

## DUTIES AFTER A COLLISION

If you are in a collision involving injuries or property damage, there are some basic guidelines you should try to follow. These steps will help you avoid problems with claims adjusters later on and assist you in obtaining fair compensation for your injuries.

***If you are injured, do not wait to get medical care – go as soon as possible.***

Go to the nearest hospital emergency room or urgent care or to your personal physician as soon as possible. An injury, if untreated, may become substantially worse. Also, if you fail to seek treatment or delay receiving treatment for an injury sustained in the collision, then the insurance adjuster may suspect that you were not genuinely injured and this can cause your claim to be more difficult to settle and more difficult in the event we get your case in front of a jury for a trial. Even a delay of one week is often too long. Do not assume you will “be fine” – get treatment as soon as possible.

***At the scene of the crash.***

If someone is seriously injured, call 911 or the police and tell them an ambulance is needed. Make the injured person as comfortable as possible, but do not move the injured person unless it's absolutely necessary to avoid further injury. Wait for the paramedics or other first responders to arrive.

***Insist on a Police Report if it looks like there is any questions about what happened.***

In many cases, there are no witnesses and you and the other driver may have conflicting versions of how the collision happened. If you do not request a police investigation, you may seriously damage your chances of obtaining full and fair compensation, or worse, may be blamed for a collision that is not your fault. Thus, if a collision is not your fault, insist that the police are called. This ensures that all involved drivers will be forced to document how the crash occurred before they get home and talk to an insurance adjuster and end up “changing their mind” about how things happened. If the “at fault” driver does not want the police called, insist that they write up an admission of fault for you right at the scene which describes how the crash occurred and their responsibility for it. This should be dated and signed by them. If they refuse, call the police. If there is no injury, the police may not even come to the scene. However, if there is significant property damage or the vehicles are blocking traffic, they will likely come to the scene of the crash. In that event, get the police to document what happened and get witness information.

***If possible, avoid moving the vehicles until the police arrive and you have photographed the vehicle positions.***

Unless your vehicle poses an immediate hazard to other traffic, it is important that you leave it in the same position that it came to rest after the collision. Ask the other driver not to move his/her vehicle until the police arrive. The position of the vehicles after the crash can help the police to determine fault.

You should always photograph the damage to your vehicle fully before having repairs done. Use your cell phone or if you don't have a phone, ask any bystander if they can take a photo and email it to you. Try to get photos of the other car and the scene, as well. This can help later if you pursue a claim and it is being disputed.

***If you were injured in the crash, tell the investigating officer or paramedics.***

The first record of your injuries will be contained in the investigating police officer's report. Most of the time, the police do not note any injury. If you look fine, you must be fine is what they are thinking. If you go away in an ambulance, you must be injured. So, if you fail to mention to the police that you were injured, it may create suspicion in the mind of the insurance adjuster (who will ultimately evaluate your claim) that you were not hurt. Injuries and symptoms from the injuries can worsen after you leave the scene. If the officer does not ask if you are injured or assumes that you were not injured, let the officer know immediately of any injuries or pain. If you are in severe pain, and feel you require an ambulance, tell the police officer this and request that an ambulance be called. Your auto insurance PIP or personal injury protection benefits pays for that ambulance. Use it if you need it.

***Obtain witness information.***

Often by the time a police officer arrives at the scene, witnesses to a collision are gone. So, if you have a witness at the scene, get that person's information. In the event that the at-fault driver later attempts to change their version of the collision, these independent witnesses are crucial in proving who was responsible for the crash.

***File your DMV Crash Report as soon as possible. DMV tells you 72 hours, but people get injured or forget.***

You are required to file an Oregon DMV crash report even when the collision is investigated by police. Often people think the police will do that for them. Wrong. You need to file your own DMV report and you should keep a copy of it. Any time there is injury to person or damage of more than 2,500 or both, you must file a DMV crash report with DMV or later on you will receive a letter in the mail notify you that DMV is going to suspend your license. If you need help filling out this form, call our office and we can assist you.

