

# In a Car Collision ... *Now What?*



## **Secrets and Tips**

from an Insurance Attorney  
To Get the Compensation You Deserve  
Without Getting Taken Advantage of  
by the Insurance Company



LAW OFFICES OF  
**MAGNUSON LOWELL P.S.**



**Welcome**

# Preface



Throughout their lives, most people won't have to deal with the stress and trauma associated with a motor vehicle collision. For those who have to, they become understandably and inevitably confused dealing with police, insurance adjusters, mechanics, employers, medical providers, and lawyers. Between phone calls with insurance companies and appearing for medical appointments, it's mind-boggling the amount of time it takes just to feel better. This guide offers some tools and suggestions for getting back to a normal life while saving time and hopefully, eventually, obtaining the compensation you deserve.

This guide offers a detailed outlook on auto claims from an insurance perspective. Rick and Josh Lowell are not only father and son; collectively, they have spent nearly forty years working for several different insurance companies throughout the country. During their time as insurance attorneys, Rick and Josh spent significant one-on-one time with local and national insurance adjusters managing auto claims nationally.

Now, Rick and Josh are dedicated to using their insider information to help injured drivers get the compensation they deserve. These secrets stem from conversations directly with claims adjusters about what insurance companies look for after an auto collision. This information may also be used to help ensure you know your rights and know the steps worth taking to force the insurance company to take your claim seriously.

I feel so lucky to have hired Magnuson Lowell to handle my injury claim. They worked hard; they were amazingly thorough; and they were relentless. The insurance company offered only \$50,000. We said 'no.' The insurance company then got snotty and withdrew all offers, telling us we were dumb for bringing this claim. But after five days of trial, the jury awarded me over \$750,000!! Thanks Rick, Josh and Linda for believing in me and my claim. You believed - and so the jury believed!  
-- Jason S.

*Disclaimer: The information provided in these materials are for informational purposes only and not for the purpose of providing legal advice. You should contact your attorney to obtain advice with respect to any particular issue or problem. Use of this information does not create an attorney-client relationship between Magnuson Lowell, P.S. and the reader.*

# Part 1: Before You Drive

Whoa, whoa, whoa ... This booklet is supposed to guide my actions AFTER I've been involved in a motor vehicle collision. So, why do I have to take actions now, before I even get in my car? The answer is simple. It's a lot easier to prevent a problem than it is to fix a problem. In other words, if you can take a few simple steps BEFORE you even start driving your car, you may be able to avoid complicated claims pitfalls after a collision.

In order to legally drive a vehicle in Washington, you are required to carry a minimum of \$25,000 in liability insurance for your car. Like most insurance commercials will tell you, you can get a quote and sign up for insurance in a matter of minutes that will provide you "full" insurance in accordance with Washington law. But as with everything in life, you get what you pay for.

As far as insurance companies go, they all have their pros and cons. Some cater to frugality, while others cater to customer service. Our first recommendation is to make sure you have a local insurance agent that you know, like and trust. Having one go-to person on your side can mean a world of difference when selecting the components of your insurance policy and purchasing the coverage you need.

The question then becomes, "What insurance do I need?" If you've selected the right agent, they should be able to lay out all the options and make reasonable recommendations based upon your personal circumstances.

Here are a few different types of available auto insurance coverages:

- **Liability** – Covers damages you have inflicted on others due to your negligence – and pays for an insurance-appointed attorney to represent you if needed.
- **Collision** – Provides repairs to your car, or if totaled, pays the value of your car regardless of fault.
- **Comprehensive** – Covers damage to your vehicle not caused by a collision (e.g. your car is stolen, weather damage, you hit a deer, etc.).
- **Personal Injury Protection (PIP)** – Provides no-fault reimbursement/payments to you for medical treatment, loss of services, wage loss and funeral expenses.
- **Uninsured/Underinsured Motorist (UM/UIM)** – Offers a floating layer of coverage which will ‘step in the shoes’ of the other at-fault driver to pay you for your damages if the other driver is uninsured or has insufficient liability coverage to fully compensate you for your injuries and damages.
- **Excess/Umbrella** – Provides an additional layer of liability coverage should your liability coverage be insufficient to cover a loss caused by you. Note: this singular coverage will concurrently cover both auto and homeowner claims brought against you.

