

Motorcycle Law

A Little Book About
the Big Things
You Should
Know



BY SCOTT O'SULLIVAN



Introduction



“Every day I’m helping someone get their life back together.”

-Scott O’Sullivan

This handy little book was written to help you navigate the confusing world of motorcycle insurance and motorcycle law. We believe it’s important that you know your rights and that you do everything in your power to protect yourself from harm – physically and legally. The purpose of this book is to provide information; it does not provide legal advice. If you need legal advice please consult a local attorney.

Please also know that reading this book does not mean that you automatically become a client of The O’Sullivan Law Firm. (That, of course, requires all kinds of tedious paperwork, the hallmark of the legal profession!)

Should you require additional information, please call us at 303-388-5304 or visit our website at www.osullivan-law-firm.com hope that you find this book helpful and (dare we hope?) fun to read!

Special Thanks

Several people helped make this book possible. First, I want to thank Janalee Chmel for helping turn my legalese into prose. Janalee's exceptional wit and intelligence were a major driving force behind this book.

I would also like to thank my graphic arts designer/web developer, Chere Martin, for turning my notion of what this book should look like into a beautiful tactile experience that visually conveys all that this book is about.

I would be remiss, if not a bit dense, if I did not thank my wife, Liz O'Sullivan, for spending countless hours proof reading and editing all the various drafts of this book. Without Liz's support and hard work the O'Sullivan Law Firm would not be where it is today and where it is headed in the future.

And, I also want to thank my two sons, Tommy and Michael, for letting me use my iPad once in a while.

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Chapter 1

You're The Proud Owner of a New Motorcycle... Now what?

Congratulations! You've got yourself a motorcycle! Whether this is a childhood dream-come-true or simply your next set of two wheels to get you from Point A to Point B, owning and riding a motorcycle is a big deal. And before you jump on, rev it up, and drive to your nearest pal's house to show it off, there are a few things you should know and do.



THIS CHAPTER COVERS THE FOLLOWING:

- **Types of insurance you should get**
- **Riding Gear**
- **Rider Safety**
- **First Aid**



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“At a minimum, you should purchase \$100,000 of UIM insurance coverage. If you can afford more, you should have it.”

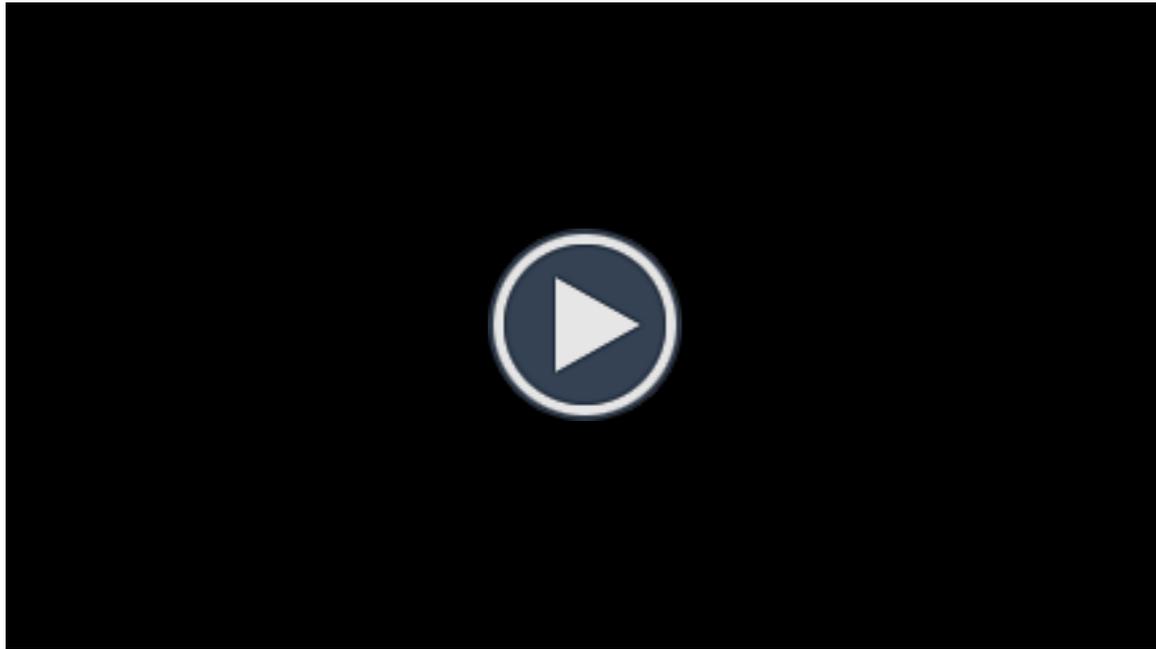
Types of Insurance You Should Get

When it comes to motorcycle insurance, you want to purchase as much as you can afford. Why? Because motorcycle injuries can cost a lot. And often, even responsible motorcycle riders who are victims of some else's reckless behavior can end up with more bills than insurance companies will pay.

