

# SHARK BAIT

By Debra A. Newby, Attorney at Law

Welcome new readers! This legal column is designed with YOU in mind to serve our West County community. I am honored to volunteer my 23-years of experience as a practicing lawyer to address burning legal issues that are on your mind. The format is a Q & A. Please send me your questions via e-mail (contact information below). Although every inquiry may not be published, we will publish as many as possible. Finally, this legal column does not create an attorney-client relationship and is intended as a community service to discuss general legal principles (you know us lawyers...always have to create disclaimers)! Let's begin . . .

**Q: I was t-boned while driving to work and now can barely move my neck. I learned later that the other driver does not have car insurance. What are my rights?**

**J.P.**

A: Dear J.P.: Your question opens up a Pandora's box and you can't even flex your neck to open the lid. So sorry.

First, it sounds like you have "soft tissue" injury, which insurance companies tend to deny even exists, let alone compensate you for it. Soft tissue injury is very real, though, and it may take 24-72 hours after an accident before symptoms appear. Never comment at the scene of an accident that you are "OK" --- you may be hurting the next day. Also, your statements may be incorporated as part of the incident report and may be used against you later. Seek medical attention as soon as possible.

Next, we need to determine who is at fault. California is a "comparative negligence" state, which is fancy lawyer talk that simply means one's responsibility for damages is based on the percentage of fault. If the other driver is determined to be 100% at fault, that at-fault party is responsible for 100% of your damages. If the other driver is say 50% at fault (and you are 50% at fault), then guess what...he or she is only responsible for 50% of your damages and your settlement or award is cut in half. Recoverable damages may include your medical bills, pain and suffering, lost wages, reduced earning capacity, and future pain and suffering as long as such is related to the accident.

You say you were "t-boned", meaning that the other car hit you either on the driver or passenger side of your car (hence creating a "T-shaped" mangled menagerie of metal on the roadway). It is very important when you are involved in an accident that you first be truthful, but also smart. Never volunteer any information about who is to blame (especially you) as other key facts about the accident may yet come to light.

**Uninsured motorists are a problem.** Figure that 1 out of every 10 drivers do not have auto insurance, as approximately 8% of Sonoma County drivers are uninsured. Even though California law requires that all drivers maintain \$15,000 in liability insurance, some unmindful souls on our planet play by a different set of universal laws. All is not lost, though. You have the right to file an uninsured motorist claim against your own insurance company.

**You do have legal rights even if the other party does not have insurance.** If you believe that your own insurance company is giving you a “fair offer” for your damages, then settle the uninsured motorist claim on your own. However, most attorneys offer a complimentary initial consultation (usually 15-30 minutes). You should make an appointment with a “personal injury” attorney so he or she can help you evaluate your options. Heck, I tell my potential clients to interview at least one other attorney besides me before they decide whom to hire.

An attorney-client relationship is one built on trust and integrity, and both the attorney and the client have to feel comfortable with and connected to each other.

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