

Auto Accidents:

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 car insurance and motor vehicle 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. We hope that you find this book helpful and (dare we hope?) fun to read!

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Chapter 1

Drive Defensively... Get the Right Insurance

When you get into your car, shut your door, click your seatbelt into place and put it in gear, you're probably thinking about getting to your next stop. You're not thinking about getting in an accident. But accidents do happen. Even if you're the most cautious, aware driver on the road, not everybody is like you. You simply must protect yourself from the financial impact that can ensue after an accident. When you protect yourself financially, you are also protecting your health and everything that good health allows you to do.



Drive Defensively... Get the Right Insurance

THIS CHAPTER COVERS THE FOLLOWING:

1. **Types of insurance you should get**
2. **Driver safety**

Types of Insurance You Should Get

When it comes to insurance, you want to purchase as much as you can afford. Why? Because some accident injuries cost a lot. Even responsible drivers who are victims of someone else's reckless behavior can end up with more bills than insurance companies will pay. There are ways to protect yourself.

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

Liability Insurance

Liability insurance covers you in the event that you hit someone else with your car. It will help pay for the other person's injuries, their car or motorcycle damage and property loss. In the State of Colorado, this coverage is mandatory and you must have a minimum of \$25,000. But you should get as much as you can afford, ideally at least \$100,000. If you don't have enough insurance to cover the damage that

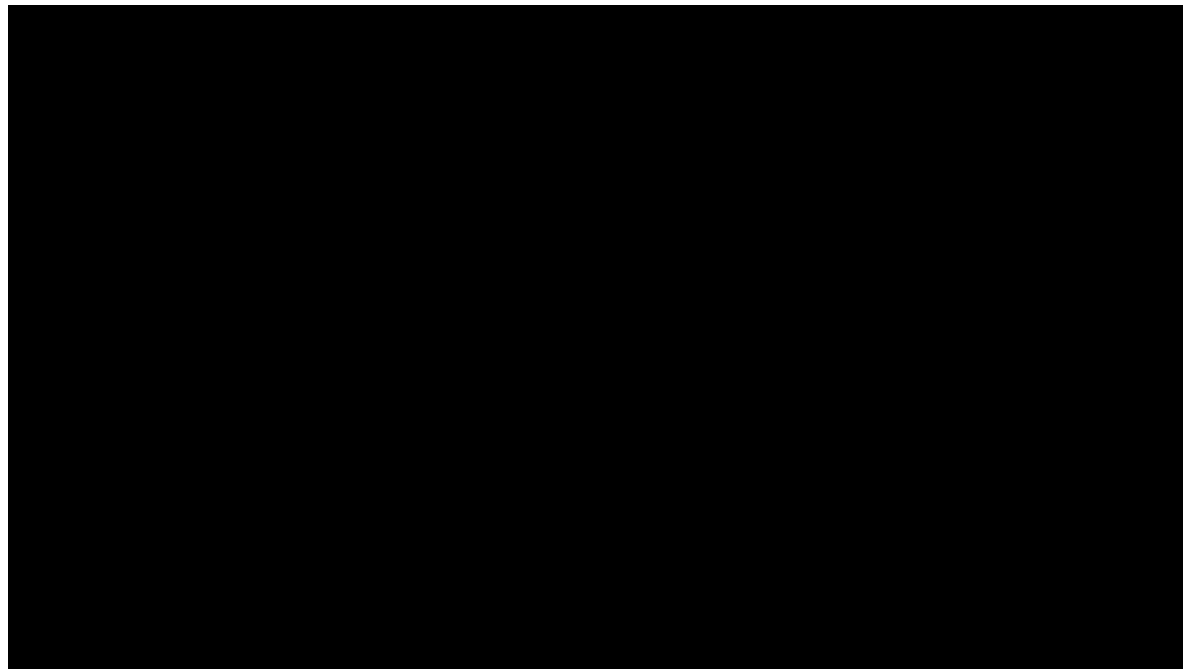


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How the right insurance can help after an accident.

you cause in an accident, the victim may be able to come after your home, your personal business, or any other asset that holds value.

