

# **Auto Accidents in Missouri**

## ***What You Need to Know***

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**Auto Accident Attorney**

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## **AUTO ACCIDENTS IN MISSOURI: What You Need to Know**

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## **Introduction**

My name is Nedim Ramic and I am a personal injury attorney in St. Louis, Missouri. I help people who have been injured in car accidents, truck accidents or motorcycle accidents caused by the negligence of others.

Over the years in practice I have handled many motor vehicle accident cases that involve major injury or death, as well as the less serious soft-tissue or whiplash types of cases. In every case that I handle, I try to put myself in the position of an auto accident victim in order to better understand their situation and provide the best legal services I can. I am able to do this better than most attorneys because I have been a victim of a car accident myself and know firsthand what injured people go through.

I feel blessed to have been given this opportunity to help injury victims put their lives back together after an accident. I also feel powerful, standing up to the big insurance companies on behalf of the less fortunate. It is a great responsibility and I take great pride in representing real individuals with real life issues.

I have written this book so you will better understand your legal rights after your auto accident and when dealing with insurance companies. Whether you decide to hire me to assist you with your case or not, I hope that this book will give you guidance and help protect you from being taken advantage of by the big insurance companies.

## **Important Disclaimer**

This book is meant to provide valuable information for those who have been injured in an auto accident. Every case is different, so you should NOT take what you read here as legal advice. If you have specific questions about your case, please consult with an attorney so he or she may review the details of your case and make proper recommendations.

If you already have an attorney and this book raises questions about your case, please take those questions to your attorney. He or she should address your concerns to your satisfaction. If you don't understand the answers, make sure you let your attorney know so they can find a way to explain so you do understand.

## Car Accident Statistics

No one gets in the car expecting to be involved in an accident, but there are more than 16,000 crashes reported each day in the U.S. – a total of 6.1 million crashes were reported to the police in 2014, according to the National Highway Traffic Safety Administration (NHTSA)<sup>1</sup>. While 72% of those crashes involved only property damage, the remaining 28% resulted in 2.3 million people being injured and the deaths of 32,675 others, including 766 here in Missouri. This doesn't count the millions of accidents that are never reported, estimated at another 60% of all property damage only crashes and 24% of all injury crashes.<sup>2</sup>

Some of the most common causes of car accidents are:

- Driving under the influence of alcohol or drugs
- Speeding
- Reckless driving
- Ignoring road conditions
- Talking on a cell phone/texting while driving
- Generally not paying attention
- Failure to maintain the vehicle mechanically

Whatever the causes are it seems we are making some progress. This same NHTSA report shows fatalities have decreased by 25% and injuries by 13% in the period from 2005 to 2014. Various sources give the following as possible reasons for the decline:

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<sup>1</sup> <http://www-nrd.nhtsa.dot.gov/Pubs/812219.pdf>

<sup>2</sup> <http://www-nrd.nhtsa.dot.gov/pubs/812013.pdf>

- Improved passive safety systems in vehicles, including better vehicle designs and improved airbags;
- New active technologies, such as electronic stability control which is now required in all new vehicles, and more advanced collision avoidance systems;
- Crackdown nationally on drunk driving and some jurisdictions requiring ignition interlock mechanisms on vehicles driven by those with prior DWI's;
- Increased awareness of and new laws related to mobile device use while driving.

We can be hopeful that the future will yield better and better results, especially as technology improves and self-driving cars are perfected! That's the good news. The bad news? There are still many people injured or killed in crashes each year, some of those seriously.

### **Truck & Motorcycle Accidents**

While this book focuses mostly on car accidents, much of the information applies also to truck and motorcycle accidents. In 2014, there were 3,903 people killed and 11,000 injured in accidents involving large trucks and tractor trailers. The majority of those killed (83%) were either in another vehicle involved in the crash or were bystanders.

Research also shows 4,586 fatalities in motorcycle crashes in 2014 and another 92,000 injuries. Motorcyclist fatalities have declined over the past three years as helmet use has increased<sup>3</sup>.



## **The Cost of Accidents to Our Economy**

The economic costs related to motor vehicle accidents each year are estimated at \$242 billion. The comprehensive costs, including lost wages for family members of the injured party and things like loss of future earnings for those who die in crashes, total approximately \$836 billion each year<sup>3</sup>. These estimates include the millions of accidents that are never reported to the police.

Approximately 90 people die and more than 6,400 are injured every day in the U.S. in car, truck, and motorcycle accidents<sup>4</sup>. In fact, motor vehicle injuries are one of the leading causes of death and injury to children. In 2013, more than 600 children under the age of 12 died and 127,250 were injured while riding in motor vehicles<sup>5</sup>. Many of these injuries and deaths were the result of the child riding without a properly secured car seat or seat belt. Motor vehicle crashes were also the leading cause of workplace deaths in 2013, accounting for 1,865 deaths and 24% of fatal workplace incidents<sup>6</sup>.

Men and women are different. One third of women are killed in single vehicle crashes compared to 55% of men. Vehicle speed is the greatest predictor of injury severity, followed by the type of crash, age of the victim, use of seatbelt, mass of the vehicle, and sex of the driver.

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<sup>3</sup> <http://www-nrd.nhtsa.dot.gov/Pubs/812234.pdf>

<sup>4</sup> Ibid.

<sup>5</sup> [http://www.cdc.gov/motorvehiclesafety/child\\_passenger\\_safety/cps-factsheet.html](http://www.cdc.gov/motorvehiclesafety/child_passenger_safety/cps-factsheet.html)

<sup>6</sup> <http://www.aflcio.org/content/download/154671/3868441/DOJ2015Finalnobug.pdf>

## Types of Injuries

Most injuries from car crashes are fairly minor, and include cuts, pulled muscles and bruising. Broken bones in the form of simple fractures (not requiring surgery) are also common. If your injury falls into a minor category, you will probably recover quickly and be able to get the at-fault party's insurance company to pay for your medical bills and lost wages, if any.

