



Tips for Handling **PROPERTY DAMAGE CLAIMS IN NORTH CAROLINA**

Answers to **17** of the Most Common Questions
About Damages after Car Accidents

LAW OFFICES OF

JAMES SCOTT FARRIN

INTRODUCTION

This informational booklet has been written to help people who have been in a car accident. If you have been hurt in a collision, or if you have had a family member or friend in an accident, then please share this material with them.

At the Law Offices of James Scott Farrin, we have helped thousands of injured victims. We handle auto accidents, commercial vehicle accidents, defective drugs, product liability, workers' compensation, wrongful death, and many other circumstances involving injury.

Whatever the size of someone's personal injury case, we believe they deserve the best representation and service we can provide. Our values of teamwork, integrity, professionalism, quality, and community guide our employees in striving to achieve results for our clients.

When your vehicle is damaged because of the fault of another, you have certain rights under North Carolina law and the rules and regulations of the North Carolina Department of Insurance. Throughout this booklet, we will often refer to the North Carolina Administrative Code (NCAC) to help you know where to find supporting legal authority.

In many instances, particularly if it is your vehicle that has been damaged, there are two aspects to the claim: property damage and personal injury. You will almost always deal with the other person's insurance company through its adjuster. An adjuster is the person the insurance company has hired to determine the potential value of your overall claim. They may often focus on the bodily injury portion of the claim and may rely on an appraiser to determine the damage to your vehicle.

Both the adjuster and the appraiser are professionals employed by the insurance company. Part of their job can be to minimize your claim in order to control costs to the company. The purpose of this booklet is to give you some key information you need to handle a car accident and potentially seek compensation for damages.

STARTING THE CLAIMS PROCESS	7
Starting the Process	8
Where Do I Begin?	9
Can I Handle the Property Damage Claim Myself?	10
VEHICLES DAMAGED BEYOND REPAIR	13
When Is a Vehicle a Total Loss?	14
What Happens if We Can't Agree on a Valuation?	15
What Does "Salvage Value" Mean?	16
Who Gets the Total Loss Check?	17
Who Pays for Towing and Storage Charges?	18
Am I Entitled to a Rental Vehicle When I Have a Total Loss?	18
REPAIRABLE VEHICLES	21
What If My Vehicle Can Be Repaired?	22
Must I Use the Drive-In Facility of the Insurance Company?	22
Do I Have a Choice of Repair Facilities?	23
How Many Estimates Should I Get?	23
Am I Entitled to Depreciation Value?	25
Suppose Something Goes Wrong After Repairs Are Made?	26
Who Gets the Repair Check?	27
When Am I Entitled to a Rental Vehicle During Repairs?	27
INSURANCE DISPUTES	29
If Things Don't Work Out, Who Do I Complain To?	30
What We Do	32
Who We Are	33

Images used do not represent actual events or real people.

¹Each case is unique and must be evaluated on its own merits. Prior results do not guarantee a similar outcome. Re: class action suit against the U.S. government, the Law Offices of James Scott Farrin led a team of firms to recover \$1.25 billion for African-American farmers from the U. S. government for discrimination.

²For more information regarding the standards for inclusion, visit www.bestlawfirms.com.

³Figures provided by the NC State Bar as of December 31, 2018.

⁴For more information regarding the standards for inclusion, visit www.bestlawyers.com and www.superlawyers.com. Super Lawyers is a registered trademark of Thomson Reuters.



Starting the Claims Process

What's in This Section?


STARTING THE PROCESS

QUESTION 1

Where Do I Begin?

QUESTION 2

Can I Handle the Property Damage Claim Myself?

 *Many people wait to take action until the insurance company starts being unfair — that's often too late."*

Mike Shepherd, Attorney and Former Investigator for insurance companies

STOCK PHOTO. DOES NOT DEPICT AN ACTUAL CLIENT

Starting the Process

If you've been in an accident, in many instances you'll have two parts to your claim: property damage and personal injury.