Collision Insurance

Collision insurance is your gift to yourself. It protects you in the event that you're in an accident – no matter who is at fault – and the at-fault driver doesn't have auto insurance to fix your car, or when it may take months for the other driver's insurance to pay you. Collision insurance gets you money quickly to fix or replace your car at fair market value.

Here at the O'Sullivan Law Firm, we often see clients who have dropped this insurance because they think their car is old and not worth much. But, if they've been hit by someone with no insurance, suddenly that \$5,000 "clunker" is priceless! They need to get to and from work and they don't have \$5,000 to replace it themselves. Collision insurance can get you over this hump. Also, if the other driver's insurance does owe you the money to replace or repair your car, they often drag the process out for months. In the meantime, you need a car. Again, that is exactly why you need collision insurance.

Rental Insurance

You should buy a minimum of two weeks to 30 days of rental insurance. Whether an accident is your fault or somebody else's, you don't want to be left without a car while the insurance companies figure out what your car is worth and who is going to pay you. Renting a car is expensive! Rental insurance generally isn't.

Underinsured Motorist Coverage

**TRUE
STORY**

Consider this true story from the

O'Sullivan Law files: Jake was driving north along a rural road in Colorado. He was going the legal speed limit. A driver pulled out from a

perpendicular road and Jake hit that vehicle. Jake's left leg, knee and hip were shattered.

The other driver, who was in a large truck, was at fault.

Jake faced multiple surgeries and significant recovery time away from work. Additionally, he had a very physical job – working for an oil rig company – so he needed to heal much longer before returning to work than would a person who might be returning to a desk job. In a typical work day, Jake would visit job sites, climb rigs, and inspect oil drilling operations. His hip and leg had to work properly.

The person who caused the accident only had \$50,000 in coverage, which was nowhere near the amount that Jake would need for his procedures and to cover lost work. Luckily, Jake carried an additional \$100,000 of UIM (Uninsured/ Underinsured Motorist Insurance) coverage on his own auto policy. The O’Sullivan Law Firm was able to secure the \$50,000 from the at-fault driver, as well as the \$100,000 from Jake’s policy.

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

Why do insurance agents often steer 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.

Umbrella Coverage

You simply must protect yourself from the worst-case scenario. What if you have a moment of negligence and really hurt somebody? When your insurance coverage runs out, the victim can go after your home, a personal business, or any other asset that holds value. Umbrella coverage is named well because it sits over all of your other insurance like an umbrella and it kicks in



when damages exceed \$250,000. In order to get Umbrella coverage, you must first possess a minimum of \$250,000 in other coverage. That way, the Umbrella will cover you from \$250,000 up to a \$1 million.

A good rule of thumb for insurance is to purchase as much as you can.

Driver Safety

The best way to protect yourself in an accident is to be a smart driver in the first place...

- **Always wear your seatbelt. Always.**

Turn your cell phone off while driving. If you must drive and talk, use a headset. Do not hold the phone. Courts have determined that reaction time while talking on a cell phone is as slow as if you

had been drinking. Some courts are now allowing punitive damages if the other party can prove that you were on the phone while driving. When you talk on the phone, you could hurt yourself, the people in your car, or others on the road... **and you could be opening yourself up to a judgment in the amount of triple the damages of a normal accident!**



The Unthinkable Happens: You're in an Accident

No one ever plans to get into an accident. However, smart drivers 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.



The Unthinkable Happens: You're in an Accident

THIS CHAPTER COVERS:

- Who is responsible for damages?
- Post-accident insurance facts
- Economic vs. noneconomic damages
- Total allowable damages

In Colorado, the at-fault party is responsible for all damages that flow from an accident.

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:



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



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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.



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:

- 1. 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.
- 2. 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 a 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.

At the Scene of an Accident

If you've ever witnessed an accident, 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.



At the Scene of an Accident

THIS CHAPTER COVERS:

1. **What is a typical auto accident?**
2. **If you're in an accident, what do you do?**
3. **Why are witnesses so important?**
4. **Your behavior at the scene of an accident**

What Is a Typical Auto Accident?

Believe it or not, there is a typical auto accident. This scenario happens so often that it's almost predictable: A car is at a light, stopped in traffic and waiting to turn. Then, out of the blue, they get hit from behind. The damages can vary from minor bumper damage to the back seat of the car being pressed into the front dash.

