

ABOUT YOUR VEHICLE DAMAGE CLAIM

Section I Introduction

When you are injured in an automobile accident and the other driver is at fault, your personal injury claim is handled separate from your vehicle damage claim. While your personal injury claim can take months to settle and requires the expertise of an attorney, you can usually resolve your vehicle damage claim in a short amount of time. Dealing with an insurance company can seem intimidating, but in fact, insurance companies wish to dispose of vehicle damage claims as soon as possible. You know your car better than anyone. That's why, in most cases, with the following information, you can quickly and fairly settle your vehicle damage claim on your own. This booklet answers the most commonly asked questions by non-lawyers who handle their own vehicle damage claims. You do not have to do it completely alone. You should be guided by the instructions of your lawyer throughout your case.

Section II Dealing with Insurance Companies

Q: Do I have to wait until my personal injury claim is settled to resolve my vehicle damage claim?

A: No. In most cases the vehicle, or property damage ("P.D.") claim is settled within a few weeks of the accident.

Q: Is there any reason for me to delay settling my vehicle damage claim?

A: Usually not. Delaying settlement can result in unnecessary storage fees, depreciating car values, increasing repair costs, and the possibility of additional damage unrelated to the accident which may give the insurance company an excuse not to pay you. It is also your duty to mitigate, or minimize your loss. For example, just because your car is damaged doesn't mean you can stay home from work and claim lost earnings. You must take the initiative to resolve the vehicle damage claim.

Q: Should I use my own collision coverage?

A: Yes. Your insurance company has a duty to deal with you fairly and in good faith. Your collision coverage is a quick way of getting your car repaired. You will have to pay the deductible, but your insurance company will pursue the responsible driver's insurance company to recover the collision

payment for itself and the deductible for you.

Q: How does the deductible work?

A: The deductible is the amount you will have to pay toward the cost of repairs. The higher the deductible, the smaller your insurance premiums.

Q: Won't my rates go up if I use my own insurance coverage?

A: No. Under most state laws your insurance company cannot raise your rates, or cancel your coverage for making a claim that is not your fault.

Q: Can I settle with both my insurance company and the other driver or his insurance company for the same vehicle damage?

A: No. If the other driver or his insurance company pays you for your damages after your own company has paid you, you are obligated to return the insurance money to your insurer.

Q: What if I don't have collision coverage?

A: If you are not at fault for the accident the responsible driver's liability insurance coverage should pay for your vehicle damage. You are still obligated to report the details of the accident to your insurance company.

Q: With whom will I be working?

A: A property damage adjuster, or appraiser from the claims office of either your insurance company, or the insurance company of the responsible driver. You will be given a claim number and directions on where and when your car will be inspected.

Q: Should I give the insurance company a recorded or written statement of the facts of the accident?

A: No, if you are dealing with the other driver's insurance company. If you are dealing with your own insurance company you may be obligated under your policy to give a statement, but request a copy of any statement given. In either situation, do not discuss the specifics of your personal injuries. Simply advise the insurance company that your attorneys are handling that portion of your claim and refer questions regarding your injuries and treatment to your counsel.

Q: What if the responsible driver is uninsured and I don't have collision coverage?

A: Contact your state's department of motor vehicles. Some states have laws providing for the suspension of the uninsured at-fault party's driving privileges until your vehicle damage claim is paid.

Section III
Repairable Damage

Q: How much will the insurance company pay?

A: In most cases, the insurance company's limit of liability for damage to a vehicle will be the lesser of the actual cash value ("A.C.V. ") of the car or the amount necessary to repair it.

Q: Can I have my car repaired first and then request payment from the insurance company?

A: No. Do not have your car fixed without first giving the insurance company an opportunity to assess the damage, take photos and authorize the repairs.

Q: How do I obtain a repair estimate?

A: If your car is driveable many insurance companies have drive-through facilities to appraise the damage while you wait. The insurance company representative will advise you where to take your car or a repair estimate. Some insurance companies require you to get two or three competitive estimates from body shops.

Q: What if my car is not driveable?

A: If your vehicle was towed from the scene, the appraisal can be done at the tow yard, body shop, or at home.

Q: How long will it take for the insurance company to have my car appraised?

A: From a few days to a few weeks depending on the particular insurance company, when the accident is reported and whether liability has been accepted.

Q: Will new parts be used to repair my vehicle?

A: Generally, you are entitled to have your car repaired to a condition as good as it was just before the accident. Bear in mind that unless your car is brand new it's full of used parts. This may mean that used, "like, kind, and quality"("L.K.Q.") parts may be installed.

Q: Can I make the insurance company paint my whole car?

A: No. If only part of your car was damaged, you are not owed an entire paint job. Most shops can match the color of your car accurately, even if it has faded. The body shop will try for a better match by polishing your old paint, but sometimes old and new paint cannot be made to shine the same. You may have to live with it, or pay for the rest of the paint job on your own.