More severe crash injuries include:

- **Compound bone fractures** requiring surgery to repair. Serious fractures may be repaired with permanent pins or rods, or may require replacement of the joint. In some cases, future surgery may be required to maintain the repair. If your doctor anticipates this may be the case in your situation, you will want to document these future expenses and include them in any settlement demand.
- **Neck and back injuries** are also common. The trauma of the crash may cause **whiplash** or spinal injury. In many cases, these injuries are soft tissue injuries and don't show up on the initial x-rays. Further testing and treatment is often required.
- **Concussions** are also common and range from minor, where you may feel nauseous for a day or two and then recover, to **traumatic brain injuries** that result in permanent damage requiring long term rehabilitation.
- **Internal damage** may not appear immediately, so you may go home after the crash thinking you are fine only

to have to go to the emergency room later that evening when your symptoms and pain worsen.

- Serious crashes may result in **amputation** or **paralysis**. These cases will always require long term care and rehabilitation.

More severe injuries may result in a longer recovery time and even permanent damage that impacts your ability to work and support your family. If you have a severe injury, you may wish to speak to an attorney.

# **The Accident Scene**

## **What You Should and Shouldn't Do**

After a car accident most people are shook up and are not thinking clearly. Obviously, if you are seriously injured there is not a whole lot you can do but seek the necessary emergency medical care. However, if you are able, you should attempt to gather important information at the scene of the accident.

Immediately after the accident, you should try to remain calm. Check yourself and others involved in the accident for injuries. If anyone is injured, administer basic first aid and call 9-1-1 to request the police and emergency medical services. Do not move anyone who is injured unless there is risk of greater injury (for example, the car is on fire). Be courteous with the police and emergency personnel, and provide a factual account of the crash (what you know or believe happened, not what you think might have happened).

If there are no injuries and the accident is very minor, and if it is safe to do so, move the cars off the road, otherwise wait for the police to arrive so they can document the crash. If you are able, you will also want to do the same.

If you are not injured and it is safe to do so, take the following steps to document the accident:

1. Get the names, addresses, employer name, email and phone numbers (home, work, mobile) from everyone involved in the accident (including passengers), and the license number for the driver;

2. Get the same information from any witnesses who saw what happened and ask them to give you a statement of their observations (you may wish to do this first since witnesses often leave the scene quickly);
3. Write down the insurance information for the other driver(s) involved in the accident, being sure to include the policy number, insured's name and the claims phone number;
4. Provided it is safe to do so, take pictures of the overall accident scene from multiple angles (take video if your mobile device has this option) and pictures of the damage to your vehicle (outside and inside) and the others involved;
5. Photograph the positions of all traffic lights and stop signs, including your vehicle in the photos;
6. Describe the weather and road conditions;
7. Try to sketch the accident scene and jot down how you believe the accident occurred;
8. If you are injured, ask another person to take photographs of your injuries;
9. Get the responding officer's name, department, badge number and the accident report number.

**Helpful Tip:**

See Appendix 1 for our Accident Information Sheet. Make a copy to keep in your glove box.

Things you should NOT do include saying the accident was your fault, or "my insurance company will pay for everything," or "it's okay, I have full coverage." Legally speaking, excited

utterances or statements against self-interest are later admissible against you even though they are hearsay.

### **Medical Treatment at the Scene**

If you are bleeding or have an obvious injury, paramedics will assess your condition and, if needed, transport you to the hospital for treatment. In many cases, however, the injuries are not as obvious. The stress of the accident and adrenaline in your body immediately after the crash may “hide” some of your symptoms, leading you to believe you are not badly injured. In addition, bruising and swelling can occur during the hours following the accident so you end up feeling worse later.

It is surprising how many people will refuse medical treatment at the scene of an accident and go home, only to end up at the emergency room a few hours later. The reasons I have heard range from lack of health insurance and fear of medical bills to, “I thought it was just the shock and my pain would improve after a while.”

In most situations the pain will increase in the hours or days following an accident. The majority of medical professionals agree that most pain after an accident occurs 48-72 hours after the collision. That’s right, two to three days after the actual accident. In order to rule out more serious injuries, and decrease the pain and suffering after the collision, it is essential to immediately ask to be taken to the closest emergency room.

Another important reason to seek medical attention immediately following the accident is the fact that insurance

companies will attempt to minimize your injuries because you failed to seek treatment. They will argue, albeit wrongly, that your pain is not related to the accident at all but may be from a pre-existing condition or perhaps from something that happened after the accident. Their logic is that people who are injured will seek medical care right away. Therefore, since you did not seek medical care right away, you were not really injured. As you can see, it does sound logical, but reality and human nature do not support this argument. If you believe there is any chance you have suffered an injury, you will better support any future claims by immediately seeking medical care to document your complaints and injuries.

### **Asking for an Interpreter**

It is normal to be shaken up if you've been in an accident. Even if you speak conversational English, you may not be familiar with the terminology used by the police, paramedics and doctors, and the insurance company. If you do not understand, ask for an interpreter. Do not sign any paperwork or agree to a settlement in your case unless you fully understand the terms and conditions.

## **After the Accident**

There are a number of things you must do in the hours and days following the accident. From reporting the accident to your insurance company, to visiting the hospital, to follow-up doctor's appointments, calling work to tell them you have been in an auto accident, to getting a copy of the police report and dealing with the insurance adjuster, sometimes it feels like you're spending all your time on the phone. This chapter includes an overview of the things you may need to handle after the accident and how to best do so.

### **Medical Treatment after the Accident**

We have all been there; we feel pain and discomfort yet don't seek medical care because we hope that the symptoms will go away by themselves. (It's just a stiff neck, right?) We do not wish to be perceived as that person who runs to his doctor for every minor thing. Also, many people who are struggling financially are concerned about how the medical bills will be paid. If you've visited the ER or had any procedures done in the past few years, you know exactly how expensive treatment can be. It can easily push a family with limited income to the brink of financial disaster.

Insurance companies love people who suffer silently. Why? Well, there are objective and subjective injuries in every motor vehicle collision. Subjective injuries are injuries where victims complain to friends and family about how they feel ("my neck hurts," "my back hurts," "I have throbbing headaches"), but they never see a medical provider to



document the symptoms and complaints in their medical chart.

