

CAR WRECK CLAIM GUIDEBOOK

**QUICK INFORMATION TO
GET YOUR CLAIM MOVING**



ELIZABETH LARRICK
TRIAL LAWYER

CAR WRECK CLAIM GUIDEBOOK

**QUICK INFORMATION TO
GET YOUR CLAIM MOVING**



ELIZABETH LARRICK
T R I A L L A W Y E R

W O R D A S S O C I A T I O N P U B L I S H E R S

www.wordassociation.com

1.800.827.7903

Copyright © 2019 by Elizabeth Larrick

All rights reserved. No part of this book/manuscript may be reproduced in any form or by any electronic or mechanical means, including information or storage and retrieval systems, without permission in writing from the author.

Printed in the United States of America.

ISBN: 978-1-63385- 315-7

Published by
Word Association Publishers
205 Fifth Avenue
Tarentum, Pennsylvania 15084

www.wordassociation.com

1.800.827.7903

TABLE OF CONTENTS

Disclaimer	5
Introduction	7
Wordlist	8
 Chapter 1: What are the steps in a car wreck claim?	12
Chapter 2: How long does a car wreck claim take? (And will hiring a lawyer make it faster?)	23
Chapter 3: What things are covered in my car wreck injury claim against the insurance company?	29
Chapter 4: What is the value of my car wreck injury claim? (And how does the insurance company value a car wreck injury claim?)	33
Chapter 5: How do I settle and get paid? (And if I hire a lawyer, how do they get paid?)	37
 Conclusion	43
Frequently Asked Questions	44
Settlement Question Checklist	48
About Elizabeth Larrick	50

DISCLAIMER

This book is presented solely for education, reference, and enhancement of the reader's knowledge. The author and publisher are not offering it as legal, accounting, or any other professional services advice. While best efforts have been used in preparing this book, the author and publisher make no representations nor warranties of any kind and assume no liabilities of any kind with respect to the accuracy or completeness of the contents. The author and publisher specifically disclaim any implied warranties of merchantability or fitness of use for a particular purpose. Neither the author nor the publisher shall be held liable or responsible to any person or entity with respect to any loss or incidental or consequential damages caused, or alleged to have been caused, directly or indirectly, by the information or programs contained herein.

Every car wreck insurance claim is different, and the advice and strategies contained herein may not be suitable for your situation. You should seek the services of a competent professional before beginning a car wreck insurance claim. The book is not a warrant for outcome. The book does not replace the consultation with a real live lawyer.

INTRODUCTION

This Guidebook provides the tools you need to help yourself and others when it comes to car wrecks. While hiring a lawyer is an option, you do not have to have a lawyer to handle a car wreck insurance claim. This Guidebook is intended to empower folks, like you, with knowledge specifically as it relates to questions, issues, and concerns after being involved in a car wreck.

The insurance companies have unlimited resources, tools, training, and education. This puts the actual people involved in the wreck at a disadvantage. It is not the job of an insurance representative to educate you about the claims process or about what you are entitled to after you have been in a car wreck.

I wrote this book to help people stand a better chance in their battles against insurance companies. I am a personal injury lawyer who handles car wreck insurance claims every day, and I will sue car insurance companies when they fail to do the right thing, which is to pay for the damages from car wrecks. But not every car wreck should result in a lawsuit!

This Guidebook is intended to help you, your friends, your family—or anyone who is battling insurance companies to fix their car or pay their doctor bills!

WORDLIST OF COMMON TERMS IN CAR WRECK CLAIMS

Claim	Term used to describe your request for payment from an insurance policy. The insurance company will assign a claim number for your specific car wreck claim.
Adjuster	Term used to describe the job of the person at the insurance company who is assigned to your claim. (Also known as a claim representative.)
Recorded Statement	A telephone statement recorded by an adjuster or insurance representative wherein they ask you a series of questions about the wreck, how it happened, what you did in the wreck, and if you were hurt in the wreck. This is a separate statement from the first call you make to start a claim. You are not allowed to ask questions during a recorded statement, only answer questions.

Liability Only	Term used for insurance coverage to indicate that the policy only provides or pays for claims made against it for property damage and bodily injury. The insurance policy gives coverage/protection to other people who make claims for payment, but does not provide coverage for claims made by the policy owner/policy holder.
Total Loss	Term used to describe a vehicle damaged to the point that it is not worth repairing. The insurance company will look at the value of your car vs. the cost to repair it. If the cost to repair it is about the same or more than the value of your car, the insurance company will likely consider it totaled. Some companies might total your car even if the cost to fix it is lower. You can ask the insurance company what source it used to decide your car's value.
Loss of Use	Term used to represent the reasonable value of the use of a vehicle for the period of time required to repair the damage, if any, caused by the car wreck. This is why an insurance company gives a rental car after a car wreck. This is part of the of property damage claim.
Diminished Value	Term used to represent the lost value, if any, after all the repairs are made to a vehicle. It is the difference between the vehicle value before the car wreck and the value after repairs. This is part of the of property damage claim.

Statute of Limitations	Term used to represent the limitation on recovering money from another person due to a car wreck or another injury-causing event. The time to recover from a car wreck is not indefinite. In Texas, the limitation for recovery is two years from the date of the injury-causing event. To preserve your ability to recover money past the two-year mark, you will need to file a lawsuit. A lawsuit can be filed any time before the two years ends. Different types of cases have different limitations.
Mitigating Damages	<p>Term used to indicate you can be held responsible for failing to act as it relates to your property damage and bodily injury claims, which can reduce the amount of money you are paid.</p> <p>For example, if you fail to release your vehicle to the insurance company in a timely manner, you may be required to pay additional storage fees that are incurred because of your failure to act.</p> <p>(Also known as failure to mitigate damages.)</p>
Property Damage Claim	Part of the claim dedicated only to handling property issues: repairs to vehicle, rental car, payment for your vehicle, and payment for damages to personal property. The insurance company has a separate department and adjuster for property issues.

