

# AFTER THE CRASH

GEORGIA CAR ACCIDENT GUIDE

2020 EDITION

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CHAMPION  
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# AFTER AN ACCIDENT, IT'S NORMAL TO HAVE QUESTIONS.

WHO WILL PAY MY  
MEDICAL BILLS?



SHOULD I TALK TO THE  
INSURANCE COMPANY?

HOW DO I GET MY  
CAR FIXED?



SHOULD I HIRE  
A LAWYER?

HOW DO I FIND A LAWYER  
IF I DO HIRE ONE?



**THE CLAIMS PROCESS FOLLOWING A CAR ACCIDENT CAN BE OVERWHELMING AND CONFUSING. YOU MAY FEEL LIKE ANY LITTLE MISSTEP ALONG THE WAY COULD MEAN LOSING OUT ON COMPENSATION THAT YOU ARE LEGALLY ENTITLED TO. DON'T WORRY! BY READING THIS GUIDE, YOU'RE ALREADY ON YOUR WAY TO ANSWERING ALL THESE QUESTIONS AND MORE. EDUCATING YOURSELF ABOUT THE PROCESS IS THE FIRST STEP TO BETTER UNDERSTANDING YOUR CASE SO THAT YOU CAN MAKE INFORMED DECISIONS AND POTENTIALLY AVOID COSTLY MISTAKES.**

To give you a clear view of the whole process, in this guide, I will walk you through each step chronologically, from right after the accident to dealing with insurance companies, settling your case, and — if necessary — going to trial.

First, I will discuss the steps to take immediately after a car accident — including calling the police, getting emergency medical care, and notifying the appropriate insurance companies. This discussion will include:

- **Identifying potential sources of insurance coverage.**
- **Determining if you need a lawyer and how to choose one.**
- **Getting and paying for medical treatment.**
- **Getting your car repaired (or replaced if it was totaled).**

Next, I will go into detail about the settlement process, which will include a discussion of the different types of damages you are entitled to claim, the settlement demand process, and what happens if your case is settled.

Finally, I will explain what happens if your case does not settle. That will include an overview of the lawsuit process and what to expect if your case ends up in court. After reading this guide, you should have a much better idea of what to expect from a car accident case in Georgia.

*here for you*

**PLEASE DO NOT HESITATE TO REACH OUT AND WE ARE HAPPY TO CONDUCT A FREE CASE EVALUATION. SIMPLY GIVE THE CHAMPION FIRM A CALL AT 404-596-8044.**



# **1. WHAT TO DO AFTER YOUR CAR ACCIDENT**





# The Immediate Aftermath

## IMPORTANT FIRST STEPS



Car accidents are scary. Screeching brakes, the crushing sound of the impact, the sudden, unexpected jolt, the smell of burnt rubber. Your adrenaline will definitely be pumping, but you need to try to regain your composure quickly so that you can determine what immediate steps need to be taken.

If you and your vehicle are in a position of danger, **first get out of harm's way**. Then, **contact the police** to ensure that a police report is filed, even if you think you only have minimal property damage.

We have talked with many people who just exchanged contact information and didn't call the police. They thought that there wasn't much damage, or that they weren't hurt badly, and that they'd "just handle it with the insurance companies." Unfortunately, things can often get complicated very quickly, and complications can lead to significant expenses and headaches.

**Taking the proper steps from the beginning ensures a much smoother, less stressful experience overall.**



A **police report** helps you document what happened, and creates a record that you can use to refute later attempts by another driver or an insurance company to dispute what happened. If you are injured in the accident, **get immediate medical attention**.

Some people feel embarrassed to call for an ambulance, but if you are hurt, there is no shame in ensuring that you get the help you need. It is far better to make sure that you are okay than to allow your pride to potentially jeopardize your health. Even if you are sure you don't need to go by ambulance, have a friend or family member take you to the hospital if you are injured. Getting checked out immediately could save you a lot of pain later on.

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# After the dust settles.

## NOTIFYING INSURANCE COMPANIES

After the police leave the scene and you get the emergency medical attention you need, there are some important steps to follow and things you should know.

**First**, you should **notify any insurance companies** that may provide coverage for any claims. Most insurance policies have a notice provision that requires you to provide them with timely notice of an accident. If they do not receive timely notice, they may attempt to deny the claim when you or someone else seeks coverage under the policy.

