What You Need to Know About

COLORADO AUTO ACCIDENTS

*Injured in a Crash? **Know Your Rights & Options!***

Everything You Need to Know About Colorado Auto Accidents (Updated 2026)

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DISCLAIMER: This pamphlet is for information purposes only. It is a general discussion of the laws and practices surrounding injuries sustained in auto accidents in Colorado. It is **not** legal advice. The information contained herein may not be applicable to your case or situation. The author has not entered into an attorney-client relationship with the reader. To enter into an attorney-client relationship, the attorney and prospective client must first sign and enter into a formal written representation agreement.

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I. What to Do If You're in an Accident

A. Basic Tips & Suggestions

- **Tell the investigating officer exactly what happened**, but do not speak to anyone else until you have discussed your case with a lawyer.
- **Do not speak with strangers about the accident.** It is also best not to discuss it with your friends.

- **Do not speak with the insurance adjuster** or so-called "investigators" without the advice of an attorney. They are experts at twisting what you say.
- **Get immediate medical attention if needed.** Delaying medical care can harm your health and your case.
- **Demand the other party’s insurance policy information** at the time of the accident.
- **Take photographs** of the accident scene, your injuries, and the damage to your vehicle.

B. Other Very Important Things to Do ASAP!

- **Retain an experienced lawyer** as early as possible.
- **Check your auto insurance policies** to find out what types of insurance you have and the extent of your policy limits.
- **Make sure you have your insurance policy documents** ready and available for review.
- **Scan or photograph your documents** and email them to your attorney before your appointment.
- **Email your attorney photos** of your injuries and the damaged vehicles.

II. First Party Insurance

A. 'No-Fault' Insurance?

Colorado is **not** a "no-fault" state. But, if you are injured in an accident in a "no-fault" state (like Florida, New York, New Jersey, or Michigan), you may be entitled to a significant amount of medical bills paid immediately from a type of insurance known as "PIP" (Personal Injury Protection). Even in "no-fault" states, you can still bring a claim for fault-based damages if you have sustained a "significant injury."

If you were injured in another state but live in Colorado, Mr. Goodman can represent you. If and when we file a lawsuit against the other person’s insurer, we will normally engage secondary local counsel in that other state. In such a case, the contingency fee is shared with local counsel, and the total you pay will not change.

B. What Is 'MedPay'?

Colorado law requires all auto insurers to include a **minimum of $5,000** worth of "MedPay" coverage with every auto insurance policy issued in the state. MedPay is similar to personal injury protection (PIP) insurance in no-fault states because it covers reasonable medical expenses arising out of accidents, **regardless of fault**. It covers you, other people riding in your car, and even pedestrians injured in an accident involving your vehicle. MedPay can cover emergency care, ambulance rides, surgeries, drugs, hospital bills, physical therapy, and even funeral expenses.

C. Health Insurance

Health insurance can also be used to pay medical bills after an accident, but health insurers will have a right to be repaid from your settlement. MedPay insurers have **no such right**. For that reason, you should have the doctors bill MedPay first. Preserve your health insurance to cover additional medical bills once the Medpay runs dry. In the event that you are forced to resort to health insurance, we can often negotiate with the insurer to reduce the health insurer’s lien on your settlement.

D. Worker’s Compensation

If you were injured in an auto or other accident while carrying out your job duties, you may be entitled to worker’s compensation. Worker’s compensation insurers also have a lien on your auto accident recovery from the third party who was at fault for the accident. They also have an independent right to sue the at-fault party to recover what they have paid. If the worker’s compensation insurer sues, whatever costs it recovers will not be paid a second time to you.

E. Collision Coverage

Collision insurance pays to repair your vehicle after an accident. If your car is worth less than the cost of repairs, the insurer will pay the depreciated value of the vehicle. Most financial institutions require collision insurance if you have a car loan or are leasing a car.

F. Other First Party Coverage

- **Rental car coverage** reimburses for the cost of renting a vehicle while yours is being fixed.

