



THE LAW FIRM OF  
Crawford Weiss, LLC

*the*  
Colorado Personal Injury  
Claim Guidebook

What every accident victim needs to know

————— *before* —————

speaking with an insurance adjustor or attorney



Crawford Weiss, LLC

Phone (303) 741-0249

[www.DenversAccidentLawyer.com](http://www.DenversAccidentLawyer.com)

©2013

# The Colorado Personal Injury Claim Guidebook

What Every Accident Victim Needs to Know

————— *Before* —————

Speaking with an Insurance Adjuster or Attorney

© 2013

Crawford Weiss, LLC.

(303) 741-0249

Jason Crawford: Jason@Crawfordweiss.com

Brian Weiss: Brian@CrawfordWeiss.com

[www.DenversAccidentLawyer.com](http://www.DenversAccidentLawyer.com)

TABLE OF  
CONTENTS

1. Introduction.....	3
2. Can I trust the insurance company? .....	4-5
3. The different types of personal injury cases	
Motor Vehicle Accidents .....	6
Pedestrians .....	6
Bicycles.....	6
Products Liability.....	6
Premises Liability.....	7
Assault & Battery .....	7
Medical Malpractice .....	7
Worker's Compensation.....	8
4. Types of insurance that may apply in your case	
Personal Auto Policy .....	9
Policy Covering the Vehicle (you were a passenger) .....	10
At-Fault Driver's Policy.....	11
Health Insurance .....	11-12
Disability Insurance.....	12
Worker's Compensation.....	12
Excess (Umbrella) Policies.....	12
5. What should I do after an accident?	
Accident Scene .....	13
Getting Medical Care.....	14
Recorded Statements.....	14
Medical Releases .....	16
Vehicle Damage Claims .....	16 - 17
Documenting your Injuries .....	18
Lost Wages.....	18
Settlement.....	19
Colossus.....	20
Subrogation & Liens .....	20
6. What types of damages can I claim? .....	21 - 22
7. The "Do I Really Need a Lawyer?" self test.....	23 - 24
8. When to hire a lawyer.....	25
9. How much will a lawyer charge?.....	26
The "Client Focused" Fee agreement .....	28 - 29
10. What questions should I ask when hiring a lawyer? .....	30 - 32
11. Scheduling a free consultation.....	32

## INTRODUCTION

When you have been injured in an accident, your life changes immediately. Instead of going to work, school or spending time with your family, now you are forced to deal with the police, doctors and insurance companies. As time progresses, you are going to face many questions that you may not have the answers for, such as:

- “Who will pay my medical bills?”
- “What happens if I cannot work?”
- “How will I get my car fixed?”
- “What will my claim be worth?”
- “Should I talk to the other party’s insurance company?”
- “Should I hire a lawyer?”

### IMPORTANT TIP

*Not every case will require you to hire a lawyer. We have included a self-test in this guidebook allowing you to make this determination on your own. Regardless, should you have any questions after reading through this guidebook, or would just feel more comfortable in getting a free review of your case, you are invited to give us a call and talk to an experienced attorney.*

Our firm has over 40 years of combined experience in helping accident victims with these very questions. In this time, it has become clear that thousands of people in your exact situation would be better able to protect their interests if they had quick access to information on the law and their rights in the insurance claims process. To help you through this difficult time, we have written this guidebook answering many of the questions you will have after your accident.

It is very important that you be fully aware of your rights and obligations when you have been injured due to the negligence of another person. Keep in mind that, as you are reading this, the other person’s insurance company already has a team of adjustors, claims representatives and attorneys working to protect their interests. It is their job to pay you as little as possible for your claim. With the information presented in this guide, you will be better able to protect your rights and decide whether you should hire an attorney to handle your claim.

### IMPORTANT DISCLAIMER

---

Please note that the information in this book is only meant to be for general informational purposes on Colorado accidents and is not offered or intended as legal advice specific to your case.

CAN I TRUST  
THE INSURANCE  
COMPANY?

Insurance companies are not public service companies. They are in business to make a profit. They earn that profit by taking in more money in the form of insurance premiums than they have to pay out in claims and, historically, insurance companies have consistently been some of the most profitable companies in the world. It is the job of the insurance adjuster who has been assigned to your case to get you to settle for the lowest possible amount, or not to pay your claim at all.

One way that insurance adjusters get people to settle for pennies on the dollar is by restricting the information that accident victims have concerning their rights and remedies. As in any transaction, a more informed consumer is more likely to come out ahead.

Could you imagine buying a car without researching the car's specifications or what other dealers were willing to sell the same vehicle for? How would you be able to know whether the salesman was being honest if he told you "I am giving you a great price that you cannot beat anywhere"?

Well, many insurance companies actually pressure their adjusters to restrict your information by actually telling accident victims that they do not need to hire an accident lawyer. They want their consumers (YOU) to be as uninformed of your rights as someone walking into a car showroom without having done their research first. Who do think would come out ahead in such situations?

Additionally, there is a disturbing trend in Colorado and other states whereby some insurance companies will offer to settle your claim in the early stages for a nominal sum of cash plus an agreement to provide a few thousand dollars for any medical treatment that you may incur over the next three to six months. While this may seem like a good deal, agreeing to such an arrangement is perhaps the worst step that you could ever take. If your injuries turn out to be more severe or require more treatment than initially thought, which is very often the case, you will not be able to get any more money out of the insurance company. Your case is closed and the insurance company wins the moment you agree to the deal.

