PROTECT YOURSELF
8 QUESTIONS INSURANCE ADJUSTERS DON’T WANT YOU TO ASK

FISHER STARK

FISHER STARK, P.A.
172 D-2 Asheland Avenue
ASHEVILLE, NC 28801
828.505.4300
828.505.4302
www.fisherstark.com

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INTRODUCTION

This book is for people who have been injured in an automobile crash. If you or someone you love has been injured, please tell them about printing this book. Car wrecks occur as a result of someone’s bad driving choices. This book can help you protect your rights. You did not ask for this to happen to you, and now your busy life has grown even more complicated. Most folks do not allow time in their normal day to spend looking for a rental car, going to a doctor, dealing with auto repairs, finding a good repair shop, and dealing with the fog of pain medication; in addition to juggling the one thousand and one other things that constitute the typical day for most folks in America.

The debris from the collision may not be completely cleared off the road and now you have an insurance adjuster calling you. The adjuster says that they only want to ask a couple questions. However, you know that they work for the insurance company of the person that hit you. You know the insurance company has trained them, sent them to school and created tons of sneaky questions all in an effort to take advantage of you. If you are still shook up or on pain medication, you are at an even greater disadvantage. No one wants to be taken advantage of. All most folks want is to be treated fair and not cheated out of what they are rightfully entitled to.
You did not go to law school and now you are wishing that you had. Most non-lawyers get bulldozed by the insurance adjusters when they handle their own claim. You are hurt...you do not feel well...and on the phone is a trained insurance adjuster. You know that the adjuster's job is to make money for their employer. The only way they can do that is to pay you less than a fair amount for your claim or injuries.

The insurance adjuster may sound, at least in the beginning, real friendly. They usually begin by acting like your friend. Rest assured that this is a tactic. They are using protocols and scripts to maximize the profits for their employer. The monies they save on your claim when multiplied by the thousands of claims across the country result in substantial profits to the insurance company. Furthermore, the longer the insurance company delays paying you the more interest they are allowed to continue earning on that money.

This book is designed to help you level out the playing field. The book is no substitution for a law school education and the years of experience we, the attorneys at Fisher Stark Cash P.A., utilize to help our clients. However, if the information in this book helps you protect your rights even a little more, our efforts were worth it. Again, this book just touches the tip of the iceberg. There is a lot more information, knowledge and skill that is necessary to successfully handle an auto injury claim. We hope that you will call us for that additional help.
CHAPTER ONE
THE FUNDAMENTALS

Let's begin with some fundamentals.

Fundamental 1

THE INSURANCE ADJUSTER IS DOING HIS JOB!

The adjuster is not your friend. The adjuster is not going to put you on his Christmas card list, in his will or take care of you when the money you are paid runs out. He is a trained adversary employed by the insurance company to save them money. At the end of the day, it does not matter if he is your friend or if he acts like you are a greedy dredge of society (an often used tactic). Your claim is based on what a jury would do with your facts, the circumstances of the wreck and the nature and effect of your injuries. As experienced trial lawyers we have an experience based opinion on what a jury would do with your case. You can expect insurance adjusters to prey on your lack of knowledge and experience in undervaluing your claim.

Fundamental 2

BE POLITE.

Handle yourself with dignity and grace at all times. You do not need to yell, scream or lower yourself in response to their tactics. If you find yourself getting angry at what they are doing, how they are treating you, or the tone in their voice; simply conclude the call. Adjusters like most folks do not want to be yelled at and generally do not favor being yelled at. Yelling at the adjuster will not make your claim more valuable.
Fundamental 3

SET BOUNDARIES.

If the adjuster asks you something that you are not comfortable responding to, don’t respond. In fact, there is very little reason for you to talk to the adjuster (more on that later). Share with the adjuster only those things that you are comfortable divulging. The standard should be what you would want your grandchildren, your mother and a talkative neighbor to be told. Unless you would want all three of these people to have the information, don’t share it with the adjuster. If the adjuster calls at a bad time, tell them that, establish a time when they can either call you back or you will call them; then honor that agreement and call at that time.

Fundamental 4

GET BASIC INFORMATION.

The basic information you need for your claim is the name of their insured (the person who hit you), the owner of the car (if different), the date that the crash occurred and the insurance claim number. It is also helpful to get the name of the adjuster and his direct dial number. This basic information is sufficient to handle 99% of the communication issues that might arise.
Fundamental 5

MESSAGES.