Another common accident is when a driver is traveling on a busy street and someone pulls out to turn in front of them. These accidents are all-too common, and they can also result in serious injuries.



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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:

- If you're not in danger from traffic, you should leave your car right where it is. If you are in danger, and if your car can move, get yourself off the road and out of traffic.
- Call 911.
- Never, ever stand behind or near your car as you wait for police to arrive! Don't even sit in your car. Your car is an obstacle to other drivers and it can get hit again. Stay away from it.
- 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.
- 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.
- If the other party drives away, you stay right there and wait for the cops.



- Get pictures. Use your phone's camera and take as many pictures as possible. Take shots of the intersection, damage to your car, witnesses, the location of the car,

debris on the road – anything in or around the scene of the accident.

• If you're taken to the hospital, use your health insurance. (See Chapter 5 for more on this issue.)

Why Are Witnesses So Important?

Statistics have proven that people who run red lights or stop signs are likely to lie. They say, "The light was green!" or "I came to a complete stop!" They will lie to you and they will lie to their insurance companies. When it comes down to your word against theirs, you need proof. You need witnesses.

TRUE STORY

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

Patrick was driving 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. He hit the other car and sustained a shattered left collarbone, broken ribs, torn ligaments in his knee, and other injuries.

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 driving erratically. She admitted, however, that she did not see the accident. Two other witnesses saw the accident and said Patrick was not at-fault 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.

And you know those red light cameras that cities are installing at intersections to catch red-light-runners? You and your personal injury attorney can't get access to those tapes. Again, you need witnesses.

Your Behavior at the Scene of an Accident

Your behavior at the scene of an accident can impact your case's outcome later. Here are two tips that you should follow after an accident:

- **Don't diminish the incident. We live in a society where people are expected to be tough! We also tend to be helpful and polite, genuinely wanting to help each other. But if you've been in an accident, don't walk around saying, "I'm fine. I feel great!" Auto accident injuries tend to reveal themselves 24 hours after an accident. Anything you say at the scene of an accident can affect your case later.**
- **Settle down. Your demeanor at an accident can also be used against you later. If you walk around angrily, yelling and screaming, that can also affect your case.**

A final note that bears repeating: It is crucial to call 911 when you've been in an accident. If you don't call the police and you discover injuries from the incident 24 hours later, you won't have a record of the accident. We've never had someone regret calling the police to the scene of an accident... but they do regret it if they don't!