Thus, you can greatly benefit from identifying all potential forms of coverage and informing all appropriate insurance carriers as soon as possible. In general, there are five types of insurance coverage that need to be considered following an accident:

- (1) **liability coverage, including bodily injury and property damage coverage**
- (2) **uninsured motorist coverage**
- (3) **medical payments coverage**
- (4) **collision coverage**
- (5) **workers' compensation coverage** (if your accident took place while working)



# Liability Insurance

If the other driver was at fault, then his or her insurance will provide liability coverage for any bodily injury and property damage. The minimum required limits in Georgia are \$25,000 per person/\$50,000 per occurrence for bodily injury, and \$25,000 for property damage. Liability insurance follows the car, so the insurance policy on the other car itself will be the first to provide coverage for the at-fault driver's negligence.

If the other driver was not the owner of the vehicle he or she was driving at the time of the wreck, then it is possible that the driver's own personal insurance policy may provide coverage. In addition, if the driver was driving in the course and scope of his employment, then the employer's insurance policy may provide coverage as well. It is very important to identify all potential sources of liability coverage, especially if there are significant bodily injuries or multiple injured parties.

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## Uninsured Motorist Coverage

Uninsured motorist ("UM") coverage applies if there is no liability insurance, or if the available liability coverage is not sufficient to pay all of your damages. There are several potential sources of UM coverage:

- **Your own insurance policy.**
- **The insurance policy for the vehicle you were in at the time of the wreck if you were in somebody else's car.**
- **Any insurance policies issued to any relatives who reside in your household.**

*Identifying every potential source of UM coverage is vital because you can stack multiple policies—meaning all available UM policies can be added up and used if necessary.*

**IT IS IMPORTANT TO REMEMBER THAT UM COVERAGE APPLIES EVEN IF YOU WERE NOT IN A CAR AT THE TIME OF THE ACCIDENT—FOR EXAMPLE, IF YOU WERE HIT BY A CAR WHILE OUT WALKING OR BIKING YOU COULD APPLY UM COVERAGE TO YOUR CLAIM. THIS IS BECAUSE UM COVERAGE APPLIES IF YOU ARE INVOLVED IN AN ACCIDENT WITH AN UNINSURED MOTORIST.**

Uninsured motorist coverage is not required in Georgia, but it must be offered. The default rule is that the insured's policy affords UM coverage equal to the limits of liability coverage. However, an insured can select lower limits, or it can reject UM coverage all together.

There are two types of UM coverage: (1) add-on; and (2) difference-in-limits. As its name implies, add-on coverage is added on to whatever limits of liability coverage the at-fault driver has available.

So, for example, if the negligent driver has \$25,000 in available liability coverage, and you have \$100,000 in add-on UM coverage, then you will have a total of \$125,000 in available insurance for your case. Difference-in-limits coverage, on the other hand, is reduced by the amount of available liability coverage. In the previous example, you would only have \$75,000 in UM coverage available (\$100,000 minus the \$25,000 liability coverage) for a total of \$100,000 in available insurance. As stated earlier, it is important that you identify and notify all potential insurance carriers as soon as possible after an accident. This is particularly true for insurers that provide UM coverage.

Many people are not familiar with the various source of UM coverage, so they frequently neglect to notify all the potential UM carriers. For example, most people don't know that they can use their own UM policy, even if they were not in their own car at the time of the accident. Furthermore, most people do not know that they can use a resident relative's UM policy. Identifying all sources of UM coverage is one of the most important reasons why you should consult with a qualified personal injury attorney as soon as possible after an accident.

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## Medical Payments Coverage

I think of medical payments coverage, or "med pay" as it is commonly referred to, as health insurance for you in the event you are in a car accident. Med pay can be used to pay your medical bills in the event you are in an accident if it is currently a purchased option on your policy. This coverage applies regardless of who is at fault, and it may even apply if you or someone else who is classified as an insured is not in a car at the time of the accident (for example, pedestrians, bicyclists, etc. who are struck by a car).

Even if you have health insurance, med pay can be used as a primary source of payment for your medical bills until you reach the limits, or you can use it to pay your co-pays and deductibles. This will be discussed in more detail below in the section that discusses getting the necessary medical treatment.



# Collision Coverage

While the other driver is required to have liability coverage to pay your property damage, your own policy may have collision coverage, which will pay for your property damage if you are involved in a wreck. If the other driver is uninsured, then you may need to use your policy's collision coverage for your property.

There may also be times when it is best to use your own collision coverage even if the other driver is insured. This will be discussed in more detail below in the discussion on how to get your property damage claim handled.

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## Workers' Compensation

You may have a workers' compensation claim if you were working for your employer at the time of the accident. In a workers' compensation claim, you can receive payment for your medical bills and compensation to help cover some of your lost wages.

Filing a workers' compensation claim does not prohibit you from also seeking compensation from the at-fault driver and his or her insurance company, or, if necessary, any UM policies.

