

ACCIDENTS HAPPEN
ARE YOU PREPARED?

HUNT

LAW FIRM

HUNT LAW FIRM, L.L.C.
Alvin D. Hunt, Esq.
613 Alamo
Lake Charles, LA 70601
337-310-9111
ahunt@huntlawfirm.com

This booklet provides basic information to introduce you to the many, complex details that drivers must deal with when they have been involved in a wreck.

Please do not consider this as legal advice. Each accident is different, and the circumstances of your case depend on the details of your particular situation. This document is intended to give you general information so that you can ask the right questions when you consult an attorney or talk with your insurance agent.

Do not try to be your own lawyer. Insurance companies love unrepresented claimants because they know they have superior knowledge, experience, and bargaining power.

If you have been in an accident, contact my office for a free consultation to discuss the facts of your case.

NOTE

THIS INFORMATION IS NOT A SUBSTITUTE FOR OBTAINING LEGAL ADVICE
FROM A COMPETENT PERSONAL INJURY ATTORNEY.
THIS BOOKLET HAS BEEN PREPARED FOR INFORMATIONAL PURPOSES
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YOU SHOULD NOT ACT BASED SOLELY ON THIS INFORMATION.

Automobile accidents are traumatic and can result in serious injury, loss of life, and loss of property. All of us are aware of these potential consequences; however, you may not be aware of the financial and time impact of what may seem to be a small accident.

If you are in an automobile accident and have been injured, it is essential that you find effective, honest, and affordable legal representation.

Insurance companies have millions of dollars at their disposal. They can hire attorneys, investigators, counselors, doctors, and consultants to avoid paying out settlements.

Having an experienced personal injury lawyer who can represent you will put you on equal footing with any insurance company. **The benefits of having an experienced personal injury lawyer cannot be underestimated.**

A skilled and experienced personal injury lawyer can address issues like those listed below that insurance companies hire experts to investigate:

- How is an accident evaluated; how is fault determined; how is fault proven?
- What kinds of injuries might occur in an accident?
- What is the best way to treat injuries immediately after the accident?
- When should you consult a medical specialist?
- Where can you find experts to help you with the details of your case?
- What is the best way to negotiate with the insurance company to make sure that you are fairly compensated?

A personal injury claim is very stressful. You want to hire an attorney who can assume the hard work of negotiations and litigation, when necessary, so that you can focus on taking care of yourself and getting back into a normal routine.

The steps below will assist you in understanding a process that will enable you to recover your health and your resources following an automobile accident.

1. Your first concern should be taking care of yourself and any family members or friends who may have been in your vehicle at the time of the accident. It is absolutely essential that you make sure that any injuries are diagnosed and treated by medical personnel. The following guidelines may ensure that delayed reactions are not overlooked:

- Seek medical attention within 72 hours of the accident, if at all possible.
- Advise the doctor of every pain, discomfort, or bodily condition that has changed since the accident.
- Notify your doctor of any loss of consciousness, dizziness, vertigo or slow thinking ability, as these may be signs of a "closed-head" injury.
- Report any numbness or tingling in arms, hands, legs or feet.

Seeking medical attention immediately after your accident is extremely important for several reasons:

- Medical documents provide evidence of injury and establish that the accident caused the injury.
- Prompt treatment enables the doctor to determine the severity of your injury and to recommend additional testing and/or screening by a medical specialist.
- Prompt treatment supports your claim for damages. Insurance companies, judges, and juries may question your claim of injury if you delay treatment.
- If a driver has a second accident soon after a first accident, proper medical documents can be used to fairly determine when injuries occurred.
- Delaying treatment can result in insurance companies, judges, and juries reducing payment for damages.

Louisiana law requires you to assume responsibility for appropriate treatment. There is no benefit in not seeking medical care.

2. Keep the following details in mind and act on them as soon as you are physically able to do so:

- Contact your insurance company and notify them of the accident. Advise them of damage to your vehicle and its location in order to avoid expensive storage fees.
- Contact the other driver's insurance company and notify them of the accident.
- Avoid giving any recorded statements or discussing fault or bodily injuries. Policy holders have "duty to cooperate" provision in policies, but a recorded statement need not be given until you have a clear understanding of your injuries and responsibilities.
- Consult with a personal injury lawyer before giving any recorded statements of the accident.

3. Be cautious about sharing information.

If you have had an accident, you may want to discuss the details with friends or with people whom you may not know. You may feel that talking about the accident will help you deal with the trauma you have experienced. However, your case will not be helped by talking with friends or acquaintances.

