

Motor Vehicle Crash Rights & Responsibilities

A STEP-BY-STEP GUIDE
FOR WHAT TO DO AFTER A CRASH
AND HOW TO PROTECT YOUR RIGHTS

BWVP Buckley
Wynne
& Parese
PERSONAL INJURY ATTORNEYS

800-445-2278

Retain this in your glove compartment at all times.

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Remember:

YOUR CAR, YOUR CHOICE.

Don't let an insurance company take away your right to use the repair shop of your choice.

1 At The Scene

I've Just Been in a Crash, What Do I Do?

FIRST - At once, stop and render such assistance as may be needed. When in doubt, call 911 for an ambulance. Failure to stop after an accident is a crime.

SECOND - Prevent further accidents. Turn on hazard lights, use cones, warning triangles or flares, as appropriate. If there are no serious injuries, and it would be safer to do so, move vehicles to a safe place.

THIRD - Call the police, even if it was a minor accident.

FOURTH - Write down the names, addresses, and telephone and driver's license numbers of all of the other drivers and the insurance information for each of the other vehicles.

FIFTH - Get witness information if possible.

SIXTH - Take photos of the accident scene and the vehicles.

2 Injuries

What Do I Do if I Was Injured?

- ◆ If you were injured in the crash, you should immediately seek medical attention.
- ◆ If in doubt, take an ambulance or get a ride to the nearest hospital to be examined.
- ◆ All Connecticut hospitals will treat you, regardless of whether you have insurance.

3 Legal Representation

When Should I Consult an Attorney?

- ◆ If you suffered injury that was caused by someone else, you should consult with an attorney.
- ◆ It is never too soon to call an attorney, particularly if you have suffered severe injuries. **Buckley Wynne & Parese**, the sponsor of this pamphlet, offers free initial consultations and will meet you at your home or at the hospital to accommodate injuries and mobility restrictions.
- ◆ If you caused the crash and have insurance, you should consult with your insurance company about legal representation. Under most circumstances, your insurance company will provide you with an attorney at no cost to you.

4 Medical Bills

How Will My Medical Bills Get Paid?

- ◆ If you were injured in a crash, there are five primary ways for your medical bills to be paid.

Workers' Compensation

- If you were on the job when injured and insured under a Workers' Compensation Policy, your medical expenses will be paid by Workers' Compensation.

Medical Payments ("Med Pay") Coverage on Your Auto Policy

- If you have Med Pay coverage on your auto policy, or you were a passenger in a car that had Med Pay coverage, you should use this coverage to pay your bills, even if you have health insurance.
- You can determine if you have Med Pay coverage by checking the declarations page of your auto policy or by calling your insurance company or agent.
- If you have Med Pay, bring your auto insurance declarations page to your doctor for processing payment. You can also contact your auto insurance company directly to get reimbursement or payment for emergency medical treatment.

- Med Pay will pay up to its limits, after which point your bills should be paid through one of the three remaining sources.

Health Insurance & Medicare/Medicaid

- Generally, your health insurance will not cover your crash related bills unless and until you can prove that you do not have Med Pay. When you call your auto insurance company, request a "No Med Pay Letter," which you can give to your doctors and health insurer.
- If you neglect your bills, even if the crash was not your fault, your health care providers may send your bill into collections.

Letter of Protection

- Under certain circumstances, when someone else causes a crash, and you do not have Med Pay or health insurance, some doctors will accept a Letter of Protection from an attorney. This obligates your attorney to reimburse your doctor from the proceeds of your lawsuit settlement or judgment.
- Because payment is not guaranteed and will be delayed until the resolution of the case, many doctors will not agree to do this.
- You will need an attorney if you wish to be treated under a Letter of Protection.

Out-of-Pocket

- The final way to pay your medical bills is out-of-pocket. Make sure to keep track of everything you paid. If you were not the cause of the crash, you can claim these expenses through a lawsuit against the at-fault party.

The Crash Wasn't My Fault, Shouldn't the Other Person's Insurance Pay My Medical Bills?

- ◆ Unfortunately, the other party's insurance will not pay your bills until such time as the case is resolved (which in most cases can take a year or more).
- ◆ A common misconception is that the at-fault driver, or his insurance company, is responsible for paying your medical bills as they are incurred. Unfortunately, this is not the case.