Now you know a bit more about the different insurance carriers you'll need to notify after an accident, and a few options to cover your damages. Of course, there's more to getting proper compensation than just notifying the insurance companies and walking away. In the next chapter, I'll go over what you can expect when dealing with these insurance companies after your accident.



# **2.DEALING WITH INSURANCE COVERAGE**





# "Should I talk to the Insurance Company?"

One of the most common questions people have after a car accident is whether they should talk to the insurance company. The answer to this question depends on a variety of factors.

As a general rule, you need to talk to your own insurance company. Your own insurance policy likely contains a cooperation clause that states you have a duty to cooperate with your insurer in its investigation of the claim. The insurance company for the other driver is a different story. You have no obligation to speak to them. While the insurance adjuster for the other driver may attempt to come across as friendly and act like he or she is on your side, don't fall for it—it's just an act.

Their job is to minimize the amount of money they will pay on your claim, and to accomplish this goal they will do everything they can to question their insured's liability for causing the accident and the amount of your damages. If the other insurance company wants to take a recorded statement from you, it would be wise to decline, at least until you have had the opportunity to consult with a lawyer.

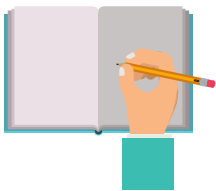
Of course, if you are going it alone and not hiring a lawyer, you will probably have to talk to the other insurance company. If you don't speak to them, you will probably have a hard time coordinating your car repairs and negotiating your settlement. If you do decide to talk to the other insurance company, just remember that whatever you say can and will be used against you, so be cautious!

# Document Your Damages

Do your best to document your injuries and any other damages, even if they seem minor. To begin with, you should always:



TAKE PHOTOGRAPHS OF VISIBLE INJURIES, SUCH AS BUMPS, BRUISES, BURNS, OR SCARS.



TRY TO KEEP A WRITTEN RECORD OF HOW YOUR PAIN AND ANY OTHER SYMPTOMS ARE PROGRESSING.



MAKE A LIST OF ALL MEDICAL PROVIDERS YOU SEE AND THE DATES OF YOUR VISITS.



KEEP TRACK OF DATES AND REASONS FOR ABSENCES FROM WORK. IF YOU MISS TIME — E.G., PAIN, DOCTOR'S VISITS, ETC.

The more thorough your records are, the stronger your case will be, whether you decide to go it alone or enlist the help of an attorney.

Speaking of attorneys — how will you know if you need to hire one? If you've been in an accident, **I always recommend talking with a lawyer as soon as possible.** Even if you decide to proceed without legal representation, a consultation will help you better understand your case and what to expect.

In the next chapter, I'll go into more detail on determining if you need legal assistance and how to choose the best attorney for your case.



# **3. HOW TO KNOW IF YOU NEED A LAWYER**



# "Do I really need a lawyer? Can't I just deal with the insurance companies and get compensation directly?"



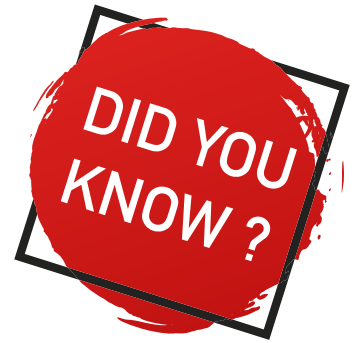
It is always a good idea to consult with a personal injury attorney as soon as possible after an accident. Most attorneys — myself included — offer a **free initial consultation**, and a qualified attorney can advise you on the immediate steps you need to take to protect your interests, whether you proceed with legal representation or on your own. In some cases, no, you won't need a lawyer. For example, if you don't need medical treatment and you have minimal property damage, you probably won't need legal representation.

Most cases aren't this simple though. Even if you think your injuries are mild, there may be complications later on, or the other driver may try to claim they weren't at fault for the accident. If you did sustain any injuries in the accident, then you should strongly consider hiring a personal injury attorney who can help you navigate the process and get the best results possible.



**YOU SHOULD NOT HAVE ANY UPFRONT COSTS IF YOU HIRE AN ATTORNEY BECAUSE PERSONAL INJURY CASES ARE ALMOST ALWAYS HANDLED ON CONTINGENCY FEE.**

**THIS MEANS THAT YOUR LAWYER GETS PAID A PERCENTAGE OF THE MONEY HE OR SHE GETS FOR YOU, WHETHER THAT MONEY COMES FROM A SETTLEMENT OR A JURY VERDICT AFTER A TRIAL. IF THEY DON'T WIN, THEY DON'T GET PAID.**



Now, you may be thinking, "Can't I get more money if I represent myself and don't have to pay someone else a percentage?" I hear this a lot, and I don't blame people for trying to get the most compensation for their damages.