In fact, you could do damage to your case if you misspeak about the details of the accident and/or your injury.

The simple “first steps” below are critical to ensure that you do not accidentally provide information that could harm your case:

- Do not give any recorded statements to insurance companies, including your own, until you have consulted an attorney.
- Do not discuss your injuries or admit any fault for the accident to anyone – including your own insurance company.
- Do not discuss any injuries with insurance adjusters immediately following the accident. Some injuries may not make themselves known for days or weeks after an accident.
- Do not sign any document from any insurance company without having it reviewed by a lawyer.

Social media and the Internet may be your worst enemy in the case of an accident. Follow these guidelines:

- Do not discuss your accident or injuries on the Internet or on your Facebook® page.
- Do not post photographs of your vehicle, yourself, or anything related to your accident on Facebook®, Instagram®, or any other social media.
- Do not tweet your experience on Twitter®.
- Do not accept any new Facebook® friends that you do not personally know.
- Do change your privacy settings immediately to prevent others from posting ANY photos of you on the Internet.
- In fact, it is a good idea not to email anyone information about your accident. The less information you put in writing to the general public, the better.

It is not in your best interests to engage in public discussion about any details of your accident. Read the COMMENTS sections of any social media post. There are always “trolls” looking for arguments. You do not want to be their victim.

Transportation to and from work, school, or social events is a critical part of our lives. When an accident deprives you of your vehicle and you have to rely on rental vehicles, friends and family, or public transportation to get to work and back, it becomes very important to speed up the process of repairing your automobile.

Your first concern is how to get your vehicle repaired if the other party is at fault. Your first steps include the following:

- Select a repair shop to repair your car. You are not required to use a facility designated by an insurance company.
 - Request an estimate and submit to the responsible insurance company.
 - Expect the insurance company to negotiate a lower price with the repair shop. You have no obligation to negotiate, however.
 - Do not sign any releases until repairs have been done to your satisfaction and the repair shop has been paid.
 - Have an experienced personal injury lawyer review any releases before you sign them.
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Once you have determined that your health issues are under control, your next thought may be the condition of your vehicle. If your vehicle is determined to be a total or a near total loss by the insurance adjuster, there are some options you may want to consider.

Use the following guidelines to make the most cost-efficient decision about your vehicle:

- If your car is a TOTAL LOSS, the insurance company will reimburse you for what is considered *fair market value* of the car. Because of depreciation on the vehicle, this amount is often lower than the purchase price.
- If your vehicle is brand new, you can make a claim for TRAUMATIC DEPRECIATION, a term that applies to the depreciation of a new vehicle the moment it is driven off the lot. This claim must be evaluated by your lawyer on a case-by-case basis.
- If the cost of repair to your vehicle is greater than 75% of its fair-market value, the insurance company may choose to declare your vehicle a CONSTRUCTIVE LOSS. This means the cost of repairs compared to its overall value does not make economic sense.
- If your vehicle is declared a CONSTRUCTIVE LOSS, the insurance company should pay you the fair market value of the vehicle.
- If you decide to repair your car even though the repairs cost more than 75% of fair market value, the insurance company may reduce its payment to you by an amount equal to the salvage value of your vehicle.
- If you decide to let the insurance company keep the salvage and accept payment for a totaled vehicle, you are also entitled to the cost of tax, title and license of your replacement vehicle.

Your attorney can assist you in making the right choice.

Determining who is to blame – deciding FAULT – is sometimes difficult. It is not uncommon to be involved in an accident where it is difficult to determine which driver is responsible. The guidelines below explain some of the issues that may arise when considering fault:

- If you have *collision* coverage for your vehicle, your insurance company will apply a deductible to whatever they pay you for the repairs.
- If the vehicle is totaled, your insurance company will pay you market value for the vehicle.
- If the other party is found to be at fault, you will be entitled to get your deductible reimbursed by the insurer of the at-fault driver, as well as rental car expenses for a comparable vehicle.
- If your insurance coverage is *uninsured/property damage* coverage, you can get your car repaired if you are hit by an uninsured driver.
- *Uninsured/property damage* coverage will not pay for repair costs if you wreck your car and you are at fault.
- If it is clear that the other driver is at fault and the other driver's insurance company accepts responsibility, you should be provided a rental vehicle comparable to your vehicle. If you did not have comprehensive and collision coverage insurance for your vehicle at the time of the accident, the car rental company will require you to purchase this coverage.
- The other driver's insurance company is also liable for towing and storage fees.
- If fault cannot be quickly decided, call your insurance agent to determine if you have rental coverage. If you do have rental coverage, it is important to ask your insurance company if they have special rates deal with a particular rental car company. Your policy may have a daily limit for rental coverage.
- If fault for the accident is in dispute, act quickly. Fault issues can be resolved later.