## CAN I TRUST THE INSURANCE COMPANY?

If you are faced with any of the following coercive tactics by an insurance company adjustor, we advise that you immediately call your state's Division of Insurance as such actions may violate your state's laws:

- Threatening criminal action against you or someone associated with the accident.
- Making the settlement of one portion of the claim (such as the property damage) contingent upon settlement of other, or all, portions of the claim.
- Only offering to settle claims for vehicle damages based on initial estimates or the use of "after market" or salvaged parts.
- Only offering "wholesale" vehicle values instead of "fair-market" values when declaring a vehicle a total loss.
- Trying to settle injury cases sooner than the 30 days required by law.
- Demanding that the accident victim give a recorded statement before the waiting period allowed by state law.
- Threatening to bring up irrelevant information about an injured person's past (such as criminal background or medical conditions) should the accident victim be unwilling to settle.
- Threatening not to settle if the accident victim hires, or even speaks to, a lawyer.
- Basing claims positions on facts that the adjustor knows, or should know, to be false.
- Making repetitive requests for information that is either irrelevant or has already been provided.
- Constantly re-assigning your case to new or different adjustors.

*Our firm limits our practice to the following types of injury cases:*

THE  
DIFFERENT TYPES  
*of*  
PERSONAL INJURY  
ACCIDENT CASES

### MOTOR VEHICLE ACCIDENTS

The vast majority of injury cases in Colorado involve collisions between two or more motor vehicles. These may include personal cars and trucks, motorcycles, or large commercial vehicles. The type of vehicle that hit you can have a tremendous bearing on your case and the types of insurance coverage that may be available to compensate you for your injuries.

### MOTOR VEHICLE VS. PEDESTRIAN ACCIDENTS

When a person is directly struck by a motor vehicle, the likelihood of severe and permanent injuries increases dramatically. A careful review of all insurance coverage available to an accident victim is essential in these cases.

### MOTOR VEHICLE VS. BICYCLE ACCIDENTS

As with pedestrians, the chances of severe injuries to a cyclist is much greater than those faced by a person inside of a car. Furthermore, many city ordinances and state laws, which spell out the rights and obligations of a bicyclist, have to be considered in these claims.

### PRODUCTS LIABILITY

When you have been injured from the use of a product that is defective, or proves to be unreasonably dangerous, you may be able to bring a claim against the manufacturer of the product or, in some cases, against the retailer that sold you the product. These cases almost always require the skills of an experienced team of investigators, lawyers and expert witnesses to determine who made the product, where it was made and why the defect occurred. Due to the expense and difficulty of these types of cases, most will require that the injury sustained be of a severe and permanent nature in order to bring a claim. In some cases where the injury is less severe but the product is clearly defective, or the injuries occurred to a large number of people, a class-action lawsuit is brought on behalf of all people known to have been injured. The best example of this type of class-action is a claim against a drug manufacturer for their drugs whose side effects prove to be unreasonably dangerous to people.

THE  
DIFFERENT TYPES  
*of*  
PERSONAL INJURY  
ACCIDENT CASES

### PREMISES LIABILITY (SLIP & FALL) CASES

Property owners have a duty to maintain their property, whether it is a home or business, so as to prevent harm to any persons who may be reasonably expected to be on the property. The level of duty that the property owner is held to by the Court depends on whether the injured person was on the property for business purposes, for pleasure (i.e., a social guest) or was a trespasser. Our firm has successfully handled cases involving deteriorated parking lots, crumbling concrete steps, holes in flooring, improperly secured guardrails, ice resulting from improper drainage systems, and improperly removed snow and ice.

*Other types of personal injury claims may include the following:*

### ASSAULT & BATTERY

Oftentimes, interactions between people can turn violent and one person may be seriously injured as a result. Bar fights and domestic violence incidents are the most common types of these cases. In most of these types of cases, the best avenue for a victim to recover damages for their injuries and losses is through a restitution claim under the criminal proceeding against the guilty party. The prosecuting attorney (most likely a District Attorney) would be able to assist in bringing this claim at no cost to you.

### MEDICAL MALPRACTICE

When you have been injured as a result of the negligence of a medical professional, *it is imperative that you speak with someone who specializes in this area of law*. Many cases that involve a bad medical result do not actually give rise to a claim of malpractice against a doctor, as the harm suffered may be a clear and specified risk of the procedure. The best example of this is an infection contracted after a surgery or hospitalization. While this may be devastating, or even fatal, to the patient, it is a clear risk of most medical procedures for which the treating doctor is not responsible.



## WORKER'S COMPENSATION

Colorado has a statutory system of recovery for people who are injured on the job. This system prevents you from suing your employer but allows for a streamlined process that pays for your medical care, reimburses you for time lost from work and may even compensate you for any disability you have incurred. Not all cases will require that you retain a lawyer, but it is advisable that you at least speak with an experienced worker's compensation lawyer early in the process.

*Note: If you are hurt due to the negligence of a third party while on the job, you may still be able to bring a personal injury claim against them even while pursuing a Worker's Compensation claim. For example, if you are driving a work vehicle and are hit by a third party, you can also bring a claim against the driver that hit you.*

THE  
DIFFERENT  
TYPES of  
PERSONAL INJURY  
ACCIDENT CASES

THE TYPES  
*of* INSURANCE  
THAT MAY  
APPLY IN  
YOUR CASE

The first thing that you need to understand when you have been in an accident is the role of the insurance companies in the claims settlement process. Your case may involve several different insurance companies with each providing different types of coverage. Likewise, the types of insurance available will depend on the type of claim you have. Motor vehicle accidents obviously involve automobile insurance policies. Premises liability claims will often involve a homeowner's liability insurance policy or a businesses commercial liability policy.