I'd caution you against this kind of reasoning, though. Basically, when people avoid hiring an attorney to keep more of the money they receive from their case, they aren't thinking about the big picture. In almost every case, the benefits of hiring a lawyer far outweigh the cost. An attorney will likely be able to get you considerably more money than you could get on your own. Not only that, but an attorney will also be able to:

- **NAVIGATE THE CLAIMS PROCESS.**
- **NOTIFY THE PROPER INSURANCE COMPANIES.**
- **ANALYZE THE COMPLICATED ISSUE OF WHETHER ANY HEALTH INSURANCE OR OTHER BENEFIT PROVIDERS ARE ENTITLED TO BE PAID BACK.**
- **NEGOTIATE ANY UNPAID MEDICAL BILLS.**



# How to choose an attorney

## WHERE TO START

So, how are you going to find the right attorney for your case? If you try Googling personal injury attorneys in your area, you're just going to be overwhelmed with hundreds of search results and no real way to differentiate between them.



## QUESTIONS TO ASK WHEN YOU NEED LEGAL HELP



1

**WHAT AREA DO THEY SPECIALIZE IN?**



2

**HAVE THEY HANDLED A CASE LIKE YOURS BEFORE?**



3

**WHAT PAST RESULTS HAVE THEY HAD? DO THEY HAVE CLIENT TESTIMONIALS?**



4

**WHAT TYPE OF COMMUNICATION WILL THEY HAVE WITH YOU? TEXT? PHONE? EMAIL?**



5

**ARE THEY WILLING TO GO TO COURT?**



6

**ARE YOU COMFORTABLE TRUSTING THEM WITH YOUR CASE? DO THEY HAVE GOOD ONLINE REVIEWS?**



# Do they specialize in Personal Injury?

First, you should look for an attorney who specializes in personal injury cases. If you were charged with a crime, you wouldn't want to hire a lawyer who specializes in real estate or divorces to represent you. Likewise, you wouldn't want a criminal defense lawyer to represent you in a real estate transaction or a divorce.

Personal injury cases are no different: **You want to work with a specialist.** An attorney who focuses on injury cases is going to have a better understanding of how to properly handle your case, and will likely help you get a better outcome.

I specialize in personal injury and wrongful death cases, and I have an in-depth understanding of how to handle these kinds of cases. When prospective clients call me with cases that are outside of my area of expertise, I refer them to specialists in other areas of law. Those attorneys will often refer clients back to me, as well. A good lawyer will not be afraid to refer you to the right specialist for your case.

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## Do they have experience with cases like yours?

On that note, ask any lawyers you are considering if they have handled a case like yours before. A personal injury attorney who only has experience with medical malpractice or product liability cases may not be the best qualified to handle a car accident case.

I have extensive experience in a variety of personal injury areas, including car and trucking accidents, medical malpractice, products liability, and premises liability. Not all personal injury attorneys have a diverse background like this. You want to find out if your attorney is going to be comfortable with your case before you commit.

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## How is their track record?

Next, ask about the results they've obtained for their clients. Results are not only a good indication of whether a lawyer has been successful, but they can also tell you a bit about the types of cases the lawyer has handled. A lawyer who can only claim small results either has not handled big cases or has not been successful doing so. If you have a significant case with large damages, you should hire a lawyer who has a track record of obtaining large results.

# Will they return your calls?

Good communication is vital to the success of your case. Clients often complain that their lawyers won't call them back, which adds stress to an already stressful situation and could potentially damage the case. If you call an attorney and don't hear back from them promptly, you should probably move on to your next option.

Also, while we are on the subject of returning calls, I'd like to offer a word of caution about those personal injury firms that are constantly advertising on the radio and TV. A lot of those firms use paralegals and legal assistants to handle many aspects of their clients' cases, and most cases don't get a lot of attention from a lawyer.

This means you will likely have a difficult time actually speaking to a real lawyer when you call the law firm, or if you do speak to one, he or she will not be very familiar with your case. This can be extremely frustrating, and it may even cause issues with your claim.

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# Will they go to court for you?

Next, you need to find out if your lawyer is willing to go to court. While most cases settle, your lawyer must be willing to file a lawsuit and go to trial if necessary. You might be surprised how many lawyers do not even want to spend the time and energy to file a lawsuit, much less go to trial.

A lawyer who is not willing and able to take your case to court will not get you the most ideal outcome. I routinely file lawsuits and am willing to go as far as necessary to get my clients the best possible results, even if it means taking their cases to trial.

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# Do you trust them?

Last but not least, are you comfortable entrusting the lawyer with your case? Your case is very important, and you should have trust and confidence in the lawyer who will be handling something so crucial to your financial and physical well-being.

