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AUTO ACCIDENT Q&A

After being in an auto accident, a driver is sometimes contacted by the other driver's insurer. Here is what most auto insurance agents recommend:

Q: *Should a driver give a statement to the other person's insurance company?*

A: No. Unless their agent or attorney agrees, a driver should say nothing.

Q: *How could making a statement hurt?*

A: Most people are friendly and want to answer questions honestly and fully. That could hurt a driver's case if he or she makes remarks that somehow increase their own liability or reduce the other driver's responsibility.

Q: *So how should drivers respond if agents pressure them?*

A: Drivers should tell representatives that all further contact should be directed to their insurance agents or attorneys.

Q: *What else can drivers do?*

A: As soon as they're done with this kind of call, drivers should write a short record covering the conversation, noting date, time, topics, and whatever else seems important. Stay in touch with insurance agents and attorneys.



Seven slip-ups

Time and experience have shown that drivers can make seven mistakes that forfeit rights and limit opportunities for fair restitution in auto accidents:

- 1. Failing to call the police.** Without an official police accident record, it is, unfortunately, one driver's word against the other's about what happened. All claims bear equal weight.
- 2. Consenting to working out auto-damage repairs and medical-injury care with a trusting handshake.** People change their minds and tell different stories.
- 3. Declining an immediate checkup and ongoing medical assistance.** A neck that starts hurting a week after the collision is harder to justify. Also, insurance companies often counter that delayed pain may come from an existing condition or an earlier or subsequent occurrence.
- 4. Failing to collect or exchange information with other drivers, passengers, or eyewitnesses.** The document trail of evidence and statements can make or break a claim.
- 5. Forgetting to notify your insurance company.** You paid the insurance premiums, but by forgetting to call, you may incur out-of-pocket costs that the insurer should cover.
- 6. Saying "It was my fault."** Be fair to yourself. This accident may really not have been your responsibility.
- 7. Not consulting an attorney.** It's often said, "He who defends himself is foolish." Omitting legal representation cedes your rights to the other driver's insurance company.

We take your family's safety and security personally.

LEGAL DICTIONARY

Many clients find legal terms mystifying. From time to time, we provide easy-to-understand definitions to help clear things up. This time, you'll learn the meanings of several important terms used at court to help you better understand legal concepts.

Expert witness

Someone with special skills or expertise who can give accurate testimony at a trial, even though he or she did not see the event in question.

Jury

Citizens who listen to evidence and swear to pronounce a verdict on matters of fact.

Peremptory challenge

Prosecution and defense attorneys can eliminate a limited number of juror candidates without providing a reason. Judges oversee peremptory challenges to prevent keeping members of a certain race or sex off the jury.

Sequester

To insulate juries from improper influences or pressures during deliberations, judges may place jurors in secure locations.

Voir dire

Interviewing jurors to be sure they understand the basics of a case and will tell the truth. From the French "to tell the truth."

Just the basics

The purpose of basic auto insurance is to cover injuries that you may cause to someone should an accident occur when you are driving. It should cover you when driving someone else's car, providing you have their permission. People riding with you who are injured should be covered as well. Liability for property damage to another's car or home or a fence or telephone pole that is hit is important as well.

Uninsured motorist (UM) coverage protects you if you're involved in an accident with a driver who has no insurance or is not sufficiently insured to cover the claim. This coverage can also be used in the case of a hit-and-run in which the driver of the other car cannot be found, or if you are struck crossing a street. This type of coverage is not always required by the state.

As with UM insurance, collision coverage isn't always a necessity. If your car is older or not in great condition, consider carefully whether it is prudent to purchase collision. Collision covers damage to your vehicle no matter whose fault the accident was. This type of insurance usually carries a deductible (an amount you must pay for repairs before the insurance will pay), which can be as low as \$250 or as high as \$1,000, but this may vary.

Comprehensive insurance (sometimes referred to as "fire and theft") covers a variety of incidences that can cause damage to your car. Vandalism, fire, hail, flooding, and theft all fall under this umbrella. It may carry a deductible of up to \$300, but, again, the amount can vary. As with UM and comprehensive, it can be waived to lower your premiums if you don't feel it's worth the cost for a particular automobile.

FOR YOUR SAFETY **Recalled product roundup**

Here are some recently recalled products you may have in your home or at work:

- ✓ **Mega Brands America, Inc. (formerly Rose Art Industries, Inc.)** has voluntarily recalled 4 million Magnetix Magnetic Building Sets. Children who swallow tiny, powerful magnets detached from plastic building pieces can suffer serious perforations and blockages if several magnets or metal pieces attach to each other in a child's intestines.
- ✓ **The Holmes Group** has recalled 300,000 Holmes® Oil-Filled Electric Heaters with poor electrical connections that can overheat and burn users.
- ✓ **Lamson & Sessions** asks buyers to return 100,000 Carlon® Drop-In Floor Boxes that are incorrectly wired and can shock or electrocute consumers.
- ✓ **Sears** warns consumers to remove the "Craftsman" logo labels from the outside of the upper blade guards of 308,000 Craftsman Circular Saws. This label can detach, expose the saw's blade, and injure operators.
- ✓ **Oeuf LLC** recalled 1,400 Infant Bouncer Seats with tubular metal frames that can break and cause infants to fall from the seat.



