

## PROPERTY AND PERSONAL INJURY FAQs

1. Will I have to reimburse third parties who paid my medical bills after a car accident if I receive funds in a settlement or I win in my case against the driver of the other car?

*Most insurance policies state that benefits paid on your behalf must be reimbursed when funds are collected from the at-fault driver. This does not mean, however, that your carrier is entitled to any portion of damages related to pain and suffering. The right to reimbursement is subject to limitations and if your carrier does not act in accordance with current law, they may not be entitled to any recovery. Oftentimes, the amount of money that must be paid back is negotiated down by your attorney which may result in additional money being paid to you. If the at-fault driver does not have sufficient insurance to fully compensate you and your carrier, your interests come first, and as a result you may be entitled to retain the entire amount collected.*

2. If I have a pre-existing health condition and the accident makes it worse, can I still receive compensation?

*The answer is yes. Not all people are the same. For example, it is likely that a ninety year old person with osteoporosis is going to be more severely injured than a healthy seventeen year old if they are in the same accident. There is a doctrine known as "eggshell skull" rule which allows for recovery to any party who is injured, regardless of pre-existing conditions. The classic example is a hemophiliac who is scratched and bleeds to death. The tortfeasor would still be responsible for the hemophiliac's death. You are entitled to compensation for damages that you incurred as a result of the accident as they relate to the aggravation or worsening of pre-existing injuries.*

3. If I have medical bills of \$5,000.00, how much can I expect to collect for my pain and suffering?

*The value of a claim is not simply some multiple of the amount of medical bills you incurred as a result of an injury. Some injuries are significant but do not require significant medical treatment. It is more important that the claim is thoroughly documented and presented to the insurance company in an organized and persuasive manner, than simply using an arbitrary factor with which to multiply your bills.*

4. I was recently injured and I had to pay for medical prescriptions, build a ramp for my walker and hire someone clean to my house once a week because I could not. Is this compensable?

*These items are compensable if your expenses are attributable to the negligence of someone else. These are called “out-of-pocket” expenses. If they are reasonable and necessary, and if you prevail on your claim, you are entitled to recover amounts actually paid. Prepare a spreadsheet that lists the item, date that you paid the amount, why the item was needed and the total cost (including tax) so that you have an ongoing record of expenses at the time you submit your claim. Make sure to keep your receipts.*

5. If I have been injured on a construction site, can I sue my employer?

*In most situations you cannot sue your employer. However, you are not prevented from bringing a claim against someone who is not your employer if it was their negligence (even in part) that caused your injury. The reason you cannot sue your own employer is that all employers pay into a fund that goes to pay for jobsite injuries. The State of Washington, through the department of Labor and Industries, will provide some compensation as well as physical and vocational rehabilitation by your injuries. In exchange for paying into this fund, your employer is “immune” from suit by its employees.*

6. I was in a car accident about three and a half years ago but have only recently begun suffering significant discomfort and disability. Can I still make a claim, even though time has lapsed?

*Three years is the statute of limitations in Washington for all unintentional torts. This includes negligence. The general rule is that the date of injury is the date that commences running of the three year limitation period. However, the “discovery rule” tolls this date in most cases, and the statute of limitations does not commence to run until an injury is either discovered (e.g. you discover that the surgeon left a sponge in your abdomen) or the effects of an injury (such as backpain, headaches, etc) become known.*

7. I was struck by a seventeen year old who was driving his parents’ car while I was crossing the street. Would I sue the seventeen year old or his parents, or both?

*If the seventeen year old was driving his parents’ car for the benefit of the household (i.e. getting groceries or picking up a younger sibling from the babysitter’s house) then the parents and the seventeen year old would both be potential defendants under a legal concept in Washington which is called the Family Car Doctrine. If the seventeen year old was out with his friends, just cruising around, then only the seventeen year old would be the defendant which might mean that your case will not yield much in the way of a recovery (after insurance proceeds) unless the seventeen year old has significant savings, which is doubtful.*

8. I am a retail distributor and I recently lost a long-term exclusive contract with a supplier. I found out that the contract was awarded to a competitor who convinced the supplier to cut ties with my company. Is there any way to recover?

*You might have a claim for what is known as tortious interference with a business relationship. In order to prevail you will have to show that there was an actual contract in place (versus a potential contract that you were just hoping to sign), the competitor had knowledge of your contract with the manufacturer, the competitor played an active roll in seeing that your contract was terminated and that you suffered damages. Again, damages might be difficult to prove, especially if the manufacturer was already prepared to increase costs or there is another manufacturer who produced a similar product at a similar price.*

9. I bought a piece of land from a developer who went out of business. There was a significant amount of work performed on the land, but it was more than ninety days past the last day of work and no liens had been filed. I recently found out that the developer and a contractor recorded its construction contract on my property, and now I can't sell the land because title is clouded. What can I do?

*It sounds like the contractor has created what is known as an invalid lis pendens. Under RCW 4.28.328 you can move to have the cloud removed from wrongfully clouding title to your property. Your damages would be your inability to sell the property and perhaps additional carrying costs and other market timing issues. You may also be able to recover your attorneys' fees to clear title under this statute.*