

AUTO **INSURANCE**

UNDERSTANDING YOUR POLICY & RIGHTS

AUTO

INSURANCE

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INTRODUCTION

Galfand Berger, LLP, was founded in 1947 as a law firm dedicated to serving injured people. While the practice of law has changed, our dedication continues. During the past 50 years, we have designed our practice to give the highest service in the following legal practice areas:

AUTOMOBILE ACCIDENTS:

The confusion of insurance policies and coverages has made automobile accident law a full time study. Accident victims need to speak with a lawyer. As experienced auto accident lawyers, we know how to evaluate accident cases, protect a victim's legal rights, and negotiate full compensation from insurance companies. If you, a friend, or family member are injured in an auto accident, call us. We can help.

PERSONAL INJURY:

When a serious industrial accident happens it is necessary to find out if someone other than the the employer might be responsible for the injury. That "someone" may be a contractor at a construction site, the manufacturer of equipment or the owner of the premises on which the injury occurred. Early investigation is the difference between no case and a successful recovery. Many times we find the injured worker has lost the opportunity to bring a case because witnesses forget or evidence is destroyed. A phone call to our office will

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initiate a thorough investigation to protect the claim and make sure the responsible party answers for the injury.

EMPLOYMENT LAW:

We represent victims of discrimination and sexual harassment. We are ready to help you enforce the Americans With Disabilities Act, the Family and Medical Leave Act and other protective legislation that saves jobs.

WORKERS' COMPENSATION:

We help injured workers receive benefits and protect them when the employer or the insurance company tries to take away their benefits.

The reason our practice has grown is because satisfied clients as well as union representatives have recommended us to their family members, friends and fellow workers. Those recommendations are made with confidence that we serve with great professionalism, reliability and honesty.

Every day, we give people the type of advice contained in this book. But the book is not intended to replace legal advice specific to your case. Each case is different. If you have any questions, call us at: 1-800-222-8792.

We'll be happy to answer your questions.

FOREWORD

This book was written to answer the variety of questions that arise when you are injured in an automobile accident. Though the book centers on insurance issues, we have tried to cover the broad spectrum of issues that can impact on you if you are in an accident.

The purpose of the book is to arm you with the information you need to protect your rights. The information we provide is tailored to help you ensure your rights are protected before you are involved in an accident, relying on the adage that an ounce of prevention is worth a pound of cure.

The book is divided into three sections: Understanding Auto Insurance; What To Do If You Are Involved In An Accident; and Additional Sources of Recovery. The first section, Understanding Auto Insurance, explains basic coverage options and offers tips on which options to choose. The second section, What To Do After An Accident, offers tips and information on how best to protect your rights in the event of an accident. And the third section, Additional Sources of Recovery, discusses how to identify others who may be responsible for causing injuries in an auto accident.

Throughout this book, you'll find red stop sign symbols. These stop signs identify tips we thought would be especially helpful to you.



Our goal in writing this book is to provide you with a working knowledge of insurance coverage options available in Pennsylvania so that you can make the right choices for your situation as well as your pocketbook. Again, the best time to learn whether you have adequate coverage is before you need it.

Our friends and clients have provided thoughtful input that has helped make this book a useful-reference. We welcome your comments and thoughts.

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2. WHAT TO DO IF YOU ARE INVOLVED IN AN ACCIDENT

Things You Should Do

1. Call the police and ask them to come to the scene.
2. Exchange names, addresses, car registration, license information, license plate number, and proof of insurance (insurance card) with the other driver.
3. If you are hurt, seek necessary medical attention immediately and inform the doctor that you were involved in an auto accident.
4. Notify your insurance company of the accident.
5. Take photographs of the damaged vehicles and the accident scene to preserve evidence (skid marks, etc.).
6. If you think your injuries are or could be serious, get advice from a personal injury attorney about your legal options.

Things You Should Not Do

1. Do not give any statements to anyone, except the police, until you speak with an attorney.
2. Do not move the cars from the accident scene before the police arrive, unless the cars create a traffic hazard.
3. Do not leave the scene of an accident before the police arrive unless the need for medical care requires you to do so.

If you are hit by a unidentified driver who flees the accident scene, you must immediately report this fact to the police and your insurance company. If you fail to do this, you may be prevented from collecting uninsured motorist benefits.