Bodily Injury Claim	Part of the claim dedicated only to handling bodily injury issues: medical bills, injuries, mental anguish, lost wages, and payment for bodily injury. The insurance company has a separate department and adjuster for bodily injury issues.
Personal Property	Term used to describe all items not attached to your vehicle. For example, your laptop or cell phone is personal property, whereas your car stereo is considered part of your vehicle.
Medical Authorization	<p>A form signed by you to release medical records and billing from your medical providers directly to the insurance company. The form typically allows a complete copy of the bills, medical chart, call notes, operative reports, laboratory test results, and diagnostic study reports. This form is not limited to records or bills only related to car wreck injuries, rather it will release all health information from a time period.</p> <p>(Also known as HIPAA release.)</p>
Employment Authorization	A form signed by you to release employee files from your employer directly to the insurance company. The form typically allows a complete copy of employee documents like application, pay records, letters, reprimands, workers compensation records, and pre-employment documents.

CHAPTER 1

WHAT ARE THE STEPS FOR A CAR WRECK CLAIM?

STEP 1: GET IN A CAR WRECK.

Sorry, the sad fact is that you are reading this Guidebook because you or someone you know got in a car wreck. Now jump to Step 2.

STEP 2: START THE CLAIM.

After being involved in a car wreck, getting all the involved drivers' insurance information is vital. You want to collect the name of the insurance company, as well as the telephone number, policy number, and name of the driver. Oftentimes, the police are called to the scene of a car wreck and will help with the exchange of names, contact information, and insurance information. If you or someone involved in the wreck is injured and taken by ambulance from the car wreck, the police will gather this information and create a report for you to purchase at the local police department for a small fee. For example, the Austin Police Department offers reports for \$6.00 and certified copies for \$8.00.



QUICK TIP:

While at the scene, take pictures of all the vehicles involved. Be sure to capture both the front and back of all vehicles. It is best to get pictures while the cars are in their original positions after the wreck, but it's not always possible. Thus, it's OK if the vehicles were moved after the car wreck; this is usually done to prevent further collisions and to protect your safety (which is more important than pictures).

You will want to call the insurance companies of all involved drivers and request to start a claim.

You can call to report a claim the same day as the car wreck. The earlier the better to save time on getting car repairs or a rental car. Most insurance companies have entire call centers devoted to taking calls just like yours. The insurance call attendant will ask numerous questions; it is not unusual for this phone call to take up to 30 minutes.

Generally, the insurance company will ask about the following information:

- Your name
- Your address
- Your date of birth
- Your telephone number
- Your driver's license number
- Your social security number
- Your vehicle description (make/model)

- Your license plate number
- Your insurance information
- The description of other cars involved (make/model)
- Passengers in your car (name, age)
- Passengers in other vehicles
- If there were any injuries
- If the police investigated (and, if so, what is the police report number?)
- If any tickets were issued
- A quick description of what happened
- The names and insurance company information of the other drivers involved
- The other drivers' policy number, telephone contact and insurance company
- The status of your car now (and if it was towed, the name and telephone number of the tow company)
- The property damage to your vehicle and other vehicles involved in the wreck



YOU DO NOT HAVE TO HAVE ALL OF THIS INFORMATION.

In fact, most of the information is not required to start the claim. The necessary information will be your contact information (name and telephone number), the name of the other drivers, the other drivers' insurance policy number, and the facts of what happened. This will start the claim.

After all the information is entered into the computer, the insurance attendant will provide you a claim number as well as the name of person assigned to the claim and the telephone number where that person can be reached. If the insurance attendant does not offer this information, ask for it! You want to be able to directly contact the person handling the claim, instead of the general call center. The insurance attendants will not be able to answer detailed questions about your claim or the claims process. Their only job is to gather information, input it into computer, generate a claim, and conclude the call.

You should repeat this process with every involved driver's insurance company, including your own insurance company—even if you were not at fault for the car wreck. It is best practice to notify all insurance companies after the car wreck so each insurance company can start the claims process and investigation. It does not matter who reports a claim; the important part is to report the car wreck.

Real life case facts: Four cars collide on Interstate 35 in Texas. The injured person in Car #1 only calls the insurance company of the person directly behind them (in Car #2). For nearly two years, the injured person tries to handle the claim with the insurance company and cannot come to a resolution. The injured person talks to and hires a lawyer. The lawyer speaks with the insurance company and discovers the insurance company was never going to pay 100 percent because it believed Car #3 and Car #4 had responsibility for the wreck too. The insurance company **never told** the injured person that they needed to contact the insurance companies for Car #3 and Car #4, and **never told** the injured person it believed other people could be responsible for injuries and/or property damage.

POINT OF THE STORY: Save time and energy by calling all the insurance companies involved and getting all the information from the beginning.



QUICK TIP

Don't rely on others to call and report the car wreck to their insurance company. This can delay the claim.

STEP 3: RECEIVE A FOLLOW UP FROM THE INSURANCE COMPANY.

Typically, you will receive a call from the assigned insurance adjuster for your vehicle damage within one to two business days. This call will be about your vehicle damage and the location of your vehicle. This insurance adjuster will ask for a recorded statement from you about how the car wreck occurred.

A recorded statement is a recorded conversation in which an insurance adjuster or insurance claims handler will ask you about what happened in the car wreck. They will also ask for your personal information (date of birth, address, telephone number, and social security number) and other information they may need or want to investigate the claim, including information about whether you were injured or not. You won't be allowed to ask questions, or rather, you will not be given any responses by the insurance adjuster while the recorder is on. You will only be asked to give responses to scripted questions, and at times, very one-sided questions.