Here are a few extra tips from attorneys who deal with insurance companies on a daily basis:



1. PIP and UM/UIM must be provided by the insurance company as part of your auto insurance package unless you specifically waive the coverage in writing. If your PIP claim is denied on this front, force the insurance adjuster to produce the waiver.
2. Don't skimp on liability protection – your personal assets (your home, wages and savings) might otherwise be at stake.
3. PIP (Personal Injury Protection) coverage is your friend – it's like medical payments without copays, regardless of fault. What's not to like?
4. Rental and other amenity insurance seem like a luxury but can declutter your life after a motor vehicle collision.
5. Always, always, always purchase insurance comparable to your assets. Don't be stuck in a situation where you have minimal insurance but have a valuable estate.

6. Know that insurance first follows the car – then it follows the driver. If you're driving someone else's car with their permission and cause an accident, that person's liability insurance will pay first, and your liability insurance may step in as a second layer. It may even cover you if you were a passenger in another vehicle.
7. Insurance must be in place before a collision takes place. You can't unwind the clock.



## Part 2: At the Scene

You were minding your own business jamming to your favorite tunes at the red light three blocks from home when suddenly – CRASH!!! Whether this was a kiss to your bumper or your four-door sedan is now a two-door sedan, the typical steps and recommendations are quite similar. While it may not seem that important at the time, there are a few actions you should take (or avoid) that will help bolster your insurance claim in the weeks to come. In addition to the readily-known tips (stay calm, check for injuries, don't leave the scene), here are a few helpful hints:

**1st Call the Police.** I know, I know, I know. The other party said, "Trust me; I'll pay for the damage." Great! Still call the police. A theme you'll see throughout this guide is your need for documentation. And the first step toward building the necessary documentation is contacting the authorities. The officer will take statements and help facilitate the exchange of information. Not calling the police is just asking for the other driver to change their story once they speak with their insurance company or after everyone's adrenaline has decreased. (Yes – this happens...a lot!)

**2nd Talk (or Don't)!** Well that's confusing. Really, though, it's simple. If you were likely at fault, keep your mouth shut as much as possible. You don't need to add fuel to the fire. If the other driver is likely at fault, do the opposite. Get them to talk. Maybe they'll admit that they were on the phone, distracted, or unfamiliar with the area. All that information can be used in a future insurance claim.

**3rd Take Photographs.** Remember, documentation is key. While certainly the insurance companies will take some photos later, nothing beats having pictures from the scene of the crash, especially if the damage is substantial. Photographs of debris on the ground, pieces falling off the cars, or even the position of the vehicles if they weren't moved can be great evidence to establish your claim. Remember, your smart phone can not only be used to call 911, but it can also take detailed photographs.



**4th Pay Attention to Pain.** Medical research indicates that drivers can experience muscle strains and sprains in collisions as slow as 2 ½ MPH. Don't ignore that new pain that suddenly developed in your neck or back. Tell the police officer about it and consider asking for medical aid if the pain is significant. Alternatively, if you feel comfortable driving, consider going to a hospital emergency room or an urgent care center for immediate attention to protect your health – and document your pain. Know that it is fairly common for there to be a delay of one to two days before pain is realized. If that happens to you, go see a doctor as soon as you experience the pain. Don't wait!

**5th Take Timely Notes.** At the back of this booklet is an "Auto Collision Information Form." There are blanks for you to complete at the scene of an accident to make sure you have preserved potentially important claim information.

## Part 3: Medical Appointments



You called the police. Maybe you went to the emergency room. After waiting a few hours to get checked in, they ran some orthopedic tests and took x-rays to confirm you have no

broken bones. But your neck hurts, your back hurts, your shoulder hurts, you have a bruise on your chest, and you have a splitting headache that just won't go away. You were prescribed some medication to help ease the symptoms, but all it really does is dull your senses. Don't give up! With some perseverance and a dedicated medical team, you will eventually feel better. But how do you know who to see, when to see them, or what you need to do to get back to normal? Unfortunately, there's no magic wand. There are some steps you can take so that your medical treatment (designed to get you better) can complement your insurance claim (designed to get you fairly compensated for your loss).

### **1st Manage Care with a Primary Care Doctor.**

Chiropractors, massage therapists and physical therapists are fantastic providers. However, insurance companies love names that end in an MD. This may seem unfair, but after decades of existence, insurance companies still don't give other providers the credit they deserve. Getting a referral from your MD to your favorite chiropractor, massage therapist or physical therapist (even after the fact) will help document your medical file for the insurer. You might only see your family doctor every couple of months, but that management helps lend credibility to your insurance claim.