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

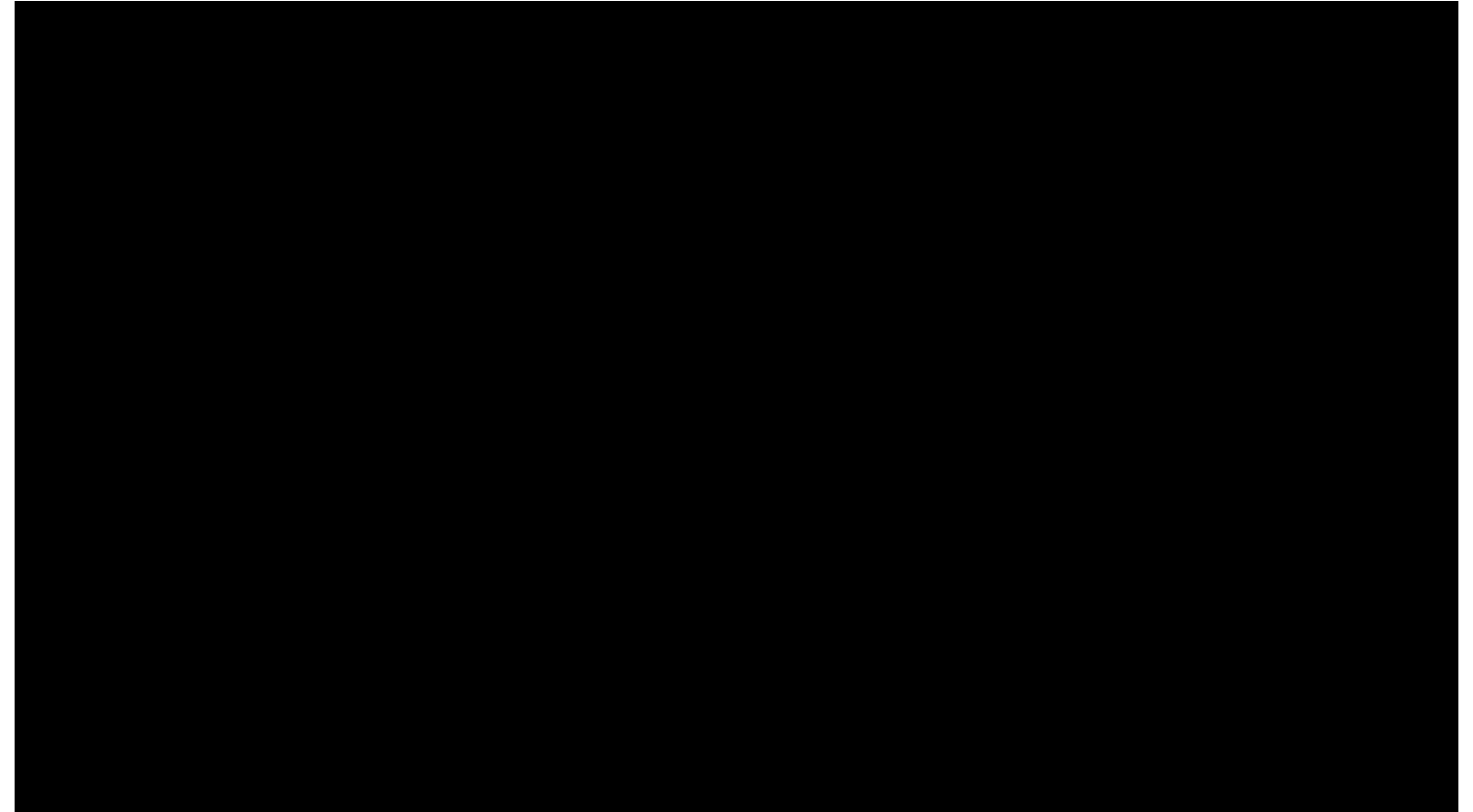
What if you're the victim of someone else's negligent driving? Many people automatically assume that the other person's insurance will simply step up to the plate and take care of their expenses, no questions asked. But it's not that easy... of course!



After an Accident ...

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:

1. **When to provide a statement to insurance companies**
2. **Why you should never provide a recorded statement**



How the other driver's insurance company will use your statements against you if you give a recorded statement.



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If you provide a recorded statement to the other driver's insurance company, they will try to use it against you.

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:

- **Do not ever allow them to take a recorded statement.**
- **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 an attorney.**

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.

TRUE STORY

Consider this example from the
O'Sullivan Law files.

Our client, Marge, was driving east on
Colfax and she got hit from behind.

Her car was totaled and Marge went to the emergency room
where she had X-Rays taken, received some pain medication,
and was told to visit her doctor within two weeks.

Over the course of that two weeks, Marge's lower back and
shoulder pain waxed and waned. She wasn't sure how hurt she
was. Also during that two weeks, the defendant's insurance
company contacted her and asked how she was doing. Marge
responded, "I'm doing ok today. I think I'm getting better." They
recorded her statement. But as time went on, she didn't get
better and she ultimately needed surgery.

Because Marge had told the insurance company during the first
weeks of her recovery that she was "getting better," they refused
to pay. Ultimately, the O'Sullivan Law Firm had to sue the
company to get what Marge deserved.

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?



Who is Going to Pay All These Medical Bills?

THIS CHAPTER COVERS:

1. **If you have health insurance, use it.**
2. **What if I don't have health insurance?**
3. **What is MedPay?**

If You Have Health Insurance, Use It

Often, when a victim checks into a hospital after a car 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!

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.