FAQ (pg 44)

Should I give a recorded statement to the insurance company?

The assigned insurance adjuster for property damage will provide information about getting a rental car, explain where to take your car to get repaired, schedule a time to inspect the vehicle, and explain how to get personal property reimbursed if your vehicle was damaged in the car wreck. Depending on the level of damages to your vehicle, the property insurance adjuster may change to another adjuster if the vehicle is a total loss. A total loss means the repairs to the vehicle cost more than the value of the vehicle, thus you get paid the value of the vehicle instead of getting repairs performed to fix the car.

If you were injured in the car wreck, a separate insurance adjuster will be assigned to contact you specifically about your injuries. This will be the bodily injury claim. This insurance adjuster cannot assist with your vehicle damage, rental car concerns, or personal property reimbursement, but the adjuster can tell you whom to contact. This call will be to gather information about your injuries, doctor visits, and medical history.

You may receive letters in the mail from the insurance company about the car wreck claim. These letters request more information from you and/or request you contact them. Each claim—bodily injury and property damage—will send correspondence to you.



QUICK TIP

**Keep all letters from insurance companies
till the close of the claim.**

STEP 4: FOLLOW UP WITH THE INSURANCE COMPANY.

The initial contact with the insurance company adjusters will allow the insurance company to make decisions about your property damage claim and bodily injury claim. Again, this contact will be within one day to five days after the car wreck occurs. Depending on the insurance company, the next contact will be from you, meaning you will need to call and follow up to find out status (the status of the decision on vehicle repairs, the status on the decision on reimbursing for damaged personal property like a cell phone, the status of the rental car, etc.). The insurance adjusters handle hundreds—if not thousands—of claims, and they are not required to provide you on-going status of your individual claim. If you would like to know about things such as what repairs will be covered or how much longer the rental car will be covered, you will need to contact the property insurance adjuster assigned.



NOTE

Insurance companies are moving toward online portals where you can log in to access documents and communicate with the assigned representatives. This may allow for quick access to information, be sure to ask the adjuster if they have this service.

If you have a bodily injury claim, the assigned adjuster may contact you with follow-up phone calls in 20 to 30 days after the car wreck. These phone calls are to gather information and note your file. The adjusters do not give advice or explain how to best proceed with your injuries. It is also typical for the bodily injury adjuster to request you sign a medical authorization in order for the insurance company to collect your medical records and bills. This is optional as you can provide the same documents to the insurance company through a direct request to your medical providers.

CAUTION: Immediately after a car wreck, the bodily injury adjuster may try to offer a quick sum of money (typically \$500–\$750) to settle the bodily injury claim without knowing the full extent of medical bills or injuries. This is not to your benefit, but their own. After you sign a release, you cannot come back and ask for bills to be paid.



FAQ (pg 46)

Should I sign a medical authorization for the insurance company?

It will be your job to continue to follow up with the property damage adjuster until your property damage is repaired to your vehicle or you are paid the value of your total loss vehicle. During this time, be aware you will need to return the rental car on time. If you don't, you risk being charged for extra rental days as you will not be reminded by the property insurance adjuster.

It will be your job to continue to follow up with the bodily injury adjuster until all information about the injuries and the necessary documents (medical bills, medical records, pay stubs) is received by the insurance company. The bodily injury adjuster will request the information before decisions or offers can be made on your injury claim. This time period can vary significantly depending on the nature and extent of the injuries, medical treatment, recovery, and future medical needs.

STEP 5: TAKE ACTION IF THE CLAIM IS NOT RESOLVED.

You should start a claim with the insurance company immediately after the car wreck, whether it is for property damage or for bodily injuries. The opening of the claim provides notice to the insurance company that you may have damages and will want the insurance company to pay for those damages. More importantly, any witness statements and photographs are

best at the time of the car wreck, not weeks or months later. The insurance company may not follow up with you or may not perform the investigation that is required for the claim. It benefits you to take action and make calls to the insurance company to get the resolution you need, whether that is getting your car repaired or your medical bills paid. There may be additional steps you need to take before the insurance company can resolve your claim. It is your responsibility to ask what you need to do to resolve the claim. It is not the responsibility of the insurance company to tell you what to do to resolve the claim.

Real life case story: A rear-end collision of two vehicles at a stoplight in Austin, Texas, occurs when Car #2 fails to stop and hits the rear end of Car #1. There is no dispute at the scene. The two drivers exchange insurance information and contact information and leave the scene. A few weeks later, the Car #1 driver wants to get the bumper fixed and calls the insurance company for Car #2 to start a claim. After several weeks, the Car #1 driver calls back and asks for status. The insurance company explains it has been trying to reach the second driver to get a statement and can't seem to contact him. It won't be able to proceed with the claim until it gets the statement from the driver because there is no police report or other witness statement. Car #1 driver has to start calling Car #2 driver and asking him to call and talk to his insurance company. Finally, the Car #2 driver makes a statement to the insurance company and the claim is resolved.

POINT OF THE STORY: Make the calls to the insurance company as soon as possible to avoid time delays caused by other people and the insurance company.

You have one year and 364 days to resolve the claims directly with the insurance company adjuster or representative. If you cannot resolve it directly, you will need to file a lawsuit against

the other driver either before or on the two-year anniversary of the wreck.

In the state of Texas, there is a state law that governs how long you have to file a lawsuit for injuries and damages from a car wreck. The legal term is *statute of limitations*. You have two years from the date of the wreck to file a lawsuit for your property damage and/or bodily injuries.

As it is stated above, you have one year and 364 days to resolve the claim directly with the insurance company, and if you cannot resolve it, you must file a lawsuit or the claim on day 365.