Documented injuries are objective. When a licensed medical professional sees the victim and reviews the symptoms and any test results, his or her medical findings are recorded in your medical records. These medical records may then be submitted as evidence in your case—basically, the doctor is an independent expert so your medical records become evidence of your injury.

When you see your doctor, make sure to tell him every detailed symptom you are experiencing even if you aren't certain all the symptoms are related to the accident. This way all your complaints will be in your medical chart. It is very important to follow your doctor's advice, take the medications you are prescribed (if they don't work for you or you have an adverse reaction, contact the doctor to discuss other options) and attend all scheduled appointments, including tests and physical therapy, if ordered. Why? If you do not, the insurance company will try to use your unattended appointments against you. Two very strong arguments from their side that I have heard are, (1.) you would have been healed long ago had you followed your doctor's orders; and (2.) if you were really in pain you would not have missed your appointments.

Insurance companies will NEVER compensate you fairly for your subjective injuries. They have no reason to do so because they know you will have a very hard time proving subjective injuries in a court of law. Again, their stance is, an injured person seeks medical attention. A person who is not injured does not seek medical care. If you did not seek medical care,

you must not have truly been injured – even if your cousin Stephen claims you told him you were!

## **What You Should and Shouldn't Do**

As you might have guessed, getting medical attention is the **most important thing that you can do** immediately following an accident. Here's a checklist of other things you should and shouldn't do following the accident:

1. One easy thing to do is to keep a journal of your daily activities. On a daily basis, write down when you have pain and how intense that pain is. As you're going through the recovery process, you may think you'll never forget the details, but the journal will help you document the after effects of the injury and ensure nothing is missed as you work to resolve your claim.
2. Keep records of doctor's appointments and physical therapy sessions.
3. Note if and when you miss work due to your doctor's instructions or appointments. If your employer requires you to use your vacation days because you don't have enough sick days, keep track of the number of days you "lose" due to the accident.
4. Keep a record of when you take any prescribed medicines and how well they are working. Make sure to reach out to the doctor if the medications do not help – don't just stop taking them.
5. If you do not improve based on your doctor's expectations, ask for your doctor to review your case to determine why. Another option is to ask for a second opinion.

6. Write down the things that you were able to do before the accident that you are unable to do afterwards.
7. Do NOT share details of the accident with others. You can tell them you were injured in an accident and provide an update on your medical condition, but I discourage you from sharing the photos or too much detail.
8. Do NOT post any videos, photos or comments about the accident on social media. The insurance adjuster will look at your Facebook, Twitter and Instagram accounts to learn more about you and find any ammunition they can to disprove your claim.
9. Do NOT sign any forms until you have spoken to an attorney and you are completely sure you understand them. (See more about releases below.)

## **Understanding Release Forms**

I have seen it time and time again. Not long after your car accident the insurance company is waving money in your face trying to get you to sign release forms. Be careful, and I mean BE VERY CAREFUL. Ask yourself, “why are they trying to give me money this early, when they do not even know exactly what happened and the extent of my injuries?”

The simple answer is that once you sign the release form, you lose any rights to additional money in your case. The insurance company knows if they get out early, they are getting off cheap. Insurance companies make profits by keeping money and investing it, not by paying it out for injury claims. In almost every case, an early offer is a guarantee you will not be

fully compensated for your claim. Why? Because accident victims often do not learn the full extent of their injuries for days, weeks or sometimes even months. What if your sore shoulder the doctor thought was a muscle pull turns out after a couple of MRIs to be a tear in your rotator cuff that requires surgery, months of physical therapy, missed work and doctor's appointments? If you have already signed the release forms and accepted the settlement money, YOU will have to pay these expenses – not the insurance company!

For this reason, I urge you NOT TO SIGN ANYTHING until you fully understand what it is. Do not sign a release or accept a settlement until you are 100% certain that you know the full extent of your injuries. Do not endorse or sign the back of a check because it may release ALL of your rights. Do not sign an open medical release form. This gives the insurance company carte blanche to dig up any and all information from your past, including your medical history not related to the accident. Bottom line is this, DO NOT SIGN ANYTHING you do not understand fully. There is only one way to make sure you understand it fully...speak with an attorney.

### **Record Keeping**

I strongly urge you to keep complete records of the motor vehicle accident, your injuries, and your recovery. Document the crash as described on pages 8-9, maintain a journal starting with your notes about the accident and continuing through your recovery, keep copies of all medical records, travel and out of pocket expenses (including prescriptions and medical supplies like crutches or wheelchair rental expenses), and pay stubs to prove lost wages. In the event your claim is disputed or a trial is necessary, these records may become evidence to prove your case.

### **Dealing with Insurance Adjusters**

When it comes to insurance companies, they are in business to make money. They are not a non-profit organization and will not willingly share their money with you. Do they know that you have a claim? Absolutely. Will they admit it? Never.

As soon as your accident report is filed, you'll be contacted by an insurance adjuster. His or her goal is to process the claim as quickly as possible and at the lowest cost to their employer – the insurance company. The adjuster who is assigned to work your claim has an agenda: to find ways to not put a dime in your pocket. Most adjusters are very friendly and personable. It is easy to believe they want to help you resolve your claim. However, it is all a numbers game to them. If they can find any hint that the accident and related injury were your fault, they

have justification not to pay you. So be careful, be very careful of your choice of words when talking to an insurance adjuster.

Insurance adjusters are trained to fish out all the faults in your case. They will usually call you very shortly after the accident to discuss your claim. Contractually, you are required to cooperate in your own insurance company's investigation. You do not, however, have to allow them to record your statement. Most adjusters will agree to send you a written questionnaire instead of subjecting you to a recorded statement. If you do not understand the questions being asked by the insurance company, you may wish to request the questions in writing so you may have them translated or take the time to speak to an attorney.

We advise our clients never to give a recorded statement prior to filing a lawsuit. I have never seen a recorded statement dramatically increase the value of a personal injury case, but I have seen situations where the recorded statement hurt the case.

In some instances, cooperation with the insurance company is unavoidable, such as an accident where the at-fault driver was uninsured or underinsured. The adjusters are counting on speaking to you before you have a chance to talk to an attorney. They hope this will ensure you have limited knowledge about your rights and the laws regarding personal injury claims in Missouri.