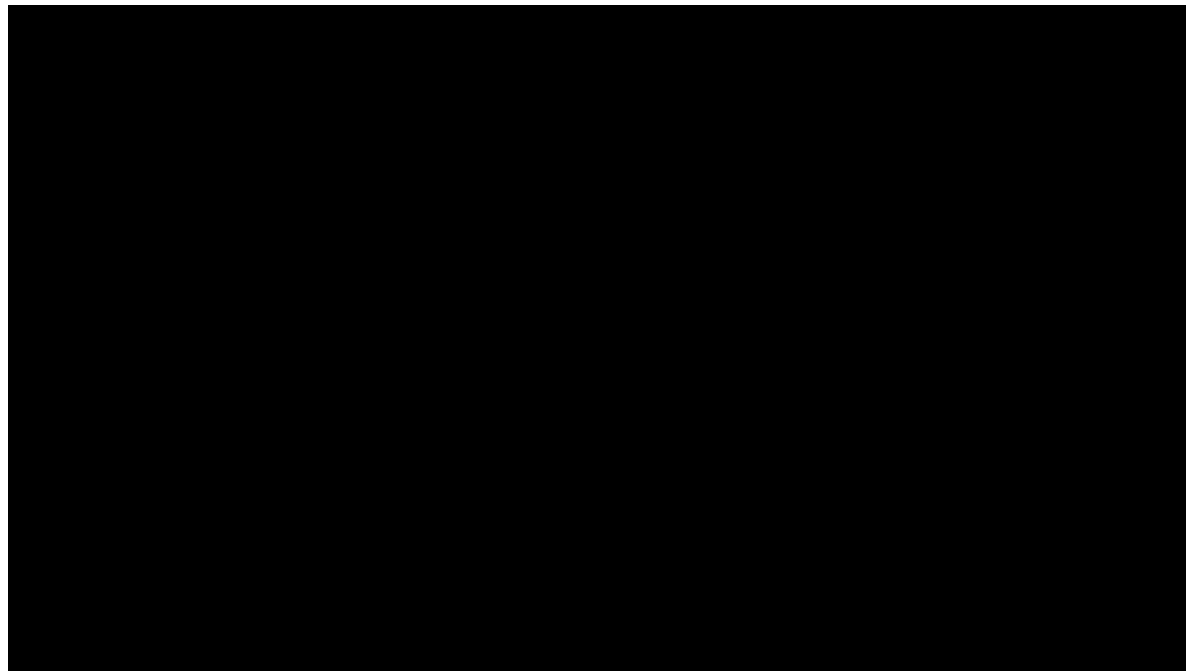


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Why you must use your insurance coverage at the ER even if someone else is at fault.

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 that 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.

If You're At Fault

If you're in a car accident 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.

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

Here's a little-known secret: You can negotiate with hospitals to reduce your bills.

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.

What is MedPay?

Medical Payment Coverage, also called MedPay, is a premium that your car insurance company must offer you. In fact, in order to forfeit the coverage, you must sign a waiver. The value of the coverage can range from \$5,000 to \$25,000.

What does MedPay do?

This coverage can be used to pay for first responders, such as ambulance companies. It also covers emergency room bills or any other medical bills related to your injury as a result of your car accident, whether or not you were at fault. It can cover co-pays, deductibles, doctor visits and therapeutic treatments such as chiropractors, massage therapy and physical therapy. In essence, it may cover a lot of things that your health insurance may not!

Do not waive this coverage! Think of it as another layer of protection.

A note of caution: If you ever end up working with an attorney who wants to take a cut of your MedPay coverage, look for a new attorney. That is an unethical practice and you should not forfeit that money.

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.

Who is Going to Fix My Car?

Your car was an investment and an escape and a mode of transportation. If you're the victim of an accident, someone needs to fix it!



Who is Going to Fix My Car?

THIS CHAPTER COVERS

1. If you have collision insurance
2. If you don't have collision insurance
3. Damage to valuables inside and on the car

If You Have Collision Insurance

Let's say you've been in an accident and your car 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 car repairs. Yes, it's ultimately their responsibility to take care of your car, 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 car.

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.



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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 car is, get the car 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 car 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 car is worth \$11,000, but you want to keep it, they can agree to pay you \$11,000 minus the salvage value of the car.

Damage to Valuables Inside and on Your Car

People tend to travel with a lot of valuables inside or on their cars, including coats, sunglasses, phones, computers, bike racks and car seats. If you're the victim in an accident, the other driver's insurance company is responsible for damage to or loss of that property.

In order to receive reimbursement for your property, you will have to prove its value. You will also have to surrender the damaged pieces. (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 damage to or loss of your valuables. Check your policy. This is yet another reason to purchase as much insurance as you can afford.