- For example, if you have a car wreck on July 1, 2017:
- The statute of limitations is July 1, 2019.
- You must file a lawsuit before or on July 1, 2019.
- Your ability, or right, to file a lawsuit expires on July 2, 2019.

CHAPTER 2

HOW LONG DOES A CAR WRECK CLAIM TAKE? (AND WILL HIRING A LAWYER MAKE IT GO FASTER?)

One car wreck event is divided into two types of claims by the insurance company: Property Damage Claim and Bodily Injury Claim.

PROPERTY DAMAGE CLAIM

The property damage claim usually takes one week to two months to complete. The time is dependent upon the amount of damage to the vehicle.

A vehicle that has damage but can be legally driven (meaning it can pass Texas vehicle inspection test) from the scene can typically be resolved in one to two weeks. This vehicle can be scheduled for inspection and the value of repairs determined quickly. Depending on the body shop selected for repairs, the money for repairs can be passed to you or directly to the body shop at the time repairs occur. In this scenario, the timeframe is controlled by the scheduling of inspection, repairs, receipt of

money for repairs, and your personal schedule. You will be the person to take the car to get inspected and repaired.

A vehicle that has damage that requires it be towed from the scene can take up to two months. The vehicle will need to be inspected by the insurance company, but the schedule is dependent on when the tow yard is open for business each day. If the vehicle can be repaired, you will need to select a body shop or use a body shop suggested by the insurance company. The body shop or insurance company can arrange to have the vehicle towed to the body shop and repairs can begin. The time can vary depending on the repairs themselves—the parts required, paint, body work. Moreover, the body shop may find more damage in a detailed inspection, which will require approval from the insurance company. This request for more money for repairs is handled by the body shop. While your vehicle is being repaired, the insurance company should offer you a rental car. In this scenario, the timeframe is controlled by the body shop's schedule for repairs and the extent of repairs required to get your vehicle back in order.



QUICK TIP

You will need to keep in contact with the repair shop on status of repairs, parts, and any supplemental repairs on your vehicle.



FAQ (pg 45)

Do I have to use the insurance-suggested body shop for repairs?

A vehicle towed from the scene due to extensive damage can also take up to two months. The vehicle will need to be inspected by the insurance company at the tow yard. The insurance inspector will determine if the vehicle is a total loss and notify you. When the vehicle is a total loss, you will need to remove all your belonging from the vehicle and release the vehicle to the insurance company. Most tow yards require you to personally appear with proper identification to release the vehicle. This can be difficult as you have no transportation (because your vehicle is in the tow yard) and you may be dealing with injuries. After its inspection, the insurance company will present you with the value of your vehicle, tax and title included. The insurance company has documentation on how it valued your vehicle and you are entitled to a copy. The total loss department with the insurance company will require you sign certain documents to receive the vehicle title from the State of Texas before they will send a check for the value of your vehicle. This process can take time due to mailing the original signature documents, and then the insurance company mailing the check back to you. Some insurance companies provide express shipping labels, but it is not required under law of Texas.



FAQ (pg 47)

What if I want to keep my car after it's declared a total loss?

FAQ (pg 47)

Why can't I have a rental car after my car is a total loss?

WILL HIRING A LAWYER MAKE IT GO FASTER?

The property damage claim may go quicker with a lawyer because a majority of the property damage claim is scheduling and coordinating through phone calls. A lawyer's office is available all day to make and receive calls on your property damage claim, which can make scheduling inspections, towing, rental cars, and repairs move quickly. Additionally, the lawyer's office is equipped to receive documents on your behalf (like through a fax machine) and get them returned to their destination to reduce lag time on vehicle payments.



NOTE

Some lawyers' offices do not handle property damage claims and/or may require payment to handle property damage claims. Larrick Law Firm PC handles property damage claims for clients for free—meaning no attorney fee is charged for this service.

BODILY INJURY CLAIM

The bodily injury claim can take one month to two years—and possibly more time if a lawsuit is filed. The bodily injury claim cannot be completed until you have completed medical treatment and the insurance company has all the information and documentation to evaluate.

Because of the wide variety of injuries that can come from a car wreck, it is difficult to give a solid estimate on time frame. A good guideline would be to add four to six months after you completed medical care. However, there are people who have injuries and medical treatment which can last years or permanently; in this scenario, you can expect to add time.

One of the most important pieces to a bodily injury claim is the medical treatment and the future need for medical care. Both of these items revolve around medical records and medical doctors. The coordination of receiving documents which show medical treatment and future need for medical care can take time. It is dependent on the medical injury.

WILL HIRING A LAWYER MAKE IT GO FASTER?

The bodily injury claim again is dependent on the extent of injury and medical treatment. However, a lawyer's office will know the information and medical documentation needed to help and finalize your bodily injury claim. A lawyer's office will know where and how to get the medical documentation to support your bodily injury claim. This knowledge gap can quicken the time to handle your bodily injury claim.

CAUTION: As shown by the famous Aesop Fable *The Hare and the Tortoise*, faster isn't necessarily better.

You only have one body and because of that, it's important to make sure your body is medically better (i.e. cleared by a

medical professional) before attempting to resolve your bodily injury claim. If the injury is permanent or long-lasting, you will want future medical costs included in your bodily injury claim and ultimately the settlement. The insurance company is not concerned about your medical issues in the future.

CHAPTER 3

WHAT IS COVERED IN MY CLAIM AGAINST THE INSURANCE COMPANY?

FIRST GUIDELINE QUESTION: IS THE DAMAGE/INJURY FROM THE CAR WRECK?

The insurance company won't pay for unrelated hail damage repairs from a storm that happened six days or six months ago. Likewise, the insurance company will refuse to pay for medical treatment for a heart attack you have three months after a wreck unless a medical professional can link the cause of the heart attack to the wreck.

