

Ellis, Ged & Bodden P.A.

A T T O R N E Y S A T L A W

INJURY LAW ALERT FALL 2007 ISSUE

IF YOU'RE IN AN AUTOMOBILE ACCIDENT . . .

There are approximately 12 million car accidents in the United States each year. It is a disturbing fact that you or someone you know is likely to be involved in an auto accident. Take a few minutes to read the answers to these frequently asked questions about accidents.

What Should I Do If I Am in an Accident?

See the accompanying article for a helpful checklist of “do’s and don’ts” if you are involved in an accident.

How Are Insurance Claims Handled?

As soon as possible after the accident, contact your insurance company. If the accident was the other driver’s fault, your claim should be paid by his or her insurance company. If the other driver does not have insurance, or does not have enough insurance, your insurance company may pay your claim, depending on what kind of coverage you have.

Some insurance companies will tell you that you don’t need an attorney to represent you if you are injured in the accident. This is bad advice. Never give an insurance company official statements about the accident without consulting with us so that we can protect your rights.

What About Property Damage Claims?

Most property damage claims are handled quickly and efficiently and usually do not require a lawyer. If the accident is not your fault, the other driver’s insurance should pay to fix your car, unless it would cost more to fix your car than it is worth. If this is the case, your car is “totaled,” and you will receive only the market value of your car before the accident. Many repair shops will help you by providing free repair estimates for insurance purposes.

What If I Am Injured?

As with property damage, if the other driver is responsible for the accident, he or she is also responsible for your medical bills. If you have been injured, it is important to see a doctor as soon as possible. Remember: An injury may not appear until long after the accident.

Do I Need an Attorney?

If you were not hurt, or if the only damage suffered is property damage, you probably will not need an attorney. However, if you have been injured or have missed work, you should contact us immediately to help you get your fair due from the insurance companies. Unfortunately, many insurance companies make it difficult to recover for certain kinds of injuries (such as whiplash) without a lawyer’s help.

How Much Will It Cost to Get Legal Help?

Most attorneys who handle personal injury lawsuits do so on a contingent-fee basis. This means that you do not have to pay for the attorney’s services out of your own pocket, but instead the attorney will receive

a share of the recovery if you are successful. If you don't win, you don't pay. We believe that you deserve good legal help even if you do not have a lot of money.

What Is My Claim Worth?

The answer depends on a number of different factors. You should be compensated for your medical bills and lost wages, both past and future. You also should recover something for the pain and suffering the accident has caused you. If your injuries are serious enough, they may affect you for the rest of your life, and so you should be able to recover for your lost earning capacity.

How Long Will It Take to Settle My Claim?

Many cases settle quickly, to everyone's satisfaction. Others continue for months or even years, depending on whether there are disputed facts and on the amount of medical treatment you require. Still other cases cannot be settled without a trial, which may take longer.

Who Do I Talk to?

If you have been in an accident and have questions about whether you need a lawyer or whether you have a right to monetary damages, call us. Decisions that must be made after an accident are very important. We will be happy to talk to you about your case.

AUTO ACCIDENT CHECKLIST

- STAY CALM.
- Move yourself and your passengers out of harm's way. Call the police.
- Assist anyone who is injured. Call for an ambulance if necessary.
- Get the name, address, phone number, and license number of the other driver(s) and car(s). Exchange insurance information. DO NOT discuss the accident (except with the police), but DO make notes of anything the other driver(s) says about the accident.
- Get the names, addresses, and phone numbers of any witnesses.
- Get photographs of your vehicle, contact your insurance company, and write down everything you remember about the collision ASAP.
- Contact our firm to discuss your legal options.

INSURERS PLAY HARDBALL

Month after month, you pay hundreds of dollars in insurance premiums, expecting that if you have an accident your insurer will cover the bill. Unfortunately, this expectation all too often goes unmet because insurers play hardball in accident claims.

For the past decade or more, many insurers have taken a tough stance on paying so-called "soft-tissue" claims—those claims where the injury does not show up on X-rays, such as whiplash. This stance is sometimes called the "Three Ds": Deny the claim, delay the settlement, and defend in court.

So why the tough stand? The answer is simple: MONEY. For every dollar not paid out in claims, the insurer makes another dollar in profit. The fact that its insured gets dragged into court on a relatively minor claim does not seem to bother the insurance company, nor does the fact that an injured person goes uncompensated.

Insurers are paying less and less in claims, but continue to increase premiums. Why? Again, the insurers have done a good job of convincing people that liars and cheats who make false or inflated claims are actually costing them millions of dollars a year. This is also part of their strategy: Make the victims look as though they

are trying to defraud the insurers, and make the lawyers who represent the victims look greedy.