If you do speak with an adjuster before you have had the chance to meet with an attorney to review your claim, you should be prepared to answer their questions about the

accident. Review your notes prior to speaking with them so your recollection of the accident is clear and concise. Ask them to provide you with copies of everything they request of you.

Also be prepared to ask them questions. The following are some examples of important requests that you can ask the adjuster:

- Instead of a recorded statement, can I get the questions in writing?
- Will you put in writing that the accident was not my fault?
- Will you obtain a recorded statement from the person that caused the accident, and can I have a transcript of the same?
- Will I have access to any and all medical records and bills that you are requesting releases for?
- How much insurance coverage does the person who hit me have? Can you forward me a copy of his or her policy?
- Will I have access to all statements you obtain from any witnesses?
- Are you going to do video surveillance of me? If so, will I have access to those materials?
- Can I have an index of information that you have already obtained from your system?
- Is there an umbrella policy?

Don't be surprised if they hang up on you once you start asking them these questions. In their view, information gathering is a one-way street. They expect to be in control; they ask the questions, you provide the answers. They do not need to justify their interrogation practices to you, but the

moment you begin to ask questions, they feel uneasy and threatened. It is unlikely they will volunteer to help you. Therefore, it is important to gather all of your facts and records and to contact an experienced attorney immediately. It could mean a difference of thousands of dollars for your claim. It is money you deserve for the injuries you suffered.

## **The Claims Process**

The claims process is actually pretty simple. Having said that, it does require a lot of work to properly set the stage for final negotiations. It can be time consuming and frustrating, so if you know you will not have the time to properly prepare, it may not be a bad idea to consider hiring a lawyer to do it for you. Personal injury lawyers have systems in place that automate the preparation stage. Thus, if your settlement amount will be greater with a lawyer representing you (which, statistically speaking, is almost always the case) and if at the end of the day you will pocket the same amount of money or more than if you had represented yourself, then why go through the hassle of doing the extra work for the same amount of money?

If you so choose, you can represent yourself. The basic steps are:

1. Advise the at-fault party's insurance carrier that you have a claim;
2. Gather evidence about the accident;
3. Pull together copies of all medical records and medical bills related to your injuries;



4. Determine the value of your claim (don't forget to include anticipated future medical care and any possible medical liens);
5. Prepare a demand packet;
6. Negotiate with the insurance adjuster;
7. If you are unable to come to an agreement, file a lawsuit.

Setting up a claim initially is pretty simple. You call the at fault party's insurance company. You should have collected that information at the scene of the accident. If not, you can usually get their contact information from the police report. The intake person will ask you a lot of questions about the accident. At this stage, be careful how you word your answers as it may negatively impact their determination of liability. Further, there will also be questions regarding your injuries. Be certain to address any and all complaints you have. In most cases, the intake person will provide you with a claim number and the name and contact information of the adjuster who will be handling your claim. It is a good idea to follow up your conversation by sending a letter to the adjuster detailing the initial telephone conversation.

Once you have set up a claim, it is time to get to work gathering evidence about the accident. That may include going to the scene and taking pictures, taking pictures of your vehicle, and reaching out to talk to the witnesses to get their statements. Do this early in the process and ask if you can record their statement or if they will put it in writing and sign it. Memories fade and people tend to forget what happened after a while. Further, if you get a recorded statement, it is

less likely that the witness will mysteriously change his or her story down the road. Get the conversation transcribed, if at all possible. You want to get all the basics: who, what, when, where, why and how. As mentioned previously, it's a good idea to keep a detailed daily journal of your activities. In particular, note all the things you were able to do prior to the accident that you are unable to do now, or are only able to do with difficulty after the accident.

Once your medical treatment is complete, you then must gather ALL the medical records and bills/itemized statements from your medical providers. While the insurance company will offer to do this step for you, I would strongly advise against it. Reasons are simple: First of all, it does not cost a lot to get the copies and many medical providers will provide the same to the patient at no charge. Second, if you inadvertently give the insurance company permission, they may go back many years prior to your accident and try to dig up medical history to undermine the value of your claim. They may use unrelated medical records to claim pre-existing injuries. You are better off getting the information yourself first and reviewing it so you can present it to the insurance company in the most favorable light to you.

The Health Information Portability and Accountability Act (HIPAA) gives patients the right to obtain a copy of their medical records from their medical providers. In most instances you can get your own medical records. If you are the designated representative or legal guardian, you can obtain your children's medical records and records of the deceased. The law requires that those be provided within 30 days after a

proper request; however, the procedure varies from provider to provider.

Here at my office, we first contact the medical provider and ask how they prefer to handle it. We then send the request in writing with the appropriate HIPAA release form. Some providers require their own specific HIPAA release, while others will accept the generic ones. You can specify certain records or obtain any and all they have in their possession. In some cases the medical provider will send you an invoice for copying costs. They are entitled to “reasonable costs” for copying and sending your records. Once you pay your invoice you should get the requested records. (Keep a copy of the invoice and include this amount in your damage request.)

If you have missed time at work you are entitled to recover lost wages. You may generally prove the amount by using paystubs, tax returns or other employer-provided documents that show your lost income. I usually like to get a letter from the employer stating how long you have worked there, what your position was, how much you were making and how much you would have earned during the time period you were off work due to the accident. This is usually referred to as a wage verification letter and should be signed by your employer.

### **Damage to the Vehicle**

The insurance company will usually send a person out to take a look at the vehicle or tell you where they would like you to go to get an estimate for repairs. You are allowed to get your estimate anywhere you please; you may even get more than one estimate. In most cases that I have seen, the insurance company will make you a lowball offer for the property

damage. If they provide a check for repairs, you may wish to ask them to put in writing that they will cover additional damages, if any, which are discovered by the body shop during the repair process. Do your own research at sites such as Kelly Blue Book and get a general idea as to the value of your vehicle. If it is a total loss, you want to be fairly compensated.

