

STRAIGHT ANSWERS

TO QUESTIONS ABOUT

AUTOMOBILE COLLISIONS
INSURANCE
& THE LAW



Attorneys Concentrating in Serious Injury and Wrongful Death

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The information contained in this pamphlet is general and should not be applied to specific legal problems without first consulting an attorney.

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Our law firm is Geiser, Bowman & McLafferty, LLC, and you may also know us as **GBM Law**. For more than thirty years, our law firm has been the champion for informing you and other Ohio crash victims of your legal rights. Every day, hundreds of us are involved in some sort of automobile collision. Some of these are very serious, resulting in life-changing injuries or death. In cases like these, GBM Law is experienced. We can help you get the justice that is owed to you by negligent drivers, insurance companies, and corporations.

Ohio averages more than 65,000 traffic collisions each year, with more than 1,000 fatalities and 18,000 injuries annually, according to the Ohio Department of Public Safety. Not all collisions or injuries require attorney representation. Often, armed with knowledge from this pamphlet and advice over the phone from a competent attorney, collision victims can recoup their automobile damage losses or settle claims for minor injuries. On the other hand, it is increasingly difficult to be adequately compensated for injuries resulting from automobile crashes, making legal service necessary to get a just result.

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Knowing your rights will enable you to make informed decisions when dealing with insurance companies, their lawyers and the claims adjusters whose job is to enhance company profits by paying you as little as possible.

I. AT THE ACCIDENT SCENE

Q. *I've just had an accident. What should I do?*

A. The first thing you must do if you are involved in an automobile accident is to stop. There is no excuse for not stopping, and in most states, hit and run offenses are felonies. Second, check each person to see if they have been hurt. Call the police and, if necessary, an ambulance. Help any injured people if possible. If anyone is seriously injured, do not attempt to move them by yourself, unless it is absolutely necessary to save them from further injury. Third, exchange information with the other driver and any passengers involved in the accident. Don't forget to get the names and addresses of any witnesses. For this third step, use the forms in the back of this booklet.

Q. *Should we move the cars?*

A. This depends on the severity of the accident. If it is a fender-bender at rush hour, and traffic is tied up all around you, move the cars. If there are any injuries or severe damage has been done to a car, leave them where they are and have someone direct traffic around them.

Q. *Do I have to prove that I was wearing a seat belt?*

A. In the state of Ohio, the law says you must wear a seat belt at all times. Make sure the police officer notes in the reopen that you were wearing your seat belt. If you noticed the other driver was not wearing a seat belt, mention this to the investigating officer.

Q. *What else should I do?*

A. Make a note of the investigating officer's name, badge number and whether he or she is a city police officer, highway patrol officer, or county sheriff deputy. Be polite at all times.

Q. *Is there anything I should not do?*

A. Do not admit fault for the accident to anyone. Do not tell anyone how much insurance you carry. Do not sign anything. (You will have to sign the citation if you are issued a traffic ticket by the investigating officer. This signature is not an admission of guilt; you are merely acknowledging that you received the ticket.)

II. AUTO DAMAGE: REPAIR, CAR RENTAL, AND FULL COMPENSATION

REPAIR. If your car is repairable, you are entitled to have it restored to its pre-wreck condition. You have the right to select your own repair shop. You do not have to use your valuable time getting multiple estimates. You do not have to take your car to an insurance drive-thru claims office. You do not have to give the job to the lowest bidder.

RENTAL. If your car is repairable, you are entitled to be paid for the cost of substitute transportation while your car is being repaired. There are car rental companies specializing in providing cars to people whose cars

are being repaired. They charge much less than the national rental companies. Most insurance companies will either refuse to provide you with a rental, or if they do agree to one, will try to get you to rent a compact car. A compact is fine if your damaged car was also a compact, but what if your damaged vehicle was a truck you need for work, or a van for you and your five children? You are entitled to a replacement vehicle equivalent to, or better than, your damaged vehicle.

