

EXCUSES USED BY INSURANCE COMPANIES

To Avoid Paying a Fair &
Reasonable Settlement

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If you have been injured in a car accident, insurance companies may try to defeat or diminish the value of your claim with a laundry list of arguments. Here are just a few:

BLAME IT ON THE CONDITION OF YOUR VEHICLE

- The plaintiff's vehicle is not equipped with a head rest, seatbelts, rear view mirror or other safety devices and it is the plaintiff's responsibility to provide his vehicle with such devices.
- Seatbelts or other safety devices were available in the vehicle but not used by the plaintiff. According to law, this may affect the value of your claim.
- There were equipment defects to the plaintiff's vehicle such as tires (the tires were bald); brakes were not working; taillights were not working; turn signals were not working; et cetera.

USING YOUR MEDICAL HISTORY AGAINST YOU

- The plaintiff had hearing or vision problems and wasn't wearing glasses or hearing aids.
- The plaintiff had other physical problems; i.e., epilepsy; headaches; sickness; et cetera, which impaired the driver's ability, perception and reaction time.

USING YOUR PERCEPTIONS/ RECOLLECTIONS AGAINST YOU

- Plaintiff didn't notice defendant until impact or maybe before impact and was therefore not paying attention and could have taken action to avoid the accident.
- The plaintiff's recollection of time of day, accident timing, speeds and distances are grossly inaccurate and indicate inattentiveness or incompetence in driving and, at the very least, diminish his credibility.
- The plaintiff exaggerates the defendant's speed and other facts surrounding the accident which diminishes his credibility and makes him an unreliable or unbelievable witness.
- The plaintiff has difficulty describing events surrounding the accident in detail.

MAKING YOU THE BAD GUY AND BLAMING YOU FOR THE ACCIDENT

- Plaintiff had warning of danger within a sufficient time to avoid the accident if he were paying attention.
- Plaintiff could have avoided the accident if he were not exceeding a safe speed for the road/weather conditions.
- The plaintiff made an unnecessary stop.

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- The plaintiff made an unsafe lane change without a warning.
- Plaintiff gave no stop or turn signal.
- Plaintiff was backing up under circumstances and/or at a location where a reasonable person wouldn't have anticipated same or where it was difficult for the defendant to see the same.
- The plaintiff was not at/in the intersection first.
- If the plaintiff and defendant were in the intersection at the same time, the plaintiff was to the defendant's left, exceeding the speed limit or was inattentive.
- The defendant was acting as any "reasonable person" would have – safe speed for the conditions and therefore defendant's actions were not a probable cause of the accident.

SHIFTING THE BLAME TO SOME OTHER CAUSE

- An act of God or unknown person was responsible for the accident.
- The accident was "unavoidable."
- There was an emergency that excused the defendant's negligence.

"NOBODY KNOWS FOR SURE"

- No independent witness was found who could corroborate the plaintiff's version of the accident.
- A witness could not be found

(plaintiff, not defendant has a legal duty to prove by the "greater weight of the evidence" each element of his case.)

- The witnesses dispute the plaintiff's version of the facts or substantiate the defendant's version.
- The physical evidence (lights, brakes, tires, etc.) was lost and it was necessary to have it examined by an expert to substantiate the plaintiff's version of the facts.

MISTAKES

- The investigating officer made errors in his report or erroneous conclusions that dispute the plaintiff's version of the accident.
- The plaintiff did not obtain the services of an expert to substantiate the negligence of the defendant.
- The police were not called to the scene. (inferring that it was just a minor accident).

CLAIMING THAT YOU WERE NOT REALLY INJURED AND/OR MINIMIZING INJURIES

- There was no complaint of pain at the scene of the accident by the plaintiff.
- There is nothing in the police report to indicate that the plaintiff complained of pain at the scene of the accident.
- There was no physical sign of injury at the scene of the accident such as cuts, bruises, etc.
- The plaintiff did not request an

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ambulance.

