

# IN Brief

WINTER/SPRING 2002

## AUTOMOBILE ACCIDENTS – BASIC QUESTIONS AND ANSWERS

By Kenneth J. Levine

Spring is finally here, and, although it was not snow-filled, it was another Winter loaded with automobile accidents.

Below are common questions I receive regarding automobile accidents. The answers are intended to give a general overview of automobile accident law and what I suggest you do in certain circumstances. Not all cases are as simple as the examples I discuss below, so, if you are involved in an accident and are not sure of what to do, contact our office to make certain your legal rights are not jeopardized.

### 1) What should I do immediately following the accident?

The first thing to do when you are involved in an automobile accident is **STOP!** Connecticut law requires that an individual never leave the scene of an accident, even a minor one, without first stopping to see whether there are damages or injuries.

If there are damages or injuries, Connecticut law requires that you protect the scene. Move people to safe locations, set up flares, etc. If you are injured or your vehicle is severely damaged, you should leave the vehicles alone, remain calm, and stay in a safe place until further assistance arrives.

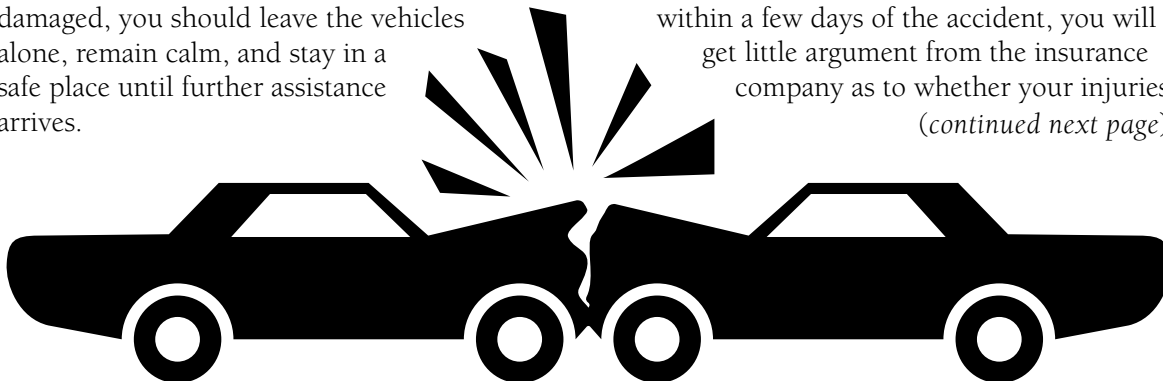
The rules about “protecting the scene” change if there are only minor damages to the vehicles and no severe injuries. In that situation, Connecticut law requires that you *must* move your vehicle from the travel lanes and out of the way of traffic. This applies to state roads and highways, not local roads, though I do believe it would be prudent to do this if you are involved in a minor accident on a local road.

Whether the accident is “minor” or “major,” contact the police as soon as practicable following the accident. Once the police and/or other emergency personnel arrive, cooperate with them to whatever extent possible, depending on your condition at the time. Be certain to tell them if you are aware of any witnesses or other important information. If you are injured, make sure they are aware of this so you can receive proper medical treatment and your injury can be noted in the police report.

Consult a physician as soon as possible. Very often there is a time lag between the collision and full awareness of the extent of the injuries sustained. If you contact a physician within a few days of the accident, you will get little argument from the insurance company as to whether your injuries

*(continued next page)*

**WHETHER THE ACCIDENT IS “MINOR” OR “MAJOR,” CONTACT THE POLICE AS SOON AS PRACTICABLE FOLLOWING THE ACCIDENT, AND COOPERATE WITH THEM TO WHATEVER EXTENT POSSIBLE.**



**Levy & Droney  
Speaker's  
Bureau**

If your organization would like an attorney to speak on a legal issue or topic, we would be pleased to offer the talents of an attorney of Levy & Droney. Topics are:

- Workplace Issues
- Family Issues
- Charitable Planning and Giving
- Estate Planning
- Automobile Liability
- Homeowner's Liability
- Condominium Issues
- First-Time Home Buyers

If interested, please contact Attorney Robert B. Levine at [rlevine@ldlaw.com](mailto:rlevine@ldlaw.com) or (860) 676-3259.

**(Automobile Accidents, cont'd)**

were a result of the accident. However, the longer you wait for medical treatment, the more difficult it will be to connect the injuries to the accident.

Once the dust clears, but within days of the accident, you should record all important information, all license numbers, year, make and color of all vehicles involved, and the details of the accident, including date, time, location, road conditions, traffic controls, and weather conditions. If possible, take photos of your vehicle, the scene, and any injuries you may have sustained. AAA advises its members to carry a small recyclable camera in the glove compartment to preserve the evidence of a collision on film. This is not a bad idea, but I suggest you wait for the appropriate moment to do this (i.e., don't jump out of your car and start taking photos immediately after the collision, as everybody at the scene would be suspicious of your ultimate motive).