This is an area that often requires the assistance of a skilled personal injury lawyer. For example, an auto accident will involve many, or all, of the following insurance policies.

(1) YOUR PERSONAL AUTO POLICIES

Your insurance company may extend benefits to you after an accident, even when the accident is not your fault or when you were a passenger in another vehicle. It is important to look at your policy before calling your insurance company to file a claim. You may be entitled to the following types of coverage:

- **Med Pay:** If you elected to obtain Medical Payments coverage under your auto policy, your insurance company will pay up to the limits of the policy for your necessary accident-related medical expenses. This coverage may apply even when you are hurt while a passenger in another vehicle. Check your policy to determine what these limits are.
- **Collision:** Your auto policy may also repair and/or replace your vehicle even when another driver hit you. Typically, they will do this when it is not clear who is at fault for the accident. It is then the insurance company's responsibility to take the insurance company for the at-fault driver to an arbitration hearing to determine who will ultimately pay for the accident related vehicle damages.

THE TYPES  
*of* INSURANCE  
THAT MAY  
APPLY IN  
YOUR CASE

- **Rental Reimbursement:** You may also be entitled to payment for your rental car expense while your own vehicle is being repaired.
- **UM/UM:** Hopefully, you purchased Uninsured/Underinsured Motorists coverage at the time you bought your policy. The uninsured motorist coverage (UM) will pay for your damages in the event that the driver that caused the accident did not have the minimum required liability coverage in place. The underinsured coverage (UIM) will pay for your damages in the event that the other driver's liability coverage limits are not enough to fully cover your losses, damages and expenses. Again, this coverage may even apply when you are a passenger in someone else's vehicle. You may be able to claim benefits under multiple policies under recent Colorado law so it is important to make sure a skilled professional reviews ALL of your household insurance policies in effect at the time of the accident.

(2) THE AUTO POLICY COVERING THE VEHICLE IN WHICH YOU WERE A PASSENGER

As a passenger in a vehicle covered by an auto insurance policy you are also entitled to benefits under the policy of auto insurance covering that vehicle.

- **Liability Coverage:** If the driver of the vehicle you were in as a passenger is at fault for the accident, the liability coverage attached to that policy would be responsible for paying your damages.
- **Med-Pay & UM/UM:** As a passenger you are also entitled to the same Med-Pay and UM/UM benefits as the policyholder.

THE TYPES  
of INSURANCE  
THAT MAY  
APPLY IN  
YOUR CASE

(3) THE AT-FAULT DRIVER'S AUTO LIABILITY POLICY

The policy of insurance covering either the at-fault driver or the at-fault vehicle will be responsible for paying for your damages sustained as a result of the accident. These generally fall into two categories:

- **Property Damage:** Liability insurance is meant to cover the cost of repairing or replacing your damaged vehicle. Also available will be damages for the loss of use of your vehicle while it is being repaired or until the settlement is reached on the property damage if the vehicle is declared a total loss. Settlement of this category of damages is usually reached within days or weeks of the accident.
- **Bodily Injury:** This category of damages generally includes payment for your medical expenses, physical injuries, pain and suffering, lost wages, loss of earnings capacity and other economic losses. Settlement negotiations for these types of damages should not take place until your doctors have completed your course of medical treatment. In many cases, insurance adjustors for the other side will either delay settlement or make “low-ball” offers requiring the commencement of litigation to resolve the case.

(4) YOUR HEALTH INSURANCE POLICY

In the event that you had a health insurance plan in effect at the time of the accident, this coverage will pay for your medical expenses as you continue your medical treatment. Please note that, in most cases, this coverage is not triggered until all available auto Med-Pay coverage has been spent.

**CAUTION**

It is very important to note that most health policies have a “subrogation clause” which requires you to pay back the insurance company for the amounts that they have paid towards your medical expenses once you collect any money from the liability insurance carrier. Failure to

comply with these policy requirements can result in your health carrier canceling your insurance or filing a lawsuit against you. Consequently, it is strongly recommended that you consult with an attorney to determine how to proceed in this situation. Additionally, an experienced attorney may be able to convince the health carrier to waive or reduce the amounts.

THE TYPES  
*of* INSURANCE  
THAT MAY  
APPLY IN  
YOUR CASE

(5) YOUR DISABILITY POLICY

If your injuries prevent you from returning to work after the accident, you may be able to make a claim for either permanent or temporary disability under any disability policies that you had in effect at the time of the accident.

(6) WORKER'S COMPENSATION PLANS

If you were involved in an accident while you were on the job, your employer's worker's compensation plan will extend benefits for your medical bills and loss of earnings. It is very important to speak with an attorney as soon as possible in these situations, as the coordination of your rights between your worker's compensation case and your personal injury case is essential.

(7) EXCESS (UMBRELLA) INSURANCE POLICIES

It is important to verify whether you are entitled to benefits under any policy of excess liability insurance that the person who caused your injury may have had in place at the time of the accident. In addition, your own Umbrella policy may provide additional UM/UIM benefits to you as well.

**CAUTION**

Coordination of benefits between all the potential insurance policies is an area requiring specialized legal knowledge. It is very easy to overlook possible avenues of recovery if you are not intimately familiar with this area of law.

## WHAT SHOULD I DO AFTER AN ACCIDENT?

Much of the following information is applicable to all types of accident claims. Where specific guidelines apply to a specific type of accident claim, it is specifically noted.