TRUE STORY

Consider this true story from the O'Sullivan Law files:

Samuel was riding his motorcycle in a residential area and was hit by a driver who then fled the scene. Samuel sustained severe injuries and was out of work for two months. The driver of the car was caught but he only had \$25,000 worth of insurance coverage. Luckily, Samuel had Uninsured/Underinsured Motorist (UIM) coverage and was insured for up to \$100,000. Without that coverage, Samuel would not have been able to pay his medical bills. His life would have been forever altered by another driver's carelessness.



Movie 1.1 Uninsured & UIM Insurance

Why do insurance agents often steer auto and motorcycle drivers away from this coverage? Insurance companies and agents are pressured to keep premiums as low as possible. Also, many people function under a popular misconception: They think that, if you have health insurance, you don't need UIM. But that's not true. First, think of your health insurance deductibles and co-pays. In some severe cases, those expenses alone are enough to stress a person's finances.

Second, health insurance doesn't cover everything that UIM covers. Uninsured/Underinsured Motorist Insurance covers:

- **Lost wages**
- **Future medical expenses**
- **Any damage arising from the accident (with the exception of property damage)**
- **All economic and noneconomic loss, which includes pain and suffering**

Health insurance and UIM insurance are completely different.

A good rule of thumb for motorcycle insurance is to purchase as much as you can and make *absolutely certain* that you have Uninsured/Underinsured Motorist Coverage.

Riding Gear

When you purchase your motorcycle, roll a few items into the cost, just as if they came with the bike. You wouldn't buy a motorcycle without a clutch. Don't buy one without the proper riding gear, such as:

- **Full-face helmet, including face and jaw protection**
- **Motorcycle boots**
- **Riding jacket and pants**

You might even consider the newest technologies out there, such as a riding jacket that comes equipped with an airbag. These state-of-the-art jackets look no different than professional racing jackets and come in different seasonal variations.

Protect Yourself: Take a Rider Safety Class

Take a rider safety class and get the motorcycle endorsement for your driver's license. In Colorado, there are many Motorcycle Safety Foundation-approved sites and Motorcycle Operator Safety Training (MOST) courses, which are accredited by the state.

[Find the MOST-certified training courses near you.](#)

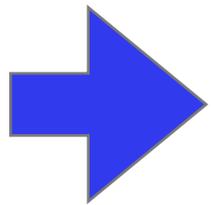
[Learn about adding a motorcycle endorsement to your driver's license.](#)

Interactive 1.1 Protective riding gear.



Protect Your Friends: Take First Aid Training

Often, accidents happen when riders are together. You can protect your buddies if you know some first aid basics. Learn about the types of wounds you might see in an accident and how you can help an injured friend while you wait for paramedics. You can generally find these courses by inquiring at bike shops or at a nearby Red Cross.



To-Do Checklist

When you get your motorcycle:

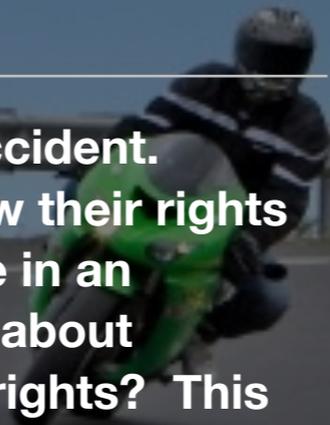
- **Get the proper insurance.**
- **Purchase the appropriate riding gear.**
- **Take a motorcycle safety course.**
- **Take a first aid course.**



Chapter 2

The Unthinkable Happens: You're in an Accident

No one ever plans to get into an accident. However, smart motorcyclists know their rights and they know the law. If you were in an accident, would you know enough about Colorado law to stand up for your rights? This chapter will arm you with that information so that, should the unthinkable occur, you are prepared to take action quickly.



THIS CHAPTER COVERS THE FOLLOWING:

- **Who is Responsible for Damages?**
- **Post-Accident Insurance Facts**
- **Economic vs. Noneconomic Damages**
- **Total Allowable Damages**



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Who is Responsible for Damages?

Colorado law is clear: If you're in an accident, the person who is responsible for the accident is responsible for all of the victim's damages. (See a definition of damages later in this chapter.)

Because Colorado switched its laws a few years ago, there is some confusion around this fact. Therefore, it's worth repeating another way: "In Colorado, the at-fault party is responsible for all damages that flow from an accident."

Post-Accident Insurance Facts

Because of the confusion around Colorado law, here are some insurance facts regarding accidents:

FACT With the exception of "medical payment coverage" (which I talk about on the next page) if you are the victim in an accident, your auto insurance won't automatically pay for your damages or medical bills.

FACT The other driver's auto insurance won't pay for damages until you are done with treatment. There is no "pay-as-you-go" provision.

FACT If you're in an accident, use your own health insurance first. ([See Chapter 5 for more on this topic.](#))



If you have purchased “medical payment coverage” with your auto insurance, use that to cover things not normally covered by your health insurance, such as co-pays, out-of-pocket expenses, treatment outside your health insurance network and deductibles.

Economic vs. Noneconomic Damages

There are two ways to define damages as recognized in Colorado courts:

Economic Damages: These are the hard-cost damages and include lost wages, co-pays for health insurance, prescriptions, medical care and ongoing treatment. Generally speaking, economic damages include the things that people have paid or will have to pay for care and recovery, or money that they have lost as a result of their injuries.