Report The Accident To Your Insurance Company

If you do not report the accident and later make a claim or have a claim brought against you, your insurance company may try to disclaim coverage. You should always report the accident even if you are not at fault.

If I Make A Claim Will My Premium Increase?

The fact that you make or do not make a claim should not affect how much you pay for insurance. The mere fact that you were in an accident should not cause your premium to increase. Your premium could increase if you were determined to be “at fault” (even partly) in causing an accident. The insurance company could then view you as more of a risk and may increase your premium.

How Are Medical Bills And Wage Loss Paid?

When you report an accident to your insurance company and advise it that you have medical bills and lost wages resulting from your injuries, the company sends wage forms to you or your employer to verify your wages. When you go to the doctor or health care provider, you give them your insurance informa-

tion and they usually will submit your bill to the insurance company for payment.

How Do I Get My Car Repaired?

If your accident is the other driver's fault, you have the option of claiming under that driver's insurance (his property damage coverage) or under your own collision coverage, less your deductible. If you claim under your collision, your insurance company likely will seek reimbursement from the other driver's insurance and pay you back your deductible. You should speak to your insurance company about this.

If the accident is your fault, you must look to your collision coverage to get your car repaired.

You should take prompt steps to get an estimate for repairs from a reputable body shop.

The repair shop and the insurance company adjuster should arrange to look at your car and reach an agreement on a fair cost of repair.



Be sure to find out if a repair shop or garage is charging a storage fee for keeping your car. Most do and it can be expensive. If you have a place to store the damaged car, off the street, you may want to do this.

Check with the insurance company to see if it is going to pay these storage charges. It always is best to get your car repaired as soon as is practical. Your policy may provide for rental costs

while your car is being promptly repaired or replaced.

Coordination With Other Benefits

It is important to coordinate all the benefits to which you are entitled in the event of an accident. There are rules that determine which benefits have priority (must pay first) and which are offset (one pays, and the other does not). For example, in a work-related auto accident, workers' compensation benefits are paid first. However, you may be able to get additional wage loss through your auto policy and may be eligible to make a claim for uninsured motorist benefits on your employer's auto policy. Other benefits could include: Social Security Disability; Sickness and Accident Benefits; Unemployment Compensation; Disability Insurance Benefits; and Life Insurance Benefits. It is important to consult an attorney to find out how these benefits can work together to maximize your recovery.

How Do I Know If I Have A Case?

If you are in a serious accident, you should get the advice of an attorney with experience in this area of the law. Keep in mind that in Pennsylvania you have only two years from the accident to file your case in Court or your claim is barred. Prompt investigation and the preservation of evidence is the best way to protect your legal rights. We do not charge for an initial consultation. After dis-



cussing the facts of your case, we are able to advise you regarding whether or not to pursue the matter.

What If I Was Partly At Fault In The Accident?

The law in Pennsylvania provides that you can be up to 50% responsible for an accident and still be compensated for your damages (reduced by your percentage of fault). Usually, a thorough investigation of an accident is required before any conclusions can be reached about who caused an accident.

For example, many people think that if they received a ticket for an accident and paid it they can not make a claim. This is not true. The payment of a traffic ticket is not admissible evidence in Court. Likewise, a police officer's opinion of who was at fault usually is not admissible evidence unless he actually witnessed the accident.

Do Most Cases Go To Court?

The vast majority of cases settle before trial. Once both sides are aware of all the facts in a case, they usually can agree on the value of the case. You always have the final say on any settlement. We always inform our clients of any settlement offer and advise them of our recommendation.

How Much Does An Attorney Cost?

We understand that most people cannot afford to pay an attorney by the hour. Therefore, we charge a client a percentage of the money we are able to recover for the client. This is called a contingent fee. If we do not make a recovery for you, there is no fee owed for the legal work performed.

There also are costs involved in pursuing a case. These can include the cost of getting medical records, hiring medical experts, investigators and other expenses involved in litigation.


Our firm usually pays all these expenses. If there is no recovery, we do not charge our client for these expenses. If we are successful in making a recovery for the client, then part of this recovery will be used to reimburse these costs.