With the answers to these questions, you should be able to find the right lawyer to handle your claim and help you obtain the best results possible. Now that you have a better idea of how to find the right attorney, let's take a closer look at what you can expect when you seek medical treatment for your injuries, and how to pay for the healthcare costs you may incur along the way.

# **4. PAYING FOR YOUR MEDICAL TREATMENT**





## GETTING THE NECESSARY MEDICAL TREATMENT

If you are injured in a car accident, you need to **seek medical treatment as soon as possible**. Failing to get timely medical treatment will not only prolong your injuries, but it will also give the insurance company room to argue against your claim. Without prompt, documented treatment, they'll say that you were not really hurt and that they don't owe you compensation. When you do get treatment, be sure to always follow your doctor's recommendations and never skip any appointments. Delays and gaps in treatment can significantly damage your case's value.

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## Paying for your medical treatments

But how will you pay for all your medical expenses while you pursue your case? A lot of people mistakenly believe that the other driver's insurance company will pay their medical bills as they become due. Unfortunately, that's not the case.

While your medical expenses will be part of your claim against the negligent driver, his or her insurance company will not pay your medical bills as you incur them.

Instead, they will pay them as part of the settlement at the end of the case. In the meantime, while your claim is pending, your medical providers will likely want payment for their services. You will need to identify other payment sources for your medical bills so that you can pay for your treatments as you receive them.

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## Health Insurance

Make sure that all medical facilities where you receive treatment have your health insurance information. Hospitals will commonly fail to bill health insurance and attempt to collect the full amount of the medical bill from a future settlement through a hospital lien. This will result in less money in your pocket at the end of the day than if you had your health insurance pay the bill.

Also, some health insurance companies may try to assert that they aren't responsible for paying for your medical bills if someone else was at fault for the accident, but this is not true. If you have health insurance, your insurance provider is responsible for paying your medical bills, and in most cases, you'll get the best results by using your health insurance as your primary source of payment.

# Medical Payment Coverage (Med Pay)

Med pay can provide very important financial benefits in car accident cases. You can use med pay to help pay medical bills for you and anyone else who was in your car at the time of an accident. Remember, med pay applies even if you were not at fault. If you already have health insurance to pay your medical bills, you can even use med pay to cover your co-pays and deductibles to reduce or eliminate your out-of-pocket medical expenses.

Many people apply med pay to chiropractic treatment after an accident, as many chiropractors do not bill health insurance. Also, med pay may even apply if you were not in a car at the time of the accident. For example, if you were on a bicycle or you were a pedestrian struck by a car, you can use med pay to cover your medical care.

If you don't know whether you have med pay, check your auto insurance policy. It should have the information you need about whether you have coverage and how much. If you've read your policy and you're still not sure about your med pay coverage, call your insurance company to discuss your coverage and options.



## Liens

If you do not have health insurance or med pay, some providers will treat on a lien. A lien is essentially an IOU where the provider bills for the services, but instead of requiring immediate payment, they accept payment for any medical expenses at the conclusion of the case when you receive compensation. Treating on a lien is a last resort, but it is sometimes the only option available. If, for example, you don't have health insurance or med pay, or if you need to visit a chiropractor who doesn't accept health insurance, you may need to get treatment on a lien.

# Don't miss this!

## The Collateral Source Rule

With all that in mind, remember you are entitled to claim all of your medical expenses from the negligent driver, even if another entity (e.g., health insurance or med pay) pays for them. In legal terms, this is known as the “collateral source rule.”

**Under the collateral source rule, the negligent party is responsible for paying the actual amount that the health care provider charged. You can claim that full amount, whether you paid it or it was paid by insurance, med pay, or any other payment source.**

Now, while you can claim the full cost of those medical expenses, your health insurance company may contend that it should have its costs reimbursed from your settlement. Health insurers quite commonly assert reimbursement rights, but that doesn't necessarily mean that they are actually entitled to be paid back.

Whether a benefits provider such as a health insurance company has valid and enforceable reimbursement rights is beyond the scope of this guide. That would require a qualified attorney to examine the facts of the case, the language in the health insurance plan, and the pertinent law. Just be aware that this may be an issue.

Of course, your medical treatments aren't your only concern after a car accident. Your car is likely in need of some potentially major — and costly — repairs. And, if you're like most people, you can't wait for a settlement to fix or replace it. In the next chapter, I'll go through what you can do to get back on the road before your case settles or goes to trial.

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# 5. GETTING YOUR CAR FIXED



# YOU HAVE A FEW OPTIONS.

Some people choose to use their own insurance company for their property damage claim if they have collision coverage under their auto policy. If you go this route, your insurance company will then seek reimbursement (also known as subrogation) from the at-fault driver's insurance company.