- ◆ If you require medical attention and cannot find a doctor willing to treat you, you should go to your local hospital for care. The cost of treatment will ultimately be your responsibility. Many hospitals, however, offer programs to help modest means patients.
- ◆ For additional assistance with getting medical treatment, you should consult with an attorney.

5 Police Reports

- ◆ It is important that you get a copy of the police report as soon as you can. That will have the other driver's insurance information if you do not already have it. It will also set forth a preliminary version of the accident, which insurance personnel will rely on for settling property damage matters.
- ◆ The police report does not establish who was at fault in a civil court of law.

6 Rights & Considerations

Note: Never drive a car that could be unsafe because of damages.

How Do I Choose the Right Repair Shop?

- ◆ You should start by checking with the Auto Body Association of Connecticut (ABAC). A list of member shops can be found at www.abaconn.org.
- ◆ It is recommended that you choose a shop that has unibody repair equipment and certified technicians. Look for I-CAR or ASE certification, for example.
- ◆ Ask if the shop will be using genuine manufacturer (OEM) replacement parts.
- ◆ Ask if the shop offers a repair warranty.
- ◆ Ask if the shop is a member of the ABAC.

Do Insurance Companies Fix Cars?

- ◆ No. Insurance companies do not fix cars; they only pay for the cost to repair your car.
- ◆ Make sure you know who is actually fixing your car. If you left your car at a drive-in claims center, you might be surprised to know who is actually fixing your car because it's not your insurance company.

I Want a Safe Repair and I Don't Trust the Insurance Company to Protect My Rights, What Do I Do?

- ◆ **YOUR CAR, YOUR CHOICE.** Under Connecticut Law, you have the right to choose the repair facility of your choice.
- ◆ You do not have to take your car to a drive-in claims center or other insurance company facility.
- ◆ Your insurance company may try to coerce you into using its direct repair program (e.g. "preferred program," "blue ribbon program," or "concierge program") for repairs or to be appraised. You do not have to do this.
- ◆ A direct repair program (DRP) is a contractual arrangement between the repair shop and the insurance company. DRP arrangements are controversial because they put pressure on the repairer to keep costs down, often at the expense of the customer.
- ◆ It is generally in your best interest to choose an independent repair facility that will be looking out for you and not conflicted by its obligations to an insurance company.

TIP:

Before you choose a repair shop, ask the shop if it has a contractual arrangement with your insurance company or the insurance company for the at-fault driver.

Is Photo Estimating Safe?

- ◆ No.
- ◆ We recommend that you always endeavor to have your vehicle

inspected by a licensed repair professional. You should never rely on camera phone pictures to determine if your vehicle is safe, or to assess the cost of repair.

- ◆ Camera phone pictures often capture only a fraction of the actual damage.

How Do I Ensure Quality Parts Are Used in My Repair?

- ◆ You should always ask about the parts that will be used for the repair of your vehicle.
- ◆ Whenever possible, you should insist on OEM parts.
- ◆ If your insurance company refuses to pay for OEM parts, have your insurance company send you the applicable section of your insurance contract authorizing it to refuse payment for OEM parts.
- ◆ If you have questions or concerns about the use of aftermarket or imitation parts, contact an attorney or the Auto Body Association of Connecticut.

What's the Difference Between OEM, Aftermarket and Recycled Parts?

- ◆ **"OEM"** parts are new parts made by the original manufacturer of your vehicle.
- ◆ **"Aftermarket"** or **"Imitation"** parts are often inferior parts that are not manufactured by the Original Equipment Manufacturer.
- ◆ **"Recycled"** parts, sometimes referred to as salvage, reconditioned or used parts, are frequently obtained from auto recyclers or junk yards and can be either OEM or non-OEM parts.
- ◆ **"Recycled"** or **"Non-OEM"** parts may be used for repair work, but you should be notified of that fact in the repair estimate.
- ◆ Independent repairers often argue against the use of certain recycled and aftermarket parts on the grounds that they are not as dependable or safe as OEM parts. Make sure to talk to your repairer about whether recycled or aftermarket parts are being used and how they could affect the safety of your repair.

What is the Job of Insurance Appraisers?

