



The Texan's Guide to Car Accident Property Damage Claims

Handling Your Own Property Damage Claim

Texas is home to roughly 17.4 million licensed drivers; that's more than any state but California. And if you're one of them, you already know that the state's 180,100 road miles can make for plenty of adventures. But with all those drivers and all those roadways also comes the risk of accidents. Unfortunately, Texas has a lot of those, too.

Last year, a crash occurred in Texas [every 56 seconds](#)—and that doesn't include the ones that go unreported. In the time it took you to read the last paragraph, at least one person was injured in an automobile crash. Someone dies in Texas from a car

accident every 2 hours and 26 minutes. In Houston alone, there were [more than 64,000 auto accidents](#) in 2018, resulting in nearly 30,000 known injuries.

The data tells us what most drivers already instinctively know: automobile accidents happen far too frequently. Still, it can be difficult to navigate the car accident claims process, let alone maximize your settlement. That's exactly why we created this guide. Consider this your essential primer on how to handle your own property damage claim—and when it makes sense to secure legal representation.



Table of Contents

01 AT THE SCENE

Fulfill Your Legal Obligations

Q&A: What If My Accident Caused Injury?

File a Police Report

Photograph the Scene

Contact Your Insurance Company

02 FILING YOUR CLAIM

Q&A: Is My State "At Fault" or "No Fault?"

Document Your Vehicle's True Value

Open Your Claim and Understand the Law

Q&A: Will Filing a Claim Make My Insurance Go Up?

Deal with Insurance Adjusters

03 HIRING AN ATTORNEY

Seek Out Specialized Expertise

Understand the Fee Arrangement

Take the Next Step

At The Scene

When you're filing a property damage claim in Texas, the road to a maximum settlement is paved with numerous twists, turns and best practices. It starts at the scene. While some actions are required by law, others will help increase your property damage settlement down the road.

For the purpose of this guide, it is assumed that your accident did not cause personal injury. However, in any accident, the most important first step is to assess your injuries and, if required, seek examination by a medical professional as soon as possible. (If your accident did cause personal injury, [make sure to read the final section of this guide](#), which talks about why, and how, to hire a car accident lawyer in Texas.)

Fulfill Your Legal Obligations

When you're involved in an accident, you have certain immediate duties under the Texas Transportation Code. Your legal obligations vary based on the type of accident.

If the accident caused only property damage

You're legally obligated to stop following an accident. If you're the driver, failure to do so is a misdemeanor. If damage is less than \$200, it's a Class C misdemeanor; if it's \$200 or more, it elevates to Class B. Whenever possible, each driver also has the duty to safely move his/her vehicle out of traffic to a safe area. If you can steer it, clear it. If you can move your vehicle but fail to do so, you could be facing a Class C misdemeanor.

If you hit a parked car

You have the duty to stop, locate the owner and provide your name and address. If you cannot locate the driver, you must leave this information,



What If My Accident Caused Injury?

Under state law, if an accident "results or is reasonably likely to result in injury to or death of a person," you must stop and remain at the scene. You're also legally obligated to give either the other vehicle's operator or a person attending to the scene the following information: the vehicle operator's name, address and insurance carrier, the vehicle registration number and, if requested, the operator's driver's license.

If another person is injured in the accident, you're also required under law to provide reasonable assistance. That includes either transporting or helping to arrange transportation to the hospital if treatment is needed, or if the person requests your help in doing so.

along with a statement on the circumstance of the collision, in a visible location in or attached to the vehicle. If you fail to do so, it is considered a Class C misdemeanor (less than \$200 damage) or a Class B misdemeanor if the damage is \$200 or more.

File a Police Report

Regardless of the severity of the crash, it is critical to call the police and request an accident report. Some drivers use fake insurance information and/or change their story after the fact. Having the police put the accident's details in writing, can help protect yourself from this kind of fraud.

How to obtain your copy

Once the police file their report, make sure to obtain a copy for your records. If your accident occurs in the City of Houston, you will need to contact the Open Records Unit of the Houston Police Department Public Affairs Division.



Read more on obtaining a car accident report in Houston and Katy. We've also created guides on getting a crash report for accidents that occurred in Fort Worth, Dallas and Austin.

How long it takes to receive your copy

In Texas, all car accident reports eventually make their way into the Texas Department of Transportation's Crash Reporting and Analysis for Safer Highways (CRASH) database, where you can easily download reports. Generally speaking, 7 to 14 days is a common timeframe for receiving your copy. Often, you can expedite the process by contacting the local police department that investigated your crash.

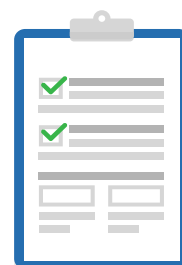
Photograph the Scene

In the smartphone era, we all have high-quality cameras at our fingertips. Now is the time to use that to your advantage. Rather than handwritten notes that can get lost in the chaos of an accident scene, photos stored in your phone are easy ways to ensure that you're protected.