This option does come with a down side, as you will likely be responsible for paying your deductible up front. However, you will also likely get it back. Most of the time, your own insurance company will reimburse you when it pursues the subrogation claim against the liability insurance company.

You could also have the insurance company for the at-fault driver pay to fix your vehicle. This can be challenging, though. Sometimes, the other insurance company may not be willing to pay for your property damage early in the process, especially if it has an ongoing investigation into who caused the accident.

If you need your car fixed or replaced immediately, you may want to get your own insurance company to handle the property damage claim up front. This will often save you time and hassle, and your attorney will help you get reimbursed for any losses when you settle or go to trial. If the insurer for the at-fault driver does accept liability from the beginning, then it will likely have a property damage adjuster do an appraisal and determine the cost of repairs.

At that point, you will either get your car repaired, or replaced if it is totaled, and the other driver's insurer will pay for it. If your damaged car is not drivable and you need a rental car, the other driver's insurance company should pay for your rental car, as well.

Unfortunately, even with full repairs, your car's value may be diminished after an accident. In addition to getting payment for their repairs, my clients often ask me whether they can get compensation for the reduced value of their vehicle. Because it's no secret that an accident can impact a car's value, Georgia law allows people to recover diminished value damages. These claims can be tricky, though, and insurance companies are notorious for low-balling people on diminished value claims. While the insurance companies fight to decrease their payouts your attorney will be working to get you the best results possible.

Now that we've covered the basics of getting your car fixed and your medical payments taken care of, let's talk about what you can expect in the settlement process.

# 6. THE SETTLEMENT PROCESS





# Don't Rush.

This may sound counterintuitive, but do not rush into the settlement process. Your goal for settling your claim should be maximum compensation, not a quick payout. In fact, as a general rule, you should not attempt to settle your case until after you've finished with all medical treatment and returned to work.

This is important because the full extent of your damages must be known to properly evaluate your case. The insurance company will want to know all the medical treatments you have received, as well as the full amounts of your medical bills and lost wages. Most of the time, you won't have all of this information until you are done with your medical treatment and have reached maximum medical improvement.



Granted, there are exceptions to this rule. For example, it may become apparent that you are entitled to all available insurance policy limits before you are done with treatment for your injuries. This most commonly happens when someone is seriously injured and the limits of coverage are low. Or, you may have a case where the full extent of your injuries is already known, and it is clear you will be receiving ongoing medical treatment and incurring future lost wages.

**In that scenario, you may be able to obtain a favorable settlement before you are finished with treatment if your need for future medical care can be verified and documented.**



Because no two cases are alike, you'll need to consult with a qualified personal injury attorney to discuss the facts of your specific situation. Just keep in mind that you do not want to settle before the full extent of your damages is known.

You only get one shot at getting compensation for your injuries, and you don't want to settle for less than you deserve. Once your case is settled, you cannot go back and ask for more money, even if you find out that your injuries and damages are worse than you thought when you entered into the settlement.

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## What is your case worth?

Everyone who's ever been the victim of a car accident wants to know how much their case is worth. Unfortunately, there is no magic formula or calculator to determine a case's value from the beginning. So this question almost never has a clear-cut answer.

While it's impossible to tell an exact value, your lawyer will help you understand your case's value based on a few things ,including:

- **Whether the other driver was clearly at fault or liability is in question.**
- **If you share any blame for causing the accident.**
- **The amount of property damage to the cars.**
- **The cost of your medical expenses and lost wages.**
- **The nature and severity of your injuries.**
- **The extent of your pain and suffering.**
- **The amount of available insurance coverage.**
- **Whether there are any aggravating factors in the accident.**
- **The credibility or likability of the parties involved.**

Based on all of these factors, as well as any others that may be unique to your case, an experienced personal injury attorney can generally come up with a range for the settlement value of your case. Then, they'll determine how to approach settlement discussions with that range in mind.

To get a better idea of your case's worth, you'll need to understand the types of damages you are entitled to claim. Broadly speaking, damages fall into three categories: **economic, non-economic, and punitive.**

# Economic Damages

Economic damages, also known as special damages, are the economic losses you sustained because of the accident. The most common types of economic damages are medical expenses and lost wages. As I mentioned earlier, under the collateral source rule, you are entitled to claim the full amount that your medical provider bills, even if they have been paid by health insurance or some other source.