Your best option is to pay the wrecker service and get your vehicle out of storage to avoid expensive storage fees.

One concern we all share if we are involved in an accident is the whether or not we are able to work because of the accident. Our families depend on us for support, and being off work for an extended period of time can take a serious toll on our families and our jobs. The good news is that if you are unable to work as a result of an accident, there are conditions under which you may be entitled to lost wages:

- You are entitled to lost wages from the at-fault driver's insurance company if you are unable to work as a result of the accident.
- The insurance company cannot reduce your wage loss by deducting an amount equal to state and federal taxes.

- Unfortunately, if you are under medical care and unable to work, the insurance company is not obligated to pay your wages during this period.
- Restitution for wage loss is made when your case is resolved.

It is important, however, to know that the at-fault driver's insurance company does not have the responsibility to take care of you.

Their obligation is to defend their client. Louisiana law imposes a "duty to defend" the client on insurers.

Assigning responsibility for an accident is, at times, a challenge. It is not easy to determine the responsible party in many cases. The burden of proof for the accident and any injuries and damages resulting from it are determined as follows:

- The injured victim (called the Plaintiff) has to prove who caused the accident and resulting damages.
 - The Plaintiff must provide a "preponderance" of evidence that shows fault and injury are "more likely than not" caused by the other driver.
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Once responsibility has been determined, the injured victim is entitled to the following:

- Medical Expenses (past, present, and future)
 - Mental Anguish (past, present, and future)
 - Loss of Enjoyment of Life (past, present, and future)
 - Loss of Wages (past, present, and future)
 - Loss of Earning Capacity (past, present, and future)
 - Disability (past, present, and future)
 - Disfigurement
 - Property Damage
 - Travel expenses, Storage fees, and Rental expenses
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As responsible drivers, it is useful to know a little about Louisiana insurance laws. The state is very clear about the kind of insurance coverage it requires of its drivers:

A driver can purchase higher insurance limits than the minimum required; however, all vehicles on Louisiana roadways must have, at a minimum, 15/30/25 liability coverage.

- The first number (\$15,000) represents the most money YOUR insurance company will pay someone if you have an accident and you are at fault.
- The second number (\$30,000) represents the most money your insurance company will pay if you injure MORE than one person if you have an accident and are at fault.
- The last figure (\$25,000) represents the most money your insurance company will pay someone for property expenses if you damage or total someone's vehicle and are at fault.

In 1996, the Louisiana legislature passed a law, called “No Pay/No Play,” that penalizes uninsured motorist. The details of this law include the following:

- If you do not have insurance on your vehicle and you are driving at the time of the accident, the law does not allow you to collect the first \$15,000 from the at-fault driver's insurer for bodily injuries and wage loss.
- You cannot collect the first \$25,000 for property damage.
- This does not mean you cannot make a claim for damages if your injuries are severe and you have extensive medical bills. It means that your claim, whatever it may be worth, will be reduced by \$15,000 for bodily injuries and \$25,000 for property damage.
- This law does not apply to the guest passengers in your vehicle, or if the other driver is intoxicated or is cited for any of the offences stated below.

According to Louisiana Revised Statute 32:866, the following limitations of the “No Pay/No Play” law apply if the driver of the other vehicle is cited for any of the following offences:

- i. Driving while intoxicated, under either the influence of alcohol (DWI) or drugs (DUI);
 - ii. Causing the accident intentionally; insurance companies cover only negligent acts, not intentional acts;
 - iii. Fleeing from the scene;
 - iv. Committing a felony offense under the law at the time of the accident.
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Although all Louisiana drivers are required by law to drive insured vehicles, not everyone does. In some cases, there may be other insurance coverage available if the at-fault driver is uninsured or underinsured.

It is important to remember that insurance coverage is a very complicated business. If you have read through your automobile or home insurance policy, you know that there are all sorts of options that may or may not apply.

One of the most basic rules of automobile insurance coverage is to understand that the insurance follows the car. So, for example, John Smith owns a pick-up truck he has insured as required. He usually drives his truck to work. One Friday, however, his truck breaks down, and he borrows his friend's truck to drive to work.

