

# **The Injury Team's Guide To Texas Car Accidents**

Car accidents continue to be a daily occurrence on Texas roads. According to the Texas Department of Transportation, 2016 saw almost 15,000 traffic accidents, resulting in over 17,000 serious injuries and 3,773 fatalities. Unfortunately, these numbers give no signs of going down in future years. If you've been rear-ended, T-boned, or sideswiped, you deserve compensation to pay for medical bills and replace lost wages.

At Sneed|Mitchell LLP - The Injury Team, we fully understand Texas auto insurance laws inside and out and have helped thousands of people obtain the compensation they deserve. Learn more about the legal process following an accident in our Texas Car Accident Claims guide.

## **I. An Overview of the Texas Car Accident Claim Process**

The car accident claim process in Texas starts with obtaining the other driver's insurance information. You should ask for this information immediately after your collision. Texas is a "fault" state, which means that the driver who is at fault for the accident is responsible for paying claims. You will need to work with the at-fault driver's insurance company to submit information about your accident, medical bills, and other economic losses.

Depending on the seriousness of the crash, the other driver's insurer might be easy to work with—or they might not. It is not unusual after a devastating accident for insurance companies to drag their feet and not pay the compensation you deserve, even if you are completely innocent. Instead, when a lot of money is on the line, you can expect the insurance company to thoroughly investigate the collision to determine whether you are to blame in any way. Under the Texas accident laws, the amount of compensation you receive will be reduced by your own percentage of fault.

The insurance company might also want more detailed information about your injuries, and they might allege that you aggravated your injuries by not following your doctor's orders. You can protect your claim by regularly seeking treatment for your injuries and avoiding large gaps between your treatments.

For these reasons, hiring a Texas car accident lawyer is an absolute must. Your attorney can communicate with the insurance company and negotiate for a full and fair settlement. An experienced Texas car accident lawyer knows all the tricks that insurance adjusters use to deny claims and are prepared to press for maximum compensation.

## **II. Statute of Limitations for a Texas Car Accident Lawsuit**

Texas, like other states, gives injured motorists only a limited amount of time after a car crash to file a lawsuit. This amount of time is the "statute of limitations." Currently, the statutory time limit is two years from the date of the crash. If you miss this deadline, then you cannot bring a lawsuit, and you most likely will not receive compensation.

Here is how the statute works. Imagine you are T-boned on August 1, 2018. Your injuries are apparent on the day of the crash, so you are on notice that you have a legal claim against the driver. In short, you have until August 1, 2020 to file a lawsuit in court, otherwise the judge can dismiss your case.

Once dismissed, you cannot file your lawsuit again, and you will be unable to collect compensation from the adverse driver's insurance company.

If you are trying to reach a settlement, you might wonder why you should care about the Texas statute of limitations for car accidents. There is a very simple reason. The only reason the insurance company is even willing to discuss settling your claim is because you can run to court and file a lawsuit if they refuse to give you enough money. If you lose that ability to sue because you are past the statutory deadline, then you can expect the insurance company to stop returning your

calls. After a collision, you need to contact a Texas car accident lawyer right away to protect your rights. Depending on the circumstances, we might need to immediately file a lawsuit in an appropriate court to preserve your right to compensation. If we are unable to reach a fair settlement with the insurance company, our firm will continue to develop your case and bring the fight for compensation to the courtroom.

### **III. Immediate Steps to Take After a Car Accident**

Following a car crash, there are things you can do to protect your well-being and your rights as a victim. Often, this means collecting evidence at the scene of the crash, before the police even arrive.