A lot of people think they can only claim the bills they actually pay out of their own pocket, such as their portion of the co-pay and deductible. Just knowing about the collateral source rule can give you a better view of the scope of damages that you may be owed. And the collateral source rule applies to other damages, as well. For example, you can claim lost wages, even if you were paid for the time that you missed. So, if you used accrued paid leave time to get paid for the days you were absent from work, under the collateral source rule, you can still claim your missed time from work as lost wages.

You may also be entitled to claim additional out-of-pocket expenses, as well. For example, if you have to make frequent trips for medical treatments, you can claim the cost of those trips. Likewise, you may have to pay someone to perform tasks you would normally perform, such as household chores, going to the grocery store, or doing yard work. You can claim those costs, as well.

**Be sure to keep an accurate record of any out-of-pocket expenses like these, and keep all documentation — such as receipts and invoices — that show what you paid.**

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## Non-Economic Damages

Non-economic damages are also referred to as general damages. This category of damages includes things like pain and suffering, mental and emotional distress, diminished capacity to labor, and bodily disfigurement. These damages aren't quantifiable and can be very subjective, making them the greatest source of disagreement in most settlement discussions. Under Georgia law, the standard for judging non-economic damages is the "enlightened conscience of a fair and impartial jury."

Unfortunately, nobody knows for sure what a jury will do in any given case. So, non-economic damages are often hotly contested. No two cases are the same, but insurance companies and personal injury attorneys will frequently use past verdicts and settlements that are similar to your own to help determine the value of these damages.



# Punitive Damages

Punitive damages are awarded where there are aggravating circumstances that justify an award of damages to punish, penalize, or deter a defendant.

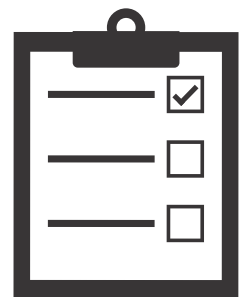
They are only appropriate when there is clear and convincing evidence that the defendant's actions showed willful misconduct, malice, fraud, wantonness, oppression, or the entire want of care that would raise the presumption of conscious indifference to the consequences. In car accident cases, punitive damages are most common when the driver was drunk, under the influence of drugs, or texting at the time of the accident. Some insurance policies will exclude punitive damages.

Initiating settlement discussions generally involves your attorney sending a settlement demand package. This package will include a letter from you explaining the facts of liability and damages and asking for a specific amount. The value of a case depends on a variety of factors and your attorney will consult with you about the appropriate amount to demand.

# The Settlement Demand Process

The demand package will also include documentation to support the statements made in the demand letter. This documentation should generally include:

- The accident report.
- Photographs of your injuries.
- Medical records and bills.
- Documentation supporting your lost wage claim.
- Receipts for any other out-of-pocket expenses.



# The Negotiation Process

Settlement demands sent to the liability insurer will normally give a 30-day acceptance deadline, while demands to uninsured motorist carriers will give a 60-day deadline. These deadlines are found in Georgia statutes that state the amount of time insurers should be given to evaluate settlement demands.

After the insurance company receives the demand and evaluates the case, it will either accept the demand or respond with a counter offer. If a counter offer is made, your attorney will notify you and discuss your options with you.

Unless the counter offer is so low that a settlement clearly will not be reached, you will normally respond with a slightly lower demand amount. After this, there may be several counter offers and responses before the insurance company offers its top dollar. At that point, you can either accept that offer or you can file a lawsuit.




# What Happens if your case settles?

If your case settles, then the insurance company will send your attorney the settlement check and release documents. This can take anywhere from several days to a few weeks.

Your attorney will then deposit the check into his or her trust account. Once the check clears, your attorney will write a check to their law firm for the attorney's fees and expenses. If there are any pending liens, your attorney will discuss them with you and then issue payment for them. After the attorney's fees and expenses are paid and any pending liens are resolved, you will receive your settlement check.

Before receiving your check, you will be required to sign release documents, which will release the at-fault party and his or her insurer from all liability for the case. If the settlement is with a liability insurer and you will still be pursuing coverage under an uninsured motorist policy, you will need to sign a limited liability release. This release must have very specific language in it, preserving your ability to pursue uninsured motorist coverage.

Now you should have a better idea of what to expect in most car accident cases. However, in some instances, a settlement agreement cannot be reached and your lawyer will have to file a lawsuit for you. In the next chapter, I'll go over what to expect if your case doesn't settle and you have to file a lawsuit.



# 7. THE LAWSUIT PROCESS





## UNDERSTANDING THE LAWSUIT PROCESS

Unfortunately, you can't force an uncooperative insurance company to make an acceptable offer. When a settlement cannot be reached, the only option is to file a lawsuit against the at-fault driver. Remember, though, that filing a lawsuit does not automatically mean your case will go to trial. A settlement can be reached at any point after a lawsuit is filed.

