

PROPERTY DAMAGE GUIDE

Information to help you quickly resolve your vehicle damage.



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INJURY LAWYERS

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UNDERSTANDING INSURANCE

➔ **MOTOR VEHICLE LIABILITY INSURANCE** is insurance that you purchase to pay damages to the other driver if you are ever at fault in an accident. It protects the other driver, not you or members of your household. Liability insurance does protect your passengers who are not members of your household.

Arkansas law requires all motor vehicles driven in the state to be insured with a minimum amount of liability coverage: \$25,000 for bodily injury or death of one person in any one accident; \$50,000 for bodily injury or death of two or more persons in any one accident; and \$25,000 for damage to or destruction of the property of another.

➔ **UNINSURED MOTORIST INSURANCE (UM) AND UNDERINSURED MOTORIST INSURANCE (UIM)** is insurance you can purchase that will cover your damages if you're in an accident caused by an uninsured or underinsured driver. UM and UIM insurance protects you, your family, and your property.

➔ **PERSONAL INJURY PROTECTION (PIP)** is insurance you can purchase with your auto insurance policy. PIP coverage will pay you or your insured under the policy for medical expenses ("MedPay"), income disability, and accidental death benefits. PIP/MedPay coverage is "no-fault," which means it will pay an insured under the policy regardless of who caused the accident.

➔ **COLLISION COVERAGE** is insurance that pays for damage to your automobile as the result of colliding with another vehicle or object, regardless of who is at fault. Collision coverage has a deductible that you must pay toward the cost of repairs to your vehicle. The insurance company then pays the balance.

➔ **COMPREHENSIVE COVERAGE** pays for damage to your automobile caused by something other than another vehicle. This could include fire, theft, vandalism, water, hail, windstorm, and flood. Comprehensive coverage can be purchased with or without a deductible.

➔ **GUARANTEED AUTO PROTECTION (GAP)** is an optional insurance you can purchase which will pay the difference in the fair market value of the car and the amount left on your loan in the event of a total loss of your vehicle.

IMPORTANT THINGS TO KEEP IN MIND

Your property damage claim and your personal injury claim are completely different. Each claim will be valued individually, and each claim will be settled separately. Never discuss your personal injury case with your adjuster, and do not sign a personal injury release while settling your property damage claim.

OTHER IMPORTANT THINGS TO REMEMBER:

- Include in your property damage claim any personal items damaged in the accident (laptops, phones, etc.).
- Take your own pictures of your property damage.
- Be wary of fast property damage settlement offers.
- Be wary of excessive requests for information from the adjuster.
- Do not allow the adjuster to convince you to change your story.
- Never admit fault or even partial responsibility for the accident if you were not at fault.
- Do not sign any property damage release until you are satisfied with your settlement — a release is final.

HOW DO YOU KNOW IF YOU'RE MAKING THE RIGHT DECISIONS?

Your RHS personal injury lawyer will guide you and support you through the legal process. Please call us if you have any questions.

UNDERSTANDING PROPERTY DAMAGE

When injured in an automobile accident and the other driver is at fault, your personal injury claim is handled separately from your vehicle damage claim. While your personal injury claim can take months to resolve and requires the expertise of an attorney, you can usually resolve your vehicle damage claim in a short amount of time. Dealing with an insurance company can seem intimidating, but insurance companies usually want to dispose of vehicle damage claims when possible. You know your car better than anyone. That's why, usually, with the following information, you can quickly and fairly settle your vehicle damage claim on your own. This brochure answers the most commonly asked questions about vehicle damage claims. You won't be completely alone. You'll be guided by the advice of your lawyer throughout your case.

➡ **WHO PAYS FOR MY VEHICLE'S DAMAGE?** The driver at fault should pay for your property damage, so it is important that you immediately file a claim with their insurance company. An adjuster will be sent to look at your car and assess its value and damage.

➡ **HOW IS MY CAR'S VALUE DETERMINED?** A vehicle's fair market value is determined by its age, mileage, condition (before the accident), maintenance, and other factors.

➡ **WHAT DOES IT MEAN IF MY CAR IS "REPAIRABLE?"** This means the cost to repair your vehicle is less than its market value. The insurance company will pay the cost of repairs by a body shop of your choosing. You are entitled to receive the repair cost plus compensation for your vehicle's diminished value (it will be worth less after the wreck, even when it's fully repaired).

➡ **WHAT ABOUT A RENTAL CAR?** If your car is not drivable, or when your vehicle goes into the shop for repairs, you can request a rental car from your insurance company if you have rental reimbursement coverage, or from the insurance company of the responsible driver. You must promptly return the rental car when the insurance company makes a reasonable offer for your total loss, or when the repairs to your damaged vehicle have been completed. You're usually not entitled to a rental car during disputes with the insurance company regarding accident-related repairs or actual cash value, but may be entitled to loss-of-use damages, usually measured by the reasonable rental cost of a substitute vehicle.

➡ **WHAT DOES IT MEAN IF MY CAR IS A "TOTAL LOSS?"** This means the cost to repair your vehicle is more than its market value. The insurance company will pay the

The advertisement for Rainwater Holt & Sexton Injury Lawyers features a blue background. At the top left is a logo with a white circle containing a blue raindrop and the text "RAINWATER HOLT & SEXTON INJURY LAWYERS". To the right of the logo, the text "RAINWATER HOLT & SEXTON INJURY LAWYERS" is displayed in white. Below this, the phone number "888-8888" and website "CALLRAINWATER.COM" are shown in white. Further down, the locations "LITTLE ROCK | CONWAY | HOT SPRINGS | BRYANT" and "JACKSONVILLE | SPRINGDALE | MEMPHIS" are listed in white. In the center, there is a red box with white text that reads "7 LOCATIONS", "35 ATTORNEYS", and "130+ STAFF". Below the red box are two portraits of men in suits and ties, smiling.

fair market value of the car (not your original purchase price), sales tax on that value, and the cost of titling and licensing the replacement vehicle.