### **When the At-Fault Driver is Uninsured or Underinsured**

What if the person that caused the accident did not have insurance, or enough insurance, at the time of the accident? Missouri law requires that all motor vehicle drivers and owners maintain minimum amounts of motor vehicle liability insurance coverage. Unfortunately, each year thousands of Missouri citizens are involved in automobile accidents with drivers who have not maintained the required insurance.

According to the Missouri Department of Revenue, Missourians were involved in more than 6,000 accidents involving uninsured motorists from July 2010 until July 2011. This results in unpaid damage claims, catastrophic injuries and death. Also, it increases insurance premium rates for all Missourians. According to reports of the Missouri Highway Patrol, it issued more than 22,000 citations to drivers in 2010 who could not provide proof of insurance as required by law. Some believe that as many as one in every four drivers may either be uninsured or not carry enough insurance.

Missouri motor vehicle owners are required to show proof of insurance when registering a vehicle and renewing their license plates. Unfortunately, some drivers drop their coverage immediately after registering their vehicle.

Liability insurance covers your legal liability when others are injured or property damage happens as a result of your actions. Missouri requires these minimum levels of coverage:

- \$25,000 per person for bodily injury
- \$50,000 per accident for bodily injury
- \$10,000 per accident for property damage

Non-residents must maintain insurance that conforms to the requirements of the laws of their state. You must keep some proof of insurance in your vehicle at all times. If a law enforcement officer asks for proof of insurance and you cannot show it, the officer may issue a ticket.

The law in Missouri also requires you to have uninsured motorist (UM) coverage of at least \$25,000 per person for bodily injury and \$50,000 for bodily injury per accident. This means if you have auto insurance coverage in Missouri, you will have uninsured motorist coverage, at least at these minimum levels.

Individuals who have been injured in an accident with an uninsured motorist may file injury claims through their own insurance policies to recover damages. Passengers in the vehicle may also be covered under the driver's uninsured motorist policy up to the insurance limits specified.

Uninsured motorist coverage is available to the policy holder, to family members of the policy holder, as well as to passengers of an automobile that is insured. You may also be entitled to UM coverage if you were a pedestrian, bicyclist or bystander injured in the auto accident and the negligent

motorist who caused your injuries was operating an uninsured motor vehicle at the time of the accident.

The UM coverage required by Missouri law is for bodily injury only. It includes compensation for obvious losses, including past and future medical bills, lost earnings, and pain and suffering.

UM coverage in Missouri can be “stacked.” That is, if you have more than one vehicle insured, you are entitled to benefits under each of those policies. For example, if you are seriously injured and you have \$50,000 in UM coverage on 4 vehicles, you would be entitled to submit a claim to your insurance company of up to \$200,000.

It is important to note that medical expenses continue to increase every year. If your injuries are extensive, the UM coverage – even stacked – may not be sufficient to cover your losses. You may wish to ask your insurance agent about adding underinsured motorist (UIM) coverage to your policy.

### **A Note about Commercial Drivers**

If the at-fault party is driving as part of their job duties, the accident claim may become more complex. In this instance, the employer may become a third-party in your accident claim. I recommend you discuss your case with an attorney if a commercial driver is involved.

## **Right of Victims under Missouri Law**

When involved in a car accident, most people worry about how much the incident will cost them and who is responsible for paying these damages. Missouri is a “comparative negligence” state, meaning if you were partly at fault for the accident, your ability to recover damages may be relative to the percentage you were at fault. For example, if the court finds you were 20% at fault for the accident, your settlement would be reduced by 20%. Proving fault becomes important in any injury case.

Under Missouri law, if you are not in any way responsible for the accident, you are entitled to recover damages, as follows:

- Property damages: If your car is totaled you should get fair market value for it. It does not matter that you may be “underwater” on your car loan, you are only entitled to the fair market value. If the vehicle can be repaired, they will pay the cost to do so. Typically if the cost of repairs exceeds 80% of the value of the vehicle, the insurance company will “total” the car;
- Medical expenses and future medical treatment and rehabilitation;
- Lost wages;
- Pain and suffering;
- Punitive or exemplary damages may be awarded in cases of egregious conduct or gross negligence by the at fault driver. These actions may include drunk driving, reckless driving, etc.

You may have noticed that there are two types of damages – those where you can calculate an actual cost – like medical expenses, property damage and lost wages – and those where you cannot determine an exact amount, like pain and suffering or punitive damages. Calculable damages are referred to as “special damages,” while non-calculable damages are called “general damages.”

Special damages in car accident cases include lost earnings and lost earnings capacity, medical bills, and other economic losses. For example, if you earn \$30,000 per year and you were unable to work for six months due to the accident, then your lost earnings/wages would be \$15,000. Lost earnings capacity refers to a situation where you are no longer able to do the same type of work due to the accident and must move into a career that pays less. The calculation for lost earnings should also include any employment benefits such as health insurance, vacation time, pension or 401(k) contributions, etc.

Medical bills, while blurred by the recent tort reform changes, include current and future medical expenses. Strong documentation will be needed to justify a claim amount in situations where your injury is longer-term or you are

### **Lost Wages**

Calculating lost wages can be more difficult in cases where your pay is commission-based or if you anticipated a promotion but did not receive it because your injuries prevented you from doing the new job. I recommend you speak with an attorney in these cases.



expected to require future care. You will get one settlement and must estimate all future expenses to include in your claim.

General damages include losses that are not easily calculated, such as the often mentioned “pain and suffering.” Pain and suffering can further be broken down to physical and mental pain and suffering.

Physical pain and suffering is easily explained and consists of the actual pain and discomfort from injuries, such as broken bones, neck pain, back pain etc. Mental pain and suffering are generally a product of the victim’s physical ailments and may include things like mental anguish, emotional distress, loss of enjoyment of life, fear, anger, humiliation, anxiety and shock. Mental pain and suffering can also cause depression, severe anger, appetite loss, lack of energy, sexual dysfunction, loss of interest in sex, mood swings and/or sleep disturbances. Very severe mental pain and suffering after a car accident can even constitute Post Traumatic Stress Disorder or PTSD.