SECOND GUIDELINE QUESTION: DO YOU HAVE PROOF OF THE CONNECTION TO THE CAR WRECK?

You need documentation to link the damage to the car wreck.

POSSIBLE THINGS COVERED IN A PROPERTY DAMAGE CLAIM:

Damages to your vehicle

The damage is assessed through an insurance inspector and a body shop.

Damages to personal property like cell phones, laptops, car seats, or other property

The damage will need to be documented through photographs or repair estimates.

The amount paid can be replacement cost minus diminished value or replacement cost; this varies depending on the item.

Damage to helmets, jackets, and boots if damaged in a motorcycle collision

The damage will need to be documented through photographs or repair estimates.

The amount paid can be replacement cost minus diminished value or replacement cost; this varies depending on the item.

Rental car during repairs to your vehicle

Typically, the rental car offered by the insurance company is a compact vehicle. The rental car should match your vehicle and your needs. You will have to request a rental car that meets your needs from the insurance company. For example, a mother of three who drove a mini-van should request a vehicle that can fit three kids (including car seats).

Fair market value of your vehicle, if decided your vehicle is a total loss

Fair market value is determined by comparing your vehicle to similar or same vehicles for sale in the local area (50- to 100-mile radius). The guideline: What would a person pay you for your vehicle the minute before the collision? The insurance companies do not use Kelly Blue Book or NADA to value your vehicle.

PLEASE NOTE: What is **NOT** covered:

- The money difference between the cost of your car and the new vehicle
- The cost of a rental car while you look for a new car
- The money it takes to pay off your car loan if you owe more than it was worth

BODILY INJURY CLAIM

Typically, the insurance company will ask you about medical expenses (bills, prescription costs, medical equipment) and lost time from work. There will be a sum of money offered for “pain and suffering” which is intended for physical pain and mental anguish (stress/worry/frustration/inconvenience).

This is a list of categories from an official Texas jury instruction—meaning this is what you could ask the jury to allow or give you should your car wreck go to a lawsuit and then to a jury trial.¹ The jury would decide the amount of money for each category. This just one list; there are other lists an official Texas jury instruction can provide. For example, if a person dies as a result of a car wreck, there is a different list of categories.

1

Texas Pattern Jury Charges at No. 28.3 (2018 edition).

CATEGORIES FOR A BODILY INJURY CLAIM

- Medical care expenses—meaning bills from doctors, hospitals, medical treatment received, prescription costs, and medical equipment
- Medical care expenses expected in the future
- Lost earning capacity—meaning due to your injury you cannot earn as much money as you did before because of a new limitation. This also includes lost wages from time you missed work due to injuries and/or time at doctor visits or medical treatment.
- Physical pain from your injuries— experienced in the past and reasonably expected in the future
- Physical impairment—meaning the physical limitations from the injuries related to household chores, hobbies, social activities, household errands, family responsibilities, and other items outside of work duties
- Mental anguish—experienced in the past and reasonably expected in the future—which encompasses the stress, frustration, worry, anxiety and inconvenience you may experience after a car wreck
- Disfigurement—from scarring, limp, or loss of limb to your body

The proof for the bodily injury claim comes in the form of medical records, receipts of payments for bills and prescriptions, pay check stubs, or letters from employers/doctors. See Chapter 5 for details.

CHAPTER 4

WHAT IS THE VALUE OF MY CAR WRECK INJURY CLAIM?

(AND HOW DOES THE INSURANCE COMPANY VALUE A CAR WRECK INJURY CLAIM?)

This is probably the most difficult question a person faces when they have a car wreck injury claim. Why? The property damage claim is tailored around clear facts for costs of repairs and fair market value of vehicles similar to yours. The injury claim does have “black and white” numbers of medical bills, medical expenses, and lost wages from work. However, the more important number is the amount of money for the pain and suffering. This is the amount of money for the physical pain experienced, the time spent on the phone with the insurance company or in a doctor’s office, the time missed from family activities or social activities, and the stress of dealing with all the added claim-related tasks.

One guiding factor for settlement amounts that is rarely considered but critical is insurance policy limits or policy

minimums. Texas law only requires automobile liability insurance to cover \$30,000 per person and \$60,000 in total. This means a car wreck could cause you \$100,000 in medical bills but the total settlement you could be offered is \$30,000 for the car wreck injury claim because that's the full amount of the insurance policy. Many folks ask, "Well then, can't you just go after the person individually?" You can, but the likelihood of actually recovering any money from that person is very slim, if not impossible. To complicate this settlement limitation, the insurance company is not required to tell you the amount of the policy and is only required to tell you the amount of the policy after a lawsuit is filed.

First, let's be clear that there is no amount of money a person would exchange to intentionally be in a car wreck. (I am sure there is someone who wants to be the exception to this rule; if that's you, congratulations, but most would say "No, thank you.") If someone offered you \$5,000 to go sit in a car and be rear-ended at 10 mph, would you do it? There is no guarantee as to the type of injuries your body will suffer, or medical bills and treatment required to fix the injuries, or the amount of time it will take to recover from any injuries. You might, in fact, not get injured at all—but there is no guarantee what could occur after this 10 mph rear-end car wreck. All that is guaranteed is \$5,000, a sum that might not even come close to covering the cost of damages.

Second, car wrecks can cause a variety of injuries to a person's body, dependent on age, gender, body type, type of collision, and previous medical health. The car wreck injury claim value should be measured with the severity of the injury and impact to the person's life. The more severe the injury and disruption to the person's life, the higher the value. The impact to a person's life is unique and can best be described by the person who experienced it.

Third, you are your best advocate. The insurance company does not and will not try to add value to your claim. As stated in Chapter 3, you need to have proof or documentation for your claim, which includes proof for an injury claim. The more information and documentation you can give to the insurance company about the injury claim and its impact on your life, the better off you are.

