

5 Things the Insurance Company Doesn't Want You to Know!

Spencer Farris, Attorney
February 2014

5 Things the Insurance Company Doesn't Want You to Know!

You have been in a car wreck. Your independence - your car - is a pile of twisted metal. You ache. And in

between worrying about losing your job and paying your bills, the phone rings. It is a friendly voice, but you don't recognize it. Then she tells you she works for the insurance company. Here is what she is not telling you:

1 The claims adjuster is not on your side.

Every claims manual tells adjusters the same thing- call victims early, before they have hired an attorney. Be friendly, establish a rapport. Insurance adjusters may be nice people, but they are friendly to injury victims on purpose for one good reason: it saves the company money. If you like the insurance adjuster and trust him or her, you will want to believe that they are there to help you. Who owns the biggest buildings in the world? Insurance companies. They don't buy all that real estate unless they keep their money, and they don't keep their money by giving it to you!

Remember that insurance companies don't post huge profits each year by paying the maximum amount to claimants. The more you talk to the adjuster, the more likely you are to minimize your injuries. "I'm okay," you will tell the adjuster, because no one wants to sound like a whiner to that friendly voice on the other end of the phone.

Information is power, and the more you share, the more power you give the adjuster. Don't make a statement. Don't talk to the adjuster if you can avoid it. The adjuster is **not** on your side.

2 Admitting liability does not mean that your bills will get paid.

When you get hit from behind while stopped at a light, or when the other driver runs a stop sign and t-bones your car, you know they are at fault. When the claims adjuster says, “We admit liability,” you are convinced that he sees things your way. Before you get too excited though, you should know that admitting liability means nothing. The insurance company may still refuse to pay your claim fairly.

There are two parts to every claim; **liability and damages**. You can win your case on liability but never collect a nickel if you don’t prove that you were damaged. The insurance company can admit liability but refuse to pay you by claiming that you weren’t hurt, or at least not as badly as you claim. The typical routine is to claim that the accident aggravated a pre-existing injury rather than created a new one. If you are over 30, expect to hear that your back pain is due to “degenerative disk disease,” which we all have, even if you never had pain before; or that your medical bills have been paid so you really have no damages left to collect.

Admissions of liability by an insurance adjuster are not admissible in court, and don’t mean that the company is going to pay you anything willingly, let alone a fair amount for your losses.

3 You need pictures.

You have often heard that a picture is worth a thousand words. When it comes to court cases, a picture can be worth your entire recovery. In court, the truth doesn’t matter. The facts don’t even

matter. The only thing that matters is what you can prove under the laws of evidence. The best evidence of the speed and energy in your car crash is a picture of the damage to your car. Most jurors will see an undamaged car as proof that you couldn't have been injured. No pictures at all are just as bad - the jury will presume that there was nothing to show!

Your court case may take years to complete and, over time, you will learn to live with the pain from your crash. Pictures of the crash will be the best evidence of what your body endured and will help the jury understand your journey to the courthouse. Don't expect the insurance company to save these pictures for you! Take your own as soon after the wreck as you can.

4 If you have health insurance, use it!

The other guy's insurance may offer to pay your medical bills as you rack them up. This is a bad idea for a couple of reasons. First, you are entitled to some privacy, even when you have been injured, but to get them to pay your bills means you give them unfettered access to your medical records. Second, nobody pays "face value" for medical bills. If the liability insurance company pays, they will deduct the amount from your settlement and may do so at face value even if they pay less. Using your health insurance means more of the settlement money goes in your pocket, and even if you have to repay your health insurance (which is rare in Missouri) you will wind up repaying pennies on the dollar instead of full face value.

This sounds like cheating to some - why should my health insurance pay? It isn't cheating any more than collecting on two life insurance policies. You paid the premium, you are entitled to the benefits!

While I'm on the topic, make sure that the doctors and hospitals bill your health insurance, not the other guy's liability insurance. If you present your health insurance card they are required to accept it in most instances. If you don't have health insurance, you still should get them to bill you, but on a "lien" basis.

Finally, use your health insurance to pay medical bills even if you have medical payments coverage. The medical payments coverage will then go in your pocket and help you with deductibles, over-the-counter medicine and the like. A good personal injury attorney will work with you to maximize your recovery after injury.

5 There's more to property damage than just the value of your car.

If your car gets totaled and it's not your fault, you're left buying a new vehicle and paying sales taxes. Make sure to get a sales tax waiver from the insurance company when they pay you for your car.

In most cases, if your car is not totaled it is worth less than it was before the wreck, even when it has been fixed. We've all seen the Carfax ads on television and those folks do their best to track car crashes. "Diminution of value" is the amount of money you should receive for the lost marketability a damaged car has, even when it has been repaired. Do your homework - check popular car value websites to determine what your car is worth and then add a reasonable figure for diminution of value. Most injury lawyers will help you maximize your recovery for property damage without charging you extra, especially when no lawsuit is required.

Property damage means more than just your car. Child safety seats, eyeglasses, even tools and briefcases can be damaged in a car crash. Make sure to document what you lost and estimate replacement value as quickly as possible.