How is pain and suffering calculated? There really is not one specific guideline on how to attach a dollar amount to pain and suffering. Since there are no guidelines, there are various factors that are considered when calculating pain and suffering, such as:

- Likeability of the victim
- Credibility (a nun vs. a criminal client)
- Injury complexity
- Consistency of the victim’s story and injuries
- The victim’s ability to express pain and suffering

Further, an insurance adjuster or attorney may sometimes use a “multiplier,” as this is one way to give some value to pain and suffering. This basically means that the calculation is based on some multiplier of your special damages, for example, if your special damages totaled \$100,000, the attorney might request 2x that amount for pain and suffering. Pain and suffering still remains an elusive concept and the multiplier is only a very rough estimate at best.

Punitive damages are money awards that go beyond compensatory damages and are meant to punish the actions of the individual who caused the injury. They have been described as additive, punitory, exemplary, vindictive, imaginary damages, or smart money. Modern cases justify punitive damages as serving the public interest by punishing wrongdoers and deterring others from similar conduct. As with pain and suffering, there is no specific calculation for punitive damages. The calculation may be based on the character and nature of the defendant’s conduct, whether the defendant has money or assets, and whether (or how much) other individuals or society might suffer harm if this particular defendant is not punished. The actual harm done to the victim is also taken into account.

In order to be able to recover punitive damages in Missouri, the injured person must show that the wrongdoer acted with gross negligence, recklessly, or willfully when causing the harm in question. That is, the wrongdoer knew or should have known that that action was likely to be unreasonably dangerous and knew or should have known that someone was likely to get hurt. Willful or intentional behavior is even worse.

## **How Much Is Your Case Worth?**

This is the central question in any personal injury claim. While the formula seems pretty simple, it is actually very difficult to come to a final number. As we have already mentioned, special damages should be pretty easy to calculate. Add your medical expenses, time off work, and any other damages you can put an exact dollar figure on, and, viola, you have your special damages calculated. However, there is no precise way to put a dollar figure on pain and suffering or missed experiences and lost opportunities, also called general damages. Further, how much more should the wrongdoer pay because he was reckless or intoxicated when the crash occurred? Personally, I would like to say that my pain and suffering is worth a gazillion dollars. On the other hand, your pain and suffering is worth ZERO, NADA, ZILCH, to the insurance company. The reality lies somewhere in between.

For most injuries and claims, the insurance company uses a formula. In those cases, the adjuster adds your special damages and then multiplies those by 1.5 or 2. Sometimes the injuries warrant a higher multiplier; in cases of particularly painful, serious, or long lasting injuries, the adjuster can go up to a multiplier of 10. Now keep in mind that this is a formula that insurance adjusters use to have a starting point in the negotiations. You can come up with any number you want. However, I would advise you to make sure the number you present is based on facts and solid reasoning. You should be able to easily explain to the adjuster how you arrived at the same.

Having said all this, the 2005 Missouri Tort Reform Act further muddied the calculation formula. We have all seen medical bills that show an amount charged by the medical provider. If you have health insurance, underneath the full amount you'll see an allowed amount. This is the amount your health insurance provider has agreed to pay medical providers for that particular procedure. Prior to the 2005 Act, the value you could claim for medical treatment was the amount charged by the medical provider, regardless of any agreement the hospital or doctor had with your health insurance provider. The new Tort Reform rules make a presumption that the amount you actually paid (the discounted amount) represents the reasonable value of the medical care you received. The actual result of this change means that those who don't have medical insurance are allowed to receive greater compensation (the full value) for their injuries after an auto accident. If you have medical insurance at the time of the accident, you are essentially penalized for being responsible and paying health insurance premiums. To say the least, computing damages is unclear under Missouri law.

Keeping all of this in mind, the next step is to prepare a detailed demand letter for the at-fault party's insurance company, explaining all the issues you had as the result of the collision. Enclose copies of any and all supporting documents (pictures, police reports, medical records, medical bills, wage verification, etc.), and send it to the adjuster with a demand amount you believe is sufficient to cover your damages. It is unlikely the insurance company will pay the amount you demand, so always demand an amount higher than what you

are willing to settle for, so there is room for negotiation. (See the sample demand letter in Appendix B.)

## **Understanding Medical Liens**

The concept of a medical “lien” is an important one for you to understand. Let’s say your injuries are severe enough that you are transported to the hospital and spend a night there. The hospital files a claim under your medical insurance and they pay the claim. Further, when you purchased your medical insurance, you agreed to reimburse your health insurance company when you signed the policy form and began using the coverage. Now, let’s assume you have filed a lawsuit against the at-fault party in the car crash and been awarded damages, including reimbursement of your medical expenses. That money does not all belong to you. Your health insurance provider is owed a portion of that money since they paid your medical bills from the accident. They have the right under Missouri law to file a lien to legally claim the amount they paid on your behalf, meaning you **will have to reimburse them from the money you receive**. It is important to remember to include any expenses that were paid on your behalf in the settlement calculation or you could lose out.

## **Settling the Case**

Once you and the insurance company agree upon a fair amount for your damages, settlement proceedings begin. The vast majority of personal injury claims settle before a lawsuit is ever filed. Once you agree to settle, you must sign a form releasing all claims; this is also known as a full liability release. Insurance adjusters like to get to this stage as soon as possible. Why? It gets your file off their desk and once the

claim is settled, any future problems that arise related to the crash are your problem. Once you accept the settlement, you are legally barred from filing a lawsuit.

Accordingly, be very careful when signing anything given to you by the insurance adjuster. I mentioned medical liens earlier but want to again caution you to make certain that all liens are included in the settlement calculation. The lien notice may come to you, but it's possible the insurance company received it instead. Ask the adjuster whether he or she received any liens from anybody on your claim, as it may drastically impact your bottom line.

## When Do I Need An Attorney?

I provided some accident statistics at the beginning of the book, so you now know that the majority of auto accidents involve only property damage. If that is the case, you do not need an attorney. Generally insurance companies will settle property damage only claims quickly and fairly – these dollar amounts are peanuts to them. However, if you cannot come to an agreement with the insurance company on a settlement amount for your property damage claim, you may wish to pursue an action on your own in small claims court.