- The plaintiff did not go to the emergency room on the day of the accident or the day following the accident.
- The plaintiff told the defendant or other people at the scene that he felt OK.
- The plaintiff made a statement to the insurance company that he was not injured in the accident.
- The plaintiff received no treatment for several days following the accident.
- There is no medical opinion substantiating medical causation between the accident and the plaintiff's physical or subjective complaints.
- Shortly after the accident, the plaintiff's physical/health condition returned to "normal", i.e., What it was prior to the accident.
- The plaintiff's complaints to his doctor were minimal.
- According to medical records, the plaintiff exaggerates complaints related to the accident.
- According to medical records, the plaintiff's complaints to his doctor were bizarre, exaggerated and lengthy.
- According to medical records, the plaintiff's complaints to one doctor differ from his complaints to the other doctors.
- The plaintiff had full range of motion at the medical examination.
- The plaintiff was observed moving normally and without pain.
- The plaintiff's family doctor's opinion is that the injuries are minimal. The doctor did not prescribe physical therapy or any other treatment.
- The plaintiff did not see his regular doctor again.
- The plaintiff's injuries are totally subjective with no indication of injury from x-rays, orthopedic tests or observation.
- The plaintiff received minimal treatment for a minimal time period after the accident.
- The plaintiff saw a chiropractor after the accident and not a "real" doctor (i.e., M.D.).
- The plaintiff only received chiropractic care and massage after the accident.
- The plaintiff has a psychological condition instead of an injury.
- The plaintiff is malingering or the plaintiff's subjective complaints are not supported by objective findings of injury.
- The plaintiff was examined by a doctor recommended by the insurance company (independent medical exam) soon after the accident and was found to be uninjured and not in need of any further treatment.
- The plaintiff had a chronic injury or condition as documented in the past medical records or it

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appears she has unrelated medical problems such as arthritis or congenital problems.

- There were gaps in medical treatment and, because the plaintiff did not go to the doctor on a regular basis, he or she is not injured.

MINIMIZING THE SEVERITY OF THE ACCIDENT

- The property damage to either or both vehicles involved was minimal.
- The plaintiff's vehicle was equipped with shock-absorbing bumpers, headrest and seat belts which made impact injuries impossible or improbable.
- No other persons involved in the accident had injuries.
- The defendant claims he was only going 5 miles per hour or less.
- The damage repair estimate shows only \$1,000 of damage to the plaintiff's vehicle.
- The plaintiff's airbags never deployed so the forces had to be minor.
- The defendant's airbags never deployed so the forces had to be minor.

USING YOUR MEDICAL HISTORY AGAINST YOU

- The plaintiff made errors in recalling his medical and/or employment history to the insurance company which can be "discovered" by defense during litigation.

- The plaintiff had prior complaints of pain to the same area of his body before the accident.
- The plaintiff received medical treatment to the same area of his body before the accident.
- The plaintiff had seen a chiropractor or massage therapist before the accident.
- The plaintiff had a subsequent injury which was a cause of continual problems instead of the accident in question.
- The plaintiff had no complaint of pain at the physical examination.
- The plaintiff received mental health counseling or therapy before the accident so perhaps his complaints following the accident are psychosomatic.

MINIMIZING FINANCIAL IMPACT CAUSED BY YOUR INJURIES

- The plaintiff's doctor did not recommend time off of work, yet plaintiff took time off work.
- No doctor has stated that the plaintiff would lose work time in the future.
- The plaintiff had a poor attendance record at work prior to accident.
- The plaintiff would have been terminated or laid-off even without the accident.
- The plaintiff had no job at the time of the accident and can't substantiate that he was applying

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at various places.

- The plaintiff's earnings (W-2 and tax records) indicate a smaller earnings history than he has claimed.
- The plaintiff was paid in cash for prior employment and can't document his past earnings and/or has no tax returns.
- The plaintiff's employer has no official record (i.e., W-2) or other means to substantiate plaintiff's employment.

PULLING OUT ALL THE STOPS – OTHER COMMON DEFENSES.

- The cost of treatment was excessive and the period during which the plaintiff was treated was excessive in light of "the standard" or "customary" charge for such services.
- The injuries should have healed within 3 to 6 months so any treatment after that is excessive or unnecessary.
- The plaintiff went to work contrary to his doctor's advice and thereby aggravated his injury and/or caused a prolonged period of disability and/or treatment.
- The plaintiff's doctor is no longer in the area or is otherwise unavailable.
- The plaintiff allowed the "Statute of Limitations" period to expire, therefore forfeiting the possibility of recovering anything for his claim.
- The plaintiff is partially at fault and should recover less under the

rule of "comparative fault."

- Plaintiff has a history of filing lawsuits for the purpose of collecting compensation.
- The plaintiff has a history of mental illness or emotional problems, making him unreliable.

There are dozens of other arguments that insurance companies commonly use to avoid paying a fair and reasonable settlement for your injuries. It is the insurance adjustor's job to find as many of these defenses and arguments as possible for the sole purpose of defeating or minimizing your claim. He will question you very carefully. It all starts when the adjustor wants to take your statement. Once you give a statement and provide any information that might support one or more of these arguments, it can be very, very difficult to later change an insurance company's mind – even if their arguments are totally untrue! Information you give to the insurance company early on in the claim can cause irreparable damage later on. Therefore, be very careful when speaking to the insurance adjustor! ■

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