If you've been in a car accident, consider following these simple steps:

- Call the police. A police officer can come out to the crash and write up a police report. The police report should document where the collision happened, as well as the date and time. The officer will also identify the parties involved in a crash. If you were involved in a multi-car pileup, then this is an arduous task best left to the police. The responding officer will also take down the stories of everyone involved. A police report is an excellent piece of evidence to have and can be a springboard to your own investigation.
- Contact emergency services, if necessary. Someone who has sustained a serious bodily injury will need a trip to the hospital, so call for an ambulance. You must prioritize everyone's health. If you are too injured to call, ask a bystander to. •Get the driver's insurance information. Also write down their license plate number. Some drivers might hesitate, especially if they are driving without insurance.
- Identify witnesses. If you can get up and move around, try to get the names of anyone who observed the accident. Take down their names and contact

information so your Texas car accident lawyer can reach out to them, if necessary. If you are too hurt, ask someone else to find witnesses. The police officer should speak to some, but you don't want anyone to leave before the officer arrives.

- Take pictures of the accident scene. Soon after a crash, the cars will need to be pulled over to the side of the road so that traffic can pass. If possible, take a few pictures of where the vehicles have ended up before they are moved. Also take pictures of any skid marks on the road or debris. This evidence could be critical for determining how the accident unfolded.

By collecting this evidence, your claim is strengthened when brought in front of the adverse insurance company, which may result in a more favorable settlement offer. If you were unable to get any of this evidence after your accident, don't worry. Car crashes are stressful, painful, and traumatic events. An experienced attorney will help you with your claim regardless of the information you collected yourself.

#### **IV. Mistakes to Avoid after a Car Accident**

Unfortunately, injured motorists can do all kinds of things that ultimately backfire on them. In fact, we have seen some clients undermine their ability to receive compensation by doing the following—all of which you should avoid:

- Never say you are sorry. It might be the most natural thing in the world to say, "I'm sorry" after a terrible wreck that has left people with serious injuries. Some people even apologize when they know they have done nothing wrong but say the words as a way to try to smooth down ruffled feathers. Remember that anything you say in the immediate aftermath of a crash could be used against you later. Instead of talking with the other driver, ask for insurance information and then stand to the side until the police arrive.

- Don't tell people you are feeling okay. This is another simple mistake. The truth is that some injuries are very slow to develop. For example, back injuries or neck injuries might take a couple days before you really start to feel pain. If you tell the other driver you are "fine" immediately after the crash, then they could use that against you and claim you are faking your injuries.
- Never negotiate with an insurance adjuster on your own. The other driver will ask for your name and insurance information so they can notify their insurer of the accident. Soon afterwards, an insurance adjuster might contact you, digging for information. Instead of speaking with them, hang up and get in touch with a lawyer. Remember that insurance adjusters do not work for you and it is their job to find evidence to minimize or outright deny your claim.
- Avoid self-diagnosing your injuries. Chances are you have no idea what is really wrong with you, so go to a doctor. You also want a paper trail that is generated when you visit a doctor. Your medical records are important pieces of evidence for your claim.
- Never disregard your doctor's advice, even if you think you are feeling better. For example, your doctor might recommend bed rest. Even if you feel okay, you shouldn't go out and start shopping for groceries or return to work. If you do, the defendant can claim you aren't as injured as you claimed.

## **V. How Do I Know if I Need a Car Accident Lawyer?**

This is a "do it yourself" culture, so we understand that many people would prefer to handle their case on their own. In some minor cases, you may be able to receive an offer from the insurance company that you can agree with. However, there are certain situations where you will want to consider hiring an attorney to protect your

right to compensation. For example, you may consider hiring a Houston car accident lawyer if any of the following apply:

- You need a lawyer if there is a question over fault. Only an at-fault driver must pay compensation to injured motorists. In some cases, it will be obvious who is at fault. But if this issue is in dispute, then you should have an experienced attorney in your corner.
- You probably need a lawyer if you have more than a few thousand in medical bills. You can handle a small car accident that causes no more than three or four thousand in medical bills or other expenses. But if your accident has caused \$10,000 or more in losses, then you should seek out a lawyer's help.
- You need a lawyer if you do not like to negotiate. Chances are, an insurance company will not quickly agree to your settlement amount, especially if you suffered serious injuries. Instead, you might need to negotiate back and forth. If you do not like negotiation, then you should hire an attorney. Remember: it is the insurance adjuster's job to pay out as little as possible.
- You need a lawyer if you are headed toward trial. Learning to negotiate a claim is difficult enough, but it can be impossible for most people to learn court rules and procedures. If you think a lawsuit is on the horizon, you should hire an attorney to represent you. There are many benefits to hiring an attorney for your accident case.
- Although a car accident lawyer will take a percentage of your settlement as their fee, research has shown that motorists represented by lawyers receive much more on average. For example, some studies have found that a motorist with a lawyer receives much more in a settlement than motorists who represented themselves. By not hiring a lawyer, you are leaving money on the table.