- ◆ Insurance appraisers are responsible for helping to verify damage and facilitate negotiations between your repair facility and the insurance company.
- ◆ Connecticut law requires that appraisers act fairly and independently. See Regulations § 38a-790-8. Specifically, the law requires that every appraiser:
 - (1) Conduct himself in such a manner as to inspire public confidence by fair and honorable dealings.
 - (2) Approach the appraisal of damaged property without prejudice against, or favoritism toward, any party involved in order to make fair and impartial appraisals.
 - (3) Disregard any efforts on the part of others to influence his judgment in the interest of the parties involved.
 - (4) Prepare an independent appraisal of damage.
- ◆ If a licensed appraiser has not abided by this law in your repair, you may consider filing a complaint with the Department of Insurance.

Can an Insurance Company Certify My Vehicle Repairs Are Safe?

- ◆ No.
- ◆ When the vehicle is done, make sure that a licensed repairer tells you that your vehicle is safe and roadworthy.

What Does it Mean When I'm Told My Car is a Total Loss?

- ◆ Usually when the cost of repairing your vehicle exceeds its value, or, depending on your policy, the repair cost will exceed 80% of your vehicle's value, your vehicle will be deemed a "Total Loss."
- ◆ Insurance companies have the authority to declare a vehicle a "total loss," but they are subject to regulation by the Insurance Department.
- ◆ Under Connecticut law, a vehicle may be declared a "constructive total loss" when the cost to repair or salvage the damaged property, or the cost to both repair and salvage such property, equals or exceeds the total value of the property at the time of loss. In such a case, the car will be deemed a total loss.

I Don't Want My Car Totaled, Is There Anything I Can Do About It?

- ◆ Unfortunately, if the criteria apply, you cannot avoid totaling your vehicle. So, for example, even if you can get the car fixed for less than what the insurance company estimates, or can otherwise reduce the cost of repairs, you will not be able to stop the total loss.
- ◆ If your insurance company has determined that your vehicle is a "total loss" or the word "Salvage" has been stamped on the title, it is illegal to operate this vehicle upon any road in Connecticut. Technically, the registration on this vehicle has been cancelled and you should remove the plates from your vehicle.

My Car Has Been Totaled, Is There Anything I Can Do To Get It Back on the Road?

- ◆ You can rebuild a salvaged vehicle, but in order to get the vehicle back on the road, you must retitle the vehicle. The vehicle cannot be retitled until it passes a Salvage Inspection.
- ◆ Check with the DMV for more information concerning salvage inspection procedures and locations <http://www.ct.gov/dmv> (800-842-8222).

How is the Value of My Vehicle Determined?

- ◆ The Insurance company is required to use at least the average of the retail values according to the NADA Used Car Guide (www.nadaguides.com) and one other automobile industry source approved by the Insurance Commissioner.
- ◆ The insurance company must give you a copy of the information relied upon in determining the value of your car.
- ◆ It is not uncommon for insurance companies to underestimate the value of your car or the damages sustained to a repairable car. Don't hesitate to get an explanation for the method used to calculate the value of your vehicle. If you continue to have any concerns, contact an attorney.

7 Repair Costs and Rental Car

Who Pays Repair Costs and the Costs of a Rental Car?

The crash was my fault

- ◆ When you caused the crash, you are responsible for repairing your own vehicle and the other vehicle that you damaged. Assuming you are insured, your company will pay for the damages to the other vehicle up to your policy limits.
- ◆ If you have "collision coverage" under your policy, you will also be covered for repairs to your vehicle up to the amount of your coverage. You will likely have a deductible of \$500 or \$1,000. You should not have to pay more than your deductible if you have full collision coverage.
- ◆ When you caused the crash, your right to a rental car is subject to the terms of your insurance policy. If you purchased rental reimbursement coverage, you will be covered for a rental car. Most insurers can set up direct billing with the rental car company. Check with your insurance company or insurance agent regarding your coverage.

The crash was NOT my fault

- ◆ If someone else caused the crash, that person's insurance company (if the other person is insured) should pay for the cost of repairs. You should not have to pay anything.
- ◆ You are entitled to take the vehicle to a repair shop for repairs. If you were injured, you should consult with an attorney before communicating with the at-fault driver's insurance company about repairs.
- ◆ If the other person was not insured, but was at fault, you should use your own insurance. Your company will later undertake efforts to get its money back through a process known as subrogation.

What is Loss of Use?

- ◆ If someone else was at fault, you are also entitled to compensation for the loss of use of your property. That means either:
 - The use of a comparable rental vehicle (i.e. a full-size truck if you were driving a full-size truck);
 - Reasonable compensation for the loss of the use of your vehicle if you do not get a rental. Generally, "reasonable compensation" means the amount you would have had to spend for a rental car for the period of time necessary to settle your claim or repair your vehicle.