**2nd Follow Your Primary Care Provider's Recommendations.** Your chiropractic care and massage have provided some relief, but perhaps you are still feeling significant pain. Your primary care doctor recommends physical therapy or pain injections as a next step. You ignore your doctor and continue with seven more months of chiropractic and massage without substantial improvement. Your only notable achievement is neutering your doctor's ability to support your claim because you didn't follow your provider's recommendations. And the insurance company will harp on your failure to do so, arguing that your refusal to follow recommendations serves to cut-off your claim.

**3rd Be Consistent. Insurance adjusters love gaps in treatment.** You took three months off because you were tired of treatment. Insurers will turn your despair against you, claiming that you were better. If you need to take time off treatment for whatever reason (financial, scheduling conflicts, etc.) make sure your provider knows in advance, and be sure to document your file to limit the ability of the adjuster to use it against you.

**4th Out of PIP Insurance?** Use Health Insurance. Exhausting PIP doesn't mean you need to stop treatment. (Although you can purchase more, the standard PIP policy only provides \$10,000 in medical benefits.) Talk to your provider about beginning to bill your health insurer. Or ask your provider if they will consider holding your bills until treatment is finished. There are other options available to ensure you get the treatment you need.

## Part 4: Early Insurance Issues

One of the benefits of hiring an attorney is that the attorney becomes your insurance intermediary. Instead of you waking up, going to work, going to a medical appointment, going home, and spending an hour or more on the phone with your insurance company, your attorney will work with you and your insurer to let you get back to your routine as best as possible.

Do not forget: all insurance companies are businesses. While your insurance company has a duty to treat you with good faith (the other insurer does not), both your insurer and the at-fault driver's insurance company will pinch pennies wherever possible. Here are a few general tips to make dealing with insurance companies a bit easier.



### **1st Always Know with Whom You're Talking.**

In the average motor vehicle collision, there can be two (or more) insurance companies involved. Within reason, you have a duty to cooperate with your own insurer, but you

have no duty to help the other insurance companies do their investigation. Always be sure to ask who the adjuster represents in order to guarantee you give the right information to the right company. This can be especially confusing if you and the person who hit you have the same insurance company. Don't assume that the adjuster is on your side or looking out for your interests.

**2nd Yes and No to Recorded Statements.** Insurance companies love documentation. Both your insurer and the opposing insurer will likely ask for your recorded statement. You should cooperate with your adjuster; but at this early stage, there is no reason to give a recorded statement (or release your medical records) to the opposing insurer. Doing so merely gives them concrete information to use against you down the line.

**3rd Getting Your Car Fixed.** If the collision was clearly the other driver's fault, the opposing insurer might (and should) offer to pay your vehicle damages. In a collision where the other driver is clearly at fault, that driver's insurer has a duty to step up and fix your car. If you want to go this route, they may want a (non-recorded) statement first. Go ahead – but be vague when it comes to your injuries. They can ask about the collision – but questions about your injuries have nothing to do with fault or your vehicle's damage. You also have the right to use your own auto insurance to get your car fixed instead. This route can be quicker, but you will have to pay your deductible. Fortunately, your insurance company will go after the other insurer to get your deductible money back for you!

**4th Don't Sign Anything Without Reading Carefully.** Sometimes, insurers will send you a \$500 check with a document. Their hope is that you will sign the document and cash the check without paying too much attention. What you might do by signing is release any future claim for any damages against the other driver. Be very careful. And feel free to contact an attorney you trust for advice.

**5th Dealing with PIP Disputes.** After a few months (or less), your PIP insurer may begin to dispute the reasonableness of your treatment. They may begin to deny coverage or request an evaluation by a doctor of their choosing. Insurance companies have spent millions of dollars determining the best approach to limit their insured's treatment without patently breaching duties of good faith. If you or your medical providers are unable to make headway with a PIP dispute, a personal injury attorney may be able to step in to negotiate on your behalf. Having a representative on your side may be enough to turn the dispute in your favor.