## **VI. Texas Auto Insurance Laws**

Many of our clients ask, “Is Texas a no fault state?” and the answer is “no.” Texas continues to operate under a “fault” system, and Texas auto insurance laws reflect that fact. Read on for more important information about automobile insurance in the state and how it will impact the amount of compensation you can receive in a settlement or lawsuit.

The following will satisfy Texas’ car insurance requirements:

**\$30,000 in liability coverage for each injured person, up to a maximum of \$60,000 per accident if more than one person is injured and \$25,000 in property damage per accident. This is commonly referred to as 30/60/25 coverage.**

Liability pays for injuries to other people when you are at fault for a collision. This insurance does not pay for your own injuries. If another driver injured you, you must make a claim with their liability insurer.

Because Texas recognizes comparative negligence, it might be the case that your own negligence contributed to the crash. If so, you can still receive compensation so long as you were not more responsible for the accident than the other driver. In practice, this means you can be up to 50 percent responsible for the collision but not 51 percent.

If you negligently contributed to your accident, then the amount of compensation you can receive will be reduced by your percentage of fault.

### **UM/UIM Laws**

Although Texas requires that motorists have insurance, the unfortunate reality is that many do not. Thousands of drivers get behind the wheel after cancelling their liability insurance, failing to pay premiums, or never buying it in the first place.

If you are struck by an uninsured driver, then you might not receive any compensation for your injuries. This is where uninsured motorist (UM) insurance comes in. If you have a UM policy, then you can receive compensation for medical bills, lost wages, and pain and suffering from your UM insurer even when the driver who struck you has no insurance. In some situations, the at-fault driver might have insurance but your losses far exceed their insurance policy.

For example, a driver might carry the state's minimum in liability insurance of \$30,000. Because of the skyrocketing cost of medical care, you can quickly eat through \$30,000 with medical bills if you have even a moderately serious injury. In this situation, you can lean on your underinsured motorist (UIM) coverage to receive additional compensation.

Another benefit of having UM/UIM coverage is that in the event of an accident where the driver flees the scene and is never found, also known as a hit-and-run, you will be covered. Insurers must offer drivers UM/UIM coverage when they buy their liability insurance policy. However, drivers also have the option of refusing it in writing, which far too many do. To fully protect your family, however, you should carry UM/UIM insurance so that you have adequate funds available in the event of a crash.

### **How Long Does an Insurance Company Have to Pay a Claim in Texas?**

Under Texas Insurance Code 542.056, an insurer has 15 business days to accept or reject a claim after receiving all relevant items, forms, and statements. If the insurer is unable to make a determination within that window, they can take additional time but must contact you within 45 days.

Of course, if the insurer rejects your claim, you might negotiate with them, which can take a considerable amount of time. Once the insurer agrees to the claim, however, § 542.057 of the Insurance Code mandates that they pay you within five business days in most situations.



## VII. What Damages Can I Claim in a Car Accident Lawsuit?

The purpose of a personal injury lawsuit is to make the victim “whole.” Basically, this means the court will try to put you in the position you would be in had the accident never occurred. Because of this, you can receive compensation for various economic and non-economic losses associated with the car accident. Consider the following.