### (1) AT THE ACCIDENT SCENE

If you have requested this booklet because you have already been in an accident, this information may come too late; however, I would encourage you to talk with your friends and family and make sure that they know what to do.

- First of all, make sure that you are safe and secure. Generally, you should not move your vehicle until law enforcement officials have responded to the scene. In no case should you move your vehicle if you feel that the other party may dispute who was at fault for causing the accident. If you feel your injuries are severe, you should stay in your car, if possible, until emergency medical personnel can evaluate your injuries.
- Do not make any statements about what caused the accident except to law enforcement officers on scene. In the meantime, you may want to consider asking for witnesses to the accident and trying to get their names and contact information. Do not apologize for the accident. This may be construed to be an admission of fault for the accident.
- **For cases involving motor vehicles**, do not leave the scene without having the name and address of the other driver, their insurance information and license plate. Also, the responding law enforcement official should give you a case or incident report number which you will later need to request a copy of your accident report.
- **For premises liability (slip & fall) cases**, it is important to document the accident scene and hazard that caused your accident as soon as possible. Repairs can be made shortly after the accident that would destroy our ability to document the condition at the time of your accident. At the very least, clear and well-exposed photographs should be taken as soon as possible.

- **For products liability cases**, make sure that the product is kept in a safe and secure location. If this is not possible, then make sure to secure clear photographs and document the manufacturer, model number and serial number, if possible, of the exact product that caused your injury.
- As soon as possible, you will want to notify your insurance carrier so that they can open a claim file and extend any available benefits

## (2) GET MEDICAL ATTENTION IMMEDIATELY

Early documentation of your physical injuries is essential to proving your case for damages. Suffering through your pain only prolongs your recovery and hurts the value of your case. Please keep in mind that most “soft tissue” injuries do not materialize right away. Instead, it may take a day or two for the trauma of the accident to settle in. In this regard, accident injuries can often be like a sports injury where you feel fine at first, but wake up stiff and sore the next morning. If you have cuts, bruises or other visible injuries, document these immediately with photographs.

Take notes of what your doctor says and recommends. Follow these recommendations to the letter. If you do not feel that your doctor is being responsive to your pain complaints, do not be afraid to seek another doctor.

You should also start keeping a file with all prescriptions, receipts and medical records you receive in these visits. I also recommend that accident victims keep a “pain journal”. This can be as simple as writing in a spiral notebook or keeping a running computer document. It is important to document how your recovery progresses and any setbacks that you may have.

## (3) DO NOT GIVE A RECORDED STATEMENT IMMEDIATELY AFTER THE ACCIDENT.

You are under NO obligation to give a recorded statement to the other party’s insurance company. However, when handled properly, a recorded statement can be a very effective

## WHAT SHOULD I DO AFTER AN ACCIDENT?

### IMPORTANT TIP

*When you visit your doctor, be very thorough in reporting all of your complaints since the accident. For example, if you usually have headaches, do not forget to report this even if you do not have a headache on the day of your visit. Do not exaggerate your symptoms as your doctor will be able to pick up on this and it will hurt your case.*

## WHAT SHOULD I DO AFTER AN ACCIDENT?

way to advise the insurance adjustor of the potential scope and seriousness of your case. If the statement is handled improperly, it can potentially damage your case.

### CAUTION

Under Colorado law, if you are under the care of a medical practitioner, the other driver's auto insurance company CANNOT request a recorded statement from you in the first 15 days after the accident and they cannot attempt to settle your case until more than 30 days have passed. (See C.R.S. 13-21-301.) Many insurance companies are openly violating this law with the knowledge that the Colorado Insurance Commission does not have adequate budget and resources to enforce this law protecting consumers.

In no case should you give a recorded statement until you have recovered from the shock of the accident, had the opportunity to seek medical treatment, and had the opportunity to receive and review the accident report in your case. If there are errors in the police report, you should contact an attorney immediately and decline to give a recorded statement.

You should always make your provision of a recorded statement conditioned upon your being provided a copy of the statement. If applicable, you may also ask for a copy of the recorded statement from the driver that hit your car, although the adjustor may not be willing to provide this information.

When giving a recorded statement, it is very important to be completely truthful and avoid speculating or guessing when you do not know, or are not sure about, the answer to a question. Do not understate your injuries. Tell the adjustor that you would refer all questions about your injuries to the doctor treating your injuries.



#### (4) DO NOT SIGN AN OPPOSING INSURANCE COMPANY'S "OPEN" MEDICAL RELEASES

Nearly every insurance company sends out releases to accident victims that allow them to request your medical records from every physician with whom you have treated, even those from before the accident. Under recent Colorado court decisions, the other driver's insurance company is only entitled to receive the medical records related to your accident claim. For example, if you are not claiming damages from a knee injury, they do not have the right to request records related to prior treatment of your knee.

**If you have health or auto med-pay insurance coverage, your insurance company will require you to sign a medical release. Your own company will need, and is contractually entitled to, your medical records in order to process your medical bills for payment.**

#### (5) REPAIRING OR REPLACING YOUR VEHICLE OR OTHER DAMAGED PROPERTY

While you will want to make sure that your property is repaired or replaced as soon as possible, you must also look at your damaged property as evidence supporting your injury claim and all evidence of your claim must be preserved. Consequently, make sure that you have very good photos clearly showing all of the damages done to your vehicle or property.

If your vehicle was a later year model, it may be equipped with computer sensors that record the collision data such as speed at time of impact. An engineer may be required to retrieve and analyze this data in some cases.