Q: Will the new paint meet factory standards?

A: Body shop paint cannot be applied in the same manner as factory paint so it is never quite as durable. Still, regular care with a high quality wax or polish can keep it looking good for years. You should remind the body shop to use the same chip-resistant paint used by the factory on bumpers and lower body panels.

Q: How will I be paid for my car repairs?

A: The insurance company will issue a check payable to you and the body shop.

Q: Should I have minor damage repaired?

A: Yes. Letting your car go unrepaired can cost you in the long run. Dents and rust spots deduct from the resale or trade-in value of your car.

Q: The repair estimate from the insurance company has amounts deducted from repair items labeled "betterment" or "condition adjustment." What does this mean?

A: These are simply different terms for "depreciation." The insurance company only owes you for items of the same condition as the ones damaged in the accident. If your tires, brake shoes, or other worn items must be replaced with new items, the insurance company is entitled to withhold the difference in value between new and worn items.

Q: Does the insurance company owe m for the whole repair even though part of the car was damaged before the accident?

A: Probably not Insurance appraisers get special training in detecting pre-existing damage. The insurance company may have the right to deduct the estimated cost of repairing prior damage.

Q: Can I choose where my car will be repaired?

A: Yes, but make sure the body shop is reputable and agrees with the insurance company's estimate for repairs. There may be advantages to having your car repaired at a body shop recommended by the insurance company, for example, supplemental repairs for hidden damage are usually approved quickly.

Q: What happens if hidden damage is later discovered?

A: If the body shop finds additional damage that may be from the accident, the repairer should contact the insurance company for approval. After the appraiser approves the changes from the original estimate, a supplemental check will be issued. Of course, the insurance company can't be expected to pay for damage that existed before the accident

Q: What about mechanical damage?

A: In some situations it is difficult to know the real cause of mechanical problems until the unit is

disassembled. It is usually your responsibility to pay for the disassembly. If the mechanical damage is shown to be accident-related, the insurance company should pay for it and reimburse you for the disassembly.

Q: What if I'm not satisfied with the repairs?

A: You have the right to have the details attended to. Do not endorse the settlement check or sign a release until the repairs are done to your complete satisfaction.

Q: Even though it looks repaired everyone tells me my car will never be the same. Shouldn't I just trade it in?

A: That is up to you. You are owed a repair which returns your non-totaled car to its pre-accident condition. Modern body repair technology is usually equal to the task. The old "my car will never be the same" complaint is pretty much a myth these days. In fact, it is not uncommon to discover for the first time during repairs of a used car that it was involved in a prior collision.

Section IV
Total Loss

Q: Can I force the insurance company to replace my car?

A: No. The insurance company determines whether the car is "totaled."

Q: How does the insurance company determine a total loss?

A: The insurance company considers the vehicle's actual cash value, the expense of repairing visible damage, the likelihood of hidden damage and the cost of providing a temporary rental car. Most companies will declare the vehicle a total loss when the initial repair estimate is about 80 percent of the actual cash value of the car. They usually prefer to pay the claim in one quick stroke than to risk ongoing or unexpected expenses which may exceed the actual cash value of the vehicle.

Q: If my car is "totaled" am I entitled to the price of a new car?

A: No. You are entitled to the actual cash value of your car just prior to the collision. A few insurance companies offer "replacement" or "repair cost" collision coverage which will replace your car with a brand new one, or repair your car even if the cost exceeds the actual cash value.

Q: How is actual cash value determined?

A: Insurance companies have access to computer data records of comparable sales of vehicles

similar to yours (same year, make, model, options, condition, and mileage). Once you have checked (1) classified ads in the newspaper; (2) Blue Book—contact your bank or credit union; (3) car dealers; (4) Auto Trader magazine—available at most convenience stores; you should have a pretty good idea of the range of value for your car. The amount you settle for is negotiable within this range.

Q: My car is not just old; it's a genuine restored classic. Now what?

A: You may have to pay an independent certified appraiser to evaluate your car. The insurance company should honor the appraisal and reimburse you.

Q: My car had a lot of sentimental value. Doesn't that count for something?

A: Insurance companies know from handling thousands of claims that people get attached to their vehicles. Unfortunately, they cannot pay for memories and other intangibles. The actual cash value of a car can only be based on sales of similar vehicles.

Q: How will I be paid for my car's total loss?

A: The insurance company will issue a check payable to you and the lienholder, i.e., bank. You will need to sign the title of your car over to the insurance company.

Q: Is my car worth more because I just replaced the tires or had it painted?

A: Probably not. Upkeep of your vehicle generally helps to only maintain its value not increase it. Be sure to advise the insurance representative of any recent major expenses.

Q: Do I need to make my car payment and my insurance payment if my car has been "totaled?"