Noneconomic Damages: These are the damages caused as a result of a victim’s mental pain and suffering. Noneconomic damages cover the emotional component of a claim, including depression, loss of enjoyment of life, inconvenience, lost opportunities and anything flowing emotionally from the case and having to do with recovery and losses.

Total Allowable Damages

In Colorado, there is no cap on economic damages. For example, if you are a neurosurgeon and you get into an accident and can’t make living, the person who hit you is responsible for your lost income, based on your earning potential. This is true for any profession.

Noneconomic damages are capped in the State of Colorado at \$250,000. Even if your case goes to trial and a jury says your pain and suffering are worth millions, in most cases you cannot collect more than \$250,000.



Chapter 3

At the Scene of an Accident

If you've ever witnessed an accident – particularly one involving a motorcycle – you know that the people involved can tend to act abnormally. Victims jump up from seemingly destructive impacts, witnesses shrug and move on, guilty parties split the scene. In this chapter, we want to share some things that you should keep in mind if you're in an accident, or if you're with a buddy who's in an accident.



THIS CHAPTER COVERS THE FOLLOWING:

- **What is a Typical Motorcycle Accident?**
- **If You Witness a Friend in an Accident, What Do You Do?**
- **If You're in an Accident, What Do You Do?**
- **Why are Witnesses So Important?**

What Is a Typical Motorcycle Accident?

Believe it or not, there is a typical motorcycle accident. This scenario happens so often that it's almost predictable: A motorcyclist is traveling one direction on a road and a car is heading the other direction, sitting in the left-turn lane. The driver turns in front of oncoming traffic and hits the motorcycle rider.

Usually, the motorcyclist collides with the front, passenger-side corner of the car, becomes airborne, hits the windshield and flies over the car.



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What would you do if the motorcycle rider was you? What if it was a friend?

If You Witness a Friend in an Accident, What Do You Do?

These are the steps to take when your buddy has been hurt in an accident:

- Do not move the victim.
- Do not move his head or neck and don't remove his helmet.
- Call 911.
- Make the area safe. Get other people to block the intersection and lanes of traffic. Secure the scene with the help of other witnesses.
- When the paramedics arrive, let them do their job.
- Find as many witnesses as possible. Get each witness's name, telephone number, mailing address and email address. Also try to get a brief understanding of what they saw.
- Get pictures. Use your phone's camera and take as many pictures as possible. Take shots of the intersection, damage

to the motorcycle, witnesses, the location of the bike, the location of the car, debris on the road – anything in or around the scene of the accident.

Here's a strange fact about accident victims:

Often, they exhibit the "flight instinct." The motorcyclist gets hit, flies off the bike, hits the ground and then is up and running! This is because his adrenaline takes over. If you witness this behavior, get your friend to sit down, calm down, and to stop standing up. Protect your friend from running into traffic.



If You're In an Accident, What do You Do?

Let's say that you're in an accident and you're coherent enough to take action. These are the steps you should take:

1. Move to a safe position off to the side of the road.
2. Call 911.
3. Exchange insurance information with the other party. Get his or her name, telephone number, email address, mailing address, and insurance information including policy number and insurance company name.
4. Even if it is a minor accident and you don't think you're hurt, don't let the other person leave. At a minimum, get his or her driver's license number.
5. If the other party drives away, you stay right there and call the cops.
6. Get pictures. Use your phone's camera and take as many pictures as possible. Take shots of the intersection, damage to your bike, witnesses, the location of bike, the location of car, debris on the road – anything in or around the scene of the accident.
7. If you're taken to the hospital, use your health insurance. (See Chapter 5 for more on this issue.)
8. Also, if you were wearing a helmet while riding, make sure the cops know it.

And speaking of cops, it's unfortunate, but cops sometimes don't get it right and ticket the wrong party. Even in cases like the typical accident that we outlined above – in which the motorcyclist has the right-of-way and the other driver was at-fault – the motorcyclist is often given the ticket. Yet another reason to collect as many witnesses as possible.

Why Are Witnesses So Important?

In order to illustrate this point, consider the following real-life story from the O'Sullivan Law files.

**TRUE
STORY**

Patrick was riding southbound on a busy, four-lane road. A northbound driver turned left in front of him and Patrick barely had time to hit the brakes. The momentum of his bike was so powerful that after Patrick and the bike hit the side of the car the bike's tail came up, tossing Patrick into the car, and then the bike itself hit Patrick again.

Patrick sustained a shattered left collarbone, broken ribs, torn ligaments in his knee, and other injuries. Fortunately, he was wearing a full-face helmet so his head and jaw were ok.

The police arrived. Because Patrick had no traumatic head injury, he was able to explain the accident. However, one witness told the police that she had seen Patrick earlier riding in between cars or “splitting lanes,” which is illegal in Colorado. She did not see the accident. Two other witnesses saw the accident and said Patrick was not splitting lanes and that he had the right-of-way.