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### The Complaint and Answer

The complaint is the document that initiates the lawsuit process. The plaintiff is the person bringing the case (you). The defendant is the party (or parties) responsible for your injuries. The complaint contains allegations regarding the accident, describes what the defendant did wrong, and alleges that the defendant's negligence caused your injuries. The defendant's insurance company is not actually named as a party to the case, although it provides a defense to the defendant in accordance with the terms of the insurance policy.

The complaint is normally filed in the county where the defendant resides, and a filing fee must be paid to file the complaint. After the complaint is filed, it is then served on the defendant by a sheriff's deputy or process server. If uninsured motorist coverage may be needed for your case, then your UM carrier must be served with the complaint, as well. The UM insurer will then assign a defense attorney who will respond to the complaint on behalf of the company.

Once the defendant is served with the complaint, they are required to file an answer within 30 days (assuming the case is filed in a Georgia state court; the deadlines in federal court are different). The answer responds to the allegations in the complaint and admits or denies each allegation. The answer will also raise any defenses that the defendant may have.

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### The Discovery Process

After the answer is filed, the discovery process begins. The discovery period is generally six months from the date the answer is filed, though parties to a case frequently agree to extensions if this time period is not sufficient.

Discovery is essentially the process in which each side learns about the claims and defenses in the case. This is accomplished using a variety of discovery tools, the most common of which are:

- **Written interrogatories.**
- **Requests for production of documents.**
- **Depositions.**

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## Written Interrogatories

Interrogatories are written questions that ask about a variety of topics. You will likely receive interrogatories asking about your general background (education, work history, etc.), facts regarding the accident, injuries you sustained and treatment received, and your prior medical history. Likewise, your attorney will send interrogatories to the defendant, asking about the accident, the defendant's background, and the basis for any of the defenses raised in the answer.

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## Requests for Production of Documents

A request for production of documents is a formal means to ask for specific, listed documents pertaining to the case. The most common documents that will be requested from you will be any medical records and bills related to the injuries you sustained, and any evidence you may have related to the accident. The requests sent to the defendant will also ask for any documentation and evidence regarding the accident and any defenses.

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## Depositions

In depositions, the parties' attorneys question witnesses, under oath, before a court reporter. These may be videotaped. Your deposition will likely be taken, as will the defendant's. Depositions of witnesses and treating physicians may be taken, as well. Your attorney should meet with you in advance of your deposition to explain the process to you and to prepare you for it.

# Trial

At some point after discovery concludes, if your case still hasn't settled, it will appear on a trial calendar. When that happens depends on the court where the case is filed. Remember, as you move forward, that having a place on the trial calendar does not mean that your case will actually go to trial on your scheduled date.

Trial calendars often shift, and trials are normally listed based on how long they have been pending, with older cases taking priority over newer ones. Some cases can go to trial within a year or two after filing, while others may take three to four years, or even longer, to go to trial. Again, every case is different.

Most personal injury cases that proceed to trial are decided by a jury. The trial begins with opening statements from both the plaintiff and the defendant. The plaintiff will then present evidence. After the plaintiff's case closes, the defendant may put up evidence.

Once the evidence is concluded, the parties submit their closing arguments to the jury. After closing arguments, the judge will instruct the jurors on the law they are to apply in reaching their decision. When the judge finishes instructing the jury, the jurors will return to the jury room to begin their deliberations.

During the deliberations, the jury will decide whether the defendant is liable and the amount of any damages the defendant is responsible for causing. Once the jury reaches its decision, it will return to the court to announce its verdict.

After the jury returns its verdict, the court will enter a judgment on the verdict. At that point, the parties can either agree to let the judgment stand, or they may try to appeal it. They may also try to negotiate a settlement to avoid any subsequent appeals.

After this, you'll receive your compensation through your attorney, as you would if your case had settled. Some differences and special circumstances may apply, depending on your case, but your attorney should communicate everything to you to help you understand how and when you'll be compensated.

# THE CHAMPION DIFFERENCE

## CLIENT PROCESS





# Now you know!

**That, in a nutshell, is the process for a car accident claim. I hope that you've taken away some new and valuable information from this guide, and that you now feel more equipped to make the important decisions necessary for your case.**

**While you should have a better understanding about car accident claims and what to expect as you move forward with your case, please remember that this is not a substitute for the advice you can receive from an experienced personal injury attorney about your own unique case.**

**As I've said before, every case is different, and if you were involved in a car accident, you should consult with a qualified personal injury attorney. At my office, we are always interested in meeting with new clients. You can reach us at 404-596-8044, or you can email me directly at [champ@thechampionfirm.com](mailto:champ@thechampionfirm.com).**



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