Likewise, if you have a minor injury and you're able to get back to work within a week or two with no long lasting effects, you can probably negotiate a fair settlement on your own. Just remember to document everything and include potential liens in the total.

If your injuries were more serious, I recommend you consult with an attorney to learn your rights and ensure you receive a settlement that is in line with your injuries. This is especially important if you are permanently disabled (partially or totally) or are unable to return to work or the activities you previously enjoyed. Most personal injury attorneys, myself included, offer free consultations to those injured in motor vehicle accidents. It can't hurt to learn your rights.

Finally, if a loved one was killed in an auto accident and another person was at fault, this is known as **wrongful death**. You should always consult with an attorney in any wrongful death case.

## Summary

I hope this book has given you a basic understanding of what happens if you are injured in a motor vehicle accident. It can be a very stressful time for you and your family, with the insurance adjuster calling you and pushing you to settle your case, your employer asking when you'll be back to work, and your family and friends worrying about you. It can be hard for you to make decisions when you are not feeling your best or are on pain medication for your injuries.

It is not uncommon to become frustrated and depressed as you go through the recovery process. I have heard of people accepting insurance settlements just to "get it over with." This can be very damaging in the long term and you may not recover all of your medical expenses and lost wages. If you believe you are depressed, tell your doctor; he or she may be able to help. If you haven't spoken to an injury attorney, you may wish to do so just to understand the process more fully.

Serious injury claims can be complex. It may be months before your doctors are able to determine the full extent of your injuries and whether you will have any permanent damage. You may also miss more work than you expected, or be on limited duty during your recovery. There are a lot of variables to consider, and each injury case is different.

One thing I have not discussed is Missouri's statute of limitations. The law sets limits on how long you have to file suit against the at-fault party for causing your injuries. If you fail to file suit within the time allowed by law, you will be



forever barred from recovering damages in your case. In general, wrongful death cases must be filed within three years and personal injury cases within five years. There are many exceptions to these rules, so you should speak with an attorney sooner rather than later to find out what the limitations are in your situation.

If you take nothing else away from this book, just remember not to sign anything or agree to settle your case until you fully understand the extent of your injuries and any document(s) you will be signing. Remember, the insurance company is not your friend; they are a for-profit business with the goal of paying out as little as possible for your claim. I strongly encourage you to speak with an injury attorney to learn your rights before you sign any final release. I would be more than happy to meet with you to discuss your specific situation. The initial consultation is free.

## **How Do I Choose An Attorney?**

Hiring a lawyer to handle your case is an important decision. If I go online and search “car accident attorney in St. Louis,” I see page after page of results. So how do you know which attorney or law firm will do the best job for you?

It’s important to find a lawyer (and law firm) with experience handling accident claims; a lawyer who will listen to you; a lawyer who will stand up to the big insurance companies on your behalf. You also want to choose a firm that will provide you with personalized attention, explain things to you, and return your phone calls and emails. You must be comfortable with the lawyer you choose and connect with that person on a more personal level. He or she should genuinely care about you and your case and work hard to get you the settlement you deserve.

So how do you find the right lawyer for your case? Start by asking family, friends and coworkers if they have hired an injury lawyer in the past who did a good job for them. If your family members have not used an injury attorney but do have another attorney who does good work (maybe a business attorney or estate planning lawyer), call that firm and ask who they recommend for injury cases. You can also do some research on your own by choosing three or four lawyers who look like they might be a good fit and scheduling an appointment to meet with each of them to learn how they might be able to help you. Ask to read client testimonials to see if other clients were happy with their service, and ask them some of the following questions to compare answers.

## Questions to Ask Each Law Firm

1. How much experience do you have representing auto accident (or personal injury) clients?
2. What's your success record with this type of case?
3. Will you handle my case personally from start to finish?
4. How many others in your office will be part of the team helping me?
5. Do you have client testimonials I can read to confirm your other clients are happy and would recommend you?
6. Do you have evening or Saturday hours?
7. Has the firm received a satisfactory rating from any third-party agencies?
8. Do you promise to return all calls the same day or within 24 hours?
9. Will you give me copies of everything you do on my case?
10. Have you ever been disciplined by the State Bar Association?
11. Have you ever been sued for legal malpractice?
12. Do you carry a legal malpractice insurance policy?
13. What languages are spoken in your office?
14. Why should I hire you to represent me?

I also encourage you to consider how well you interact with the lawyer you plan to hire. An attorney may be experienced and answer all the questions to your satisfaction, but if you are not comfortable with that person, you might want to find someone who is equally well qualified that you feel better about.

## How Bajric & Ramic Can Help

We work harder because you are not just a claim number to us...

We are located in the Bevo Mill area of South St. Louis City, and provide professional legal representation to injury victims in Missouri and throughout the Midwest. If you have been injured in an auto accident, the attorneys at Bajric and Ramic put forth the effort and care to give all of our clients the best representation available. When you choose Bajric & Ramic, you will be represented by a team of aggressive attorneys with the resources and experience to take on your case and get you the compensation you deserve!

### **You Don't Pay Up Front**

Personal injury attorneys generally work on what's called a contingency basis. This means you don't pay anything up front. Fees are deducted from the settlement you are awarded when your case is resolved.

Contact our office for a FREE consultation at (314) 352-6800. Talk to one of our attorneys about your situation. Receive a free evaluation of your case, and expert opinion of the likelihood of success as well as a probable financial value of your case. If we decide to take your case, we will start working right away to protect your interests and maximize the value of your case. **You will not owe us anything unless and until we win your case.**

## Contact Nedim Ramic

I hope this book has been of value to you. If you still have any questions or concerns, please feel free to contact me at the phone number or email address below.

If you have a friend or relative you think might like their own copy of the book, just provide their name and mailing address and I will make certain they receive a copy. Thank you.

Nedim Ramic  
Bajric & Ramic Law Office  
5470 Gravois Road  
St. Louis, MO 63116  
Phone: (314) 352-6800  
Email: [Nedim@brlegal.net](mailto:Nedim@brlegal.net)  
[www.brlegal.net](http://www.brlegal.net)

# Appendix A: Accident Information Sheet

## THINGS TO DO:

1. Check for injuries; call 9-1-1 to report to crash.
2. Try not to move the vehicles until the police arrive.
3. Write down the names, addresses and phone numbers of all witnesses.
4. If you are injured, ask to be transported to the hospital for attention.
5. If you are not seriously injured, photograph the scene and damage to all vehicles.
6. Give the police the facts as you know them. Do NOT say you are at fault.
7. If you are injured, speak with an attorney to learn your rights.

