

A GUIDE TO AUTO PROPERTY DAMAGE CLAIMS

Will Pemberton



A COMPREHENSIVE RESOURCE FROM
PEMBERTON PERSONAL INJURY LAW FIRM

TABLE OF CONTENTS

Introductionpg. 3

Starting the Claim Processpg.5

Do I Need an Attorney?pg.7

Total Loss Claimspg.9

Repairing a Vehiclepg.18

Insurance Disputespg.21

About Pembertonpg.25

Contact Informationpg.26

CHAPTER ONE: INTRODUCTION

Welcome to the "Guide to Auto Accident Property Damage Claims," a valuable resource created to assist individuals who have been in a car accident. If you've been involved in a car accident, or if you know someone who has, please share this booklet with them.

At Pemberton Personal Injury Law Firm, we have a proven track record of assisting hundreds of injured victims handling diverse cases such as auto accidents, commercial vehicle accidents, wrongful death, and various other injury-related cases.

Regardless of the magnitude of your personal injury case, we provide the highest level of representation and service to all our clients.

In most cases, you'll be communicating with the other party's insurance company, through an adjuster. An adjuster, hired by the insurance company, is tasked with assessing the overall value of your claim. The adjuster may enlist an appraiser to evaluate your vehicle's damage.

Both the adjuster and appraiser are professionals employed by the insurance company.

The goal of this booklet is to empower you with the necessary information to ensure fair and appropriate compensation for your vehicle damage. Our objective is to assist you in navigating this process effectively, enabling you to make informed decisions regarding your property damage claim.

CHAPTER TWO:

STARTING THE CLAIM PROCESS

If your vehicle is damaged in a collision that was caused by someone else, it's important to initiate the claims process as soon as possible. First, report the claim to the other person's insurance company by calling the claims department's phone number. Also, notify your own insurance company of the accident because you may have coverages that could apply.

The police report, typically available approximately 7-10 days after the accident, should contain details such as the other person's insurance company, your personal and insurance information, and information about other parties involved.

It is acceptable to discuss only your property damage claim with the adjuster. If the adjuster asks for a "recorded statement" or wants to discuss injuries or treatment, politely decline and consult with an attorney as soon as possible. If you are injured, never discuss your injuries with an adjuster without first speaking with an attorney's office. If the property damage claim is denied, ask for the denial in writing, and speak with your insurance company

CHAPTER THREE:

DO I NEED AN ATTORNEY?

In most cases we think people should handle their own property damage claim because it speeds up the process considerably for you to handle the property damage claim yourself. And if you have questions or run into any issues, your legal team at Pemberton Personal Injury will answer any questions, guide you along the way, and step in if necessary to make sure you get a fair result.

If the at-fault insurance company accepts responsibility for your property damage claim and presents an offer, you should request that the adjuster provide you all information and documentation that the offer was based on. You should then receive a packet of information. Review the packet.

When looking at the valuation of your vehicle's condition, look for double counting. When reviewing the comparable vehicles, look for vehicles that skew the average value in the insurance company's favor. Then, negotiate with the adjuster. If you are satisfied with the offer, then you should settle the property damage claim. Even if you are injured, it is completely safe to settle the property damage claim and leave the bodily injury claim open for later settlement.

Do not speak with the adjuster about your bodily injury claim and do not give any recorded statements. It is okay to speak with the adjuster about the damage to your vehicle.

The insurance company cannot make you settle your bodily injury claim at the same time you settle the property damage claim.

CHAPTER FOUR:

TOTAL LOSS

When determining whether a vehicle qualifies as a total loss following an accident, the assessment involves comparing the cost of repairs, inclusive of additional expenses like rental vehicle costs during the repair period, to 75% or more of the vehicle's pre-accident value, commonly known as the fair market value (FMV).

The liability insurance carrier must compensate you based on the fair market value of your vehicle. Fair market value reflects the price at which the property would typically change hands between a willing buyer and a willing seller, without any undue pressure on either party to complete the transaction. Both parties involved should possess reasonable knowledge of pertinent facts, as outlined in I.R.S. Revenue Ruling 59-60.

Adjusters typically refer to a book value (BV) to determine fair market value, although they may have some flexibility based on the vehicle's condition. While BV aims to align with FMV, it may not always perfectly do so, allowing room for negotiation on both sides. Many insurance companies consult the National Automobile Dealers Association (NADA) publication "Official Used Car Guide," updated monthly and available online at www.nadaguides.com.

Another resource for determining your vehicle's value is kbb.com (Kelley Blue Book).

Certain liability insurance companies employ their own valuation methods. It's essential to recognize that no publication is entirely infallible; they function as guides rather than definitive values. In every instance, there is potential for negotiation regarding the value of your property damage claim.

If you and the adjuster are unable to reach an agreement on the fair market value (FMV) of your vehicle, specific guidelines come into play. The adjuster is required to not only base any subsequent settlement offer on the published regional average values of comparable vehicles but also consider the value of similar vehicles in your local area. To ascertain the local FMV, they should utilize either the local market price of a comparable vehicle or, if none are available, seek quotes from at least two qualified dealers in your local market area. If your vehicle was in better-than-average condition before the accident, the adjuster must factor this into the value determination.