In the days after the collision, a property damage adjustor for the other driver will most likely look at your car and make an initial estimate of the damages. If the damages exceed a certain percentage of the vehicle's fair market value (usually > 75%) the adjustor will declare your vehicle a total loss. At this point they will determine what the fair market value is and make a settlement offer based on this amount.

### WHAT SHOULD I DO AFTER AN ACCIDENT?

#### IMPORTANT TIP

*At the very least, only sign releases that are specifically addressed to the doctors and providers you are seeing for your accident related injuries. Also, do not sign a release that allows an adjustor to speak with your physicians directly.*

## WHAT SHOULD I DO AFTER AN ACCIDENT?

You should verify that the offered value is accurate for a vehicle of your year, mileage and general condition. Value can be verified by Internet book value calculator such as Kelly Blue Book, through researching local newspaper ads or by talking with used car dealers. Make certain that the property damage adjustor's offer is for "fair market value."

### CAUTION

Some insurance companies will tell you that their offer is based on the cars "blue book value"; however, they can come up with much lower amounts by either quoting you the "wholesale value" or by understating the condition of your vehicle. Either method will seriously undervalue your vehicle but are still "blue book values".

If your vehicle is repairable, then you must make sure that a reputable body shop performs the work. I recommend using a dealer auto body shop that specializes in your make of vehicle or at least a shop recommended by your dealer. Even if the property damage adjustor offers to estimate the damages, consider getting additional estimates on your own from trustworthy body shops. Property damage adjustors may lower estimates by using non-original manufacturer parts that may not fit as well as manufacturer (OEM) parts.

If you and the property damage adjustor are able to agree on an estimated amount for the repair and you agree to have the repairs started, also make sure that the adjustor agrees that any damage which was not covered in the initial estimate, but is discovered once the repairs begin, also be covered.

### CAUTION

You will usually be asked to sign a release when the property damage portion of your insurance claim settles. **READ THIS RELEASE CAREFULLY** to ensure that it is limited to the property damage portion of the claim and that you are not releasing the responsible driver's insurance company for any bodily injury losses. If you are not certain about what the release is covering, contact an attorney before you sign the release.

## (6) DOCUMENT YOUR MEDICAL TREATMENT

Hopefully, you will already have an established relationship with a primary care physician or family doctor who will be your first contact with a medical professional unless you need emergency or urgent care.

It is also very important that your main treating physician makes the appropriate referrals for complementary care such as chiropractic, massages and physical therapy. Get a prescription slip for each of these referrals and keep a copy for your records.

### A NOTE ON CHIROPRACTIC CARE

Chiropractic is now widely recognized as a valid treatment protocol for acute biomechanical injuries after an accident. It is often effective at relieving the spasms, pain and stiffness associated with soft-tissue whiplash type injuries when other treatment options have failed. However, you must be careful not to seek “excessive” treatment from such clinics and be on the lookout for chiropractors that want to treat you several times a week for an indefinite period of time.

## (7) LOST WAGES

If your main treating physician directs you to remain off of work for any period of time, make sure that this directive is in the form of a prescription which you can provide to your employer. Also, be sure to keep a copy of the “work release” prescription for your records.

Document all time lost from work due to your injuries, including time spent attending medical visits.

## WHAT SHOULD I DO AFTER AN ACCIDENT?

### IMPORTANT TIP

*Be sure that you tell your doctor about every accident related complaint you have and all of the normal activities that you cannot do because of the pain. Make sure that the doctor gives you a clear diagnosis and treatment plan and be sure to follow up with all of the doctor's recommendations. Do not be afraid to change physicians if you feel that your doctor is not listening to your complaints or doing enough to help you recover.*

## WHAT SHOULD I DO AFTER AN ACCIDENT?

### (8) SETTLEMENT

At some point in the future, your treating providers will say that either you are back to normal or that you will have some permanent problems requiring periodic treatment. Then, and only then, should you consider settling with the responsible party's insurance.

#### CAUTION

All states impose what are known as a “statute of limitations” on all accident claims that require you to either settle your case or file a lawsuit against the person responsible for your accident within a certain period of time or your case will be forever barred by law. Each type of action may have different time periods imposed. It is vital that you be aware of all statutorily required deadlines. If you are in doubt, call an experienced attorney immediately.

The adjustor will need to review your accident-related medical records, medical bills, proof of any subrogation claims, proof of any medical liens, verification of your income and time missed from work, receipts for any out-of-pocket expenses and your pain journal.

#### CAUTION

If you choose not to hire an attorney to help you on your claim, you will be forced to rely on what the insurance adjustor tells you a fair settlement amount is. Remember, though, that it is the insurance adjustor's job to pay you as little as possible for your claim. In fact, many insurance companies reward their claims personnel based on how much money they are able to save from being paid to accident victims.

One advantage in hiring an experienced accident attorney is that we know how to present the claim in it's best light so that the potential settlement value is maximized. We also have resources that allow attorneys to track current industry trends and what local juries are awarding as damages in similar cases.

### A NOTE ON COLOSSUS

Many insurance companies value their claims through computerized software programs, such as Colossus, which eliminate any subjective decisions that the insurance adjuster may have on the case. The insurance companies state that their goal in using such software is to make the claims settlement process totally objective and fair. However, like any software program, there are far too many opportunities to manipulate the software to make it give a predetermined result that is wildly in favor of the insurance company.