Economic losses. These include the actual monetary losses you experience after a crash, such as:

**Medical bills** for doctor’s visits, tests, surgery, rehabilitation, hospital stays, and prescription drugs • **Lost wages**, if you could not work while you recuperated

**Property damage**, such as damage to your vehicle involved in the crash To prove these damages, you will need documented evidence of how much you spent. For example, collect all medical bills, receipts, pay stubs, and repair estimates. Your lawyer will use this information to calculate how much you can receive. If your injuries are particularly bad, you might need continuing medical care and never be able to return to work. If so, then your lawyer can ask for compensation to pay for your future medical care and lost future earnings capacity. These amounts are a little more speculative. If you decided to hire an attorney for your accident case, your legal team will help prove these figures to the adverse insurance company or a jury during trial. **Non-economic losses.** Texas also allows injured motorists to receive compensation for different non-economic losses. These are much harder to calculate in dollars and cents. In Texas, you are able to seek compensation for the following:

**Pain and suffering.** Any physical injury causes more suffering than sheer monetary loss. Living in physical and mental pain also takes its toll on any victim. For that reason, Texas allows injured motorists to receive money for pain and

suffering. • **Mental anguish.** If you suffered a traumatic car accident, you might receive compensation to try and make up for the shock of what you have endured.

**Disfigurement.** Traumatic accidents can permanently change your body by disfiguring you. In a car accident, many people suffer permanent burns, scarring, limb loss, or other disfigurement. If you suffer disfigurement in a visible part of your body, such as your face, then you can suffer extreme embarrassment, depression, and social isolation. A defendant will need to pay you damages.

**Physical impairment.** Damages for physical impairment seek to compensate you for the reduced quality of life as a result of your injuries. For example, someone paralyzed will no longer be able to play with their children or grandchildren. Someone with injuries in their arms might not be able to play golf anymore, which is their favorite hobby. The greater your impairment, the greater the amount of compensation you can receive.

**Loss of consortium.** Your spouse might have his or her own legal claim for loss of consortium for negative changes to your marriage. After a bad crash, you might be unable to care for, love, and be sexually intimate with your spouse. They can receive compensation for these injuries. Because non-economic injuries are hard to quantify, you should consult with a Texas car accident lawyer to discuss your case. In many accidents, compensation for non-economic losses can make up the bulk of any settlement, and an experienced Texas car accident lawyer shows his worth by pushing for full and fair compensation for these and other harms.

**Punitive damages.** Texas motorists might also receive compensation for punitive damages, also called “exemplary damages.” Unlike the compensatory damages discussed above, punitive damages are intended to punish the defendant. Under Texas’ accident laws, an injured motorist might receive punitive damages if the defendant injured them intentionally or in a grossly negligent manner.

**VIII. What Can I Expect from My Car Accident Settlement?** One of the most popular questions a Texas accident attorney will receive is, “How much is my car

accident case worth?” In reality, there is no “average” settlement since every accident case is different on multiple levels. Every case is truly unique – no two cases have the same facts and circumstances, insurance coverages, insurance adjusters, injuries, property damage, and so forth.

An experienced and reputable injury attorney will fight diligently for a settlement that will fully compensate you for your economic and non-economic losses. Furthermore, if the insurance company does not offer a fair settlement, the attorney you hire should be prepared to take the case to trial and continue the fight for you.

However, there are some roadblocks to receiving full compensation. The amount that you can recover is generally determined by the amount of insurance coverage available between the at-fault driver and any additional UM/UIM coverage on your own insurance policy. In some situations, your Texas car accident lawyer can find additional insurance policies.

For example, you might have UM/UIM policies that you can “stack,” which can increase the amount of benefits available to you. Injured in a Texas Car Accident? Speak with an Experienced Attorney Now. Automobile accidents cost Texas motorists millions of dollars a year in medical expenses and lost productivity at work. If you have been injured in a wreck, you need compensation to help you recover and take care of your family.

*At Sneed|Mitchell LLP, our Texas car accident lawyers have helped thousands of injured motorists receive fair settlements for their injuries. Our lawyers are also not afraid to file a lawsuit if necessary to obtain the compensation our clients deserve.*

*To schedule your free consultation, call The Injury Team or fill out a contact form and we will reach out to you. Our attorneys are available 24/7, nights and weekends. Disclaimer: Information in this guide is based on general principles of law and is intended for information purposes only; The Injury Team makes no claim as to the comprehensiveness or accuracy of the information.*

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