## Part 5: Working with an Attorney



If your injuries have lasted more than a few weeks, it might be in your best interest to consult with a personal injury attorney (if you haven't already). Personal injury attorneys dedicate their careers to

helping injured parties get justice and fair compensation. Often that might be a motor vehicle collision, but many times it might be helping a child who has suffered abuse or a friend who has lost everything due to the carelessness of another. Most personal injury attorneys won't charge a fee for a consultation, so there is nothing to lose by getting valuable information. In fact, most personal injury attorneys charge the same amount no matter when you hire them, and their fees are contingent – meaning you only pay a fee if they collect money for you. Getting skilled representation early in the process can help steer your claim in the right direction. Typically, attorney-represented claimants pocket more than those who represent themselves (even after paying a contingency fee). Insurance claims can be a long process. Here are some ways to make things go faster.

**1st Communication is Key.** Some attorneys pride themselves on working closely with clients. Others need a nudge. Make sure your attorney and your attorney's staff keep you informed. But remember it's a two-way street. Did you start seeking new treatment? Email your attorney. Are you feeling better? Let your attorney know. And if your attorney reaches out to you, respond as quickly as you would want your attorney to respond to you.

## **2nd Recognize Insurance Claims Are a Process.**

Washington has a three-year statute of limitations on most motor vehicle injury claims. This gives you enough time to get treatment. It also gives your attorney enough time (once you're finished with treatment) to gather the necessary information, medical records, and witness statements to prepare your claim for submission. Arguments between attorneys and clients only cause rifts in the relationship and cause further delays in the claim process.

## **3rd Keep Track of Your Damages.**

As before, documentation is the most important piece of a claim. Knowing all your collision-related medical provider claims is only half the battle. Did you miss time from work? Keep track if possible. Do you have parking receipts, toll invoices, or cancelled vacation emails? Your attorney cannot manufacture your claim for you. Providing this information at the outset boosts your claim's value and expedites the process tremendously.

## **4th Keep Your Expectations Reasonable.**

If you know a guy who knows a guy who hired an attorney who got \$1 million after a soft tissue whiplash injury, maybe you should have hired that attorney in the first place (if that attorney really exists). Attorneys spend many of their days evaluating insurance claims and will make recommendations based on their experience. You are the client, and settlement is your decision. Your attorney is making a recommendation for a reason. Take it seriously.

## Part 6: Litigation

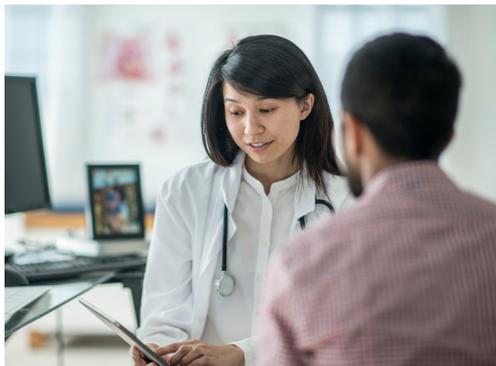
The vast majority of motor vehicle collision claims will settle without ever filing a lawsuit, and nearly all those litigated cases will settle without going to trial. Regardless, litigation is a necessary evil. While it's usually in a client's best interest to avoid filing a lawsuit, sometimes filing a lawsuit is the right decision. Remember, insurance companies are businesses looking to save money. If your claim has disputed liability or a complicated medical history, an initial lowball settlement offer might be inevitable. If this happens, litigation can put added pressure on the insurer to help them put your claim in the proper perspective. As a personal injury plaintiff, it might not seem like a lot is happening, but behind the scenes, both sides' attorneys are organizing their case for evaluation. Here are a few litigation components that rarely get discussed.



**1st It's Almost as Slow as Your Insurance Claim.** The standard case schedule is approximately one year long. In other words, barring continuances, your trial will not take place for a full year after it is filed. This time is used for investigation, evaluation, settlement opportunities and trial preparation.

**2nd Your Attorney Needs Your Help.** No one knows your case better than you. So during the investigation phase of the litigation (also known as discovery), your attorney will need your cooperation to answer written questions (interrogatories), schedule your oral questioning (deposition), or to take part in medical examinations.

**3rd Your Doctors Are Needed Too.** In order to successfully litigate a personal injury claim, you need a medical provider's opinion that your treatment was reasonable, necessary, and related to the collision. Without this opinion, your case will likely be dismissed. You, your attorney, and your healthcare providers will need to work together to ensure everyone is on board with the litigation process.



**4th Litigation Can Be Expensive.** While your attorney might front some of the costs for you, typically litigation costs will be taken out of your settlement. This is one very good reason to attempt pre-litigation settlement. Consider: filing fees, service of process fees, expert fees, and/or deposition fees. If your case goes to trial, you might be forced to repay thousands of dollars. Your attorney knows these risks, so make sure you have a detailed conversation about the pros and cons of filing a lawsuit.