WHAT IS THE REAL VALUE OF MY CAR WRECK INJURY CLAIM?

Again, there is no hard-and-fast rule, as there are many factors, but here's a simple way to visualize the information and pick a value you can support when you talk with the bodily injury claim representative or adjuster: Make a list of the "hard" numbers—the medical bills, lost wages, receipts for prescriptions, or over-the-counter medication—and then look at the time you have spent dealing with physical pain from the injuries, the time you had to take off work due to the injuries, the time spent at doctor's appointments or therapy visits. Finally, make a list of events you missed (think of family events, social events, work-related events), trips or vacations missed, chores you couldn't do, and help you had to ask for.

HOW DOES THE INSURANCE COMPANY VALUE A CAR WRECK INJURY CLAIM?

Short answer: Very differently from you.

The insurance companies will gather the medical documentation—bills and records—and put the information in a computer program. The information will be the CPT codes or ICD 9/10 codes which medical providers use to signal the type and nature of injuries and/or treatment. The computer program has detailed formulas which place value on the information and give insurance companies a value to assign to your car wreck claim.

Additionally, the insurance company will run a price comparison on your medical bills with other medical pricing to determine if your medical bills are reasonable and customary for the geographic area. Insurance companies will adjust your bills based on their own pricing, meaning they will lower the amount of money offered for your medical bills if they see prices are lower in the geographic area.

The insurance companies do not use a “multiplier” method, which means to take the total sum of medical bills and multiply by 3 or by 2 or by 5.

The insurance companies do not place any value on filing or not filing a lawsuit, meaning it is a useless fact when they are deciding the value of your injury claim.

The value assigned to your car wreck claim is measured and calculated by detailed formulas of computer software systems, which rarely allow for insurance adjusters to modify.

Real life example from a letter written from Allstate Insurance about its computer program used to “code” your bodily injury claim:

One of the tools that our claim personnel may use in evaluating your claim is a computer program known as Colossus, licensed by Computer Sciences Corporation. Colossus uses a broad range of information about your injury, treatment, and prognosis to determine the severity of your injury. Based on this information, Colossus makes a recommendation as to the value of your injury. The Colossus recommendation is only one factor among many that our adjusters consider in reaching a decision as to overall evaluation of the claim. It is their goal to reach that decision promptly, fairly, and based on an appropriate investigation of the facts and circumstances of your claim.

CHAPTER 5

HOW DO I SETTLE AND GET PAID ON MY CAR WRECK INJURY CLAIM?

(HOW DOES THE LAWYER GET PAID?)

So you finished medical treatment for your car wreck injuries—CONGRATS! Life may get back to normal or a new normal. But where does that leave you with the insurance company? Likely you have received calls and letters from the insurance adjuster seeking status on treatment and injuries. The insurance adjuster will not make a settlement offer until you complete medical treatment but wants to keep documenting their file along the way.

Now, you will need to gather your medical bills and medical records, prescription receipts, and lost wages documents. You will also need any documents, including personal notes and photographs of scars/bruising, that reflect problems that occurred due to your injuries. This may take some time, as you will need to go to each doctor or hospital to request the medical bills and records. As a patient, you have the right under federal

HIPAA laws to request and receive your protected health information without hassle or a large cost.



FAQ (pg 47)

How do I get a copy of my medical records?

Once you have all the documents, write out a demand letter to the insurance adjuster. The demand letter should include a timeline of medical treatment, a list of your injuries, a list of your bills, a list of days missed from work, and a general description of the problems you had from the car wreck injuries. The demand letter should include an amount of money you “demand” to settle the car wreck claim and a deadline for the insurance adjuster to respond. I would suggest a 14-business-day deadline, as this will allow for mailing and processing by the insurance company.

The demand letter and all your documents (medical records, medical bills, lost wages, photographs) should be mailed certified postage to the insurance adjuster. You want to be able to track when they receive your demand package and have proof they received your demand package.

Finally, you made it! You finished your medical treatment, the insurance adjuster got all the information, and they **MADE AN OFFER!** Congrats! The offer may be less than thrilling, which you know from Chapter 4, but don’t let that discourage you. This begins the negotiation phase with the insurance adjuster. The insurance adjuster does not give the best settlement offer on the first exchange. You will need to enter conversations with

the insurance adjuster to exchange settlement numbers and ask the insurance adjuster to increase their offer. The exchange of settlement numbers means you decrease your demand number and the insurance adjuster increases their settlement offer. The negotiation conversation can happen all in one phone call or can occur over several phone calls. Get all offers from the insurance company in writing, and then compare the offer amount with the medical bills and lost time from work numbers.

At some point, the insurance adjuster will give you the best settlement offer they have. You will then be faced with the decision to accept the settlement offer, file a lawsuit, or drop the claim. Only you can make the choice. The insurance adjuster will not provide accurate or helpful information. Why? Their job is to settle claims as quickly and as cheaply as possible in order to save the insurance company money. You have time to consider an offer, as long as you remember the two-year deadline to file a lawsuit in Texas for injury claims.



SETTLEMENT QUESTION CHECKLIST

(pg 48)

TO ACCEPT THE SETTLEMENT OFFER

To accept the settlement offer, the insurance company will require a signed release from you before payment will be issued. The release is usually a one- to two-page document that describes all the claims you are giving up or ending in exchange for a stated sum of money. The release includes an indemnification clause where you cannot hold the insurance

company responsible to pay for future medical treatment or injuries that may occur. The release makes it clear that you are responsible for your medical bills and the insurance company is not responsible for them. Further, should any bill collectors come to the insurance company, it won't pay the bills. After reading and signing the release, you return it to the insurance adjuster and a check will be mailed to you.

WHO PAYS THE MEDICAL BILLS?