On the way, he runs a stop sign and crashes into your car. Even though his friend's truck is insured, you may have a claim against John Smith's insurance automobile policy if his friend's insurance coverage is not sufficient to cover your damages. Always consult your attorney to determine if this is a possibility.

There are situations, however, where there is no insurance on either the car or the driver. If this situation occurs, there are several things to consider:

If you are the victim, you may have to rely on your own insurance to pay for your vehicle damage as well as medical expenses. If you have collision damage under your policy, your insurance will pay for the cost of repair, minus your deductible. If it is a total or constructive loss as discussed above, your insurance company will owe the fair market value of your car.

Medical costs are always a major expense. The victim may have coverage that will help with these expenses even if the at-fault driver has no insurance. Medical Payments Coverage (called Med Pay) is an option that a driver may purchase to cover every person in the vehicle if there is an accident with an uninsured driver.

Med Pay varies according to the policy purchased by the vehicle owner – the general figures are \$1,000, \$2,500, and \$5,000. These amounts would be available to each injured person in the vehicle. If you are a passenger who has his/her own Med Pay policy traveling in a vehicle that is not covered by Med Pay, you can make a claim against your own policy.

Med Pay Coverage may also be stacked. Assume you have \$10,000.00 in medical bills. If you are a passenger in a car with \$5,000.00 of Med Pay Coverage and YOUR own auto policy has \$5,000.00 worth of Med Pay, you can stack these coverages to pay the full \$10,000.00 of medical bills.

It should be noted that the medical expenses must be incurred before one is entitled to Med Pay payments.

Uninsured/Underinsured Motorist Coverage is another option that may provide some measure of security. A vehicle owner may purchase this additional coverage in the event the motorist and any passenger(s) are injured by an uninsured vehicle or an individual operating an uninsured vehicle who does not have his/her own automobile liability policy. The same stacking concept of Med Pay coverage also applies to Uninsured/Underinsured Motorist Coverage.

Uninsured Motorist Coverage will pay for medical bills, lost wages, pain and suffering. In some instances, pain and suffering coverage may not be available if a motorist decides to purchase what is known as “Economic Only” Uninsured/Underinsured Motorist Coverage. To be on the safe side, it is advisable to purchase *regular* underinsured motorist coverage. This option ensures that if you are involved in an accident with a driver who is uninsured that you will have resources to pay your expenses.

Uninsured/Underinsured Motorist Coverage is routinely included with any new automobile insurance policy. A driver who prefers NOT to purchase this option must **reject** the coverage in writing at the time the policy is purchased.

Unfortunately, accidents happen. And property is often damaged and people are often injured. To make sure that your assets are adequately protected, have regular insurance check-ups with your agent.

Despite how careful you are, despite how good a driver you are, there is no guarantee that you will not be involved in an automobile accident. The average number of non-fatal car crashes in the United States in 2014 was a staggering 5,400,00. That’s almost five and one-half million accidents.

Whether you are in an inconsequential “fender bender” or a full-blown crash, you will be affected in more than one way: minor or major car repair and/or medical treatment. Even minor repairs are surprisingly expensive.

If you are involved in an automobile accident, take steps to take care of your health and your property. Personal injury cases can be incredibly complicated. Having competent counsel evaluate your case and guide you through the legal process will reduce your anxiety and increase your chances of receiving a fair settlement.

The most effective way to resolve issues that occur as a result of automobile accidents is to get professional advice immediately. As a local attorney, I am qualified to provide advice and information to ensure that you can avoid actions that could jeopardize your claim for damages.

Contact us. Our history and qualifications speak for themselves:

- As a practicing attorney of more than twenty years, I have had extensive experience with the processes that must be followed in order to assure the best outcome.
- As a native of Calcasieu Parish, I am familiar with the courts, judges, and the medical community.
- My Lake Charles office is our only location, enabling me to concentrate my energies on our geographic area.
- I will personally act as your counsel; your case will not be assigned to a junior lawyer or paralegal.
- I will always put your financial interests first and will be available to you for follow up after your case is resolved.
- I will work diligently to ensure that any mediation will not result in an unreasonable settlement offer.
- I am prepared to take your case to trial when necessary.
- I care about my clients.

I hope you find this information helpful.

Best regards,

Alvin D. Hunt, Esq.
Attorney-at-Law

Notes

The image shows five horizontal teal-colored bars stacked vertically, intended for taking notes. Each bar is a solid teal color and spans most of the width of the page.

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