Take as many photos as possible at the scene so long as it is safe to do so. Document everything. Take photos of your vehicle from multiple angles,

and use a combination of close-ups and full vehicle shots to properly document the damage. Photos of your property damage are a given, but don't stop there: snap images of the defendant, license plates, the police officer's name and badge number, and the other driver's insurance card and driver's license. Is there a tow truck or a witness at the scene? Take photos of their business cards and/or contact information, as well.

Want to make sure you're prepared for an accident in the future? Download our free car accident checklist and keep it in your glove compartment.



As you're documenting the scene, jot down details of the crash in your phone's notepad. Although these should also be shared directly with the police officer on the scene, the more records you have of the accident's circumstances, the better chance that you'll be protected when it's time to file your claim.

Contact Your Insurance Company

If you're reading this guide, chances are that you plan to file a property damage claim with the other driver's insurance company. But even if you don't plan to file a claim, it's critical to contact your own insurance company. This way, you're on better footing if the other person decides to file a claim. There's nothing more frustrating than a case of "he said/she said."

Filing Your Claim

You've followed state transportation laws at the scene. You've filed and obtained a copy of the police report for your accident. You've taken photos to document the scene. Now, it's time to file your property damage claim.

Document Your Vehicle's True Value

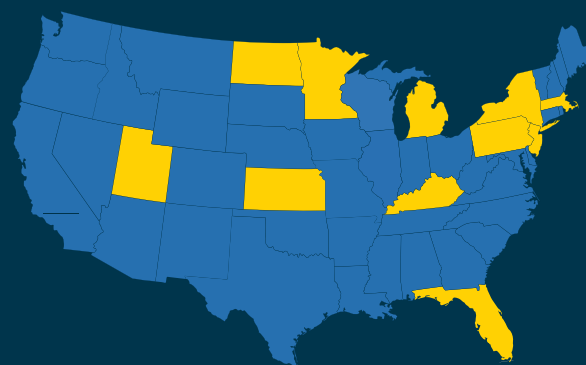
Before you file a property damage claim with any insurance company, there are some things you can do to help document the true value of your vehicle and get the full value the law allows. If your car has been totaled, the insurance company may value your car by comparing it to local dealer prices, using the NADA guidelines or the Kelley Blue Book guidelines. Insurance companies have no obligation to use any particular one, but NADA seem to be pretty common. Both NADA and Kelley Blue Book give a high/low range, so you will want to use the following strategies to illustrate that your car's value is at the higher end rather than the lower value.

- Take a photograph of your vehicle's mileage, particularly if that mileage is low.
- Gather documentation of all service and repair records prior to the accident.
- Obtain receipts for property within the vehicle that was damaged or lost during the accident (such as a smartphone and/or expensive equipment you added to the vehicle).

The more you can show your car was low mileage, in good condition, and had upgrades, the more likely they are to put the value toward the higher end. Obviously, you should only file supporting documentation that is accurate and true for the vehicle involved.

Is My State "At Fault" or "No Fault?"

When you're involved in an auto accident, your first thought is likely safety. But as you begin navigating your property damage claim, you'll also need to know the basics of Texas auto accident law. States fall into one of two camps—"at fault" or "no fault"—and Texas is in the former.



“At Fault” States: 38 states, including Texas, have statutes that impose liability for car accidents based on a finding of “negligence.” Legalese aside, this essentially means that you must prove the other driver had a duty to follow the Texas Transportation Code’s “rules of the road,” and deviated from the standard of care, which caused damages.

Since Texas is an “at fault” state, you’ll be dealing with the other driver’s insurance company. The two major exceptions are 1) when you have comprehensive coverage on your own car and 2) when you’re filing an uninsured motorist claim against your own policy. If you have comprehensive coverage, it is generally easier to file against your own insurance, pay the deductible and then worry about collecting their money and your deductible back from the other driver.

“No Fault” States: If you’re in Texas, you won’t be dealing with these laws. However, “no fault” statutes require you to file a claim against your own insurance company unless the claim meets a certain threshold. What is that “threshold,” exactly? It’s often a dollar amount or a level of injury, and it could require finding by a jury.

Open Your Claim and Understand the Law

Although there are many benefits of hiring a lawyer, you are not required to do so. If you choose to handle your own property damage claim, keep these regulations in mind.

Oral settlement agreements are binding

If you make a verbal agreement to settle your property damage claim or your personal injury claim with an insurance company, it is binding. In Texas, you do not have to sign a formal document for a settlement agreement to be enforced against you.

You can be recorded without your consent

In Texas, insurance companies can record you without your consent. This, paired with the fact that verbal settlements are binding, makes it critical to take extra precaution when speaking with an insurance company and/or an adjuster. An insurance company can use any recordings against you.

Insurance companies don't have to disclose policy limits

In Texas, insurance companies are not required by law to tell you how much insurance coverage the other driver has unless you file a lawsuit and force them to disclose the policy limits under oath. The minimum a driver must carry by law is \$25,000 for property damage and \$30,000 per person up to a total of \$60,000 per accident for bodily injury.

