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Front Cover

Goldfinger Guide to **Fair Compensation**



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TOP 9 Things to do
at the accident scene if you're not out of commission on account of injury



1. Call 911. Report the car accident to the police, ambulance, fire department, or all three depending on the severity of the accident.
2. Exchange insurance information with the other driver. If the other driver didn't have insurance, get their contact information and driver's license number/plate number.
3. Gather the names and contact information of all witnesses to the car accident.
4. Co-operate with the police in their investigation.
5. If ambulance assistance is offered to you at the accident scene, take it!
6. If the police don't attend at the accident scene, attend at your local collision reporting centre.
7. Take photos of the damage to the vehicles, your injuries and the accident scene. Use the camera in your phone if necessary.
8. If the ambulance doesn't take you to the hospital because they don't deem you to be injured enough, then seek medical attention immediately. Go to your local emergency department and wait. Go see your family doctor. Go to a walk-in clinic.
9. Finally, report the car accident to your car insurance company.



The days following the car accident

The initial days following the car accident can be very difficult for the accident victim, friends, and family, particularly if the injured party has been kept in the hospital due to the traumatic nature of their injuries.
If your loved one has been kept overnight or for days at the hospital because their injuries are so bad, then rest them as much as possible. It's important to be by their side for support, and to look after them if the nurses don't on the ball.

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Call a personal injury lawyer right away

If the injuries are serious, it's no time to mess around or delay. More on that in the next section.
Sometimes pain from car accidents doesn't surface until 24-48 hours after the accident took place. Sometimes people leave an accident scene without getting any medical attention because they're in shock, they're scared, or they're embarrassed to move because of pain or stiffness from the car accident.If you or your loved one didn't get medical attention in within the first 24 hours following the car accident, *then it's important to get medical attention right away is the following 24 hours.*

Why? A judge, jury or insurance company will have a difficult time accepting your argument that you deserve compensation for your injuries if you didn't bother getting any medical attention after your car accident. How bad could your pain have been if you didn't even bother seeing a doctor? Don't look for any sympathy from the judge, jury or insurance company in this situation.

If you want to claim compensation for your injuries, accident victims need to document their pain. The way we do this in Ontario is by showing the doctors' records to the Court and to the insurance company. If you fail to see your doctor, then there will be no records to paper your pain trail. This is not good. Your pain may be genuine, but proof is not there to either. Still, it's beneficial to your personal injury case to document your pain through doctor's visits as soon as possible following your accident.

It should be noted that Courts and Insurance Companies will draw a negative inference if you didn't see your doctor after your accident. That is, if you were really injured, you'd see your doctor, then you must have been healthy. After all, injured people, or people in pain go to see a doctor for their injuries to get better. Healthy people don't need to see a doctor because they're not injured. So, Ontario Courts and Insurers will make the connection that you must have been healthy because you didn't see your doctor after the accident.

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Message from Brian Goldfinger



Brian Goldfinger
Founder & Directing Lawyer
Goldfinger Personal Injury Law

Thank you for picking up *The Goldfinger Guide to Fair Compensation!* If you're reading this, either you, a family member, or a loved one has been involved in a car accident.
Life right after a car accident can be scary. It can be intimidating. It can seem like an improbable road to recovery. But there is light at the end of the tunnel.
Doctors, nurses, rehabilitation professionals, physiotherapists, speech language pathologists, paralegals, tow truck drivers, insurance adjusters and my fellow lawyers have been asking me for years to put this guide together to provide a concise resource for easy to understand advice on what to do after a car accident.
The Goldfinger Guide® is intended to do exactly that. We know how daunting life can be after a serious car accident. You probably have about a thousand and one questions such as:

- *Do I have a case?*
- *How do I get my case started?*
- *How will I pay my bills after my car accident if I can't work?*
- *What bills or services will the insurance company pay for, and what won't they pay for?*
- *What happens if the other driver didn't have insurance at the time of the car accident?*
- *Do I have to speak with the insurance company after they call me?*