If you leave a message tell them exactly why you are calling and what you want them to do. For instance, if you need a rental car, tell them in the message. Tell them the type of car you were driving (the rental should be the equivalent or better) and if there are any special needs you have associated with the vehicle such as a four door for children in carseats or any special need for any physical limitation you may have had before the crash or as a result of the impact. Leaving a complete message allows the adjuster to make arrangements to accommodate your request prior to calling you back. Then, if they do not get you on the phone they can leave you a message with the necessary information.
CHAPTER TWO
KNOW YOUR RIGHTS

In television crime dramas, you will often see a police officer telling the accused their rights. The adjuster will not advise you of your rights. Be advised, if you do not assert your rights, they will attempt to run all over you. Your basic rights in a car crash matter include:

1. **The right to NOT talk to the adjuster.** There is no obligation that you talk to the adjuster—EVER!

2. **Everything that you say that can be held against you, WILL be held against you later.**

3. **You have the right to an attorney.** The State will not provide you with an attorney so you will have to hire one. You are entitled to have an attorney at your side throughout the entire process.

4. **You have the right to personal dignity.** Do not let the adjuster, or anyone, talk down to you, or try to make you feel bad about yourself. Asking for full and fair compensation for your injuries does not make you greedy. Don’t let the adjuster get away with treating you like you are being greedy just because you do not accept their arbitrary and low-ball offer.
5. **You have the right to not be hurried.** The quicker you settle your case, the less likely your rights will be fully protected. The sooner the insurance company has you sign the release the less they have to worry about your future medical expenses and needs. It often takes several days or weeks for soft tissue injuries to fully manifest themselves. Most folks are optimistic and want their soft tissue injuries to go away. There is a tendency to minimize the need for future medical care. Rest assured, as soon as you sign that release, the insurance company will not voluntarily help you with any future expenses regardless of how extensive, permanent or debilitating.
CHAPTER THREE
QUESTIONS THE INSURANCE ADJUSTER DOES NOT WANT YOU TO ASK

The questions below will help you protect your rights. Do not be surprised after you ask these questions that you notice the insurance company’s adjuster getting uncomfortable or acting nervous. Why do insurance adjusters hate you to have this information? They do not like these questions because frankly, the honest answer to the question does not help them take advantage of you. When you have this information, it limits their ability to treat you unfairly and decreases the likelihood that they will take advantage of you during the resolution of your personal injuries. By asking these questions, the insurance adjuster may realize that you know how to protect your rights and that may assist in getting full and fair compensation for your injuries.

QUESTION 1

Why do you need a recorded statement from me? Can’t you get all the information you need from the police report?

Insurance adjusters hate this question because they really do not need to get a recorded statement from you about your accident. The insurance company is hoping that you will say something that they can use against you to pay you less on your claim.

The insurance adjuster wants to ask you a series of well scripted questions that the insurance company has developed over time. The questions they ask are designed to help the insurance company deny your claim or to provide information they can use to pay you less than
the fair value of your claim. There is no need for you to give a recorded statement. None. Everything the insurance adjuster needs to evaluate your claim is in the police report.

Let’s look at a few of the carefully scripted “NO WIN” QUESTIONS ADJUSTERS LIKE TO ASK WHEN YOU GIVE A RECORDED STATEMENT:

- *Can you tell me how slow the other driver was going when you first felt contact?*

  Note, that it is not even a crash or, a wreck but “contact”. There are many purposes to this question. First, if they get you to admit that you did not see the other vehicle you will need to pay an expensive accident reconstructionist expert simply to get the speed of the vehicle when it hit you introduced into evidence should you be forced to file a lawsuit. The insurance adjuster knows that the more they can increase the cost to you of asserting your rights, the less likely you will be to make them pay you full and fair value.

- *How could you have avoided the crash?*

  Here the adjuster wants you to admit that you could have done something to avoid the crash. You can bet your salt that you will see your response to this question again at trial or your deposition if it helps the insurance company in the least. More on contributory negligence later.
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• *How much do you think that you’re responsible?*

In North Carolina, if you give any number other than zero, you will see your answer again... and again, as part of the defense motion for summary judgment. North Carolina is one of the last insurance sanctuaries in the nation. Every year, millions of dollars flow out of the State of North Carolina because of the Doctrine of Contributory Negligence. In North Carolina the Doctrine of Contributory Negligence holds that if your negligence contributes to your injuries even by as little as 1%, you recover NOTHING!

• *Do you think that driving conditions/weather/time of day affected what happened?*

This line of questioning highlights other defenses the adjuster will use to deny your claim such as an Act of God, intervening circumstances, or your failing to keep a proper lookout.