What the insurance companies will not tell you about COLOSSUS is that **its valuations are completely arbitrary and NOT based on any history of claims settlement values or potential jury verdicts.** In fact, the program actually took case valuation from a handful of experienced adjusters and then arbitrarily reduced these values by 20% right off the top.

It is like a Las Vegas casino that uses computer software to determine how often a slot machine is programmed to be a winner. Your odds of having your case reviewed in a fair manner by Colossus are about the same as winning at a “one-armed bandit”.

The fact is that **you will not get a fair settlement unless you understand Colossus and how it is used to value your claim.** Failure to mention one aspect of your case can reduce your potential settlement by thousands of dollars.

### WHAT SHOULD I DO AFTER AN ACCIDENT?

#### (9) HANDLING SUBROGATION AND LIENS

Now that you settled your case and received a nice check from the responsible driver's insurance company, you have to make sure that all subrogation interests and lien holders are satisfied before you do anything else with the money.

#### CAUTION

Failure to properly handle this step can result in your health insurance being cancelled or your being sued by one of your medical providers. An experienced attorney may be able to negotiate settlements of these claimed amounts to help put more money in your pocket.

## WHAT TYPES OF DAMAGES CAN I CLAIM?

It is critical to provide documentation supporting each claimed type of losses, or your claim will not receive its full value from either an insurance adjustor or a jury, should your case go to trial. Our firm evaluates each injured person's claim based on the following general categories of damages:

1. Damage to your vehicle and other property. In most cases this element of damages is settled relatively early in the case.
2. In auto cases, reimbursement for rental car expenses or the loss of use of your vehicle.
3. Any physical injuries, including permanent impairment or disfigurement, sustained in the accident.
4. Past and future pain and suffering resulting from your injuries.
5. Income you lost because you could not work after the accident. Since the repeal of the Colorado No-Fault Act by the legislature in 2003, there is no coverage available to pay for your lost wages as you recover from your injuries. Consequently, it is extremely important that you document all of the time you missed from work either due to your injuries or having to attend appointments.
6. Any loss of future earnings due to your permanent, accident-related impairment. In the event that your injuries were so substantial that you may not be able to work in the same job again, you should immediately contact an attorney to handle your claim.
7. Medical expenses for the treatment of your injuries. If another insurance company has paid your accident-related medical expenses, you will most likely be required to repay such expenses that the insurer paid out of the proceeds of your settlement. If you have any questions as to what your obligations and rights are in this situation, you should consult with an experienced attorney and provide that attorney with copies of all of your relevant insurance policies.

8. Any out-of-pocket expenses. You are entitled to reimbursement for all of the out-of-pocket expenses you incurred as a result of your accident (prescription medications, medical devices, etc...). Be sure to keep all receipts for such expenses.
  
9. The spouse of an injured person is entitled to “loss of consortium” damages. This is meant to compensate the husband or wife of the accident victim for the injured person’s inability to contribute to the household and marital relationship as a normal, healthy person would.

WHAT TYPES OF  
DAMAGES CAN I  
CLAIM?

## DO I REALLY NEED A LAWYER?

The following questions will help you determine whether you should consider hiring a lawyer to handle your claim. These questions address the major areas where an experienced accident attorney's knowledge will have a dramatic impact on the success of a case and the potential settlement value.

- For motor vehicle accidents, was your vehicle heavily damaged (>\$2,500.00) or a declared a total loss?
- Is there some question or argument that you may have contributed, in some part, to the accident?
- For motor vehicle accidents, did you, as well as the person that hit you, receive a ticket for the accident?
- Did you lose consciousness as a result of the accident?
- Were you taken to the hospital after your accident?
- Did you suffer any broken bones, large cuts or internal injuries as a result of the accident?
- Did your injuries require an overnight hospitalization?
- Did your injuries require a surgery?
- Have you missed more than a few days of work since the accident?
- Will you be unable to continue in the same line of work as before the accident?
- Will you need ongoing medical care in the future?
- Has your doctor said that you have a permanent disability because of the accident?
- Are you without any insurance that will provide medical expense benefits



- Are you unsure about whether you will have to repay your health or auto insurance company for your medical expenses?
- Do you not know the date by which you will have to either have your case settled or file a lawsuit?
- Was the person that caused your accident a governmental employee?

DO I REALLY NEED  
A LAWYER?

### CAUTION

Any accident claim against a governmental employee or entity requires strict compliance with the Colorado Governmental Immunity Act (CGIA). As part of this act, notice of the claim must be given to the responsible governmental entities within 180 days from the date of the accident or the claim will be barred. Consult an attorney immediately if you suspect that your claim may involve a governmental employee or entity.

If you answer “Yes” to one or more of these questions you should, at the very least, consult with an experienced accident attorney. Working with an attorney can mean that you will be able to recover substantially more in damages than you would be able to get from the insurance company on your own.

If you can answer “No” to all of these questions, the chances are very good that you will be able to handle the claims process by yourself.

WHY YOU SHOULD  
HIRE A LAWYER  
AS SOON AS  
POSSIBLE

Many years ago, Allstate Insurance hired a team of consultants to help in redesigning their claims handling process. Their conclusion: Get the lawyers out of the claims process. Their studies found that by doing this, they could settle claims for substantially less money.

Even in small cases under \$15,000.00, those persons represented by lawyers received substantially more in settlement, **even after paying their attorney**, than people who were not represented by a lawyer.

In larger cases, the difference was even more striking as the studies found that lawyers are able to get their clients exponentially more money as the claims value increases. Still want to handle your claim yourself?