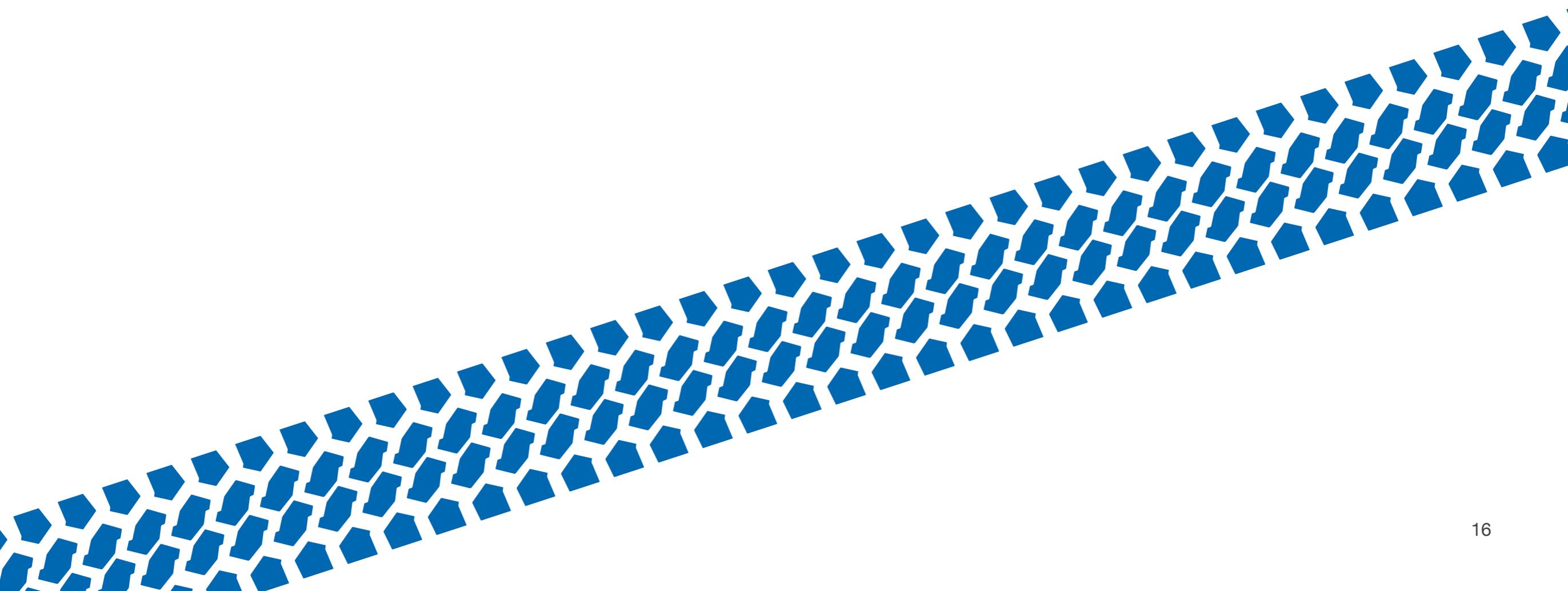
The police officer gave Patrick the ticket.

Patrick asked the O’Sullivan Law Firm to represent him and we visited the scene of the accident. We were able to collect witness statements from people who worked in a nearby

restaurant. These witnesses also said that Patrick was driving legally and had the right-of-way. We took those statements to the prosecutors who promptly dropped the case against Patrick.

And yet, the at-fault driver’s insurance company continued to deny responsibility until we filed a lawsuit and took the witnesses’ depositions. Finally, the insurance company dropped their defense and accepted full responsibility.

Clearly, in Patrick’s case, witnesses made all of the difference.



Chapter 4

After an Accident, Should You Talk to the Other Driver's Insurance Company?

What if you're the victim of someone else's negligent driving? Many people automatically assume that the other person's insurance will simply step up to the plate and take care of their expenses, no questions asked. But it's not that easy ... of course!