Many people would prefer to borrow a relative's extra car. You are entitled to be paid a reasonable rental charge for such a car.

FAIR AND FULL COMPENSATION. If it would cost more to repair your car than to replace it with a similar car, you have what the insurance industry calls a total loss. In such cases you are entitled to be paid what it costs to replace your car. In other words, you have a right to be paid the full retail value of your car plus all applicable sales taxes and title transfer fees. Often, insurance companies will offer you less than your car is worth. In such cases you need proof of the cost to replace your car. You can do this in any of the following ways:

- a)** Print or save screenshots of comparable cars from Craigslist, Autotrader, or local newspaper ads.
- b)** Refer to the National Auto Dealers Association 'Blue Book.' This book will give you the average sale price in the U.S. for your car. Be sure to look for the 'retail' price and to add on sales tax. You can find a 'Blue Book' at most car dealers, many public libraries and our office. You can also find the value at www.nadaguides.com.
- c)** Retain the service of a professional auto appraiser. This is something you will need to do if your car is worth more than blue book value because it is exceptionally clean, has exceptional after-market equipment, or is rare. Many auto dealers employ professional appraisers, or GBM Law can provide you with a referral.

III. WHAT IS A LIABILITY CLAIM AND WHAT ARE MY RIGHTS

A liability claim means you will be making a claim against the other driver's insurance company.

The other driver's insurance company is responsible to pay for damages only if the other driver can be shown to be legally at fault for the damage. Otherwise, you must rely on your own insurance coverage.

If the other driver is at fault, you are being reimbursed by the other driver's insurance company and you will be making a claim against his/her liability coverage. Liability coverage claims generally confer more rights than claims under your own policy.

In review, you are entitled to have your car restored to its pre-accident condition at the repair shop of your choice. You do not need multiple estimates. You do not need to take your car to the lowest bidder. You do not have to let the other driver's insurance company inspect the car before you begin repairs.

DIMINISHED VALUE

Minor collision repairs, if done properly by a good repair shop, should have no negative effect on the value of your Car. Major collision damage, even if well repaired, will depreciate the value of your car. Shoddy repairs will cause it to depreciate even more. This means that when it's time to sell your car, you will get less for it because it has been in a wreck. This is especially true for high value cars. Buyers are reluctant to pay \$20,000 or more for a used late model luxury car that has been involved in an accident.

Under liability coverage, even though your auto repairs were paid for by the other driver's insurer, you are still entitled to be paid for the diminished value of your car. While this may not be worth pursuing for you 1982 Accord, compensation for loss of value can be significant for a relatively new car. The problem you now face is how to get paid for the amount of diminished value. To get paid, you must prove the amount of diminished value. To prove it, you may: a) have the amount determined by a professional auto appraiser (many auto dealers have one on staff) or, b) ascertain the amount by use of a computer data source such as CarFax.

Tips for Dealing with the Other Driver's Insurance Company (Liability Claim)

- 1) Refuse to have your conversation recorded.
- 2) If the adjuster refuses to pay for any part of a legitimate claim, demand he/she put it in writing to you and give reasons.
- 3) If the adjuster relies on a manual or computer data for values, demand a copy of the data.
- 4) If you get no satisfaction, demand to speak to the claims manager.
- 5) If all else fails, call a knowledgeable lawyer.
- 6) Keep notes on dates, names and substance of conversations.

IV. WHAT IS A COLLISION COVERAGE CLAIM AND WHAT ARE MY RIGHTS?

A collision coverage claim means you will be making a claim against your insurance company. If the damage was your fault or fault cannot be determined, or if the damage was caused by an uninsured driver, you must make a collision coverage claim. This is a claim made under your own collision coverage. Such claims are governed by different rules and procedures than liability claims. These are listed below:

DEDUCTIBLES. All collision coverage is written with a deductible amount which means you pay the deductible amount and your insurance company pays the balance of the bill for the repairs.

DAMAGE INSPECTION. Your insurance company has the right to inspect the damage to your car before they are obligated to pay a collision claim.