We hope to answer these, and many other questions in *The Goldfinger Guide*. But, we are conscious that the world of personal injury law is complex and ever changing. We can't possibly hope to answer all of your questions in *The Goldfinger Guide*. So, if after reading *The Goldfinger Guide* you still have questions about your car accident, you can always contact one of our personal injury lawyers. We're here to help you as best we can.
But I must warn you. Simply picking up *The Goldfinger Guide* does not constitute a lawyer-client relationship. The Goldfinger Guide is in no way a substitute for the representation from a personal injury lawyer. A lawyer-client relationship only exists with me if you formally retain my law firm, Goldfinger Personal Injury Law, to handle your case.
Please see the legal disclaimer is out of the way, I can get started to better helping you navigate your way through a personal injury claim.
We hope this is your starting point on your road to recovery.

Yours Truly,

Brian Goldfinger
Brian R. Goldfinger B.A., JD, Dog



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CRASH BOOM BANG: THE CAR ACCIDENT:

On a fresh, crisp, Sunday morning, you and your spouse decide to take a pleasant drive through the country side. The sun is shining. The roads are clear and the driving is pleasant.
You drive along long country roads. The windows are open allowing fresh air into the car. There isn't another vehicle in sight.
You're driving the speed limit along the road, when all of the sudden, and without warning, a GMC Pick Up Truck drives out of hidden intersection and it bones your car. The impact is severe and pushes your car off the paved roadway. Your car topples over, out of control and ends up in a ditch. The air bags deploy. Smoke is everywhere.
You and your spouse pass out. ...*What happens next? What do you do?*



What to do at the car accident scene?

At the accident scene, people are always focused on whose fault the accident was. After impact, you often are drivers leaving out of their cars in fit of rage, finger pointing to cast blame.
This is the WORST thing you can do at the accident scene. It's unproductive and will have zero impact whatsoever on the outcome of a personal injury case.
At the most serious accident scenes when a party is critically injured you will see that the police will block off the road, interview the witnesses and leave the injured drivers/parties to the paramedics. Police know that the details of the accident will take care of themselves. Police have forensic technology to re-create the accident scene after the fact to determine exactly how the accident happened, and who was at fault.
Secondly, your injuries could be exacerbated at the accident scene. If the either driver ran a red light, ran a stop sign, or was driving drunk, this will be blatantly obvious to the authorities and to witnesses. Focus on getting medical treatment for your injuries. Focus on getting to the hospital to get checked out. Focus on the health and wellness of your friends and family members.

The most important thing following a car accident is to ensure that everyone's safety and health is intact.

Call 911 right away.



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RING RING: KNOCK KNOCK:
Here comes the Insurance Company

If you've reported the car accident to your insurance company, chances are that a person from the insurance company will try to get in touch with you. Even if you haven't reported the car accident, there's a good chance that a person from an insurance company will want to interview you about the car accident.These people from the car insurance company are called insurance adjusters. Insurance adjusters' job is to collect as much data and information as possible about the car accident so the insurance company can understand what your case is all about so they can budget your case. This budget is called a "reserve". If your case is not "reserved" properly by the insurance company, it may prevent some barriers towards getting fair compensation in a timely manner down the road.

Some insurance adjusters are very aggressive and will do everything in their power to meet with you as soon as possible. They will call you relentlessly until you pick up the phone and answer their questions. They will insist on getting a statement from you. They will come unannounced to your hospital room or to your home to get a statement from you or your family members. They will record you during the statement and by the timeliness in which these statements are gathered, (*and it wouldn't surprise me if some were*).

This is probably the first time you've had **s**#!**t** with a car accident. You don't know how the process works. In contrast, the adjuster from the insurance company does this for a living, and has probably been handling car accident claims for years and years. Who do you think knows more about how the process works, how the law works, and what tricks the insurance company has in their arsenal to get you to say something damaging to your case?
Insurance adjusters have their company's best interest in mind, not yours. Despite what they may tell you, their role is not to represent you or look out for your rights. They are employees working for, or indirectly working for the insurance company.
Insurance company adjusters are very talented. They know that you attract more bees with honey than with vinegar. So, if an insurance adjuster is being really nice to you and your family, there's probably a good reason for it. And there's probably some information they really want to dig out from you to ensure that the exposure and liability of their employer is limited. They will do everything in their power to get you to say something damaging to your case, no matter the nature of the accident or injury, so beware and don't speak with these people without an experienced lawyer.