**2) If I'm involved in an accident, do I have to report it to my insurance company, or can I handle it on my own?**

Most, if not all, insurance policies require you to report any and all motor vehicle accidents you are involved in, whether or not there are personal injuries or damage to the vehicle. Therefore, the short and simple answer to this question is that you *have a duty* to report any accident you are involved in to your insurance company. If you fail to do so and you later look to the insurance company for coverage, it may refuse to provide it, citing your failure to comply with the "notice" provisions of the policy as its basis for denying coverage.

Despite that caveat, many individuals call me for assistance with their claims and insist they not be reported to their own insurance company (usually because they are afraid of higher premiums). In the situation where the insured is willing to take the risk of non-compliance with his/her policy, here is my advice:

If there is only damage to your vehicle (i.e., *no injuries*), there is no issue as to fault, and you receive telephone or mail contact from the at-fault driver's insurance company within a few days following the accident confirming it is accepting responsibility, there is probably no

need to notify your insurance company. In that circumstance, the at-fault driver's insurance company will pay for the property damage to your vehicle and will provide you with a rental car until your car is fixed or you receive payment for the total loss.

If you have collision coverage on your policy (collision coverage provides coverage for damage to your automobile as a result of the accident, whether or not you were at fault) and there is an issue as to liability/fault (i.e., the other driver blames you, while you blame him/her), then you must notify your insurance company immediately. It will pay for the property damage (less your deductible) and will then subrogate (sue the insurance company for the other driver) if it agrees with you that the accident was not your fault. If your insurance company is successful in its subrogation claim, you will be reimbursed your deductible.

If fault is contested, you don't have collision coverage, and you are seeking payment only for property damage (again, *no injuries*), then there is no need to notify your insurance company, as there is no coverage it would be providing you. Your claim would simply be against the other driver's insurance company, and your only recourse is to institute a lawsuit against the at-fault driver or reach some type of settlement with his/her insurance company.

Of course, this assumes you are *not injured* in the accident! It gets a little more complicated if you are injured. When you purchase your

**IN** Brief is published by

**Levy & Droney, P.C.**  
Pond View Corporate Center  
74 Batterson Park Road  
Farmington, CT 06032  
(860) 676-3000 / Fax: (860) 676-3200

Articles in this newsletter are not intended as legal advice, which is dependent upon specific fact situations. Although we do not grant permission to republish these materials without prior consent, you may reproduce articles for personal educational purposes, provided that full credit is given to the authors and to Levy & Droney, P.C.

automobile insurance, you can elect a coverage called “medical payments coverage.” A number of years ago, this was referred to as “no-fault” coverage. No-fault coverage used to be mandatory, and it provided you with \$5,000 of coverage for your medical bills through your automobile insurance. The Legislature removed the requirement of mandatory no-fault coverage in 1993. Now, no-fault coverage is known as “medical payments coverage,” and you only have it if you pay for it.

Medical payments coverage provides you anywhere from \$1,000 to \$25,000 of medical coverage, depending on how much coverage you choose when you purchase your policy. If you purchase medical payments coverage, your automobile insurance will pay the first \$1,000 to \$25,000 of medical bills resulting from the accident, depending on your coverage. If you have such coverage and you are injured in the accident, you must notify your insurance company immediately following the accident so it can assign a claims person to handle the payment of your medical bills.

### **3) Should I elect medical payments coverage when I purchase my automobile insurance policy?**

If you have health insurance and are satisfied with the coverage provided and with the medical providers available under that policy (i.e., your primary care physician, etc.), then there is no need for medical payments coverage. However, if you are not covered by health insurance or you are not pleased with the health insurance coverage you have (i.e., you don't like the primary care physician or the requirements the policy has), then medical payments coverage is a good choice and worth the extra premium. Medical payments coverage is not an HMO or PPO and, therefore, gives you more flexibility with regard to choice of medical provider. Obviously, the insurance company still retains the right to question whether the treatment is related to the accident and/or whether it is excessive or unreasonable but, from my experience, in most instances it is much easier to get cooperation and approval of medical care and treatment under the medical payments provision of your automobile policy than under your health insurance.

### **4) If I'm in an accident, do I have speak to the other person's insurance company?**

The short and simple answer is “no.” However, if you are not injured, the issue involves only property damage, and there is absolutely no dispute as to fault, the only way you are going to get your property damage paid is if you speak with the other driver's insurance company.

I caution you against giving recorded statements concerning the accident and/or your injuries. If you or any passengers in your vehicle were injured in the accident, you believe the other driver's insurance company is claiming you are not covered or that you caused the accident, or if you have any concerns about the adequacy of your coverage (i.e., whether any person is covered under the particular insurance policy), you should contact an attorney before you give a recorded statement to the at-fault driver's insurance company.