Personal injury claims focus on your bodily injuries. The person at the insurance company you'll talk to for this part of your claim is typically an **adjuster**. These are the claims for which you can have the most to lose. Importantly, these are also the types of claims from which most people can benefit from an attorney's direction and advice, especially if your injuries are serious.



Property damage claims focus on the damage to your car or other property. The insurance company will usually send an **appraiser** to handle these claims. The appraiser is usually an employee or affiliate of the insurance company and their job is to value the damage to your car after the wreck.

IMPORTANT LESSON: Be careful what you say. The adjuster and the appraiser may be looking out for the insurance company's best interests — not yours. It can be part of their job to try to minimize your claim to help control insurance company costs. It's a matter of simple economics — lower payouts can potentially mean higher profits for the insurance company.



The adjuster and the appraiser may be looking out for the insurance company's best interests — not yours.

QUESTION 1

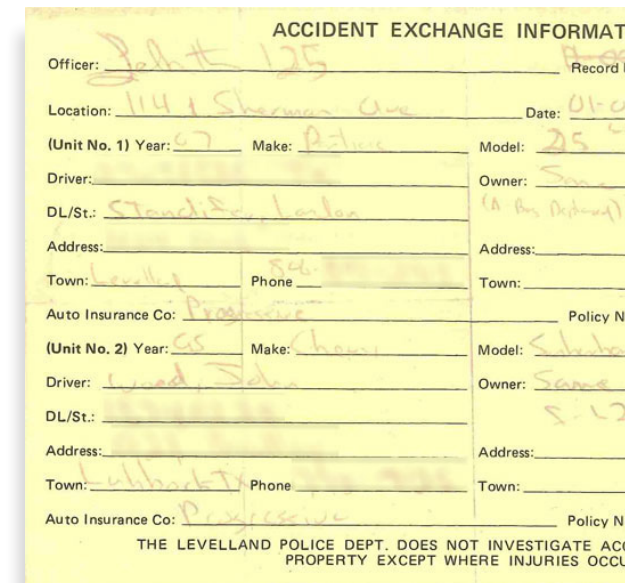
Where Do I Begin?

Get the Accident Information ASAP

If your vehicle is damaged in a wreck that is someone else's fault, you should contact the other person's liability insurance company immediately to report the claim. You should also notify your own insurance company of the claim because you may also have coverages that come into play. You can find the name of the other person's liability insurance company on the "exchange slip" the investigating officer should have provided to you at the scene of the accident.

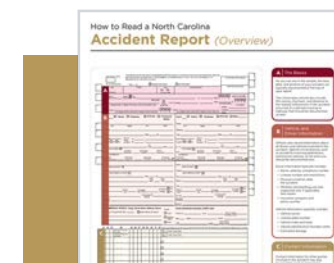
In North Carolina, this is typically a green piece of paper that is a carbon copy of the officer's original. This slip should include your personal information, your insurance information, and information about the other party(ies) in the accident. This information is also available on the police report for the accident, which generally is not available until at least a day after the accident.

If you do not have the other person's insurance information, we can often provide you with a police report. You should contact the liability carrier by phone, and then follow up with a written notice of your claim describing the time and place of the collision along with a description of your vehicle. If you send a written notice to the liability insurance carrier, you should get a written response.



ACCIDENT EXCHANGE INFORMATION			
Officer: <u>2014 # 125</u>	Record # <u>125</u>		
Location: <u>114 S. Sherman Ave</u>	Date: <u>01-01</u>		
(Unit No. 1) Year: <u>07</u>	Make: <u>Police</u>	Model: <u>25</u>	
Driver: <u>[illegible]</u>	Owner: <u>Same</u>		
DL/St.: <u>Standard, London</u>	(A Bus Driver)		
Address: _____	Address: _____		
Town: <u>Levelland</u>	Phone: _____	Town: _____	
Auto Insurance Co: <u>Progressive</u>	Policy No: _____		
(Unit No. 2) Year: <u>05</u>	Make: <u>Chrysler</u>	Model: <u>Chrysler</u>	
Driver: <u>David, David</u>	Owner: <u>Same</u>		
DL/St.: <u>Standard, London</u>	(A Bus Driver)		
Address: _____	Address: _____		
Town: <u>Levelland</u>	Phone: _____	Town: _____	
Auto Insurance Co: <u>Progressive</u>	Policy No: _____		