- **Loan/lease gap coverage** pays the difference between the actual cash value of your vehicle and the unpaid balance on your loan or lease when the car is totaled. This is usually required by car loan and lease agreements, but even if it is not, it is a smart thing to have.
- **Roadside assistance/towing coverage** covers the cost of removing the car to a repair facility.

III. Third-Party Liability (A/K/A 'Sue the Guilty')

A. Who Is Responsible to Pay Damages?

- **Careless drivers** are legally responsible for the injuries they cause.
- **Employers** of careless drivers may also be held responsible if their employees cause an accident while driving for work or if the employer owns the vehicle.
- **Car owners** may be liable if they allow someone who is intoxicated, reckless, or unlicensed to drive their car.
- **Parents** can be held liable for injuries caused by minor children under the "Family Car Doctrine."

B. How Much Money Am I Entitled To?

You are entitled to recover for:

- Past and future lost wages
- Past and future medical bills
- "Non-economic" damages, such as pain and suffering, loss of enjoyment of life, emotional distress, disfigurement, and permanent impairment

The amount of money you are entitled to depends on the unique facts of your case.

C. Mandatory Colorado Liability Coverage

Colorado law requires drivers to have minimum liability coverage of:

- **$25,000** per person for bodily injury

- **$50,000** per accident for bodily injury
- **$15,000** per accident for property damage

D. Uninsured/Underinsured Motorist Coverage

In today's inflationary world, these sums are often not enough to pay for the damages that occur as a result of a serious automobile accident. That's where underinsured and uninsured motorist coverage kicks in. Many people have their own insurance coverage that may also cover the damage caused by underinsured and uninsured drivers.

Uninsured/underinsured motorist (UM/UIM) coverage pays for bodily injury losses caused by uninsured drivers or drivers with insufficient insurance. UM/UIM coverage is required to be offered by all insurers in Colorado, unless you waive it in writing. About **25% of Colorado drivers are not insured**, making UM/UIM coverage very important.

IV. Why Do I Need a Lawyer?

A. Avoiding the Quickie Settlement

Insurance adjusters may offer a settlement early on, before you know the full extent of your injuries. Settling a case before you know the full extent of your injuries will likely put you in financial trouble in the future. The first thing you should do if you are injured is seek medical attention. The second thing? You should speak to an experienced attorney.

B. Insurers *Will* Fight Meritorious Cases

Surprise! Insurance companies will often try to pay you a lot less than you are owed if they think they can get away with it. They have highly trained adjusters whose job is to limit the amount of money paid by the insurance company. Society expects plaintiff's lawyers to be very careful to pick out only meritorious claims. No corresponding obligation is placed upon insurance adjusters or defense attorneys to limit which cases they vigorously defend. They vigorously defend ALL of them, regardless of merit.

C. Favorite Insurer Defense Techniques

- **The Seat Belt Defense:** Insurers may claim that not wearing a seat belt caused or worsened your injuries.

- **Colorado’s Modified Comparative Negligence Standard:** If you are found partially at fault, the amount you can recover is reduced by your percentage of fault.
- **The Phantom Defendant:** Insurers may try to blame a real or imaginary secondary defendant who is not a party to the lawsuit.
- **Other Tricks & Techniques:** Insurance adjusters and defense attorneys have many tactics to avoid or minimize paying fair compensation.

D. How Can You Possibly Win Against Such Odds?

Even though creating bogus defenses is a specialty of many insurers, the adjusters and their attorneys, they also have an interest in settling your case. The key to winning a good settlement or getting a good verdict from a trial jury is to hire a knowledgeable, experienced attorney as early as possible. If the insurance company knows they are going up against an experienced attorney, they will often give up on the hope of using their bag of dirty tricks and offer a fair settlement.