The insurance adjuster may offer to pay the medical providers directly for any bills. If a hospital has filed a lien (a legal hold), the insurance adjuster must cut a check payable to the hospital. There are three possible approaches:

- A. You get all the settlement funds and you pay medical providers directly. You will have proof of payment for those bills.
- B. You have the insurance company cut checks and mail checks directly to medical providers.
- C. You have the insurance company cut checks payable to providers but ask all the checks be mailed to you, and then you take the checks directly to the medical providers.

The main concern should be getting the bill paid and getting proof of payment. Avoiding debt collection and credit score issues is the main goal of proof of payment. The insurance company does not care about your credit score or the collection calls/letters you may be receiving.

TO REFUSE THE SETTLEMENT OFFER AND FILE A LAWSUIT

If choose to reject the settlement offer, you can file a lawsuit against the other driver for the car wreck injury claim. There is no requirement in Texas to have a lawyer when filing a lawsuit.

There are several rules about how to file a lawsuit, what court to file a lawsuit in, and what must be included in a lawsuit. This information can be found in Texas Rules of Civil Procedure and Texas statutes. The Texas Rules of Civil Procedure and Texas Statutes are available online for free and are available at Texas public libraries. Most courthouses have a law library that is open to the public.

The lawsuit is called petition in Texas state courts. The petition will include basic facts of what happened and your claims (which is what you want compensation for, including medical bills, future medical care, lost wages, etc.). The petition is filed with the court clerk at the courthouse. Lawyers in Texas are required to file petitions electronically with the court clerk.

The lawsuit will preserve your car wreck injury claim against the two-year statute of limitations, also known as the deadline to make a claim.

TO REFUSE THE SETTLEMENT OFFER AND DROP THE CLAIM

While not a solid monetary option, as you don't receive any payment for medical bills or lost wages, it is an option to just drop the claim entirely. Just because you open a claim with the insurance company does not mean you are required to complete the claim. Before dropping the claim, you should consider all your expenses, including medical, time or, otherwise, and then advantages/disadvantages of completing/settling the claim. Again, you have two years from the date of the car wreck to make a claim and complete the claim. If you do not file a lawsuit at the end of two years, you cannot make a claim or receive payment from a claim.

HOW DOES THE LAWYER GET PAID?

In accordance with a written and signed agreement, the lawyer is paid from the settlement funds. Normally, the lawyer is paid a percentage of the total settlement amount and paid any expenses the lawyer had to pursue your injury claim.

For example, if you settle for \$20,000 and the written signed agreement says lawyer fees are at 33.33 percent, the lawyer will be paid \$6,666.00 in lawyer fees.

One of the details about lawyer's fees: the lawyer fees are subtracted from the settlement amount BEFORE any amount is paid for your medical bills or given to you.

In the state of Texas, the lawyer you hired must give you a full accounting of the settlement funds, meaning the lawyer must tell you where every penny goes. This includes a detailed list of expenses the lawyer has from pursuing your injury claim.

In keeping with our example: If you settle for \$20,000 and the written signed agreement says lawyer fees are 33.33 percent, the lawyer will be paid \$6,666.00 and will deduct \$352.78 in expenses.

\$20,000.00

-\$6,666.00 Lawyer Fee

-\$352.78 Lawyer Expenses

-Your Medical bills, if any

TOTAL TO YOU: _____

CONCLUSION

At this point, hopefully, you have learned some basic information about car wreck claims and can navigate a car wreck insurance claim with an insurance company. The Guidebook is not the complete sum of all information on car wreck insurance claims, but is intended to help you get started and give you tools and knowledge the insurance company won't.

Remember a car wreck claim does not require a lawyer. You can handle your own car wreck claim, or you can choose to hire a lawyer to handle the claim; the choice is yours.

FREQUENTLY ASKED QUESTIONS

Why won't the insurance adjuster return my call?

It's not their job to push your claim. Their job is to handle the claim at a pace set by the insurance company, which usually is slower than the pace you (the person without a car and/or the person hurt) would want.

Should I give a recorded statement to the insurance company?

Let's start with a better question: Do you have to give a recorded statement?

There is no Texas law or statute that requires a person in a car collision give a recorded statement as part of an insurance claim process. Now, you may be told a recorded statement is required to process your claim—but, again, this is a tool for their own investigation.

It's a tool for the insurance company's own benefit and records. It's used to determine what they will do with your claim. You don't get to ask any questions, only give responses. You aren't likely to get a copy of the recording.

Basically, a recorded statement is not in your best interest; it is in the insurance company's best interest. In my experience,

the recorded statements are used to limit decisions on paying car repairs and medical bills, even when police reports may clearly state who is “at fault.”

Why won’t the insurance company pay my hospital bill now?

The insurance company does a one-time settlement with you for all medical bills, lost wages, and pain/suffering after all medical care is completed. It will not pay one bill at a time, and it will not provide pre-payment for future medical appointments/testing.

Do I have to use the insurance company’s recommended body shop to repair my vehicle?

No. You may choose the body shop of your choice.

The Texas Department of Insurance provides a Consumer Bill of Rights for personal automobile insurance that insurance companies must give you a copy when they issue you a policy. The Consumer Bill of Rights states in part:

*CHOICE OF REPAIR SHOP AND REPLACEMENT PARTS. **You have the right to choose the repair shop and replacement parts for your vehicle.** An insurance company may not specify the brand, type, kind, age, vendor, supplier, or condition of parts or products used to repair Your automobile. The insurance company must provide you notice of the above requirements as follows:*

- Claims submitted by telephone—written notice within three business days or immediate verbal notice, followed by written notice within 15 days
- Claims submitted in person—immediate written notice at the time you present your vehicle to an insurer or an insurance adjuster or other person in connection with a claim for damage repair

- Claims submitted in writing—written notice must be provided within three business days of the insurance company’s receipt of the notice

Want to learn more Texas Department of Insurance and the information they offer for your personal automobile insurance? Visit the Texas Department of Insurance website at www.tdi.texas.gov.