Insurance bad faith laws protect you against certain tactics

Under the Texas Department of Insurance (TDI) standards, insurance companies cannot engage in certain tactics to deny or delay claims. Any violation of these provisions is considered insurance bad faith. These actions can include making slow, late or

incorrect payments; denying valid claims; lying about policy coverage; and canceling policies or refusing renewals.

If you believe an insurance company has acted in bad faith, it is your right to file a complaint with the TDI. However, this is another area where it is beneficial to have a knowledgeable attorney on your side.



Will Filing a Claim Make My Insurance Go Up?

We hear this question often from our automobile accident clients, and for good reason. No one wants to see their monthly rate go up because of a crash. And here's the good news: filing a claim against someone else's insurance should not make your own rates go up. However, if you file a claim against your own insurance—such as comp and collision or Underinsured/Uninsured Motorist Claims (UM/UIM)—it could cause your rates to increase.

Dealing with Insurance Adjusters

Compared with the immediate aftermath of an automobile accident, dealing with an insurance company might seem like the easy part. However, insurance adjusters must look out for the best interest of the company's shareholders, and their actions reflect this reality. Some adjusters will "wait you out" by not returning your calls. Others could try to convince you to minimize your property damage in exchange for a quick settlement. Be patient and do not accept a low offer in haste. Second, if they are keeping you from using your vehicle, they owe you a rental or compensation for your loss of use of your vehicle.

Use the following tips to navigate the challenges of dealing with insurance adjusters.

Act fast

Get a detailed quote quickly from a reputable auto shop. Long delays can negatively impact your case.

Don't get hostile

If you're dealing with an insurance adjuster, chances are that you're anxious about getting your car fixed and getting on with your life with minimal disruption. Anger will not move your case forward. Even if the adjuster seems rude or uses less-than-friendly tactics, remain calm and professional.

Come prepared to negotiate

Insurance adjusters answer to shareholders who want to increase their own profits and keep settlements low. Don't take the adjuster's settlement offer as a personal insult. Instead, be prepared to decline an unfair offer and offer evidence for why a larger settlement is appropriate.

Remember that settlement agreements are binding

Once you verbally accept a settlement offer, it's too late to hire a lawyer to get more money. Make sure the settlement covers your full damages.

If you're handling your property damage claim without a lawyer, [visit this webpage](#) for information on each major insurance agency's commonly used tactics, which can range from software that devalues claims to switching adjusters mid-process.

Should I Handle An Injury Claim On My Own?

Many injury lawyers encourage their clients to handle a property damage claim on their own when liability is not truly disputed. The reality is that most clients can do this effectively and thus, it makes no sense to pay an attorney part of the property damage settlement to handle that claim. However, if liability is disputed or there is an injury claim, it is wise to consult with a lawyer before attempting to resolve it on your own. Even in a clear-cut liability claim, there is no guidebook for what your injuries are worth. Getting fair compensation from an adjuster is a matter of documenting, proving and arguing your case. Sometimes, you have to take it to a jury.



Hiring An Attorney

Seek Out Expertise

There are many different types of attorneys. But not all attorneys handle personal injury claims from car accidents. In fact, there are several personal injury attorneys who specialize in only certain personal injuries. Do your research. Read their website and ask yourself, is this an attorney who handles cases like mine on a regular basis? Simmons and Fletcher, P.C., have been representing injury victims from auto accidents since 1979. Get our experience on your side!

Understand the Fee Arrangement

When choosing an attorney for your auto accident case, expertise is paramount. But beyond demonstrated experience in representing car crash victims, an attorney's fee structure is another key area to consider. Some questions you should ask are:

- Will you have to pay anything up front for the consultation or the case expenses?
- Are the fees calculated per hour win-or-lose or are they contingency fees?

Like Simmons and Fletcher, P.C., many reputable car accident attorneys offer a free consultation and work on a contingency basis. This means that the attorney will work on your case without charging anything unless a settlement or judgment is obtained. If there is no recovery, the attorney does not get paid nor does he get his expenses reimbursed. Beware that not all attorneys offer this, so it is important to ask.

What type of contingency fee should you expect? A typical rate is 33.33% if the case settles before a lawsuit being filed, 40% if it settles or a judgment is reached after a lawsuit is filed, and 45% if recovery is made after an appeal. That is above expense reimbursement. Before hiring a lawyer, make sure you fully understand the contingency arrangement. It is also wise to ask the question: "What happens if the policy limits are less than my damages?" Different attorneys may answer that differently.

Handling your property damage claim in an undisputed liability case is one thing, but trying to handle a bodily injury claim on your own is risky. Simmons and Fletcher, P.C., has spent the last four decades representing Texas car accident victims. Our attorneys understand the complexities of these cases and the strain they cause for victims and their families. If you have been injured in an automobile accident, we're here to listen and provide the sound legal counsel your case deserves.



Take The Next Step

Simmons and Fletcher, P.C.
9821 Katy Fwy #925
Houston, TX 77024
Principal offices located in Houston, TX.
www.simmonsandfletcher.com



Call us at
(713) 955-5920

to schedule your free consultation.