You retain the right to request a written statement from the adjuster, accompanying the total loss payment. This statement should outline the estimates, evaluations, and deductions utilized in calculating the payment, as well as the sources of these values. This ensures transparency in the valuation process and aids in resolving any disputes regarding the value of your vehicle.

WHAT DOES SALVAGE VALUE MEAN?

When your vehicle is deemed a total loss, and you and the adjuster agree on its pre-accident Fair Market Value (FMV), the insurance company assumes ownership of the car.

In simpler terms, if the insurance company compensates you with the FMV for a totaled car, retaining ownership of the vehicle is not an option. The residual value of the "total loss" vehicle is termed the "salvage value."

IS IT OKAY TO TRANSFER MY TITLE TO THE INSURANCE COMPANY? WHAT IF I WANT TO KEEP MY VEHICLE?

Yes. Upon the adjuster providing payment for the FMV, you are required to transfer the car's title and relinquish possession to the insurance company.

Nevertheless, if you wish to retain the vehicle, you can do so by reimbursing the insurance company the salvage value. This involves accepting a check from the insurance company for the FMV amount subtracted by the salvage value.

WHO GETS THE TOTAL LOSS CHECK FROM INSURANCE?

If your vehicle has an outstanding loan, the liability insurance company may determine the amount owed as a pay-off to the finance company. In such instances, they will issue a check directly to the finance company for this amount and provide you with a check for the difference.

Occasionally, the insurance company's check may bear both your name and the finance company's name. In this case, you would endorse the check and deliver it to the finance company. The finance company will utilize the funds to settle the loan and return the surplus balance to you, representing your ownership stake in the vehicle.

However, if the loan pay-off surpasses the insurance company's check amount, the entire check will be received by the finance company, leaving you responsible for the outstanding balance unless you possess "gap insurance." Gap insurance, typically obtained at the vehicle's purchase, bridges the "gap" between the loan amount and the vehicle's value. It is sometimes mandatory for leased vehicles or included in financed purchases.

Another optional insurance coverage you might have acquired is "repair or replacement" coverage, obligating your auto insurance company to cover either the reasonable repair cost or the cost of a replacement vehicle, whichever is lower.

If your vehicle does not have an outstanding loan, the insurance company will issue the entire settlement directly to you.

WHO PAYS FOR THE STORAGE AND TOWING FEES?

The liability insurance company is accountable for covering all reasonable towing and storage fees until three days after both you and the storage facility receive written notification that the insurance company will cease reimbursing the owner or storage facility for storage charges. This written notification must include the name, address, and phone number of the facility where the vehicle is stored.

WARNING: As soon as the liability insurance company is no longer responsible for storage charges, YOU are responsible. These charges are often at least \$25.00 per day and the charges can add up quickly. The storage facility will not release your car until the fees are paid so avoid unnecessary delay.

AM I ENTITLED TO A RENTAL VEHICLE IF MY VEHICLE IS A TOTAL LOSS?

When your vehicle is declared a total loss, you are entitled to utilize a rental vehicle from the moment of the collision until you receive an offer from the liability insurance carrier. Once a reasonable offer is made by the insurance company, they are no longer obligated to cover the cost of your rental vehicle.

In certain situations, if you face challenges finding a replacement vehicle, the insurance company may choose to extend the rental period for a few additional days, but this is entirely at their discretion.

Generally, you should be provided with a rental vehicle that is similar to the vehicle that was damaged. For example, if your vehicle was a compact car, you should have the option to rent another compact car, and if it was a four-door truck, you should receive a comparable replacement. Most insurance companies have established agreements with rental companies, simplifying the process of arranging a vehicle for you at a reasonable cost, which they will cover. However, it's important to note that the insurance company does not cover mileage and gas expenses; they only cover the daily rental rate of the vehicle.

Promptly contacting the liability insurance company is crucial. Some policies stipulate that there is no claim until the insured person reports it. If the insurance company does not provide a rental vehicle due to the failure to report the claim, you should rent a vehicle at the prevailing market rates.

When the insurance adjuster contacts you, inquire about the continuation of the rental. You may be instructed to return the initial rental and rent a vehicle from the agency the insurance company regularly works with. In such cases, the insurance company should cover the initial rental cost at the prevailing rates until you switch to a lower-rate vehicle.

Another expense associated with rental vehicles is the additional insurance that rental car companies often require. While the liability insurance carrier covers the daily rental fee, they do not cover this extra insurance. It's crucial to be aware of this, as rental companies typically request a debit/credit card on file to cover these additional costs.

CHAPTER FIVE: REPAIRING A VEHICLE

WHAT IF MY VEHICLE IS REPAIRABLE?

A motor vehicle is considered repairable if the cost of the repairs and supplemental claims are less than 75% of the pre-accident fair market value.

SHOULD I GET MORE THAN ONE ESTIMATE?

You should always get two repair estimates. If the adjuster insists on obtaining more than two, the insurance company is responsible for covering the additional estimates.