Let's set the record straight: *You're under no obligation to speak with, communicate with, or meet with any insurance adjuster until you have a personal injury lawyer.* We recommend that nobody communicate with the insurance adjuster at all, and to leave all communications between you and the insurance company to your lawyer. Goldfinger Personal Injury Law has seen countless cases disadvantage accident victims and their families communicating too early with adjusters without the assistance of a personal injury lawyer.

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TOP 5 MISTAKES ACCIDENT VICTIMS AND THEIR FAMILIES MAKE FOLLOWING A CAR ACCIDENT

1. They fail to get medical attention in a timely manner
2. They speak with the insurance adjuster without first retaining a personal injury lawyer
3. They fill out and sign a bunch of forms without the guidance of a personal injury lawyer
4. They fail to report the car accident to their insurance company
5. They fail to report the car accident to police

IT'S RAINING PAPERWORK



Right after your car accident, an insurance company will send you a bunch of complicated forms to complete. When we say that the forms are complicated, we mean it. The Province of Ontario mandates that they change once every 4 years because government debates on ways to simplify them (although they never have!).
These forms together are called an Accident Benefit Package. The Accident Benefit Package must be completed and submitted to the car insurance company within 30 days from the date of the car accident. So don't drag on getting these forms completed with the assistance of a personal injury lawyer, and then personal injury lawyer.
Of note, not all the forms can be completed on your own. Some of the forms need to be completed by your treating doctor following the accident. Some of the forms need to be completed by an Occupational Therapist. Some of the forms need to be completed by your employer. Speak with your lawyer before completing the forms so you know what to do.

TIP: Do NOT complete the forms on your own. Get a personal injury lawyer to help you.

The Accident Benefits Package will include the following forms:

OCF-1: Application for Accident Benefits
OCF-2: Employer's Confirmation Form
OCF-3: Disability Certificate
OCF-4: Death and Funeral Benefits Application
OCF-5: Permission to Disclose Health Information
OCF-6: Treatment Plan Form
OCF-18: Election of Income Replacement, Non-Earner or Caregiver Benefit
OCF-19: Application for Determination of Catastrophic Impairment
OCF-21: Auto Insurance Standard Invoice



Copies of these forms have deliberately been omitted from the Goldfinger Guide because these forms are constantly changing. Submitting an out of date form may nullify your accident benefit claim and your entitlement to compensation, so make sure that you're completing the right forms. If you're looking for the most up to date forms, the right forms to be sidling out website at **www.goldfingerlaw.com**, or by visiting the Financial Services Commission or Ontario's website at **www.fsco.gov.on.ca** and by search-ing for "OCF FORMS"

WHAT ARE **ACCIDENT BENEFITS** AND WHY DO I HAVE TO FILL OUT ALL OF THESE **FORMS?**



Ontario has a "**No-fault**" system of auto insurance. Nobody other than a personal injury lawyer understands what this means, or how this works. Here's an explanation of "**No-fault**" insurance in Ontario in a nutshell:
Regardless of whose fault the accident is, you're entitled to a variety of "**accident benefits**" arising from the car accident. These "accident benefits" will be paid for by your own insurance company, regardless of fault for the accident. These "accident benefits" are not damages for pain and suffering. They are completely different. More on damages for pain and suffering later in the Goldfinger Guide.
If you were hit while as a pedestrian or cyclist and there was no car insurance in the household, then the other driver's car insurance will be responsible for paying the "**accident benefits**". If the other driver didn't have insurance, or if you were hit by a driver who was uninsured by any car insurance either, then the "**accident benefits**" will be paid for by the Ontario government through the Motor Vehicle Accident Claims Fund. There is a large complicated hierarchy on whose responsibility it is to pay for "**accident benefits**". This has been the subject of many disputes between insurers (not accident victims so you don't have to worry). In legal terms, these disputes are called 'priority disputes' and they happen all the time because insurance companies would rather not pay out benefits if they don't have to.