TRUE STORY

Consider this example from the O'Sullivan Law files.

Jennifer was driving her car and was hit head-on by a negligent driver. She broke both wrists and, in the process, her \$25,000 engagement ring flew off her finger and was never recovered. The at-fault driver's insurance company balked at the value and offered Jennifer significantly less. Jennifer and her fiancée hired the O'Sullivan Law Firm and we were able to help her recover the full value of the ring, in addition to other damages that she was due.

Chapter 7

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.



I Can't Work. Now What?

THIS CHAPTER COVERS:

1. **What are my options if I can't work yet?**
2. **When should I go back to work?**
3. **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 an auto 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 compliance with the Family Medical Leave Act (FMLA) and for 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 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.

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.

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!



The Other Driver's Insurance

THIS CHAPTER COVERS:

1. Should I give the other driver's insurance company my medical bills and records?
2. 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.

DON'T DO IT!

YOUR LOGO HERE

[Street Address], [City, ST ZIP Code]
[Phone Number] Fax: [Fax Number]

AUTHORIZATION TO RELEASE HEALTHCARE INFORMATION

Date of Birth: _____
Social Security #: _____

Patient's Name: _____
Previous Name: _____

I request and authorize release healthcare information of _____ named above to: _____

Name: _____
Address: _____
City: _____ State: _____

and authorization applies to: _____
relating to the following treatment, condition, or date: _____



Questions from this chapter?
Call Scott direct: 303-388-5304
or go to the contact page at:
www.osullivan-law-firm.com

First of all, do not ever sign a blank medical release form for the other side's insurance 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!

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 medical 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.

If you have a lawyer, the other driver's insurance company is not allowed to call you anymore.

When You're the Victim of a Drunk Driver

Many auto accident cases involve two people who genuinely weren't behaving so recklessly that they deserve society's ire. People make mistakes. But when it comes to drunk drivers, our community and our laws react with severity. If you're the victim of a drunk driver, do not hesitate to call a personal injury attorney. You have rights that you may be completely unaware of and you probably need an advocate to take care of the legal issues while you take time to heal.



When You're the Victim of Drunk Driver

THIS CHAPTER COVERS:

1. Why DUI cases are confusing to victims
2. One misstep and we sue

The prosecutor's job is to punish the bad guy. Your personal injury attorney's job is to make the bad guy and his insurance company pay in the civil process.

Why DUI Cases are Confusing to Victims

In accidents involving people who were Driving Under the Influence (DUI), the city's district attorney gets involved and files a criminal case against the driver. In that process, the DA is trying to prove that the other driver was drunk and to punish him or her appropriately.

But that process does not take care of you and your damages! For that, you need your own attorney to handle a civil case against the driver.

In the criminal trial, the DA needs information from the accident victim – the extent of your injuries, damages, and other related information. But the prosecutor doesn't call your doctors to ask about treatment; he doesn't negotiate with hospitals to reduce your bills; he doesn't work with insurance companies to get you the highest coverage possible. (In fact, he may not even know those laws very well.) It's not his job.