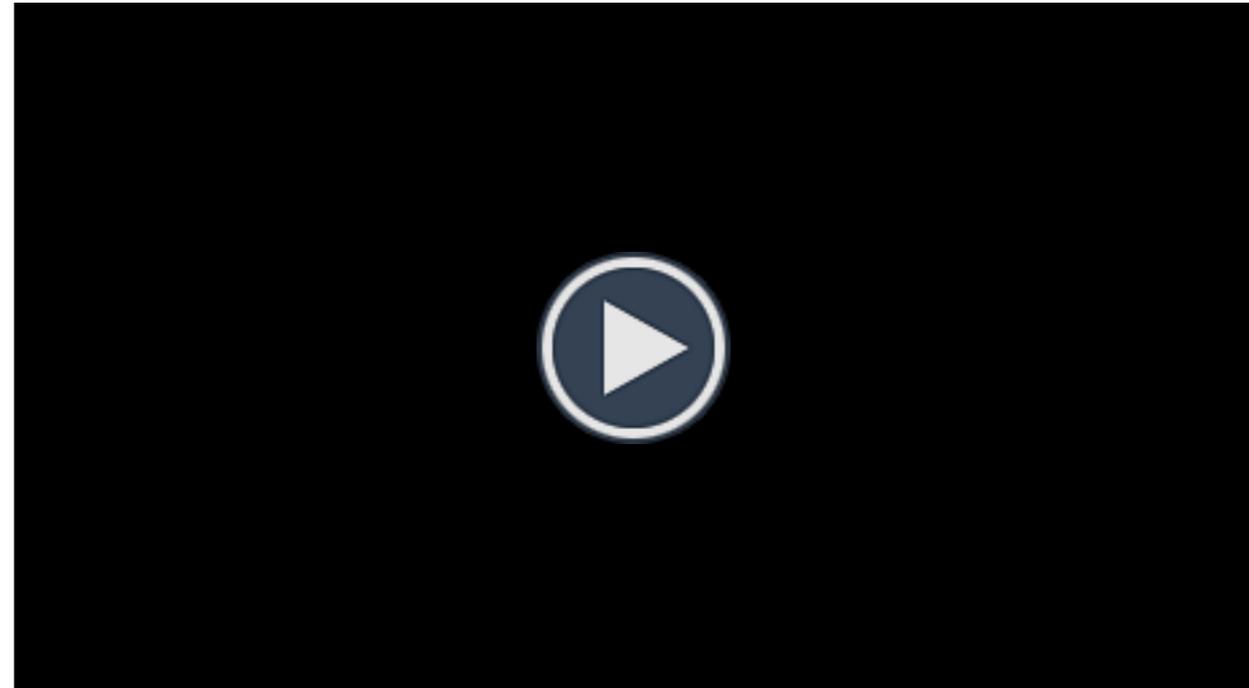
This chapter will share a few of the ins and outs of how insurance companies operate after an accident and the steps you should (and shouldn't) take if you've been injured, including:

- **When to Provide a Statement to Insurance Companies**
- **Why You Should Never Provide a Recorded Statement**



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Movie 4.1 What NOT to do after a motorcycle accident.

When to Provide a Statement to Insurance Companies

The truth of the matter is this: You need to think of the other driver's insurance company as an adversary. They are looking to protect their interests and, therefore, they will be looking for ways to get out of their responsibility to cover your costs. Don't give them the opportunity to do this!

Keep the following in mind when dealing with the other driver's insurance company:

1. Do not ever allow them to take a recorded statement.
2. By Colorado law, insurance companies are not allowed to use any statement that you make within 15 days of being in care or treatment after an accident. If they try to contact you and take your statement within this time frame, seek counsel.
3. You have a duty to cooperate with your own insurance company and, depending on your coverage, you have a duty to report an accident within a "reasonable amount of time," typically within at least 30 days. If you don't report an accident, you could lose your coverage.

Why You Should Never Provide a Recorded Statement

In the first few days and weeks of recovery from an accident, there is a good chance that you are on medications, disoriented and desperate to figure out how to pay the bills that are building up. Also, we've noticed over the years, accident victims often try to "be brave" or even polite, brushing off their injuries with statements like, "It's not that bad," or "I'm doing alright." Experience shows that most accident victims have no sense of how bad their situation may be for several days, if not a few weeks.

If you provide a recorded statement to the other driver's insurance company, they will try to use it against you. And, any time you talk to the other driver's insurance company, understand that – even if they're not recording the conversation – they are writing down everything you say.

He spoke to the woman's insurance company and said that he "felt fine." A few days later, Doug experienced horrific pain in his chest and discovered that he had blood clotting due to the accident.

**TRUE
STORY**

Consider this example from the O'Sullivan Law files. Doug was riding his motorcycle northbound and a woman pulled out of a parking lot from his right side, making a left-hand turn. Doug slammed on his brakes, causing his bike to skid. The back end of the bike swung around and Doug fell to the side. The bike landed on his left leg.

Doug wasn't terribly hurt but he went to the doctor to get checked out. He seemed to have minor scrapes and bruising, so he went home. He spoke to the woman's insurance company and said that he "felt fine." A few days later, Doug experienced horrific pain in his chest and discovered that he had blood clotting due to the accident and he had to take blood thinners for six months.

Doug asked the O'Sullivan Law Firm to represent him. When we contacted the woman's insurance company, they said, "He told us he was fine," and they tried to deny coverage. We were able to show a direct link between his injuries and his blood clotting and Doug received compensation for his injuries.

We all pay insurance companies to take care of us when we need help, but insurance companies aren't run by tender-hearted citizens who just want to make you feel better. They are corporations that want to protect their financial interests. You need to protect your interests, as well, by being cautious about providing statements.

Who is Going to Pay All of These Medical Bills?

Not long after an accident, a victim starts to panic. Who will pay all of the bills associated with medical treatment? As mentioned in Chapter 2, the at-fault driver's insurance won't pay for anything until treatment has ended; there is no "pay as you go" option. In fact, the payment process can be long and involved. In the meantime, you have to heal. What is the best way to manage the expenses of the treatment process?



THIS CHAPTER COVERS THE FOLLOWING:

- **If You Have Health Insurance, Use It.**
- **What If I Don't Have Health Insurance?**

If You Have Health Insurance, Use It

Often, when a victim checks into a hospital after a motorcycle accident, he gives the hospital the other driver's insurance information. Hospitals take that information but they can't do anything with it. So, essentially, you're not covered for the medical treatment they're providing.