Premises **LIABILITY**

Property owners are legally responsible for maintaining their buildings' entrances, common areas, stairways, escalators, and elevators in reasonably safe condition so that visitors will not suffer injuries. Owners must also keep buildings' surrounding walks and parking lots in reasonably good care as well.

Anyone injured in an unsafe building or its surroundings may deserve compensation for harm done to them.

An elevator accident

A building visitor riding in an elevator was injured when the elevator's handrail came loose and caused the man to fall to the floor. His attorney sued after the man required lumbar fusion surgery and suffered continuing chronic back pain. A petty officer in the military, the victim was medically discharged from the U.S. Navy and can now perform only light work. The parties settled prior to trial.



Made in China



American consumers are alarmed about the growing list of defective and dangerous products being imported from China. More than 60 percent of all U.S. products recalled were made in China, with the number of recalled Chinese products doubling in the past five years.

In late summer 2007, Mattel's Fisher-Price unit, in cooperation with the U.S. Consumer Product Safety Commission (CPSC), recalled millions of children's toys because toxic lead-contaminated paint had been applied by Chinese suppliers on about 80 different toys, including Dora the Explorer®, Elmo®, and other Sesame Street® character toys.

Previous Chinese products presenting dangers to U.S. and international consumers were vehicle tires, contaminated pet food components, medication ingredients, farm-raised seafood, and many others.

Anyone who has suffered serious harm from imported products should contact an attorney experienced in products liability.

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Auto accidents...

What caused them?

Drivers injured in automobile collisions may sometimes be victims of unseen causes that only attorneys experienced in accident investigation can help identify.

Truck driver's accident record

A driver suffered multiple leg fractures when a tractor trailer crossed a center median, striking her car head-on. The driver's attorney sued the tractor-trailer driver and his employer for negligence and wantonness in failing to keep a proper lookout and drive safely. When a jury heard that the truck driver had been involved in 11 prior collisions, jurors provided the plaintiff a significant award, plus punitive damages. The parties subsequently settled for a confidential amount.

Water pooled on roadway

A car slid off a road, then rolled down an embankment. Although the driver survived, his passenger died of severe head injuries. His wife sued a road-repair construction company that had created a dangerous, high-water condition which endangered drivers. Her attorney obtained a confidential settlement after demonstrating that the contractor was allegedly aware of a dangerous water-pooling situation because 18 other auto accidents had occurred at this location during the 24-hour period in which the plaintiff's husband had suffered his injuries.

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Skousen, Gulbrandsen & Patience, PLC, has earned a Preeminent AV rating in the *Martindale-Hubbell® Law Directory* for our legal capabilities and devotion to professional ethics. Since Martindale-Hubbell bases assessments on surveys of members of the bar and of judges, we take pride in our colleagues' recognizing and respecting the quality of our legal work.

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The information included in this newsletter is not intended as a substitute for professional legal advice. For your specific situation, please consult the appropriate legal professional.

What caused this accident?

Automobile accidents in which drivers or passengers are seriously injured or killed are always terrible. When there is doubt about the cause of an accident, which may be hidden by vehicle damage, an experienced trial attorney can research and investigate the real cause of harm. Here are two actual accident cases.

Safety-check failure

Three disabled residents returning from a picnic outing were killed when ejected from their van, which overturned in a crash. A jury awarded compensatory damages and punitive damages to the decedents' survivors when investigation revealed liability on the part of the group home. Research showed that the group home was negligent in hiring the driver, who had extensive criminal and

traffic-violation records. He also failed to conduct a safety check on the van, which had a flat tire, prior to departure because he was driving under the influence of alcohol and illegal drugs.

Negligent hiring

After a driver who was struck from behind by an 18-wheel truck suffered brain damage, examination revealed that the truck driver's employer and a professional driving organization had failed to conduct criminal-background checks, which would have revealed the driver's two previous accidents and felon status. The injured driver and his wife received a negligence settlement from the trucking company following the first day of trial.

Cruise control and sudden acceleration

Every year, drivers complain that their cars' cruise-control features suddenly accelerate their vehicles. In most cases, drivers quickly regain control.

Investigation has found that unexpected acceleration may be due to driver error, sticky throttles, or defective cruise-control mechanisms.

In the 1980s, Audi autos were reported to suddenly accelerate. More recently, the National Highway Traffic Safety Administration has investigated some Toyota and

Lexus models.

Drivers suffering injury from runaway acceleration should obtain legal counsel.

Defective cruise control

An SUV accelerated and crashed while the cruise control was engaged, killing its driver and causing a passenger to suffer spinal injuries and quadriplegia. When the driver's husband sued the manufacturer, alleging a defective cruise control, a jury awarded damages for the driver's estate.

Sleep-aid problem

Ambien®, a sedative-hypnotic medication, is often prescribed to treat insomnia. Doctors wrote 26.5 million prescriptions in 2005, making it the most popular prescription sleep aid in America.

Marketed as safe and effective when used properly, Ambien has been linked to surprising episodes of users discovering that they ate meals or drove cars while asleep.

Four users who injured themselves have filed a 2006 class action alleging that although research linked Ambien to sleep-walking behaviors, its manufacturer neither monitored nor investigated reports and failed to test the product for them. Seeking compensatory and punitive damages, plaintiffs claim that marketers were aware of risks but failed to warn class members, the public, government agencies, and the medical community. They also charge that the manufacturer published false and misleading information about the drug's safety and potential adverse side effects.

Those suspecting they may have been harmed by Ambien use should obtain legal counsel.

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