***If you suffered a serious or permanent injury, do not try to settle your claim on your own with the adjuster.***

The reason insurance companies hire an adjuster is to limit their monetary damage from a collision. It is not to help you out. They are not there to do anything other than minimize your claim and make you go away as cheaply as possible. No matter how nice the insurance adjuster is, their motive is not to put your interests first. The odds are that a claims adjuster for the other driver will be assigned to your claim before you have been able to retain an attorney. This may happen as soon as a day or two after the collision. Insurance adjusters are trained to pay out the least amount they can get away with. Their objective is not to help you.

If you choose to accept a settlement for your injuries without seeking legal representation, you may receive a settlement that does not fully or fairly compensate you for permanent injuries and damages. Once a claim

is settled, it can never be reopened. The best rule is not to sign a release for at least three to six months following an injury. If you are uncertain about whether (and when) to settle, talk to an attorney who handles personal injury cases.

If you have suffered a serious injury or injuries requiring followup medical attention such as physical therapy, MRI or numerous followups with your doctor, you should at least call to consult with, and seriously consider hiring, an attorney to represent you. An experienced personal injury attorney will generally make sure that you receive the compensation that is due you, usually more than will be offered in settlement by an insurance adjuster, even after attorney's fees are paid. They will also typically assist you with getting your car repaired or paid for, and also assist in getting your medical bills processed.

Our office generally handles injury cases on a contingency fee basis, meaning there is no fee unless we recover compensation for you. There is no charge for you to meet and discuss your claim with an attorney from our firm. If we cannot be a "value add" to get you more money than you would get on your own – even after we are paid – we will not take your case.

***Report your crash to your insurance company, but do not give a telephone or other statement to the other driver's insurance company.***

The odds are that a claims adjuster for the other driver will be assigned to your claim before you have been able to retain an attorney. This may happen as soon as a day or two after the collision. The adjuster will usually request permission to take a recorded or written statement from you. We see this all the time with certain insurance companies. They call you up after the crash and have no idea how badly injured you were in the crash and try to settle your claim right there for a very minor amount of money. It's absurd, but some people don't know what's happening and fall for it.

Whether or not you are considering hiring an attorney, you should not give a statement to an insurance adjuster for the other driver. Statements made can seriously prejudice your claim. This is especially true when a police report was already done. Instead, tell the adjuster that you have decided to hire an attorney and instruct him or her to refer all further questions to your attorney. Proper questions will be responded to by your attorney.

You should, however, immediately report the collision to your own insurance company. Tell them what happened, provide them with the names of witnesses and ask that a PIP "Personal Injury Protection" claim be opened to allow your medical bills to be timely paid. Oregon requires at least \$15,000 per person per crash coverage. That pays for your reasonable and necessary medical bills related to the crash. If the PIP gets used up, then your private health coverage would generally pay.

***Do Not Sign Medical or Employment Records Authorizations for the Other Driver's Insurance Company.***

The claims adjuster may also ask that you sign a medical or employment records authorization to allow them to get your medical or wage loss records. Never sign such authorizations before speaking to an attorney! If you do so, the adjuster cannot only obtain your private medical records and bills, but they can also request special reports or even talk to/meet with your own doctor!

You must, however, sign a medical authorization for your own insurance company if making a PIP claim. Always keep a copy of the PIP Application and authorizations signed for your company and tell them not to provide any medical or other information to the other driver's insurer without your consent.

***Most car crash injury claims in Oregon have a two year time limit.***

For every injury or death claim, there is a period of time during which you must file your claim with the court or the claim will be forever barred. This time limit is called a "statute of limitations."

In Oregon, the period for bringing an injury claim is generally two years from the date of injury. There are some exceptions. The period for bringing a claim for injury to a child has a longer time frame, but consult with our attorneys so you know what that is depending on the age of the child. For collisions which occur in other states, the period may be as short as one year from the collision. So again, do not wait to talk to an experience personal injury lawyer. Even if you have more time to file, find out your rights now.