Also, since Colorado is a tort-based system, the at-fault driver's insurance won't pay for anything until all expenses are settled, which can take a very long time. Then, they will pay in one lump sum. In the meantime, your bills are piling up, you're receiving calls from collections agencies, and your credit score is dropping.

Therefore, if you have health insurance, use it!



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It may seem counterintuitive. You may think, “Why should my insurance pay for injuries caused by someone else?” There are two responses to that question. First: That’s why you have health insurance in the first place. Second: Your health insurance may have the right to get paid a portion of what they spent to get you well from your settlement with the other insurance company. The health insurance company’s right to get paid back is called subrogation.

Also, there’s a new trend in healthcare payments: In the case of accidents, when a patient is the victim of someone else’s negligence, some hospitals are electing to sit on all medical bills until a settlement is reached. The healthcare providers even assert a lien on the case, hoping to get paid later from the other driver’s insurance company. They are willing to wait because they think they might make more money for the services that they provide. This also happens in Medicare cases because healthcare providers generally make much less from Medicare insurance.

This is important to you because these outstanding bills can affect your credit negatively, sometimes for years.

For all of these reasons, it’s important to use your own health insurance after an accident and to make sure hospitals understand they need to bill your health insurance company.

What If I Don’t Have Health Insurance?



Here’s a little-known secret: You can negotiate with hospitals to reduce your bills and to set up payment plans.

Let’s consider what you should do in two scenarios: 1) if you’re at fault in the accident and, 2) if you’re the victim of the accident.

1. If You’re At Fault

If you’re in an accident while riding your motorcycle and you are at fault – and if you don’t have health insurance – a hospital will treat your injuries because they must! Then, they will send you bills for those medical costs. Even though you had no insurance and the accident was your fault, you still have the power to negotiate with the hospital. For example, if your bill is \$10,000, you may ask them to reduce it to \$8,000 or even \$5,000. But don’t negotiate unless you’re willing and able to pay.

2. If You're the Victim

If you're a victim in an accident and you don't have health insurance, the hospital will treat you and bill you as normal. You or your lawyer must contact the hospital and ask them to delay billing and collections until the case is settled.

Additionally, you still have the right to negotiate with the hospital to reduce your bills. In the end, the hospital will be paid out of the gross settlement collected from the at-fault driver's insurance company.

Additionally, there is another option if you've been hurt and it's the other driver's fault: medical treatment through a local medical lien company. Here's how that works...

When it appears that the at-fault driver has adequate insurance coverage, your attorney may recommend that you receive treatment through a medical lien company. These companies function much like a healthcare PPO in which you are provided with a network of doctors and healthcare professionals that will administer the treatment that you need. When you receive care in this fashion, the medical lien company pays for all of your medical bills up-front and then creates a lien on the final settlement from the at-fault driver's insurance company. This step may help to protect your credit as it also saves you the time and frustration of dealing with a hospital's billing department.

The important thing that you should take away from this chapter is that you have options and you have more power than you may understand.



A stethoscope is placed over a medical bill. The bill lists various medical services and their costs. The total charges are \$36,027.35.

| | |
|----------------------------|----------|
| NON-INVASIVE CARDIO | 3689.00 |
| EEG/EMG | 1259.00 |
| RADIOLOGY-GENERAL | 340.00 |
| PHARMACY-MAIN | 1795.35 |
| EMERGENCY-HOSPITAL | 2779.00 |
| PRE HOSPITAL EMS | 253.00 |
| C.T. SCANNING | 2714.00 |
| MAGNETIC RESONANCE IMAGING | 6963.00 |
| TOTAL CHARGES: | 36027.35 |

USED
PATHOLOGY LAB

Chapter 6

Who is Going to Fix My Bike?

It's all about the bike, baby! Seriously, it's understandable that you're worried about your motorcycle. It was an investment and an escape and a mode of transportation. If you're the victim of an accident, someone needs to fix it!



THIS CHAPTER COVERS THE FOLLOWING:

- **If You Have Collision Insurance**
- **If You Don't Have Collision Insurance**
- **Damage to Your Gear**



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If You Have Collision Insurance

Let's say you've been in an accident and your bike is in a shop or a tow yard. You're trying to recover from the injuries you suffered in the accident so you have little time to deal with the at-fault driver's insurance company. Therefore, if you have collision insurance, use it!

Here's why: Typically, victims get push-back from the at-fault driver's insurance company when they ask about motorcycle repairs. Yes, it's ultimately their responsibility to take care of your bike, but – as with all elements of the accident – they will take their time in resolving the details. In the meantime, because you already purchased collision insurance, someone could be working on your bike.

Your own insurance company has the duty to resolve your claim as quickly as possible and it is their duty to deal fairly with you. In the end, they will probably get their money back from the at-fault driver's insurance company, anyway.

Bottom line: Don't feel bad about using your own collision insurance because the process is generally quicker.

If you have collision insurance, it may or may not cover your gear; check your policy.