E. Defeating the Phantom Defendant Gambit

If you have sufficient uninsured motorist coverage, it can give your lawyer an edge in defeating the defendant’s best efforts to create an imaginary entity upon which to pin blame. In such cases, your own insurance company can sometimes assist in defending against such claims. That’s because insurers fo not want to pay the obligations of another company. If the jury concludes that there really was a phantom motorist and they caused the accident, it is an uninsured motorist. Your own UM/UIM carrier would then have to pay. They won’t want to pay.

V. The Personal Injury Litigation Process

A. What Do You Mean by 'Discovery' Proceedings?

Discovery involves answering written questions, producing documents, and giving oral testimony under oath. The insurance company often wants to know more about you and what witnesses will say before they offer a large settlement. Your deposition will almost always be taken in every case.

B. Why Can’t I Just Take the Money and Run?

You can always take whatever the insurance company offers, but you should consult with an attorney first. In minor injury cases, taking an early offer may be reasonable, but in serious injury cases, you’ll usually be hurting yourself by accepting an early settlement offer. An honest attorney will tell you the truth about whether or not it is in your interest to take the insurance company’s early offer.

C. What If I Am Partially Responsible?

If you are found partially at fault, the amount you can recover is reduced by your percentage of fault. If you are more than 50% at fault for an accident, in Colorado, you will be unable to collect any damages. If the accident happened in another state, which does not have the 50% rule, you may be able to recover even if you are more than 50% at fault, so long as someone else was also at fault. Negligence is the failure to perform an act in the manner a reasonably careful person would to protect themselves or others from injury.

D. What If Two or More Defendants Are at Fault?

Under Colorado’s "pro rata" recovery statute, liability must be divided according to the degree of fault of each defendant. If the insurer has an outside chance to pin the blame on a nonexistent person, they will do so, because that person doesn’t exist and cannot defend himself. However, the "phantom defendant" defense is usually reserved for situations in which an insurer is trying to avoid paying in a serious injury case.

E. What About the Costs of Litigation?

It costs money to sue, including fees for court stenographers, doctors, and document copying. In a meritorious contingency fee case, Mr. Goodman is often willing to forward such costs. He gets reimbursed for that, in addition to his legal fee, when the case is resolved. However, if you choose to pay for legal services on an hourly basis, you will be expected to make a cash deposit to cover these costs. If your case has merit, Mr. Goodman will usually accept a contingency fee and he only gets paid if you do.

F. Can I Lose the Right to Sue If I Wait Too Long?

YES! The Colorado Statute of Limitations for negligence lawsuits against private persons is **three years** from the date of injury. And, if you sue the

State, you must give formal written notice of intent to make a claim within **182 days**. Under Federal law, a claim against the United States is forever barred unless it is presented in writing within **two years**.

G. How Do I Choose a Lawyer?

- Be careful when you pick an attorney, as that choice can create a vast difference in the outcome of your case.
- Avoid "settlement mill" lawyers. You will generally see such lawyers advertising heavily on billboards and on TV. They often settle cases quickly for nuisance value, that is, whatever they can get.
- Look for an experienced, knowledgeable, lawyer who is passionate about fighting for his clients.
- A good lawyer is usually modest, hardworking, and focused on getting the best possible outcome for you. He won't ordinarily advertise on billboards or on television.

Footnotes

1. **Damage Caps:** As of January 1, 2025, Colorado's noneconomic damages cap is $1.5 million, and the wrongful death cap is $2.125 million. These caps are adjusted for inflation every two years starting January 1, 2028. (House Bill 24-1472)
2. **Magnus' Law:** Requires law enforcement to offer breathalyzer or chemical tests at scenes involving serious bodily injury or death. (Colorado Revised Statutes 42-4-1603, 42-4-1606)
3. **Insurance Requirements:** Colorado requires minimum liability coverage of $25,000 per person, $50,000 per accident for bodily injury, and $15,000 per accident for property damage. (Colorado Revised Statutes 10-4-609)
4. **Statutes of Limitations:** The Colorado Statute of Limitations for negligence lawsuits is three years from the date of injury. Claims against the State require notice within 182 days. (Colorado Revised Statutes 13-80-101, 13-80-102)

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