Hiring an attorney early in your case will ensure that your rights and interests are protected. An attorney will usually charge a fee that is a set percentage of your eventual settlement or judgment amount. If you retain the attorney sooner rather than later, the attorney will have more time to ensure that your case is developed to its maximum potential value. The result is **MORE MONEY IN YOUR POCKET**.

If you have already determined that you should probably hire an attorney, these are the reasons you should hire that attorney **NOW** rather than weeks or months down the road:

1. An experienced attorney will be able to determine what evidence you will need to prove your case to the adjustor, or at trial, and how such evidence can be developed, recorded and preserved in the meantime.
2. An attorney will help coordinate all available medical insurance coverage to make sure that you get prompt and thorough medical care.
3. An attorney can help you get medical care when you do not have any health or med-pay insurance.
4. An attorney will help you document all of your losses to make sure that you can recover for as much of your damages as possible.
5. An attorney will deal with the insurance companies on your behalf.

Most accident attorneys will work on your case on a “contingency” basis. This means that you will not have to pay your attorney for any work on the case until, and unless, that attorney secures a settlement or judgment on your behalf. If your attorney does not recover any money on your behalf, you do not pay your attorney for his time. Please note that most attorneys will require you to pay for necessary expenses they incurred in preparing your case regardless of whether or not your case is successful.

Any attorney that you consider hiring is required to advise you of alternate types of fee arrangements (such as an hourly fee or flat fee) and give you the option of selecting one of these alternate types. However, these types require you to pay for your attorney’s time and work up front, regardless of whether or not they recover any money on your behalf. Consequently, most accident cases are handled on a contingent basis.

HOW MUCH  
WILL A LAWYER  
CHARGE?

IMPORTANT TIP  
*You will be paying  
your attorney the  
same amount  
whether he works  
on the case two  
months or two  
years. Why not  
give that attorney  
as much time as  
possible to make  
sure that your  
case value is  
maximized?*

WHAT MOST  
PERSONAL INJURY  
LAWYERS WON'T  
TELL YOU...

The standard contingent fee percentage rate in the Denver area ranges from 33.3% to as much as 45%. These rates vary from attorney to attorney; however, the rate rarely varies depending on the actual amount of work an attorney has to do, unless the case actually has to go to trial or through an out-of-court settlement conference (then the fee usually increases).

What most attorneys do not tell their clients is that a case which settles prior to the filing of a lawsuit, or an out-of-court settlement conference, consumes much less of an attorney's time and resources than one which requires extensive litigation.

The reality is that a high percentage of accident cases in this state are settled without a lawsuit ever being filed. Furthermore, a large percentage of the cases that must go into litigation are settled prior to trial. Very few accident cases actually need to go to trial in Colorado.

Attorneys love the cases that can be settled prior to litigation because they see a much higher profit margin on those cases. We at Crawford Weiss feel that the client should be the party that primarily benefits when their case can be settled quickly before litigation or even after attending an out-of-court settlement conference; however, attorneys rarely offer the client any discount in the event that the attorney is able to quickly settle the case on the client's behalf.

## HOW OUR “CLIENT FOCUSED” FEE AGREEMENT MAKES OUR FIRM UNIQUE

If your case qualifies for representation under the “Client Focused” Fee Agreement, our percentage fee is directly related to the amount of work that we have to put into a case. If we are able to settle your case before filing a lawsuit, we do not feel that we should charge you the same percentage fee as if we had to spend months litigating your case.

## OUR “CLIENT FOCUSED” FEE AGREEMENT

## WHAT TYPES OF CASES ARE ELIGIBLE FOR THE “CLIENT FOCUSED” FEE AGREEMENT?

We make each decision on a case-by-case basis considering whether the client’s case meets the following criteria:

- The case must be one of “clear liability” on the part of the potential defendant where it will not be necessary to hire an expert witness or argue that the Defendant was at fault at trial or in a settlement conference.
- The injuries claimed must be substantial in nature (i.e., more than simple whiplash) and have resulted in extensive and well-supported treatment by medical doctors and therapists. “Chiropractic-Only” cases will not qualify.
- You must not have been actively under the care of a doctor or therapist for any injuries to the same area for a period of two years before the subject accident.
- You must not have had any residual disability or impairment from a previous accident at the time of the subject accident.
- We do not need to hire specially retained experts, other than your treating doctors, to evaluate any medical injury or quantify any element of your damages.
- The damages to your vehicle, if applicable, must be in excess of \$5,000.00.
- You must not be, or have been, represented by another attorney for the same claim. Sorry, but we do not want to be seen as giving an incentive for anyone to fire their current attorney simply to hire us at a lower rate. Our firm is well respected by the other personal injury firms in this state and we wish to maintain our reputation amongst our peers.

OUR  
“CLIENT FOCUSED”  
FEE AGREEMENT

HOW MUCH CAN I SAVE UNDER THE “CLIENT FOCUSED”  
FEE AGREEMENT?

Under the Crawford Weiss “Client Focused” Fee Agreement, your contingent fee could be as low as 25%, should we be successful in settling your case without filing a lawsuit. This can save a typical accident victim thousands of dollars in attorney fees on their case.

For example, if you have a \$30,000.00 case, your fee could be as low as \$7,500.00 under our “Client Focused” Fee Agreement as compared to \$10,000.00 under a traditional fee agreement at 33.3%. This is a savings of \$2,500.00. The larger your case, the larger your savings and when you are rebuilding your life after an accident, every dollar counts.