## GET THIS INFORMATION

Other Driver's Name & License #: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number(s): \_\_\_\_\_

Email Address: \_\_\_\_\_

Employer: \_\_\_\_\_

Other Driver's Insurance Company & Policy Number:  
\_\_\_\_\_

<i>Witness No. 1</i>	<i>Witness No. 2</i>
Name:	Name:
Address:	Address:
Phone Nos.:	Phone Nos.:

Description and Tag Numbers of All Cars Involved:  
\_\_\_\_\_

Weather & Road Conditions: \_\_\_\_\_

Officer Name & Department, Police Report #:  
\_\_\_\_\_

Date & Time of Crash: \_\_\_\_\_

Other: \_\_\_\_\_

FEELE FREE TO COPY AND SHARE THIS ACCIDENT INFORMATION SHEET  
COURTESY OF BAJRIC & RAMIC LAW OFFICE, (314) 352-6800

## Appendix B: Sample Demand Letter

# BAJRIC & RAMIC, LLC

ATTORNEYS & COUNSELORS AT LAW

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MAIN OFFICE: 314. 352.6800 • FAX: 314.352.6801

Saint Louis City, MO  
5470 Gravois Ave.  
Saint Louis, Missouri 63116

March 11, 2016

Insurance Company  
Attn: Mr. Guy Adjuster  
123 Main St.  
Kansas City, MO 64010

RE:           Our Client:           Jane Doe  
                  Your Insured:         John Doe  
                  Date of Accident:     January 1, 2014  
                  Claim No.:            123 456 789

Dear Adjuster:

Thank you for speaking with me about this case yesterday. As I have advised you we are demanding the limits of your insured's policy. In order to properly evaluate this matter, I believe that it is important to start with our client Ms. Jane Doe. She is an amazing, smart and beautiful, young lady who has suffered injuries that will affect the rest of her life. It is impossible to convey Miss Doe's personality without having met her, however, rest assured she would be a great witness and any jury would love her.

### **Background**

On January 1, 2014, Jane Doe was stopped at a stop light on Missouri Route 30 and Kingshighway Boulevard in the City of St. Louis, Missouri. Your insured, Defendant John Doe, was travelling at a very high rate of speed in his GMC Yukon Denali approaching the same intersection behind Miss Doe. Without breaking, and here we assume that he was using his hand-held

device, he rear-ended our client. Liability in this case is not an issue, however, a punitive aspect may come to light if it turns out that Defendant was using his hand-held at the time of this accident.

### **Medical Summary and Treatment**

At the time of the accident, Jane Doe was a healthy, young lady with no prior medical history of back or neck complaints. As a result of the accident, she developed pain in her left arm and neck and was seen in the Emergency Room at St. Louis University Hospital. She was ultimately diagnosed with cervical radiculopathy at C4-C5 and a herniated disc at L3-L4. After her complaints of pain did not resolve, Dr. James Doe performed a bilateral L3/L4 laminoforaminotomy discectomy and right-sided L5-S1 laminoforaminotomy and discectomy on January 1, 2015.

Unfortunately, post-surgery MRIs revealed a residual disc herniation at L3-L4 and epidural fibrosis at several nerve levels. After complaints of pain continued through post-operative physical therapy, and Plaintiff Doe developed a problem with dragging of her left leg, she sought pain management treatment with Dr. John Smith. After conservative efforts failed, Dr. Jonathan Baker performed bilateral L3-L4 revision laminectomies, L4-S1 posterolateral fusion with placement of Zodiac instrumentation, right iliac crest bone graft and posterior lumbar interbody fusion at L4-L5 with PEEK cages on January 1, 2016.

While Ms. Doe has had some improvement in recent months, this second back surgery has not made Ms. Doe significantly more functional. She attempted to return to school this semester by taking classes on-line University of Missouri- St. Louis and physically on-campus. While she was able to maintain her on-line classes, she dropped her campus classes because she was unable to attend class without disrupting other students with her inability to sit or stand still due to pain. She continues to take Hydrocodone, Skelaxin and Lidoderm for pain.

Plaintiff Doe will elicit expert testimony from her treating doctors that she is only able to work part-time because of the difficulty and pain she experiences when sitting. Vocational rehabilitation expert Dave Lee is expected to testify that Plaintiff Doe has lost \$65,000.00 in wages (6 months



at an annual salary of \$130,000.00). Additionally, Ms. Miller will testify that Plaintiff Doe would have eventually assumed a position in the St. Louis City Public School System at a starting salary of \$39,000.00 per year; and that within 10 years Plaintiff Doe would be earning \$55,000.00 annually. With respect to a part-time job, which is all Ms. Doe is expected to be able to work, Ms. Miller does not expect Ms. Doe's salary to grow significantly beyond the range of \$12,000.00 to \$13,000.00 per year (50% of the clerical mean) in today's dollars. Accordingly, her future lost wage claim is \$750,000.00. This number is for the purpose of this mediation. At trial, we expect the number will be higher to include the yearly raises she would receive after the first 10 years and the value of the benefits she would receive as a teacher as opposed to a part-timer clerical worker where benefits are typically nonexistent.

#### **Damages**

Past Medical Expenses to Date: \$ 125,000.00  
Future Medical Expenses: TBD  
Past Lost Wages: \$ 65,000.00  
Future Lost Wages: \$ 750,000.00  
TOTAL CLAIM FOR SPECIALS \$940,000.00

#### **Demand**

Ms. Doe is a beautiful young woman who will never be the same no matter what the outcome of this case. She is willing to settle today for your insured's policy limits. This is a discount on what this case will be worth at trial. When we file suit, this offer comes off the table.

I look forward to hearing from you.

Very truly yours,

Nedim Ramic, Esq.

# Notes

# Notes

# Notes