TIP:

Insurance companies are generally eager to cut claim costs whenever possible. This is why you may be pressured to take your car to the insurance company's direct repair shop. Don't let the insurance company steer you away from an independent repair shop.

What happens if the crash was not my fault, but I had to use my insurance?

- ◆ When fault cannot be determined (i.e. the parties have conflicting accounts of the accident) or the other driver had no insurance, you should generally proceed with repairs through your own insurance policy.
- ◆ If you have no collision coverage on your policy, and the other party or insurance is refusing to honor the claim, you will likely have no other choice but to pay out-of-pocket for the cost of repairs. You can later seek recovery through a lawsuit.

NOTE:

The above circumstance is more common than you would think. We recommended purchasing collision coverage for this reason. Without collision coverage, you can get stuck in a particularly unfair predicament of losing your vehicle with no practical way to replace it. This is true even when the crash was not your fault.

- ◆ After your insurance company pays for your repairs, it will likely seek reimbursement through a process known as "subrogation." In a subrogation claim, the insurance company essentially steps into your shoes and brings a claim against the other driver in an effort to get its money back. If successful, your insurance company will be reimbursed and you should also be reimbursed for your deductible.
- ◆ In some crashes, fault is uncertain. In other words, both parties may share in the responsibility. Thus, it may be found that one party is 80% responsible and the other is 20% responsible. If this happens, damages will be apportioned accordingly.
- ◆ If you paid for your own damages and rental car because you had no collision coverage, you may wish to bring a claim against the at-fault party for reimbursement. For more information on this process, consult with an attorney.

8 Insurance

Reporting the Claim

- ◆ As soon as is practical, you should call your insurance company and report the crash. You should do this regardless of who was at fault.
- ◆ An agent will likely ask you about what happened, damages to the vehicles and personal injuries.
- ◆ As part of your insurance contract, you have a duty to cooperate with your insurance company. If you do not cooperate with reasonable demands of your insurance company, you risk denial of coverage.
- ◆ You have no duty or obligation, however, to speak to the other driver's insurance company.
- ◆ The other party's insurance agent may ask you to give a recorded statement. You should not agree to do this without first speaking to an attorney.

Uninsured / Underinsured Motorist Coverage

In Connecticut, you are required to buy Uninsured/Underinsured Motorist (UM/UIM) Coverage. This coverage will protect you if the person that caused the crash is uninsured or does not have enough insurance to cover your losses.

UM/UIM coverage cannot be used to pay for damages to your vehicle if you do not carry collision coverage.

UM/UIM will cover certain other losses, including medical bills, lost wages (past and future), as well as payment for disabilities, pain and suffering and loss of enjoyment of life's activities.

Your UM/UIM coverage is determined by the amount of coverage you purchased.

Will My Rates Go Up?

There is no hard and fast rule regarding premium calculations. In general, if you cause your insurance company to make payment on your behalf because of a crash you were responsible for causing, there is a chance your rates will go up.

If, on the other hand, your insurance company has to pay you on your policy because of the other party's negligence (i.e. Med-Pay claim or UM/UIM), your rates will not likely go up.

For specific guidance regarding your policy, contact your insurance agent or representative.

What Happens if I Need to File a Complaint Against an Insurance Company?

If your insurance company mistreated you or otherwise treated you unfairly, you may file a complaint with the Department of Insurance, the Attorney General's Office, or contact your local representative. Complaints to the Department of Insurance should be directed as follows:

State of Connecticut Insurance Department, Consumer Affairs, P.O. Box 816, Hartford, CT 06142-0816. Phone: 860-297-3800. All complaints must be in writing. For a complaint form, go to: <http://www.ct.gov/cid/lib/cid/cons.pdf>.

9 Bodily Injury

In Connecticut, How are Bodily Injury Claims Processed?