In cases where the adjuster acknowledges liability and suggests having your vehicle repaired with the understanding of reimbursement, it is recommended to request a written statement from the adjuster confirming this, along with documentation of any verbal agreements made between you and the adjuster.

CAN I MAKE A CLAIM FOR DEPRECIATION VALUE?

Understanding depreciation value is crucial. It signifies the decrease in your vehicle's value after being involved in an accident, even after it has been repaired. Essentially, it acknowledges that a previously damaged and repaired car is worth less than one that has never been in an accident. In simpler terms, it is the value lost in addition to the repair costs.

Depreciation is not a fixed figure; it can vary based on the extent of the damage. Minimal damage may not result in any depreciation, but for more substantial damage, it is more likely to occur. When communicating with the adjuster, remember to request compensation for depreciation, as many adjusters may not bring it up unless prompted. However, certain insurance companies might mention depreciation if the vehicle is less than five years old and the damage is significant, such as 25% or more of the car's fair market value.

While there isn't an exact formula for calculating depreciation, it typically falls within the range of 10% to 20% of the repair costs.

It's important to note that if your vehicle is less than five years old and the damage exceeds 25% of the fair market value, you are obligated to inform any prospective buyer. This disclosure can impact how much someone is willing to pay or offer for a trade-in on your vehicle.

DO I HAVE TO USE THE REPAIR SHOP THE ADJUSTER RECOMMENDS?

No! Frequently, adjusters may suggest a specific repair service, but it's important to know that you are not obligated to use that particular service. The adjuster is required to inform you that you have the freedom to select any repair service of your choice.

WHAT SHOULD I DO IF SOMETHING GOES WRONG AFTER THE REPAIRS ARE MADE?

Suppose you've agreed to your vehicle's repair. It's essential to understand that signing such an agreement does not prevent you from expressing concerns later if you discover additional damage or diminished value that was not initially apparent to you or the adjuster during the signing.

If you identify damage resulting from the collision, which only became evident after the repair or attempted repair of your vehicle, you retain the right to file a claim for the additional damage. Typically, there is a 30-day window after the repairs within which you can assert this claim. Likewise, you are not restricted from claiming diminished value (a decrease in your vehicle's value) if this reduction directly stems from the collision. In both scenarios, your rights to address these issues remain protected.

WHO GETS THE REPAIR CHECK FROM THE INSURANCE COMPANY?

If your vehicle has an outstanding loan, the insurance company will release the repair check with both your name and the repair facility's name. This practice is implemented because damage to your vehicle can diminish its overall value.

Consequently, the finance company that granted the loan for the vehicle purchase holds a decreased claim on it. To safeguard their interest, the finance company usually requires that the damaged vehicle undergo repairs. However, if you choose not to proceed with the repairs, or if there are any additional circumstances, please inform the finance company promptly.

AM I ENTITLED TO A RENTAL VEHICLE WHILE MY VEHICLE IS BEING REPAIRED?

Whether your vehicle is operable or not, you are entitled to a rental vehicle from the time of the collision until the repairs are finished.

CHAPTER SIX: INSURANCE DISPUTES

WHO DO I COMPLAIN TO?

If you have concerns about the handling of your claim by the insurance company, there is a straightforward course of action. You can contact the Office of the Commissioner of Insurance in your home state either by making a phone call or sending a written message.

When you make a complaint, the Office of the Commissioner of Insurance will gather information from you. Subsequently, one of their experts will communicate with the insurance company, agent, or adjuster to request relevant information. If the analyst determines that your complaint is valid, they will provide recommendations to both parties on resolving the issue. If this initial step proves ineffective, a deputy commissioner may intervene to facilitate a meeting with the insurance company for dispute resolution.

If the meeting does not yield a resolution, the deputy commissioner might propose to the commissioner that further action be taken, such as a public hearing or potentially filing a lawsuit. It's crucial to note that the Office of the Commissioner of Insurance will not investigate a complaint already subject to a lawsuit. If you have legal representation and a lawsuit has not been initiated, the Office of the Commissioner of Insurance will only proceed with an investigation if your attorney concurs.

ABOUT US

Pemberton Personal Injury Law Firm has obtained millions of dollars in settlements for our clients. We have the experience, knowledge, and determination to help you pursue the compensation you deserve. Our lawyers prepare every case like it's going to trial and never back down from insurance company tactics designed to minimize claims. Insurance companies, medical providers, and courts know us and respect the work we do, but our success is not based solely on our legal knowledge and proven track record — it's also built on the relationships we create with our clients.

We believe every client deserves honesty, communication, and relentless advocacy. That's the foundation of The Pemberton Promise. We take the time to truly understand our clients, their stories, and the impact an accident has had on their lives so we can fight for the best possible outcome every step of the way. Most importantly, we don't get paid unless you do. Whether you need guidance with property damage, injuries, or navigating the next steps after an accident, our team is here to stand beside you and protect what matters most.

CONTACT US

We hope this booklet has been helpful. Please feel free to share it with others. We want to make sure you are armed with enough information to make the best decisions in your accident claim. Please let us know how we can help.

(608) FIGHT-4U

www.PembertonPI.com