## Bonus Tip: Social Media

Social media websites like Facebook, Instagram and Twitter have managed to connect friends and family in ways no one would have believed when they were first launched. For insurance claims, your social media account might just turn out to be your worst nightmare. Insurance adjusters and attorneys refer to an active and open social media account as the gift that keeps on giving. The number of cases that have been decided due to unfortunate postings have only increased as access to technology has improved.

No one is saying to delete your account. However, precautions will help you preserve your claim if it proceeds deep into the process of litigation. The easiest recommendation is to make sure your account is set to private – allowing only friends and family to access your postings. Next, just be smart. If you have severe shoulder pain after a collision, maybe avoiding golf for a few extra months (or at least not posting about it!) will be in your best interest. Finally, just because you've blocked potential strangers from viewing your posts doesn't mean there isn't a backdoor. Talk to your friends about social media. Avoiding tags or photographs for a limited period can help prevent adjusters from finding their way into your profile via friends or family. Even with privacy settings set to max, if your claim eventually turns into a personal injury lawsuit, the other attorneys may have the right to access your blocked social media content. It may be best to detox from social media during an insurance claim altogether. If you insist on posting during your injury phase, you should assume everything you post will be read by the other attorney – and by jurors at trial.

# Auto Collision Information Form

## OTHER DRIVER/VEHICLE INFORMATION

Owner's Name: \_\_\_\_\_

Owner's Address: \_\_\_\_\_

Owner's Phone: \_\_\_\_\_

Vehicle Make: \_\_\_\_\_

Vehicle Model and Year: \_\_\_\_\_

Vehicle Color: \_\_\_\_\_

License Plate Number: \_\_\_\_\_

Insurance Company: \_\_\_\_\_

Insurance Agent Name/Phone: \_\_\_\_\_

Photos taken: \_\_\_\_\_

## PASSENGER/WITNESS INFORMATION

### Your Passengers:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**Other Vehicle's Passengers:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**Other Witnesses:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**EMERGENCY SERVICES**

Did the police arrive? \_\_\_\_\_. If so, which jurisdiction (WSP, city, etc.) \_\_\_\_\_?

Did aid arrive? \_\_\_\_\_. If so, which jurisdiction (fire, city, company, etc.) \_\_\_\_\_?

### **INJURY INFORMATION**

Describe any pain, stiffness, injury, and/or limitation caused by the collision:

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### **COLLISION DESCRIPTION**

Describe the collision in as much detail as possible (make a drawing):

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# The Dynamic Duo



As a father-and-son dynamic duo, Rick and Josh Lowell have decades of experience working with injured parties to successfully navigate the insurance process after an auto collision. With a substantial background working for auto insurance carriers, Rick and Josh have gained valuable insight into the insurance world.

Rick and Josh are dedicated to providing an individualized approach to your insurance claim. Unlike many attorneys who treat you like a number or pass you between paralegals, clients of Magnuson Lowell will always have access to their attorney. And since communication is key, Rick and Josh strive to respond to client communications at their earliest opportunity.



After graduating from the Naval Academy and spending years on a submarine, Rick sought his law degree from the University of Colorado. He enjoys traveling the world and spoiling his grandkids. Josh followed in his father's footsteps, graduating from the UW and Seattle University for his degrees. With his wife Sarah by his side, Josh is raising identical twin daughters, with the expectation that this family business will continue far into the future.

# QUESTIONS?

Call us for a free consultation.  
425-885-7500

I was represented by Rick and his paralegal Linda - as well as Rick's son, Josh. These are smart, personable, caring individuals. They are detail-oriented, very communicative, and were always looking out for my best interests. Thank you Rick, Josh, and Linda. I am so happy you came into my life when I needed someone like you so much.  
- Janet J.

A friend of mine from Duvall insisted I call Magnuson Lowell. That was the best advice I could have received ... [Magnuson Lowell] negotiated a large six-figure settlement for me that allowed me to reach a level of financial tranquility that I had not experienced in many, many years.  
- Jim R.

We want to thank you for the great work you did for us. [We] interviewed three lawyers. We knew they were all competent, but we all felt most comfortable with you. And, we are so glad we selected your firm! You were always responsive to our questions, and kept us informed of the process.  
- Mary Ann & John M.



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