• *Did you have any previous injuries like neck pain or back pain before the wreck?*

This gives the insurance company ammunition to claim that your injuries were not caused by the crash regardless of how healthy, or symptom-free, you were before the crash. A common insurance company tactic is to admit fault but claim that you are overreaching because they did not cause ALL of your damages. The adjuster will pull out the greedy card and play it against you saying that you are trying to stick them for injuries from a prior injury or wreck, collision or life event. Insurance companies are
required to compensate you for any new injury or aggravation of ALL pre-existing injuries. Few folks are perfect and have never been injured or hurt in their lives. Insurance companies use this tactic to take advantage of unrepresented citizens.

- *Have you ever been involved in any other wrecks or collisions?*

Again, this is part of the insurance company’s “It's not my fault” campaign. Insurance companies are notorious to blame anyone and everyone for injuries rather than accept responsibility for the injury their driver caused. While a common tactic, it is a hard one for most folks to understand because the insurance company sure accepted the premium payments to provide the coverage, and pay for those injuries.

As a general rule, the insurance adjuster will need a statement from you concerning the events of the wreck. There is no reason that this needs to be recorded. You can certainly make one in writing. But before you do, you must be prepared. No one is going to encourage you to tell anything but the absolute truth. However, if you leave something out or say something inadvertently, it will come back to haunt you. Correcting a mistake in one statement with another statement only gives the insurance company an inconsistency which they will use to exploit you. Insurance companies love inconsistencies. I encourage you that a recorded statement should be handled no differently than testimony at trial. Understand the process and be prepared before you give any statement to an insurance adjuster—even an adjuster from your own insurance company.
QUESTION 2

If I give you a recorded statement, when can I then get a recorded statement from your insured (the person who was driving the vehicle that hit me)?

If you get the insurance adjuster to agree to this, you will be the first person in recorded history to obtain such a concession before suit is filed. This will not happen. Why? Because this would be the fair thing to do. If you have to give a statement about the wreck then you would think that you would be entitled to have the driver who caused the crash give a recorded statement to you. The insurance adjuster will cite company policy, say that the driver is not making the claim and that you are, or use a number of excuses to deny your request. In fact, you will not get a recorded statement from the driver who caused the crash until you file a lawsuit.

QUESTION 3

Why do I have to give you an unrestricted medical release before I can settle the claim?

Every insurance adjuster wants to go through your medical records. They have at least two purposes to want such broad access. First, they want to know what the records say concerning your treatment and the costs for the treatment you received that were caused by the crash. If that’s all they wanted the records for, then a release which is limited solely to treatment which you have received after the crash is fair and appropriate. If the adjuster wants more records than that you might try asking them for the specific records they feel like they are missing and go and obtain them yourself. If you do not have an attorney, typically the insurance adjuster won’t accept the records that you provide for them. The other thing you can do is to contact an attorney. We routinely limit the medical authorizations for our clients. Insurance companies are not entitled to go on a fishing expedition and seek your medical records for things that happened 30 years ago.
The second reason the adjuster wants to go through your medical records is to use the records against you. Adjusters review medical records for pre-existing injuries, or other items in order to deny fair compensation. Few people have never had an injury or surgery. Often adjusters will try to say that the injury you experienced in the crash was pre-existing (and therefore not their fault). The adjuster will not tell you that legally they are responsible for any increase to an injury – no matter how long the condition has existed. As experienced injury attorneys we do not let the adjusters get away with these tricks. We will ask you about your last flare-up or your treatment history. If you are experiencing pain or limitations to the activities of daily living after the crash, the law says you are to be fairly compensated. A limitation on the medical records you give to the adjuster can help you avoid this trap.

**QUESTION 4**

**Shouldn’t I wait to settle my claim until the doctors fully release me so that I am sure that I have made a full and complete recovery?**

You would be surprised by the number of people that settle their claim early under the naïve and optimistic hope that they will completely get better, only to regret that early resolution later. Until the doctor has said that you have reached maximum medical improvement from the injuries you sustained in the wreck, you should not settle your claim. Until you are sure that you have made a complete recovery you do not know what additional medical expenses, lost time from work, pain or other harm you might experience which would follow from your injuries. Once you have settled the case, you cannot re-open the matter if your condition gets worse or additional injuries are disclosed. Insurance companies know that a quick settlement means they pay less money.
QUESTION 5

Can you please tell me the policy limits of your insured driver?

If the value of your claim exceeds the policy limits for the driver that hit you there may be other sources of recovery for you. Often, uninsured or underinsured motorist insurance coverage applies to provide you with the resources necessary to fully compensate you for your injuries. The adjuster you are dealing with may only know his insurance policy limits and not yours. It is important that you have all necessary information prior to settling your claim. We devote time in every file to explore the resources and avenues of available insurance. If you are not sure if you have fully exhausted all the coverage, you should be careful about signing any settlement documents. Once settlement documents are signed, the language in them often precludes uninsured or underinsured motorist claims.