RENTAL CAR. You do not have a right to a rental car from your own insurance company unless you purchased rental car coverage. Also, your insurance policy will establish maximum amounts that they will pay for a car rental.

MORE RESTRICTIVE RIGHTS. Your rights under your own policy, unlike your rights against the other driver's insurance company, are much more restrictive. This is because your rights are governed by your policy. Many insurance companies are cutting costs by cutting back on your policy rights. *Some* companies now have policy provisions which give them the right to refuse to pay for original equipment parts or demand repairs on your damaged car be done with used parts. The best advice is to know your own policy limits.

DIMINISHED VALUE. Finally, no collision policy provides coverage for diminished value after repairs are complete.

TIPS FOR DEALING WITH YOUR OWN INSURANCE COMPANY (COLLISION CLAIM)

- 1) If the adjuster refuses to pay for any part of a legitimate claim, demand he/she put it in writing to you and give reasons.
- 2) If the adjuster relies on a manual or computer data for values, demand a copy of that data.
- 3) If you get no satisfaction, demand to speak to the claims manager.
- 4) Call your agent (the person who sold you the policy) and demand he/she intervene on your behalf.
- 5) Keep notes on dates, names and substance of conversations.
- 6) If all else fails, make a complaint with the Ohio Department of Insurance, cancel your policy and buy coverage from a better company.

V. FULL AND FAIR COMPENSATION FOR INJURIES

Q. *Can the insurance company refuse to settle on my car until I sign a release of my injury claim?*

A. No. This would be a violation of the rules of the Ohio Department of Insurance.

Q. *The other driver's insurance company wants me to give a recorded statement over the phone. Do I have to do this?*

A. No. Not only do you not have to, but you should absolutely refuse to do this. Many people make a mistake or forget important facts in these statements. Others are asked questions that invade their privacy. Do not give such a statement. You are not required to. It never helps, and sometimes hurts.

Q. *Should I sign a release from the other driver's insurance adjuster authorizing release of my medical records?*

A. No. You should never sign a release which does not specifically state the name of the doctor or hospital and the dates of treatment. The insurance company has no right to see medical records from your past. They are only entitled to see medical records relating to your claimed injuries.

Q. *Can I be paid for time off work if I get sick pay from my employer?*

A. Under present law, you have the right to be paid your gross wages in full for each and every day you miss because of your injuries. Don't let insurance adjusters try to bully you into using your sick pay. Even if your employer paid you while you were off, you have the right to be paid in full at your usual pay rate for every day you are disabled from working.

Q. *Am I entitled to my earnings before taxes or after taxes?*

A. Before taxes. The insurance company has no right to try to deduct from what they owe you any taxes that your employer would have deducted. Additionally, you can recover social security, pension plan, and health insurance monies that your employer contributed while you were off on injury leave.

Q. *What am I entitled to if I am self-employed?*

A. Generally, self-employed people are entitled to recover as damages what it would cost to hire an equally qualified person as a replacement while the self-employed person is injured and unable to work.

Q. *Can the insurance company tell me which doctors to treat with?*

A. No. You have the right to see any M.D., D.O., chiropractor, podiatrist or other medical practitioner who is qualified to treat your injuries; and to have as much treatment as you need to reach maximum medical improvement or to relieve your pain.

Q. *Do I have the right to be paid for future medical expenses?*

A. You have the right to be paid for any future medical expenses, related to your injury, you are reasonably certain to incur. However, if you sign a full release for the insurance company, you will never see another penny.

Q. *What if I am disabled from my former hobbies or recreational pursuits? Can I obtain damages for this?*

A. Yes. People have the right to the pursuit of happiness. If someone deprives you of this, they owe you these damages.

Q. *What about my physical pain and emotional suffering?*

A. For many people this is their greatest damage and the law certainly permits damages for this.

Q. *My injuries have caused me to be irritable and nasty with my family, and my pain has prevented me from engaging in normal marriage relations. What are my spouse's rights?*

A. The law recognizes this damage to the marriage relationship. Your spouse has a right to full and fair compensation for such damage.