If You Don't Have Collision Insurance

If you don't have collision insurance, you do have to deal with the at-fault driver's insurance company. You will have to acquire the police report, tell the company where the bike is, get the bike released to a repair shop, get an estimate of damages, and more. (Some personal injury attorneys handle this for free if they are already handling your case. Be sure to ask.)

Sometimes, victims want to keep their motorcycle even if it's totaled. You can do this provided you are willing to take a reduction in the payment that the insurance company offers. For example, if the insurance company says that your motorcycle is worth \$11,000, but you want to keep it, they can agree to pay you \$11,000 minus the salvage value of the bike.

Damage to Your Gear

Your riding gear is an investment in itself. Some gear can be worth \$1,000 or more. If you're the victim in an accident, the other driver's insurance is responsible for damage to your gear.

In order to receive reimbursement for your gear, you will have to prove its value. You will also have to surrender the damaged pieces, such as your jacket, saddle bags, glasses and helmet. (And again, some personal injury attorneys will handle this for free if they are already handling your case.)

If you have collision insurance, it may or may not cover your gear; check your policy. This is yet another reason to purchase as much insurance as you can afford.

I Can't Work. Now What?

Ideally, people who are injured in accidents could take all the time they need to heal before returning to work. But we don't live in an ideal world. Depending on your insurance and other possible coverage, you will probably have to work before you feel 100 percent.



THIS CHAPTER COVERS THE FOLLOWING:

- **What Are My Options if I Can't Work Yet?**
- **When Should I Go Back to Work?**
- **What is Included in the "Lost Wages" That I Can Claim as Part of My Damages?**

What Are My Options if I Can't Work Yet?

If you sustained significant injuries in a motorcycle accident – even if you're the victim of someone else's negligence – no one is going to step up and pay your lost wages or health care bills for quite some time. The other driver's insurance company can take months or even years before covering your expenses. Here are some ways to avoid lost wages for the short-term:

You may be able to use your sick leave and vacation time. These are your first line of defense. (You may be reimbursed for the lost value; see below.)

If you're lucky enough to have short-term disability insurance, use it! However, most of those policies wait at least two weeks and sometimes more than a month before they kick in.

Some companies allow co-workers to donate their own sick leave and vacation time to a "bank" of hours that you may use for your recovery. Have a friend check it out on your behalf.

If you require more time to heal, you may be able to protect your job under the Family Medical Leave Act. However, this does not provide a salary; it simply protects your job until you can return.



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When Should I Go Back to Work?

Bottom line: Unless you are catastrophically injured, you need to get back to work as soon as possible so that you can pay your bills. You may be able to get a note from your doctor with restrictions on the kind of work you can do (for example, no lifting or shorter hours) but the sooner you can get back to work, the better.

This can be a tricky balance for some people. You don't want to re-injure yourself on the job, but you risk missed payments and credit issues if you delay returning to work. Just remember that, if you've been the victim of someone else's bad driving, you can't expect insurance companies to write you a check until your entire case is settled. That can take months or even years.

If you are medically unable to work, or if your abilities are limited in any way, you must get a note from a doctor saying exactly that. The other driver's insurance company will require that document when paying your damages and your employer will require it for Family Medical Leave Act (FMLA) and short term disability insurance.



What is Included in the “Lost Wages” That I Can Claim as Part of My Damages?

If you use vacation or sick time during your recovery, that lost time would be included in your damages and be submitted to the at-fault driver's insurance company. Of course, the wages you should have earned during your absence are included in your damages, as well. It is important to document all the time you missed from work.

Even if you receive disability payments, those typically only cover three-fourths, or some other percentage, of your salary. When settling your case, your attorney can make sure you also receive the missing one-fourth of your salary that you never received.

Going back to work after an accident can be difficult for some people, but for others it can be a relief. Try to get back as soon as possible.

And here's one final word on the topic: **Get yourself some disability insurance.**

Chapter 8

The Other Driver's Insurance Company Keeps Calling Me!

This may be the shortest chapter of the book but it is darned important. Those folks from the other driver's insurance company call on a regular basis and they sound so nice and concerned... but remember that they are your adversaries. They are not your advocates!



THIS CHAPTER COVERS THE FOLLOWING:

- **Should I Give the Other Driver's Insurance Company My Medical Bills and Records?**
- **How Would a Lawyer Help Me With This?**

Should I Give the Other Driver's Insurance Company My Medical Bills and Records?

If you were the victim of another driver's negligence, their insurance company should pay you for your injuries and other damages. However, they will also do everything in their power to limit that amount. They do need to know the extent of your injuries, but how they go about discovering that information can be within your control.

First of all, do not ever sign a blank medical release form for the other side's company. They will use it to go well beyond the date of your accident, into your personal health history, seeking a preexisting condition that they might be able to blame your injuries on. The only way they could do this is if you sign a blank medical release form for them. So don't do that!

DON'T DO IT!



Questions from this chapter?

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Also, if you're not represented by an attorney, the insurance company will call you on a regular basis. Every single time you talk to them, they write down everything you say. If you are having a relatively good day and say, "I'm feeling a lot better!" they may use

that against you later by suggesting that your treatment should have stopped that very day. (See [Chapter 4](#).)