If in response to your question, the adjuster says; “I evaluate your claim based on its merits and not on the value of the insurance,” you can tell the adjuster that you evaluate his offer in light of the relative insurance coverage that is available. In order for you to fairly evaluate his offer, you need to fully understand all applicable insurance coverage limits and all applicable insurance policies available to you.

QUESTION 6

If the adjuster says that your medical treatment was unnecessary or cost too much, ask them if they will pay your doctor to write a detailed report explaining why your treatment has been appropriate and why it was related to the accident?

Do not hold your breath waiting on the adjuster to pay for this or accept your offer. The insurance adjuster does not have a medical degree but that does not prevent them from
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questioning everything your doctor does or that the medical treatment team did for you to help restore you to your pre-injury condition. Claiming that your medical treatment was unnecessary or that the bills were excessive is just one of the many ways that insurance adjusters try to lower the value of your claim. By trying to pit you against your doctors, the insurance adjuster hopes that his company will profit.

QUESTION 7

How can you and your insurance company assure me that the amount that you are offering me is a fair and reasonable settlement?

The adjuster may tell you that the amount that you are receiving is reasonable or in his opinion it fair. Ask him if other people with similar injuries have received more money in settlement. Chances are good that others have received more, especially if they had an attorney. A recent study indicates that people represented by an attorney received over two times more in compensation and had less stress throughout the entire process\(^1\). The truth is, there is no golden rule of thumb you can use to assist you in evaluating your injury. The monetary amount to compensate you for the injuries which you sustained in a crash include such factors as the nature and type of injury, the extent of aggravation to pre-existing injuries, the intensity of the injury, the injuries effect on your job or employment prospects, its effect on your activities of daily living, and the duration of the injuries including any permanency of the injuries. These are only some of the many factors that are involved in evaluating the reasonableness and the fairness of an offer from the adjuster in a personal injury matter. When you ask the adjuster this question, be prepared for some pushback and you should question everything that you hear.

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QUESTION 8

If I hire a lawyer won’t I receive more in compensation for my injuries?

A less than candid adjuster will tell you “NO.” They will say something like the value of your claim is based on the nature of your injuries and not who is representing you. Our experience and the industry statistics show that this is completely false. Insurance companies generally pay a great deal more when an attorney is involved. The two main reasons for that is that a courtroom attorney knows how to present your injuries and an attorney can take them to Court if the offer is less than what a jury verdict would be for the harm caused.

We have seen other attorneys handle claims and settle them for much less than we think is fair. We are a firm of courtroom attorneys. The value of your claim is based upon what a jury would do, not what some adjuster thinks is the minimum amount he can get by paying.
CHAPTER FOUR
FURTHER THOUGHTS

1. Remember insurance companies are businesses.

2. You do not have to take your car to be repaired where the insurance company wants you to. You are free to take your car to any place you want and have it repaired in a way that you can make sure the repair is proper.

3. Insist that the adjuster provide you with a letter identifying himself and company. Require that the letter indicate the policy and claim numbers as well as limits of coverage for the driver that hit you on the day of the accident.

4. Ask the adjuster to confirm every offer to you in writing.

5. Document everything. Keep notes of the date, time, duration of any call, what was discussed and who was involved in the conversation. Keep your notes. Take photographs, safely store the pictures and preserve the evidence.

6. Get the names and contact information for any witnesses.

7. Do not let the insurance company's doctor examine you without first talking to a lawyer. There are significant legal traps that you should avoid. Remember: The insurance company is not sending you to a neutral doctor.

8. Ask the adjuster to put his reasons for any offer in writing to you.
9. Recognize delay as a sign of bad faith. If the insurance adjuster is always seeking more medical records or additional tax records or other documents, they are stalling.

10. Do not let the adjuster make you feel guilty. A common tactic for insurance adjusters is to make you feel sorry for the wrongdoer or treat you as if you were being greedy for seeking fair compensation. Do not let them get away with this. Never feel guilty about requiring that you be fully compensated for all the injuries, lost wages, medical treatments and pain and suffering which you experienced as a result of a collision.
CHAPTER 5
CONCLUSION

Being in a car crash can be a life changing experience. You must do all you can to protect yourself from the insurance companies’ tactics to try and short-change your right to fair compensation and full recovery. This book will hopefully assist you in this endeavor.

We encourage everyone injured in a wreck to speak with an attorney, and the earlier in the process this is done the better. Insurance companies don’t make money paying claims, and they are not on your side. Should you find yourself needing assistance after a crash, please call us for a free consultation. We fight to protect people from insurance companies and hold those responsible accountable for the harms they caused.