Q. *What if the person at fault had no insurance or not enough insurance?*

A. Many people who at first seem uninsured, in fact have insurance. Others have assets which can satisfy your damage claims. In addition, you may have access to uninsured or underinsured motorist benefits through your own policy, that of your employer, your family, or your driver.

VI. WILL I NEED A LAWYER?

Even if you are knowledgeable about insurance claims, or even if you have a small claim, you should get some advice over the phone from a lawyer experienced in representing victims GBM Law, will consult by phone free of charge. An experienced attorney can evaluate your case and tell you what to expect. If you have substantial injuries or are unfamiliar with insurance practices, you should hire an attorney from whom you can expect help locating qualified physicians, rental car agencies, and investigators to prove your claim. They should also be able to help to evaluate your claim and negotiate a settlement which compensates you for all your damages, including your future damages and pain and suffering.

Q. *How much will a lawyer cost?*

A. The lawyers at GBM Law handle injury cases on a 'contingent fee' basis. This means that you pay the lawyer a fee only if you win your case. When your case is successfully completed, you pay him/her a percentage, most commonly 1/3 of the award plus your attorney's out-of-pocket expenses. Also, many of the crash-related expenses, such as medical bills, can be paid from the award monies.

Q. *Why should I pay GBM Law part of my settlement if I can do the work myself?*

A. There are many well documented reasons for hiring an attorney. The best reason comes from the statistics that auto insurance companies keep on themselves. Their statistics show that the average amount they pay to an injured person who is represented by a lawyer is 3.5 times greater than the average amount paid to an injured person who represents himself. We believe that statistic alone goes a long way to prove that injury victims who do the job without experienced legal help are being short-changed and twice victimized.

Q. *If I have a lawyer, will I have to be involved in a trial?*

A. The great majority of claims are settled without trial. However, there are times when a lawsuit is the only option to counter an unfair settlement offer by the insurance company. Part of the advantage of having an experienced trial lawyer is the ability to rely on his/her judgment as to when you should or shouldn't settle.

Q. *How do I pick the right lawyer?*

A. The right lawyer for preparing your will or divorce might not be the right lawyer for your injury claim.

Here are the items to consider regarding the potential lawyer:

- Will your case and phone calls be handled by an attorney or a staff person or a "claims specialist".
- What is the lawyer's reputation? Check it out.
- Do the lawyers have several years of experience representing seriously injured people? Do they concentrate primarily on personal injury cases?
- Do these lawyers have a good knowledge of medicine and contacts in the medical community?
- Do you feel comfortable talking with him or her? Does he or she act interested in your case?
- Do they have a record of past success in cases like yours?
- Are they board certified by the National Board of Trial Advocacy or do they have other honors, recognitions, or awards such as being a member of the elite Million Dollar Advocates Forum or "Super Lawyer" distinction?
- Do the lawyers have a history of successfully trying personal injury cases?

VII. THE STRENGTH OF GBM LAW

A. According to statistics, a lack of communication is the most common complaint people express about their lawyers. The attorneys at GBM Law are committed to providing you with the legal service you deserve and this means that you will have a personal relationship with your attorney. Your phone calls will be returned and we encourage you to call us frequently so that we can do a better job representing you. We also offer you the option of communicating with us by email. Of course, you are always welcome to arrange a visit with your attorney. We are committed to high professional standards, but our primary goal is your complete satisfaction.

B. The insurance companies know we mean business because we restrict our practice to representing people, not insurance companies. You will have many questions following the accident and we will have the answers. Let us do the work for you. The insurance company will not look after your best interest and they will try and pay as little as possible. We will stand up for you and protect you from the insurance company.

C. Insurance companies count on you not knowing the true value of your claim. Your lack of familiarity with claim values gives them a tremendous bargaining edge. A qualified, experienced lawyer knows. At GBM Law we have experience, knowledge and access to nationwide statistics regarding jury verdicts in cases like yours.