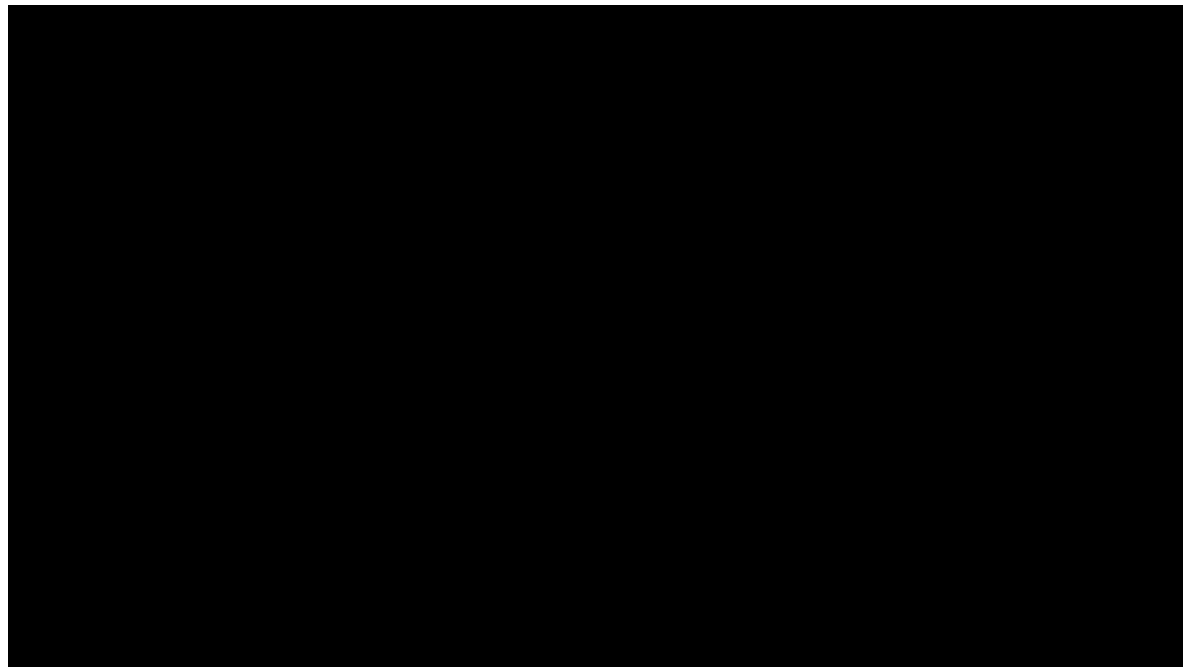


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If you've been in an accident with a drunk driver, you need an attorney right away and this is why.

It is a personal injury attorney's job to do all of those things – as explained throughout the rest of this book.

Think of it this way: The prosecutor's job is to punish the bad guy in a criminal process. Your personal injury attorney's job is to make the bad guy and his insurance company pay in the civil process.

One Misstep and We Sue

There is absolutely no reason that the DUI driver's insurance company should balk at any of your claims for coverage. At the O'Sullivan Law Firm, the moment the DUI driver's insurance company puts up any fight whatsoever, we sue them.

Why? Because they have a legal duty to pay for all of the DUI driver's harm and, quite honestly, juries don't like it when insurance companies fight with victims of DUI accidents. We will swiftly take them into litigation and protect your rights.

TRUE STORY

The O'Sullivan Law Firm represented a taxi driver who was working in downtown Denver on a Friday night. He was driving east on 17th Avenue and was hit from the side by a drunk driver who ran a red light. The drunk driver's car spun all the way around and ended up behind the taxi driver. As the drunk driver tried to flee the scene, she smashed into the taxi driver four more times!

When the drunk driver's insurance company showed resistance to the taxi driver's claims, we instantly sued. Very quickly, the insurance company realized that they did not want the case to go to court and they provided our client with all of his rightful coverage.

A Final Word on DUI Cases

As we stated at the top of this chapter, many auto accidents involve decent people who simply make mistakes. But DUI cases are different. The drunk driver must be brought to justice in two legal processes: criminal and civil. You absolutely need a personal injury attorney to fight for your rights in the civil process.

Do I Need a Lawyer?

You've been in an auto accident. Do you need a lawyer? That depends on the impact of the accident and whether you sustained injuries. Often, your insurance company can guide you through the process. But if you're hurt, you should definitely seek counsel.



Do I Need a Lawyer?

THIS CHAPTER COVERS:

1. You may not need an attorney when...
2. Why you might need an attorney
3. Colorado's Make-Whole Law
4. 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.

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. You can probably handle the property damage claim with your insurance company on your own.

Why You Might Need an Attorney

If you're in an accident that involves a higher speed, another driver and physical injury, you probably 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 insurance company, the tow company, the hospital, your medical team, your health insurance company... the list goes on.