The sad truth of the matter is that, as long as people let insurers get away with this strategy, insurers will continue to use it. The only hope is that when enough of us have been treated unfairly, we won't put up with it anymore.

HOME LOANS AND PREDATORY LENDERS

We shop around for the best deals on the food we eat, the clothes we wear, and the cars we drive. So why do many people not shop around for the best deal on the largest expense they will ever incur—their mortgage? The answer is that many people are taken in by the high-pressure tactics of predatory lenders.

Who are predatory lenders? They are lenders more concerned about making a buck than finding the right mortgage for you. Their lack of concern for the welfare of borrowers can cause all kinds of harm:

- They convince people to buy more home than they can afford through the use of pressure tactics and “teaser” rates;
- They sell properties for more than they are worth by using false appraisals; and
- They charge exorbitant rates for services that they do not provide or that are not necessary.

Because they target the very old, the very young, and those with less-than-perfect credit, predatory lenders can often convince people that they should not bother to shop around, and they lie to people about the process and about the loans they will receive. Often, the borrower discovers that he has paid too much for what he got or that he cannot afford the loan that was made, and he loses the house through foreclosure.

So what can you do to protect yourself? Much of it is common sense. Shop around for a loan, just as you would shop around for anything else. Ask for recommendations from professionals who do not work for the lender, such as your real estate agent. Remember, once the loan is made, it is your responsibility to pay it back in full, and anyone who tells you otherwise is not telling you the truth. Understand everything that you are asked to sign—if you need to, take a document home and look at it first. And remember: if it sounds too good to be true, it probably is.

WE APPRECIATE YOU

Thank you for choosing our firm for your legal needs. We hope that you will continue to count on us when you need legal help. We are just a phone call away.

We also appreciate the trust that you have placed in us by referring your friends, family, and associates to us for legal services. Thanks!

INFORMATION ABOUT PERSONAL INJURY CLAIMS

Q: What is a personal injury (PI) claim?

A: Any kind of legal claim against someone for causing physical or mental injury to someone else is a PI claim. PI claims are commonly caused by automobile collisions, slip and falls, defective products, or medical malpractice.

Q: What compensation can I receive if I have a PI claim?

A: Although it depends on the facts, if you have been injured, you can usually recover for your medical bills, lost wages, pain and suffering, mental anguish, property damage, and any permanent injury you have suffered. In some cases, other people (such as your spouse or family) may also be entitled to recover.

Q: When is another person liable for my injuries?

A: Again, the answer depends on the facts, but most commonly another person is liable if your injuries are the foreseeable result of that person's negligence, which generally means carelessness toward you.

Q: How long does it take to make a PI claim?

A: It depends on a lot of factors, including the complexity of the case and the reasonableness of everyone involved. Some PI claims settle very quickly, while others have to go to trial or even to appeal, although this is relatively rare.

Q: Is my PI case a good one?

A: Only a PI lawyer can answer that question. If you believe that you have a personal injury claim, you should contact our office as soon as possible. If you delay, the law may prevent you from filing your claim and receiving the compensation that you deserve.

GOOD GUYS CAN FINISH FIRST

Twelve crew members who worked for the Overseas Shipholding Group (OSG) were awarded \$437,500 each for reporting illegal dumping by OSG oil tankers. OSG is one of the largest oil tanker firms in the world. The company pleaded guilty to dumping thousands of gallons of waste oil and sludge into the ocean and systematically altering logs to hide the activity.

The 12 "whistleblowers" were appalled by the illegal activity and took steps to report the crimes. One crew member, who was threatened with firing if he did not participate in the polluting, kept a secret record of the dates of the polluting. Another crew member called the Coast Guard and described how an oil sensor was being "tricked" to appear as if no oil were being discharged. OSG agreed to pay a fine of \$37 million for the dumping.

Sometimes, the good guys do win.

DRUG SAFETY ALERT

The U.S. Food and Drug Administration (FDA) has issued a safety alert on Avandia, a drug used to treat type 2 diabetes. Several clinical trials have shown that there is a significant increase in the risk of heart attack and heart-related deaths in patients taking Avandia.

The drug is manufactured and marketed by GlaxoSmithKline. It was approved by the FDA in 1999, and more than one million people have taken the drug in the U.S. alone. Avandia has been heavily promoted to consumers, and some believe that Glaxo-SmithKline should have known of the potential risks and warned those taking the drug.

According to the FDA, "Patients who are taking Avandia, especially those who are known to have underlying heart disease or who are at high risk of heart attack should talk to their doctor about this new information as they evaluate the available treatment options for their type 2 diabetes." If you or a loved one has suffered a heart problem that you believe is related to Avandia, be sure to contact our office.