D. GBM Law has board certified trial counsel and our attorneys are committed to providing personal and professional legal service.

E. GBM Law will work with you as a team to recover the compensation you deserve. The GBM Law team includes experienced experts and investigators who will work with us on complex cases.

Please visit www.ProtectingOhio.com for more information about being part of the team at GBM Law.

VIII. THE AUTO COLLISION CHECKLIST

The remainder of this booklet is intended to make it easier for you to gather the necessary information at the scene of a collision. Please familiarize yourself and your family with its contents, then place this booklet in your glove compartment. Filling out this form and knowing the information in this booklet will help you deal with your lawyer and your insurance company.

WHAT TO DO AND WHAT NOT TO DO Following AN ACCIDENT

DO notify police immediately. If necessary, call an ambulance.

DO write down names, addresses and license numbers of persons involved in the collision and the names and addresses of witnesses.

DO call a lawyer at the first opportunity if you or a passenger were seriously hurt.

DO NOT admit liability.

DO NOT discuss with anybody except your lawyer or the police.

OTHER VEHICLE

Driver's Name _____

Address _____

City & State _____

Phone _____ E-mail _____

Driver's License No. _____

Vehicle Make/Model _____

Owner of Vehicle _____

Address _____

City & State _____

Phone _____ E-mail _____

Insurance Co. _____

Agent Phone Number _____

Policy Number _____

Damage _____

YOUR VEHICLE

Driver _____

Phone _____ E-mail _____

WITNESSES:

1. Name _____

Address _____

City _____ Phone _____

2. Name _____

Address _____

City _____ Phone _____

YOUR INSURANCE INFORMATION

Policy Number _____

Company _____

Agent / Phone Number _____

EMERGENCY CONTACT

In case of emergency, please contact:

Name _____

Address _____

City _____ State _____ Zip Code _____

Phone _____ E-mail _____

Relationship to you _____

ACCIDENT INFORMATION

Time _____ Date _____

Weather Conditions _____

Describe What Happened _____

Were Police Present? _____

Who Received a Citation? _____

Traffic Conditions _____ Road Conditions _____

Type of Street (Divided Highway, Parking Lot, etc.) _____

Direction of Travel: Your Car _____ Other Car _____

Approximate Speed: Your Car _____ Other Car _____

Was either car turning? Your Car _____ Other Car _____

Where There any Traffic Signs? Your Car _____ Other Car _____

Seat Belt in use? Your Car _____ Other Car _____

Headlights On? Your Car _____ Other Car _____

Police Officer's Name _____

Police Officer's Badge Police _____

Was Alcohol Involved? _____

Was Medical Assistance Given? _____

Was Either Car Towed? _____

Telephone Number _____

Were Any Pedestrians Involved? _____

Was there a Marked Crosswalk? _____

The Lawyers at **GBM Law** have been fighting for the rights of Central Ohioans for over 30 years. Over the years, we have helped thousands of good people get the justice they deserved. We know the ins and outs, the things to do, and the things not to do when dealing with your serious injury claim. Few other law firms have the expertise in these matters that we have.

We hope that the information in this pamphlet is helpful to you. We know from experience that the time surrounding an automobile or motorcycle crash is often difficult and confusing. We also know that insurance company protocol and the laws surrounding automobile collision claims can be equally difficult and confusing. If we can help you in any way, call 1-877-706-6446 or 614-222-4444.

Why GBM Law?

At GBM Law, our attorneys stand out from those at other firms. We have counsel who are **among the less than 1% of Ohio lawyers** Board Certified by the National Board of Trial Advocacy as Civil Trial Lawyers. Our firm has extensive trial and appellate experience including cases of serious injury, wrongful death, defective products, and professional negligence. We have a track record of **RESULTS**.

Many results obtained for GBM Law's clients are noteworthy. We have counsel with membership in the prestigious *Million Dollar Advocates Forum*, an organization open only to those special few who have obtained for a client an award of damages over \$1,000,000.



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