3. ADDITIONAL SOURCES OF RECOVERY

If you are hurt in a motor vehicle accident, there may be other sources of recovery in addition to the driver of the other vehicle. In accidents in which there are serious injuries, it is necessary to look to other responsible parties.

Serving Alcohol

The Commonwealth of Pennsylvania has a law that holds commercial establishments (bars for example) liable if they serve alcohol to a visibly intoxicated person and this causes an



accident. For example, if a drunk person causes an accident, the bar that served him drinks could be liable for the injuries he causes. Most businesses that serve alcohol have insurance (Liquor Liability coverage) for this situation.

Product Liability

In some situations, a person's injuries in an auto accident may actually be caused or made worse by the vehicle. Examples of this are: seatbelts that fail to work correctly; air bags that do not work or cause injuries when they do work; accidents in which people are thrown out of the vehicle; rollover accidents in which the vehicle roof crushes in and a person has a severe head injury; a low speed collision in which there are severe injuries; back- seat injuries in which there are only lap belts; and gas tanks that explode and result in burn injuries.

Where a person's injuries are severe, it is very important to check that a vehicle is "crashworthy." Did the vehicle do what it was supposed to do to safely protect its occupants?

Manufacturers sometimes put profits ahead of safety and this can result in needless injury and death.

If you think the vehicle caused your injuries, it is important that you preserve the vehicle (preferably in a garage). Contact a lawyer to coordinate: prompt investigation; preservation of scene evidence (skid marks for example); and examination of the vehicle by an automotive engineer.

Bad Roadway

Sometimes a roadway is poorly designed or maintained and this causes an accident.

Examples of these kinds of claims are: poor traffic control in construction areas; speed limits that are too high; lack of proper traffic signals at an intersection; bad potholes; poorly designed shoulders; unprotected bridge or guardrail abutments; no guardrails; large puddles of water caused by poor design or lack of drainage.

In any claim against the Pennsylvania Department of Transportation or a local government responsible for a roadway, you must give notice of your claim within six months of the accident. This notice must contain specific information and be sent to the proper agency or office. If you do not give notice within the six month time limit, you cannot pursue your claim in Court.

Bad Faith

There now is a law in Pennsylvania that allows people who buy insurance (any type of insurance: auto, homeowners, life, etc...) to sue their insurance company if the company acts in “bad faith.” When you buy insurance, the insurance company has a duty to treat you properly.


If the insurance company intentionally delays your claim, refuses to pay an uncontested claim, harasses you, or in any way fails to act as it should, you may have a claim for the insurance company's “bad faith” conduct.

Free Access To The Courts

Almost every week there is a story in the newspapers about “tort reform” and the so-called need to limit an injured person’s rights to make a claim for compensation. All this “tort reform” is necessary, they say, to stop frivolous lawsuits. The real reason is that the insurance companies and corporations do not want to take responsibility when they injure someone. When anyone tries to limit your rights and your access to the Courts, they are not helping you – they are protecting their own interests. According to the National Center for State Courts, only 10% of the lawsuits filed in 1991 involved people injured in accidents.

But aren’t there lots of dishonest people making fraudulent claims? No, this is simply not true. The insurance industry has worked hard and spends lots of money to promote this image because it helps them deny legitimate claims and defeat claimants at trial. This myth is used to influence jurors to doubt all injured people at trial. In an independent study conducted in 1991, the Rand Corporation found that only 10% of injured people ever used the courts to seek compensation for their injuries. Justice demands that they should not settle for less!

Our firm, Galfand Berger, is made up of 13 attorneys who are dedicated to the principle of helping injured people get fair and just compensation for their injuries. For over fifty years we



have represented injured people throughout Pennsylvania and helped to protect their rights. If you or your friends or relatives have questions regarding your rights in an accident, give us a call and we will be glad to help you.

Our toll free number is: 1-800-222-8792.



A Final Word

This book was written to promote your understanding of automobile insurance and your rights under the law. Take a look at your insurance policy and be sure you have the protection you need before you are involved in an accident. “An ounce of protection is worth a pound of cure.”

This Book should serve as a general outline of auto insurance and provide information regarding your rights if you are involved in an accident. It is not intended to provide a legal opinion or replace the advice of an attorney. Because laws change and circumstances differ, you should consult an insurance agent if you are buying insurance, and an experienced attorney for advice concerning your accident.

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