A: Probably not, but make sure you advise your bank and insurance company of the situation. If you are in a temporary rental car you will need to continue making your insurance payment.

Q: If my car is "totaled," am I entitled to sales tax and registration fees in addition to actual cash value?

A: Yes.

Q: My car is "totaled," but I want to keep it. Can I?

A: Yes, but you will be paid actual cash value less salvage value.

Q: What is salvage value?

A: The amount a salvage yard is willing to pay for your wrecked vehicle.

Q: What if I owe more than the actual cash value of my car?

A: This unfortunate circumstance is called "upside down" and generally happens on older used vehicles which have been purchased on a finance plan. Often, as a trade-off for being allowed to make payments, the customer has paid more than the car is worth. The insurance company is not obligated to pay more than the actual cash value of the car in spite of the amount owed the finance company.

Q: Is it possible to avoid owing money to the bank on my "totaled" car when I'm upside down?

A: Sometimes lenders will allow a "substitution of collateral," and some body shops will agree to repair a "totaled" vehicle for the amount paid by the insurance company.

Q: What is "substitution of collateral?"

A: Some lenders will accept an essentially comparable vehicle as collateral on your existing loan and let you finish paying off the loan. This arrangement requires close cooperation among the lender, dealership, insurance company, and you. It is up to you to propose this solution to your lender and to find a replacement car which matches the one "totaled."

Q: How can I get my "totaled" vehicle fixed if I owe more than its worth?

A: The insurance company won't pay for repairs on a "totaled" vehicle even though the damage may be 100 percent repairable. In such a case, some body shops will agree to repair the vehicle for the available insurance money. Since the lender's name will also be on the check, its representative may need to inspect and approve the repairs before signing the check over to the shop. In this instance, the insurance company is not responsible for hidden damage or a rental while the car is being repaired since it is technically paying off a "totalloss." Remember, this option comes with no guarantees and is undertaken at your own risk.

Section V
Towing and Rental

Q: What about charges for towing and reasonable storage?

A: The insurance company should reimburse you for these expenses.

Q: My car was towed after the accident. How do I retrieve my personal items?

A: Most states regulate the towing industry and have rules regarding your right to visit your car to remove personal property. Contact the tow yard right away and find out what the rules are. Bring

your ID and something proving you are the registered owner to the tow yard during regular business hours to remove your personal items. Additional visits or after-hours visits may cost you, so it is best to get it done all at once.

Q: When am I entitled to a rental car?

A: If your car is not driveable, or as soon as your vehicle goes into the shop for repairs you can request a rental car from your insurance company if you have rental reimbursement coverage, or from the insurance company of the responsible driver. You must promptly return the rental car when the insurance company makes a reasonable offer for your total loss, or when the repairs to your damaged vehicle have been completed. You are usually not entitled to a rental car during disputes with the insurance company regarding repairs or actual cash value.

Q: What kind of rental car am I entitled to?

A: Basic transportation, nothing fancy. There are rental car companies that cater to the insurance market and offer low daily rates with unlimited mileage. You may be entitled to a specific type of rental car to accommodate your physical disabilities or job requirements.

Q: Do I need to purchase the extra insurance coverage suggested by the rental car company?

A: It depends on your insurance coverage. If you have full coverage in force on your own car you probably don't have to purchase the additional rental car coverage. If you don't have full coverage on your own vehicle you will need to pay for similar coverage on the rental car. You may not be reimbursed for this expense, so check with your insurance company first.

Q: What if the insurance company or responsible driver wants me to sign a release?

A: Most property damage claims are settled without a release. Don't finalize your property damage claim until all bills for towing, storage, rental, repair, or total loss have been paid. Any proposed release should refer to property damage only and not contain language releasing "all claims" or your "personal injury" claim." Be sure to let your attorney review any documents before you sign them.

Q: What if I have problems, or additional questions regarding my property damage?

A: Read your insurance policy. Some policies have mandatory arbitration provisions if you and the insurance company still disagree. There may also be laws governing arbitration of vehicle damage disputes. Your attorney can answer any questions you may have.

Section VI
Checklist

- ✓ Report accident to your insurance company.
- ✓ Remove personal items from towed vehicle.
- ✓ Review own policy regarding deductible and rental coverage.
- ✓ Determine whether to use your own coverage.
- ✓ Contact other driver's insurance company.
- ✓ Note adjuster's name and claim number.
- ✓ Make appointment for appraisal.
- ✓ If car not driveable, request a rental.
- ✓ Select body shop for repairs.
- ✓ When repairs complete return rental car.
- ✓ If car *totaled* determine actual cash value.
- ✓ If car *totaled* obtain title to sign over.
- ✓ When reasonable offer made for *total*, return rental car.
- ✓ Have your attorney review all proposed releases.

Section VII
Insurance Information

My insurance company _____

Policy number _____

Adjuster's name _____

Phone / extension _____