What is a catastrophic accident?

Some accidents, by their very nature are serious and result in injuries so bad, they are defined at law as "catastrophic".
Courts and the insurance Companies do not focus much on how the accident happened, so long as it involved the use and operation of a motor vehicle. Courts and insurance companies are more concerned with how bad the injuries are. If injuries are bad, or not bad those injuries are on the end result injury from the accident is catastrophic in nature, then the injured party's accident benefits will increase dramatically.
Catastrophic injuries include traumatic brain injury, loss of limb, paraplegia, quadriplegia, spinal cord injury and other injuries which result in a 55% impairment pursuant to the AMA Guidelines. *Qualifying for catastrophic impairment is very difficult.* The vast majority of car accident cases in Ontario do NOT meet the definition of catastrophic. Insurance companies and accident victims can fight for years and years over whether or not the injuries meet the definition of catastrophic.
In order to qualify for catastrophic accident benefits, your injuries must meet one of the following criteria:

1. paraplegia or quadriplegia;
2. if the accident occurred on or after September 1, 2010, the amputation of an arm or leg or another impairment causing the total and permanent loss of use of an arm or a leg;
3. if the accident occurred between November 1, 1996 and August 31, 2010, amputation or other impairment causing the total and permanent loss of use of both arms or both legs, or one arm and one leg;
4. if the accident occurred between November 1, 1996 and September 30, 2003, amputation or other impairment causing the total and permanent loss of use of both arms or both legs, or one arm and a leg;
5. the total loss of vision in both eyes;
6. brain impairment that, in respect of an accident, results in
   (a) a score of 9 or less on the Glasgow Coma Scale according to a test administered within a reasonable period of time after the accident, or a score that is equivalent to that score, or
   (b) a score of 2 (vegetative) or 3 (severe disability) on the Glasgow Outcome Scale according to a test administered more than six months after the accident by a person trained for that purpose;
7. an impairment or combination of impairments that, in accordance with the American Medical Association's Guides to the Evaluation of Permanent Impairment, 4th edition, 1993, results in 55 per cent or more impairment of the whole person; or
8. an impairment that, in accordance with the American Medical Association's Guides to the Evaluation of Permanent Impairment, 4th edition, 1993, results in a class 4 impairment.

If your injuries are found to be catastrophic, your accident benefits will increase dramatically. You will also be entitled to a case manager to organize and arrange the services being provided to you. You will likely need the additional benefits for on-going care and treatment given the catastrophic nature of your injuries.

So what will accident benefits get me?

Don't confuse accident benefits with an award for pain and suffering. Accident benefits and damages for pain and suffering are two completely different things.Accident Benefits cover a limited amount of money and if the limited amount of money which is set out in the Statutory Accident Benefits Schedule ("SABS"). The amount of money that you can claim for accident benefits depends on when your car accident happened.In 1996, then your accident benefits and the quantum of those benefits would be different that the benefits available in the present. The reason these accidents benefits are constantly changing is because the government is looking for the perfect balance to meet the needs of insurers vs. the needs of car accident victims. The government has yet to achieve that balance.
Today's accident benefits cover:

- **Up to $50,000 in medical/rehabilitative benefits for non-catastrophic cases (including chiropractic, physiotherapy, massage therapy, chiropractic treatment and other services not covered by OHIP) for up to 2 years**
- **Up to $400/week for income replacement benefits**
- **Up to $1,500/month for attendant care benefits for non-catastrophic cases**
- **Up to $150/week in housekeeping and home maintenance benefits**
- **$250/week for non-earner benefits**
- **Up to $50,000 for death benefits for the victim's spouse**
- **Up to $6,000 for funeral benefits**
- **Up to $3,500 in medical/rehabilitative benefits if the insurer deems your injuries to fall to to the Minor Injury Guidelines (MIG)**