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TRUE STORY

Consider this example from the **O'Sullivan Law files**. We represented a driver, 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 (UIM) Coverage. ([See Chapter 1.](#))

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

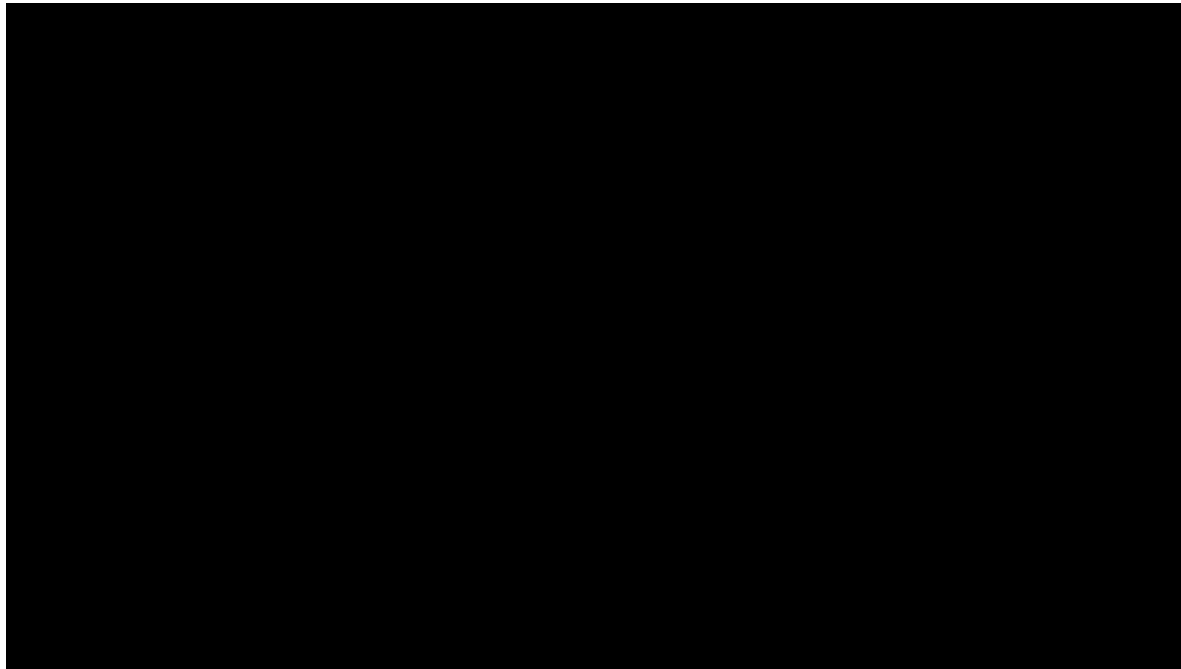
TRUE STORY

Here's another example from the **O'Sullivan Law files**. Nine-year-old Amber was riding her bike in a suburban neighborhood of Denver. A man driving a truck backed out of his driveway and ran over her, crushing her pelvis. Amber was airlifted to Children's Hospital Colorado and experienced an amazing recovery but she will need care for her pelvis for the rest of her life.

The at-fault driver only had \$50,000 in liability coverage. Amber's mom and dad had \$200,000 of UIM coverage on their auto policies. The O'Sullivan Law Firm was able to get \$250,000 for Amber's care.

What personal injury lawyers REALLY do for clients.

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: Insurance laws are complex! Chances are very good that you won't even know your rights and where there may be money for you to access to help you heal and to cover your damages. Some of these laws were designed to make sure that you – the injured party – get an adequate amount of money to heal and to recover all your damages.



Important questions to ask if you are considering hiring an attorney.

Additionally, because of Colorado's Make-Whole Law (see below), we were able to make all of her health insurance bills go away.

Amber's parents didn't know about the Make-Whole Law. They also weren't aware that they could use their UIM coverage for their daughter, who had been riding a bike. And, of course, they were so focused on Amber's day-to-day care that they never could have advocated for her rights against all of the involved parties. They needed a personal injury attorney.

Colorado's Make-Whole Law

Here is another example of why you need an advocate who understands your rights and Colorado's complex insurance laws.

Colorado has something called a "Make-Whole Law." It is very powerful but you must access it in a very specific way or you could lose your right to thousands of dollars! 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 claims upon you to zero. But the only way to take advantage of the Make-Whole Law is to systematically and chronologically file documentation that proves you used all of the other resources available to you and that you still require care. These are complex legal documents and one misstep can cost you the coverage.

Many, many accident victims are entirely unaware of the Make-Whole Law – and other laws designed to protect them – 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 them 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.