

Things to Know About Property Damage

If you are involved in an auto or other motor vehicle accident, you likely suffered some form of property damage. Our law firm does not handle property-damage-only cases. Most attorneys do not.

As such, we created this guide called the “**Top 13 Things to Know About Property Damage**” to help you handle your property damage case.

1

What type of property damage can you recover for?

The most common claim is for the damage to your vehicle. Each type of accident (car, bicycle, motorcycle) is different and raises a different type of property damage issue. There’s not enough room to address every issue that might arise. Other than to generically state you can recover for the damage to your vehicle.

In addition, you can recover for most other forms of property that were damaged as well including: damage to personal items like your iPhone, your GPS, a pair of sunglasses and more. The caveat – you will have to demonstrate the property was damaged in the accident.

2

Common property damage issues

How do you prove your property damage? In a word, documentation. Take photographs of all the property damage as soon as possible. If you are seeking reimbursement for a phone, a pair of riding pants or a leather jacket, find your receipts for the items or provide your insurance adjuster links to the items on Amazon.com so that you can establish the value of your damaged property.

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How many estimates do you have to obtain?

In Illinois, there is no specific law regarding how many estimates you have to obtain. It may benefit you to obtain more than one, however. Insurance companies often require more than one and it is not worth fighting them about it. You may not have to get any estimate at all as the auto insurance company may send an appraiser out to inspect your vehicle.

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Can I choose where I get my vehicle fixed?

In short, yes you can. However, it may be a good idea to work with the insurance company to get your vehicle fixed with one of their approved shops. The reason being is that the insurance company will come up with an estimated value of your vehicle. If you take your vehicle to a different shop, the insurance company might refuse to pay more than their own appraiser's estimate. That could lead to a dispute which may have to be settled in arbitration or court.

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I Do Not Want My Car to be Totaled

If your vehicle is a total loss, there is very little you can do about it. There are only two situations in Illinois where you can keep your vehicle if it is a total loss:

- Your vehicle is 9 years old or older
- Your vehicle only suffered hail damage but is otherwise operable

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Can I Drive a Car That Has Been Declared a Total Loss?

If your vehicle is over 9 years old and declared a total loss, you can keep it. However, you cannot drive it. It is now a 'salvage vehicle' or 'junk.' And it has to be registered with the State of Illinois with a junk title.

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Rental Car

You are entitled to a rental car for a certain period of time. I've had insurance companies come down on all sides of this issue. Some give you a car of comparable quality to the car you were driving. Others pay for a compact. There are also limitations on the amount of time you can be in a rental car. If the insurance adjuster is pressuring you on this, ask them to prove to you that there are limits and/or restrictions on rental car compensation in their insured's auto policy.

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Loss of Use

You may also be able to recover for the loss of use of your vehicle. In short, if you have a motorcycle and you can't ride it for 30 days because of the damage to the vehicle, you can try to seek compensation for that. Insurance companies will frequently pay you the amount it would have cost for you to rent a car during that time period.^a

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Diminished Value

I've had clients who were hit shortly after they purchased their cars. There is no Illinois law that dictates that an insurance company has to pay you for the diminished value of your vehicle. However, it's worth the effort to try and recover for diminished value. You do so through, once again, documentation. You need an expert to document that the value of the car as it sits after being repaired is less than a comparable car that has not been in an accident.

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Why Won't a Lawyer Take A Property Damage Case?

Accident lawyers are compensated by recovering for an injured person's medical bills, pain and suffering, lost wages, loss of enjoyment etc. They normally do not take money from clients' property damage settlements. As a result, if a case only involves property damage, there's not a lot an accident lawyer can do for you.

If you are involved in a property-damage-only accident, you may have to file in small claims court on your own and/or settle your dispute with the insurance company. That is what small claims court is really set up for – individuals filing suit on their own behalf.

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Should I use my own insurance to pay for my property damage?

I always recommend my clients use their own insurance company to pay for their property damage if they have collision coverage. Yes, you will have to front your deductible. But you will probably get it back (depending on a few factors). This is the quickest way for you to get your car back quickly and set you on the course to returning to your pre-accident status.

Your auto insurance company will then "subrogate" or go after the other insurance company on your behalf, to recover for the costs to your vehicle.

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Will My Insurance Rates Go Up?

Your insurance rates should not increase just because you used your own insurance to pay for property damage, unless you were at fault for the accident.

However, this is not an absolute rule. There is nothing in any policy that says that an insurance company cannot raise your rates if you are involved in an accident, even if you were not at fault.

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What if you are Partially at Fault for the Accident?

In Illinois, an accident victim can still recover for their damages even if they are partially at fault for the accident. The concept is called comparative negligence. Often an insurance company will try and place a small percentage of fault on you for the accident even if it is not warranted. You are not obligated to accept this if you do not want to. However, be aware that if you do accept partial fault, that your recovery for your property damage will be reduced by your percentage of fault.

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