Please note that not all cases can expect to be settled quickly without the need for litigation. If your case presents complex issues of liability, or involves catastrophic damages, it is likely that the insurance company handling your claim will not want to settle for a fair value until the late stages of litigation, if at all. In these cases, you do not pay any more in attorney’s fees under the “Client Focused” Fee Agreement that you would under a traditional law firm contingent fee agreement.

By asking the following questions when first meeting with a lawyer, you will quickly gain an understanding of the ability of that lawyer to adequately protect your interests:

WHAT QUESTIONS  
SHOULD I ASK  
WHEN HIRING A  
LAWYER?

1. **How many years experience do you have in representing accident victims?** A qualified attorney will have several years experience in representing accident victims. Make sure that your case will not simply be passed on to other, less-experienced attorneys.
2. **Will I work with you directly or mainly with paralegals and legal assistants?** Frequent involvement directly with your attorney will help ensure that your case is prepared as thoroughly as possible.
3. **How do you keep yourself informed of the latest developments in this area of the law?** Skilled accident lawyers spend many days each year at seminars learning new developments in this area of law.
4. **What professional groups are you a member of?** There are several professional organizations that allow attorneys to learn from other lawyers and stay better informed of recent changes in the law. In Colorado, two of the biggest organizations for accident lawyers are the Colorado Bar Association (CBA) and the Colorado Trial Lawyers Association (CTLA).
5. **Do you also represent insurance companies?** Many qualified accident lawyers also function as “Insurance Defense” lawyers and represent at-fault drivers or their insurance companies from time to time. This may mean that your prospective attorney may have a “conflict of interest” and be legally precluded from representing you in a case that involves an insurance company with which that attorney has an ongoing business relationship. At Crawford Weiss, LLC we take pride in the fact that we solely represent the victims of accidents and never the people that cause them.
6. **Will I have to pay for your services even if you do not recover a settlement or judgment for me?** If you retain your attorney on a contingent basis, you will not be responsible for paying your attorney’s fees if they are not successful in securing a settlement or judgment on your behalf.

WHAT QUESTIONS  
SHOULD I ASK  
WHEN HIRING A  
LAWYER?

7. **Am I liable for any costs associated with investigating and preparing my case?** Under Colorado law, if your attorney intends to hold you responsible for the costs necessary to investigate and prepare your case, they must advise you in writing of this fact before signing you up as a client.
8. **How much will associated costs be for my case?** A typical auto accident case will require expenses for such costs as copies of the accident report, copies of your medical records as well as any fees charges by expert witnesses that may be necessary to present your case. These costs can vary greatly from case to case but even a simple case can cost \$300.00 or more to prepare.
9. **Are there any difficult issues in my case?** An experienced attorney should be able to quickly identify any problem issues and be willing to discuss these issues with you.
10. **How many other cases will you handle at any given time?** The more cases an attorney has, the less time and personal attention those cases will likely receive.

### CAUTION

Many of the accident lawyers that you see advertising on television or in multi-page phone book ads handle HUNDREDS of cases at any given time. While this type of practice may be financially rewarding for the attorney, it prevents the attorney from working personally on their clients' cases and can compromise their ability to effectively represent their interests.

At Crawford Weiss, LLC, we limit the number of cases that we handle at any one time so that we can give the highest level of service to our clients. In fact, many of our clients have hired us after firing the BIG TV LAWYER they initially hired. The most common reason they cite for firing the previous lawyer is that they never were able to speak directly with the attorney supposedly handling their case.



You may also want to research any potential attorney through the Colorado Supreme Court Board of Law Examiners and the Colorado Bar Association. These resources will allow you to discover whether your prospective attorney has ever faced any disciplinary actions or had complaints filed against them by previous clients.

**WHAT QUESTIONS  
SHOULD I ASK  
WHEN HIRING A  
LAWYER?**

**CAUTION**

Not all attorneys focus on representing accident victims. Unlike some states, Colorado does not grant special designations to those attorneys who limit their practices to this area of law.



**WOULD YOU LIKE TO SCHEDULE  
A FREE CONSULTATION?**

**SCHEDULE A FREE  
CONSULTATION**

If you would like to schedule an appointment for a free consultation on your Colorado accident case, or if you have any questions that were not addressed in this guidebook, please feel free to call our office at **(303) 741-0249**.

You may also find additional information on our website:  
**[www.DenversAccidentLawyer.com](http://www.DenversAccidentLawyer.com)**

# HAVE YOU BEEN INJURED IN AN ACCIDENT?

---

This guidebook can save you *thousands* of dollars and answer your important questions:

- “Who will pay my medical bills?”
- “What happens if I cannot work?”
- “How will I get my car fixed?”
- “What will my claim be worth?”
- “Should I talk to the other driver’s insurance company?”
- “Should I hire a lawyer?”

**Jason C. Crawford** has been representing accident victims against insurance companies throughout Colorado for over 20 years. He is a graduate of The University of Texas School of Law and a member of both the Colorado Bar Association and the Colorado Trial Lawyers Association.

**Brian Weiss** has 20 years of experience in handling personal injury cases including several years as an insurance defense lawyer. His practice now focuses solely on representing accident victims. He is active in the Colorado bicycling community and has a special interest in representing cyclists injured by negligent drivers. He is a graduate of Georgia State College of Law and is a member of the Colorado Bar Association and the Colorado Trial Lawyers Association.



THE LAW FIRM OF

**Crawford Weiss, LLC**

\$9.99

ISBN 978-0-615-88595-7

5 0 9 9 9 >



9 780615 885957