➡ **DO I HAVE TO ACCEPT THE OFFER THAT WAS MADE ON MY CAR?** No. If you believe your vehicle is worth more than the amount offered, you can try negotiating with the adjuster for a higher offer. Check newspaper ads and other used car listings for the sale price of cars the same make, model, and mileage as yours. You can also get another opinion from a different body shop.

➡ **WHAT IF THE INSURANCE COMPANY OR RESPONSIBLE DRIVER WANTS ME TO SIGN A RELEASE?** Most vehicle damage claims are settled without a release. Don't finalize your property damage claim until all bills for towing, storage, rental, repair, or total loss have been paid. Any proposed release should refer to property damage only, containing no language releasing "all claims" or your "personal injury claim." Let your attorney review any documents before you sign them.

➡ **HOW IS ACTUAL CASH VALUE DETERMINED?** Insurance companies use proprietary software to determine actual cash value from comparable sales of vehicles similar to yours (same year, make, model, options, condition, and mileage). Once you've checked (1) free online car valuation sites like Kelley Blue Book at www.kbb.com; (2) your bank or credit union; (3) car dealers; (4) classified ads in newspapers and auto trader magazines, you'll have a good idea of the value of your car. The amount you settle for is negotiable.

➡ **WHAT IF I OWE MORE THAN THE ACTUAL CASH VALUE OF MY CAR?** This unfortunate circumstance is called "upside down" and happens on older used vehicles

purchased on a finance plan. Often, as a trade-off for being allowed to make payments, the customer paid more than the car is worth. The insurance company is not obligated to pay more than the actual cash value of the car in spite of the amount owed to the finance company.

➡ **MY CAR HAD A LOT OF SENTIMENTAL VALUE. DOESN'T THAT COUNT FOR SOMETHING?** Insurance companies know from handling thousands of claims that people get attached to their vehicles. They cannot pay for memories and other intangibles. The actual cash value of a car can only be based on sales of similar vehicles.

➡ **DOES THE INSURANCE COMPANY OWE ME FOR THE WHOLE REPAIR EVEN THOUGH PART OF THE CAR WAS DAMAGED BEFORE THE ACCIDENT?** Probably not. Insurance appraisers get special training in detecting pre-existing damage. The insurance company may have the right to deduct the estimate cost of repairing prior to damage.

➡ **WHAT IF I OWE MORE THAN MY CAR IS WORTH?** If your car is totaled and the insurance company's offer does not pay off your loan, you are still responsible for the loan. Check your own auto policy for GAP insurance, which will pay the difference in the fair market value of the car and the amount left on your loan.

➡ **CAN I KEEP MY "TOTALED" CAR?** You can keep your car and pay for your own repairs. In that case, the insurance company will deduct from your settlement the amount that it would likely have gotten for your car at auction.

➡ **WHAT IF THE OTHER DRIVER DOES NOT HAVE INSURANCE (OR ENOUGH INSURANCE)?** File an Uninsured Motorist or Underinsured Motorist claim under your own auto insurance policy if you purchased this coverage.

➡ **IS THERE ANY REASON TO DELAY SETTLING MY VEHICLE DAMAGE CLAIM?** Usually not. Delaying settlement can cause unnecessary storage fees, depreciating car values, increasing repair costs, and the possibility of additional damage unrelated to the accident which may give the insurance company an excuse not to pay you. It's also your duty to mitigate or minimize your loss. Just because your car is damaged doesn't mean you can stay home from work and claim lost earnings. You must take the initiative to resolve the vehicle damage claim.

➡ **WHAT IF I'M NOT SATISFIED WITH THE REPAIRS?** You have the right to have the details attended to. Don't endorse the settlement check or sign a property damage release until the repairs are done to your satisfaction.

➡ **WHAT ABOUT DIMINISHED VALUE?** You're owed a repair which returns your non-totaled car to its pre-accident condition. Modern body repair technology is usually equal to the task. Diminished value occurs when a newer vehicle is involved in an accident and in spite of repairs, is still worth less money than before the accident. Because every vehicle is different, the diminished value varies and cannot be systematically calculated. A diminished value claims expert is needed to accurately appraise a vehicle and calculate its diminished value following an accident.

WHAT PROPERTY DAMAGE CAN BE CLAIMED?

In a car accident, accident victims can claim any monetary loss to their personal property. Property damage claims cover the cost of the damage to your vehicle, as well as other personal property that suffered damage. This can include:

- Laptops
- Cellphones
- Car seats or child safety seats
- Home damage (mailboxes, etc)
- Repairs to your vehicle
- Replacing your car
- Towing expenses
- Rental car expenses

STEPS TO TAKE AFTER A PROPERTY DAMAGE CAR ACCIDENT

EXCHANGE INFORMATION & TAKE PICTURES

It is important to get the name and insurance information of the other driver. If the accident is their fault it will be their insurance company that will be paying for repairs. It is important to take pictures of the damage at the scene of the accident. The photographs will be helpful in resolving your property damage and illustrate how the accident occurred.

NOTIFY YOUR INSURANCE COMPANY

By reporting your crash to your own insurance company, they can help you get your car repaired without waiting for your claim to reach a settlement.

For more helpful information:
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