- ◆ If you sustained an injury due to the fault of another person, it is almost always in your best interest to hire an attorney. As a general rule of thumb, the sooner you do that, the better. Your first order of business should be getting whatever medical treatment you may need. Your second order of business should be following the recommendations of your medical providers. At Buckley Wynne & Parese, we encourage our clients to focus on healing, while we handle the necessities of investigations, communications, and tasks of claim preservation. We discourage our clients from giving recorded interviews or formal statements prior to speaking with an attorney.
- ◆ The law in Connecticut provides that victims of bodily injury are eligible for compensation for economic losses (e.g. vehicle property damage, medical bills, lost wages, and/or other out of pocket losses) and non-economic losses (e.g. physical and emotional injuries, disabilities, loss of life enjoyments, and pain and suffering). Since there is no formula used in arriving at a fair and reasonable sum of compensation for these types of losses, it is imperative that you have an attorney to assist you. What is more, there can be and often are third party lien rights on any recovery you receive. These can come from your health insurer, the State and/or the Federal Government. Navigating the complexity of lien repayment is another reason to consider hiring an attorney.
- ◆ The process of pursuing recovery for bodily injury losses can and generally does take years. The best advice we can give is to have patience and use your energy to focus on healing and taking good care of yourself and your family.

Accident Information

Date of Accident: _____ Time of Accident: _____

Location _____

City _____

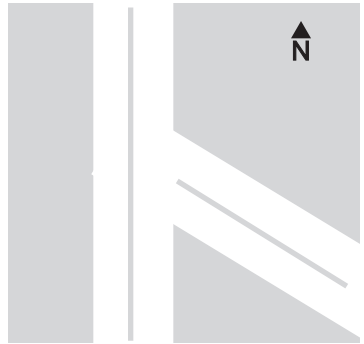
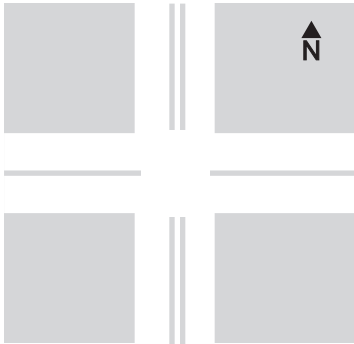
Weather _____

Traffic _____

DIAGRAM ACCIDENT

N - Your Car, **O** - Other Car

- ◆ Place your vehicle on the diagram.
- ◆ Place the vehicle that you had the accident with on the diagram.
- ◆ Place any traffic lights or road signs on the diagram.
- ◆ Place any other vehicles on the diagram as you remember.
- ◆ If none of the drawings match your roadway, use the bottom of this page to draw your diagram.



POLICE

Police Officer _____

Badge # _____ Station _____

Police Case # _____

OTHER VEHICLE 1

Name _____

Address _____ Zip _____

City _____

Phone _____

Driver's License # _____

Car Make _____

Model _____ Year _____

License Plate # _____

Registered Owner _____

Address _____

City _____ Zip _____

Phone _____

Insurer _____

Policy # _____

Agent's Name _____

OTHER VEHICLE 2

Name _____

Address _____ Zip _____

City _____

Phone _____

Driver's License # _____

Car Make _____

Model _____ Year _____

License Plate # _____

Registered Owner _____

Address _____

City _____ Zip _____

Phone _____

Insurer _____

Policy # _____

Agent's Name _____

Witness List

Name _____

Address _____

City, State, Zip _____

Phone # _____

Name _____

Address _____

City, State, Zip _____

Phone # _____

Name _____

Address _____

City, State, Zip _____

Phone # _____

Name _____

Address _____

City, State, Zip _____

Phone # _____

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PERSONAL INJURY ATTORNEYS

For over 145 years people in Connecticut have relied on the law firm now known as Buckley Wynne & Parese. Today, the law firm's Connecticut injury attorneys focus experience and resources on helping injured people recover compensation. With us, it's personal.

- ◆ Auto Accidents - Truck Crashes, Motorcycle Crashes, Uninsured and Underinsured Motorist Crashes
- ◆ Pedestrian strikes
- ◆ Wrongful Death - Fatal Crashes
- ◆ Alcohol Liability - Drunk Driver Crashes, Dram Shop Liability
- ◆ Bicycle, Scooter, E-Bike Crashes
- ◆ Falls - Slip and Falls, Trip and Falls
- ◆ Dog Bites
- ◆ Unsafe Swimming Accidents
- ◆ Medical Malpractice - Birth Injuries, Surgical Errors
- ◆ Professional Malpractice - Lawyers, Accountants, Architects,
- ◆ Engineers, Insurance Agents
- ◆ Product Liability - Auto Defects, Home Products, Unsafe Equipment
- ◆ Defective Roads and Sidewalks, School Accidents, Police and Public Employee Negligence

Call us for a free consultation.

No fees, costs or expenses unless you recover.

– Buckley Wynne & Parese –

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