injury.

## **FULL, FAIR, AND ADEQUATE COMPENSATION**

The reason we pay for car insurance company is to take care of losses resulting from a crash. In this state, the compensation due from a driver who is responsible for a crash is whatever is necessary to fully, fairly, and adequately compensate the injured party. Punitive damages are not allowed in New Hampshire. The injured party, therefore, is to be paid for his or her proven losses - nothing more and nothing less.

If you are to be defended against a car crash claim, it is the responsibility of your automobile insurance company. They will investigate the claim, retain and pay a lawyer to defend the claim, pay compensation due the injured party (within the limits of your liability coverage). It is a condition of the insurance coverage that you cooperate with your insurance company.

For a claim on behalf of an injured party, it is essential to gather and preserve the evidence regarding how the accident happened. The right to fair compensation is jeopardized without evidence to prove the facts. You can be sure that a vigorous defense will be mounted to try to minimize or defeat the claim.

Evidence to establish the nature and extent of all the injured party's losses must be developed, collected, and properly presented. It is the party making the claim that has to produce the evidence to prove it. The better the evidence, the stronger the case. If the

evidence is lacking, the claim will fail. The reality is that the case isn't governed by the truth. It is governed by the proof.

The losses which the law provides are to be compensated include: medical bills, incidental financial expenses, lost past and future wages, physical pain, emotional upset, loss of enjoyment of life.

Eventually, when the pertinent information and evidence regarding the crash are known, and when any resulting injuries have either stabilized or finally resolved, a claim can be valued. The value of a claim cannot be ascertained until the facts which determine value and the evidence to prove them are known. Those facts include: the nature of the injury; the extent, magnitude and duration of symptoms; the amount of medical bills; the extent and duration of the disruption of normal work and non-work activities; the extent of any disruption of income; the permanent consequences of the injury, etc. "Fair" compensation depends on the magnitude of the injuries and losses suffered, the strength of the evidence of legal fault of the other party, and "the marketplace," i.e. the range of value which similar cases have realized in local verdicts and settlements.

Settlement discussions are usually first attempted with the responsible party's insurance company, with a view towards negotiating an acceptable settlement without a formal lawsuit or trial. The vast majority of these cases are settled without the necessity of trial. However, it is the right to bring suit which compels the responsible insurance company to discuss reasonable resolution. If the insurance company is not acting fairly to resolve the matter, then a suit can be commenced in the appropriate court, if it has not already been. Even though a lawsuit may have been started, the possibility of voluntary resolution can be explored at any stage of the process.

The commencement of suit is accomplished by formally serving the responsible driver with court papers notifying him or her of the claim. The next stage of a suit is the exchange between the parties of

all relevant or potentially relevant information, first by mandated disclosures, then by written questions, known as interrogatories, and later in an oral question and answer session, known as a deposition. The parties will be required to attempt to settle the claim by mediation.

Eventually, if the matter cannot be resolved between the parties voluntarily, the evidence of the case will be presented to a jury, comprised of twelve randomly selected members of the public, for its unanimous decision on the apportionment of legal fault between all responsible parties and for the assessment of fair compensation for the harms and losses suffered..

## **DO I NEED A LAWYER?**

If injury is caused by a motor vehicle crash, New Hampshire law requires the responsible party to pay fair, full and adequate compensation. That includes more than just paying medical bills or lost wages. As anyone who has been injured can tell you, the financial expense is a small part of an injury.

Insurance companies are contracted and paid to provide fair compensation in the event of an accident. However, minimizing compensation is in the business interest of a responsible insurance company. Insurance representatives are trained and paid to serve that interest.

The protection of your legal rights will require commitment, experience and hard work. At Winer and Bennett, LLP, you will receive the determination, expertise and resources you need to present a claim which commands the respect it deserves.

This material reflects the law in effect in April, 2015. Due to the changing nature of this area of law, this material should not be construed as legal advice nor should it be used as a final authoritative legal source.

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