Should I sign a medical authorization for the insurance company?

That depends. If you can sign a medical authorization limited in time, limited in medical providers, and limited to only the body parts injured—then yes, sign one. This type of limited medical authorization is not offered by the insurance company.

The insurance company requests a blanket medical authorization which can allow it to request and receive any protected health information about you from your medical providers. It is not necessary to sign a blanket medical authorization to process your car wreck injury claim. It can be dangerous to allow an insurance company open access to your protected health information because it can be re-disseminated into multiple systems and multiple companies beyond the use that is necessary for your car wreck claim.

Along those same lines, the insurance company medical authorization rarely expires and requires you to write each medical provider and cancel the medical authorization.

The adjuster said my doctor was wrong or charged too much; can they do that?

Yes. However, this does not mean they are correct in their assessment. Insurance companies have access to national databases that give medical pricing. You can request the adjuster provide what price they have and then you can go

Speak to your medical provider about the differences. Your medical provider can give information about their pricing guideline to help you.

Why can't I have a rental car after my car is destroyed in a wreck?

If your car is determined to be a total loss, the insurance company is only required, under Texas law, to pay you for the fair market value of the vehicle, tax, title, and registration. A rental car is not required in this situation. Some insurance companies may offer a rental car for the first few days after a crash, but once the insurance company determines the vehicle is a total loss, it will end the rental car.

What if I want to keep my car after it is declared a total loss?

You can do this. You will need to notify the insurance company and they will modify the offer. The insurance company will subtract the car's salvage value from the amount it was planning to pay you. The car also may be issued a salvage title. After it's repaired, you'll need to get a new title from the Texas Department of Motor Vehicles before you can drive it. Be aware that a vehicle that had a salvage title could be harder to sell or cost more for insurance in the future.

How do I get a copy of my medical records?

As a patient, you are allowed to directly request your protected health information, medical records, and medical bills from medical providers. The direct request route is protected and governed by Texas law and federal law. You cannot be denied a copy of your own medical records and bills. Contact your provider directly or visit their website to find the process. Medical providers may require a written request, copy of your driver's license or a record release authorization to be signed.

SETTLEMENT QUESTION CHECKLIST

Here's a list of some questions you should be able to answer BEFORE accepting a settlement from an insurance company:

1. Does the amount of money cover all the medical bills and expenses?

a. Oftentimes, one trip to a medical provider can involve three separate bills (radiology, physician charges, labs, etc.). Be sure to call to find all medical bills so you can check that the settlement offer covers all the medical bills.

2. Is the settlement offer in writing?

a. Be wary of offers only made by telephone call. Ask to have the offer put in writing.

3. Is there a written release?

a. All offers will require some form of release, be sure to get it in writing so you can review in details all the claims you are releasing by taking a settlement offer.

4. Do you know where the settlement check is going? Is it payable only to you? Is the insurance company paying medical providers directly?

a. The medical bills are your responsibility to pay and failure to pay timely or in full can impact your credit score. Be sure to ask for proof of payment or ask for settlement funds so you can pay medical providers directly.

5. Is this a point in time where you are reasonably certain that the medical treatment for your injuries is completed?

a. CAUTION: Do not settle too early. In Texas, you have two years to make a claim.

ABOUT ELIZABETH LARRICK

Elizabeth Larrick is a lawyer who helps people with car wreck claims. She is a first-generation lawyer, meaning no one else in her family is or was a lawyer. Growing up she experienced many situations in her life that involved lawyers—including criminal lawyers and divorce lawyers. The situations were not pleasant and always seemed overly complicated with hard-to-understand rules. In high school, she decided to pursue a career as a lawyer. In college, she worked as an unpaid intern with the Denton County District Attorney's office and then as a legal assistant in a criminal defense lawyer's office. She continued to see the disconnect between the lawyers and the people actually involved in the situations. But she also saw hope. She met lawyers who worked to communicate with clients and resolve the confusion; and lawyers who pushed to help clients get a new start in life, working to help them on a personal level, not just a professional one. This hope guided her to decide to work in the courtroom to represent people—not corporations or the government—and to be a trial lawyer and work with juries, the people assembled to decide the fate of disputes in personal injury lawsuits. Most importantly, Elizabeth believes a lawyer should listen first and help second.

WA

CAR WRECK CLAIM GUIDEBOOK

QUICK INFORMATION TO
GET YOUR CLAIM MOVING



Not every car wreck needs a lawyer! But everyone can use more information on car wreck claims. The Guidebook is not the complete sum of all information on car wreck insurance claims, but is intended to help you get started and give you tools and knowledge the insurance company won't.

Do I need to hire a lawyer?
When do I call the insurance company?
What is the value of my car wreck?
How do I start an insurance claim?

Inside are answers to these and many other critical questions relating to your Car Wreck Claim. Trial Lawyer Elizabeth Larrick has written a well organized, easy to follow text that includes real life case stories along with clear and concise information that can save you from a tragic mistake that can cost you dearly.



"Immediately after a car wreck, the bodily injury adjuster may try to offer a quick sum of money (typically \$500-\$750) to settle the bodily injury claim without knowing the full extent of medical bills or injuries. This is not to your benefit, but their own. After you sign a release, you cannot come back and ask for bills to be paid."

Elizabeth Larrick's Guidebook is intended to help you, your friends, your family—or anyone who is battling insurance companies to fix their car or pay their doctor bills!

\$16.95

WA WORD ASSOCIATION
PUBLISHERS

www.wordassociation.com
1.800.827.7903
Tarentum, Pennsylvania

