

~ AUTO ACCIDENT INSURANCE CLAIM ~
Getting Reimbursed For Your "Pain And Suffering"
By Dan Baldyga

You've had a motor vehicle accident some time ago when a local character by the name of Fred Fuddle smashed into your rear end but now you're in the home stretch with his Adjuster, I. M. Strong, and you're going to be paid for your loss by Strong's employer, Rock Solid Insurance. A good portion of it will be for your "Pain and Suffering". That is, in the lingo of insurance claim settlements, your "Compensatory Damages". Let's talk about that:

BODILY INJURY PAIN: How much pain can an individual stand? The answer to that is: Reaction to pain not only differs with each of us, but often within each of us. While pain can usually be scientifically measured, the limits of human endurance cannot. We all have a different "Pain Threshold" - - that is, the point at which we begin to feel physical distress as we enter into, and then deal with, a period of suffering.

A lot depends on what's going on in your life and how you experience it. Temperament and psychological factors are involved. Like, for example, your personal life is in a shambles (for any number of reasons) and that has hindered your ability to recover. Or, perhaps the company you work for is on the brink of bankruptcy!

The mechanism through which you feel an injury is so complicated that there are times when the same pain appears to be more (or less) than that of previous days. For example: one day you have a problem that causes you to complain endlessly. This makes you impossible to live with and your pain seems to be much stronger. Yet, a similar situation on a much better day, doesn't upset you so profoundly and the pain is not nearly as bad.

YOUR "PAIN AND SUFFERING" (Your "Compensatory Damages"): The type of injury you suffered, as a result of Fred Fuddle crashing into you (plus the nature and length of your treatment) are two of the best indicators for both he and Rock Solid Insurance to consider regarding the "Pain and Suffering" you experienced. However, there are several other areas you should call to the attention of Adjuster Strong so as to make him aware of what you've been dealing with.

MEDICATION: The fact that you were prescribed either over-the-counter or prescription medication by Ole' "Doc" Comfort, your family physician, to relieve pain, inflammation (and/or any other injury symptoms), will help to convince I. M. Strong that your injuries were serious and caused you to endure a great deal of "Pain and Suffering". No matter which way you slice that cake, the more powerful the medication, and the longer it's prescribed for, the greater the value your claim will be. That's a fact of life in the business of insurance claims.

LENGTH OF RECOVERY: The longer your recovery period, the greater your "Pain and Suffering"- - therefore the higher the settlement value of your bodily injury. Make

sure “Doc” Comfort clearly indicates this in his Final Medical Report. Tell him he must state in writing (via the weeks and months) how long it will be, before you were able to engage in your routine activities. Make sure he doesn't send that report directly to Adjuster Strong. You get it first and then later on you'll send it along to Strong. But, before you do, read it. If good Ole' “Doc” Comfort hasn't clearly stated this, hand it back to him and tell him he must. You have every right to insist that he does. You're paying his bills, it's your report, your insurance claim, and your big bucks he's not being serious about!

As long as you continue to have physical problems you should keep going back to see your doctor, again and again, and again ! Other than the obvious "Pain and Suffering" it will help to convince Rock Solid Insurance you've endured, there are two other very good reasons for doing this. They are as follows:

(1) The fact that your records show visits to your doctor, four, six, eight (or even more) weeks after the accident, will convince Adjuster Strong and Rock Solid that your injury took a long time to deal and required continual attention. (Plus it clearly indicates each and every day you were unable to work and therefore it proves, beyond the shadow of any doubt, the income you lost). Never forget: Your attending physician's Medical Report is the only way you can prove you were unable to work and in any court of law that will justify your claim for lost wages.

(2) When you visit “Doc” Comfort be sure to tell him there's been little (if any!) decrease of your pain, discomfort, stiffness or immobility. Make sure, when he does execute that Final Medical Report, this is clearly stated in his written remarks. If it isn't you have every right to go back, hand it to him and insist that it is.