### **5) What is uninsured and underinsured motorist coverage?**

Connecticut General Statutes §38a-334 et seq. mandates that insurance policies provide uninsured/underinsured motorist coverage protection for the innocent victims of “financially irresponsible” motorists.

**Uninsured** motorist coverage protects injured drivers in a situation where the at-fault driver had no insurance and leaves the scene of the accident and is never found.

**Underinsured** motorist coverage provides compensation for injured drivers when the at-fault driver does not have enough insurance coverage to compensate the injured party in full for his or her injuries.

Choosing the amount of uninsured/underinsured motorist coverage is one of the most important decisions you make when you purchase your automobile insurance. When deciding how much to have, think of it as the minimum amount of insurance you would want to cover yourself or any passengers in your vehicle for injuries sustained in an accident in your automobile.

For example, let's assume you have \$300,000 of uninsured/underinsured motorist coverage and that you or somebody in your vehicle is

*(continued next page)*

**CHOOSING THE AMOUNT OF UNINSURED/ UNDERINSURED MOTORIST COVERAGE IS ONE OF THE MOST IMPORTANT DECISIONS YOU MAKE WHEN YOU PURCHASE YOUR AUTOMOBILE INSURANCE.**

### (Automobile Accidents, cont'd)

badly injured in an automobile accident and the injuries are worth \$200,000. Let's also assume that the at-fault driver had \$100,000 of liability insurance coverage. In this case, you would receive \$100,000 from the at-fault party's insurance company and would then make an underinsured motorist claim for an additional \$200,000 of coverage (\$300,000 of UM coverage minus the \$100,000 received from the at-fault party). If the claim was worth \$200,000, you would collect the additional \$100,000 from your own insurance policy and thus be fully compensated for the injuries sustained in the accident.

Let's change this hypothetical to assume that you had \$200,000 worth of injuries but maintained only \$100,000 of uninsured motorist coverage. In that circumstance, the at-fault party would pay the policy limits of \$100,000, as the at-fault driver would not be underinsured, and you would have no additional protection. You both had \$100,000 of

coverage. Therefore, in that situation you could only collect \$100,000 in a claim where you had \$200,000 of injuries.

This example illustrates the importance of maintaining high uninsured/underinsured motorist coverage.

### 6) If I am sued, will my insurance company defend me in Court?

The answer is "yes." When you purchase automobile liability insurance, part of the insurance company's obligation is to provide a defense for you if you are sued. The insurance company will do this by hiring and paying for an attorney to represent you. Even though the insurance company selects the lawyer and must approve the payment of all legal fees and other expenses, the lawyer represents you.

If there are any issues regarding coverage, or there is any concern that there is not enough insurance available, you will be notified, and, at that point, you should consider getting your own attorney to protect your rights and personal assets. **L&D**

## FIRM HAPPENINGS

**ROBIN MESSIER PEARSON** co-presented a Lorman Education Services seminar on Connecticut Zoning and Land Use to owners, developers and land use professionals at the Hartford Hilton on September 14, 2001. She was also a panelist at the Connecticut Bar Association's Advanced Planning and Zoning Seminar on "HOT TOPICS" scheduled for March 1, 2002 in New Britain.

On Wednesday, January 16, 2002, **JOHN ROSE** led a discussion on "Why You Need A Lawyer" at the Apostolic Fellowship Church of Christ Jesus in Bloomfield. His presentation included topics such as acquiring and transferring real estate, why one needs a will or estate planning, what to do in case of an automobile accident and family divorce issues.

**LEVY & DRONEY** sponsored a seminar at the Hartford Marriott Hotel on "New Perspectives on the United States and Connecticut Economy." **DONALD J. KLEPPER-SMITH** was the speaker for the client briefing. If you would like to be included on our seminar invitation list, please email our firm Administrator, Risa Brownstein, at [rbrownst@ldlaw.com](mailto:rbrownst@ldlaw.com).

**JOEL MANDELL** was elected to a fifth term as a member of the Simsbury Board of Selectman and will continue to serve as Deputy First Selectman. Attorney Mandell has also been elected as an Emeritus Member of the Real Property Executive Committee of the Connecticut Bar Association.

**LISA ZACCARDELLI** presented a seminar on Sexual Harassment for the members of the Farmington Chamber of Commerce and also for Miss Porter's School. If you are interested in holding this seminar for your employees, please email our firm Administrator, Risa Brownstein, at [rbrownst@ldlaw.com](mailto:rbrownst@ldlaw.com).

**KENNETH LEVINE** has been named the Coordinating Editor of the Spring Issue of *Compensation Quarterly Magazine*, distributed by the Connecticut Bar Association, and has been selected to a second term on the Editorial Board.

**JOSEPH SAPPINGTON** has been selected as Co-Chair of the Hartford Bar Association's Environmental Law Committee. He is the Co-Chair of the Connecticut Rivers Boy Scout Council Eagle Patrol Committee.