Often, insurance companies ask for your date of birth and social security number so that they can verify whether you are on Medicare or Medicaid. They are required by the federal government to do this. But, you should assume they will also use it to look into your past.

How Would a Lawyer Help Me With This?

If you do have a lawyer, the other driver's insurance company is not allowed to call you anymore; they will call your lawyer for updates and paperwork. The lawyer knows how to "talk-the-talk" and can update the company representatives on relevant treatments and damages that you have incurred.

So, not only does a lawyer free you up to focus on healing, but he or she can help you avoid the pitfalls hidden in seemingly innocent inquiries from the at-risk driver's insurance company.

Do I Need a Lawyer?

You were riding your motorcycle and you were hit by another driver. Do you need a lawyer? In almost all motorcycle cases, the answer is, “yes.” Very rarely, the answer is, “no.” Motorcycle law is complex and motorcycle accidents tend to cause significant injuries. For those two reasons alone, you probably want an advocate on your side.



THIS CHAPTER COVERS THE FOLLOWING:

- **You May Not Need an Attorney When...**
- **Why You Probably Need an Attorney**
- **How Much Does it Cost?**



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You May Not Need an Attorney When...

If you've been in a very minor accident and there's only property damage – you weren't injured at all – and if you have the right insurance, you probably don't need a lawyer. Perhaps you even spilled your own bike, nobody else was involved, and you are physically fine. You can probably handle the property damage claim with your insurance company on your own.

Essentially, if you caused the accident, no one else was involved, or there's no physical injury, you probably don't need a lawyer.

Why You Probably Need an Attorney

Let's face it: it is a rare motorcycle accident that doesn't involve another driver and physical injury. When those two pieces of the puzzle come into play, you definitely need an attorney. Think about all of the parties involved in that kind of case: the other driver, police, the other driver's insurance company, witnesses (hopefully), your motorcycle insurance company, the tow company, the hospital, your medical team, your health insurance company... the list goes on.

When you get all of those parties wrangling over one case, it can literally be impossible for an injured person to advocate for him or herself. And then there is one more big element to consider: Colorado's complex motorcycle laws. Chances are very good that you won't even know what your rights are and where there may be money for you to access to help you heal and to cover your damages.

TRUE STORY

Consider this example from the O'Sullivan Law files. Derek was riding his motorcycle and got hit by a pickup truck. The at-fault driver's insurance company knew that Derek's injuries were extremely bad

and would easily cost into the hundreds of thousands of dollars. Very soon after the accident, they approached him and said, "Here's \$50,000." It was tempting to Derek because his bills were piling up as he tried to heal, but he was smart enough to say "no" and he hired the O'Sullivan Law Firm. Not only did we secure another \$150,000 for him, but we were able to reduce his medical bills, as well. This meant that more of the money from the settlement went into his own pockets, not into the hospital's.

Also, if you don't have health insurance, an attorney can help reduce your medical bills by large amounts.

Finally, there are all kinds of confusing laws that you may be entirely unaware of. Some of these laws were designed to make sure that you – the injured party – get an adequate amount of money to heal and recover all your damages.

If you don't have health insurance, an attorney can help reduce your medical bills by large amounts.

TRUE STORY

Here's another example from the O'Sullivan Law files. We represented a motorcyclist, Steven, who received serious injuries in an accident. The person who hit him only had \$50,000 in coverage and his insurance company quickly offered Steven the \$50,000 saying, "This is all you're going to get from us." If Steven had taken that \$50,000 he would have unknowingly waived his right to another \$200,000 that he had available from his own insurance company due to his Underinsured Motorist Coverage. ([See Chapter 1.](#))



Movie 9.1 Questions to ask a personal injury lawyer.

Colorado's Make Whole Law

Colorado has something called a "make whole law." Under this relatively new law, if you're able to demonstrate that you have accessed all of your insurance policy limits from the at-fault driver and from your own insurance company, and yet it isn't enough to treat your injuries, the health insurance company can be forced to reduce its claims upon you to nothing. In other words, if you've received all the money that you can get from any insurance available, and if your injuries still require care, then the health insurance company can be forced to reduce all of its subrogation interest to zero.

Many, many accident victims are entirely unaware of these laws and they risk losing money that they desperately need if they don't hire an advocate to help them.

Think of it this way: if you're injured, your first priority should be healing. Hiring an attorney means you hire a staff of seasoned professionals who lift all of the tedious, confusing, frustrating elements of a legal case off your shoulders so that you can concentrate on getting better.

How Much Does it Cost?

If you hire a legitimate personal injury attorney, it shouldn't cost you anything for them to take your case. Not a dime. If they win a settlement for you, they will take a percentage of the gross amount collected plus any costs related to your case. This is called a "contingency fee" because their payment is contingent upon their winning your case. Costs related to pursuing your case are separate and in addition to the attorney's fees.

One more note...

You need someone who practices personal injury law exclusively. You may have a well-intentioned buddy who is a lawyer, but if he or she practices any other area of law, chances are they don't know all of the best ways to advocate for your case. Hopefully the examples above prove this fact.