SCARS: In many instances large and obvious scarring increase's the value of your claim (big time!) - - especially if the scarred portion of your body is visible. If you've been sitting at a desk for 25 years, your chin is double, your hair is gone, and you own a bulging stomach, and that's where the scar is, it's not going to be worth much. But, if you're a tall, dark and handsome, twenty year old and the scar is on your face, than it's worth a ton. Take colored photographs of every scar and every scrape that causes swelling and/or discoloration to your skin plus every mark on your body! After you've handed a copy of those photographs to Adjuster I M. Strong he'll be sending them to his boss in the Home Office. I've been in that seat so I can flat out guarantee you his immediate superior in the home office will stare at those photos and gulp. He'll blanch, take a deep breath and send Strong a one liner that reads something like: “Do whatever it takes to get rid of this one. Settle it and let's move on.”

If the scar is bad enough insist that Dr. Comfort refer you to a Plastic Surgeon for an opinion as to whether your scar can be repaired and/or removed. Once you've been examined ask that Specialist to detail in writing (and insist that he send his report to you) how much it will cost to make it look right again. You may never get it repaired, and/or removed, but include that Plastic Surgeon's report, plus copies of the bills you've accumulated because of your visits to him, and hand them to Adjuster Strong. This will absolutely, positively give your claim more value !

QUESTIONS & ANSWERS REGARDING OBTAINING THE SERVICES OF A LAWYER:

QUESTION: "Is it necessary to obtain the services of an attorney who will take a cut of 33 1/3% of the settlement (in some states up to 50%) he recovers from the insurance company of the individual who struck you"? **ANSWER:** "Yes, there are some situations where it makes sense to do so". **HOWEVER:** Especially in a case where the impact is absolutely not your fault in any way, shape, manor or form - - you should be clear with the lawyer you choose that those out-of-pocket expenses you would have been paid (weather they represented you or not) should not be part of his settlement!

Let's say, for example: You were at a dead stop while waiting for a light to change from red to green, when struck a tremendous blow in the rear by a distracted driver. It's 100% clear to all concerned that the damages you received will be paid by the insurance company of the individual that struck you.

The property damage to your motor vehicle is \$2,800, your lost wages are \$450, your final Doctors bill (plus all your other Out-Of-Pocket "Medical Expenses") comes to \$750 for a total (Property Damages/Lost Wages/Medical Bills) of \$4,000. you live in an area where the lawyers typical "Contingency Fee" is 33 1/3%. **QUESTION:** "Should that lawyer take 33/13% (\$1,333.33) of that \$4,000"? **ANSWER:** "No"! **QUESTION:** "Why not"? **ANSWER:** "Because you were going to get that \$4,000 weather there was an attorney representing you or not"! In a situation where the liability is clear the attorney should take, as his fee, 33 1/3% of everything he gets above and beyond , that \$4,000! So, let's say the attorney obtained a settlement of \$4,800 for your "Pain and Suffering". When that figure is added to the \$4,000 of Out-Of-Pocket Expenses (as detailed above) the total would come to \$8,800. To be fair he should not take 1/3 of \$8,800 (\$2,933.33 - - thus leaving you with \$5,866.66) but 1/3 of the \$4,800 (\$1,600 - - thus leaving you with \$7,200). **QUESTION:** "What has he done to earn that additional \$1,333.34"?

ANSWER:"Absolutely nothing"!

DISCLAIMER: The only purpose of this article ~ **AUTO ACCIDENT INSURANCE CLAIM ~ Getting Reimbursed For Your "Pain And Suffering"** is to help people understand the motor vehicle insurance claim process. Neither Dan Baldyga, Tony Lombardozi nor **AUTOMOTIVE COLLISION REPAIR SERVICES NETWORK** make any kind of guarantee whatsoever; **NOR** do they purport to engage in rendering any professional or legal service; **NOR** to substitute for a lawyer, an insurance adjuster, or claims consultant, or the like. Where such professional help is desired **IT IS THE INDIVIDUALS RESPONSIBILITY** to obtain such services. Dan Baldyga's third and latest book, **AUTO ACCIDENT PERSONAL INJURY INSURANCE CLAIM (How To Evaluate And Settle Your Loss)** can be found on the internet at <http://autoaccidentclaims.com> or <http://wwwcaraccidentclaims.com>. This book reveals **How To** successfully handle your motor vehicle accident claim, so you won't be taken advantage of. It also goes into detail regarding the revolutionary **BASE (The Baldyga Auto Accident Settlement Evaluation Formula)**. **BASE** explains how to determine the value of the "Pain and Suffering" you endured - - because of your personal injury.

Copyright (c) 2003 by Daniel G. Baldyga All Rights Reserved