THE LEVELLAND POLICE DEPT. DOES NOT INVESTIGATE ACCIDENTS WHERE INJURIES OCCURRED



Visit www.farrin.com for our free guide:
How to Read a North Carolina
Accident Report

If You Must Speak with an Adjuster

Limit your discussion to property damage only. But if the adjuster asks for a “recorded statement” or wishes to discuss your injuries, it is best to politely refuse and then discuss the matter with an attorney as soon as possible. If you are injured, don’t discuss your personal injury claim with an adjuster without first speaking with an attorney’s office.

If the property damage claim is denied, ask for the denial in writing, and contact an attorney immediately.



If you're injured, don't discuss your personal injury claim with an adjuster without first speaking with an attorney's office.

injured, you may settle the property claim and leave open the personal injury claim for a later potential settlement.

However, do not speak with the adjuster about your personal injury claim, **speak with the adjuster about the property damage only.** In other words, the liability insurance company is prohibited from forcing you to settle your personal injury claim at the same time you settle the property damage claim.

If you do not agree with the settlement offered by the adjuster, you have the right to request that the adjuster send to you, **in writing**, the amount of the offer along with the specific policy provisions or legal basis the adjuster is relying on to support the offer. [11 NCAC 04.0117(b).]

QUESTION 2

Can I Handle the Property Damage Claim Myself?

Yes, and in many cases people should. The reasons for this are two-fold:

The first, and probably most important reason, is that we do not want to unnecessarily delay the property damage aspect of your claim.

Secondly, it is rarely cost effective for you to hire an attorney to pursue your property damage claim — you can save time and money by doing it yourself. If we represent you on a bodily injury claim related to the accident we can assist you with your property damage claim at no additional charge.

If the at-fault insurance company accepts responsibility for your property claim and makes an offer, you may negotiate that amount with the adjuster. If you are satisfied with the offer, then you can settle the property claim. Even if you are



The insurance company is prohibited from forcing you to settle your personal injury claim at the same time you settle your property damage claim.



Vehicles Damaged Beyond Repair

What's in This Section?

QUESTION 3

When Is a Vehicle a Total Loss?

QUESTION 4

What Happens If We Can't Agree
on a Valuation?

QUESTION 5

What Does "Salvage Value" Mean?

QUESTION 6

Who Gets the Total Loss Check?

QUESTION 7

Who Pays for Towing and Storage Charges?

QUESTION 8

Am I Entitled to a Rental Vehicle When I
Have a Total Loss?

QUESTION 3


When Is a Vehicle a Total Loss?

A motor vehicle is considered a total loss if the cost of repairs (and supplemental claims such as projected rental vehicle costs during the repair period) equals or exceeds 75% of the pre-accident cash value, sometimes referred to as the fair market value (FMV). [11 NCAC 04.0418(5).]

The liable insurance carrier is required to pay fair market value for a total loss vehicle. Fair market value is the price at which the property would change hands between a willing buyer and a willing seller when the former is not under any compulsion to buy and the latter is not under any compulsion to sell, both parties having reasonable knowledge of relevant facts. (I.R.S. Revenue Ruling 59-60).

Adjusters generally have a book value (BV) they use to arrive at FMV but they have some wiggle room based on the condition of the vehicle. BV is usually FMV, though not always, and this can give both sides some leeway to negotiate. Many insurance companies use the National Automobile Dealers Association (NADA) publication "Official Used Car Guide" which is published monthly. Your finance company or bank should have a current copy you can refer to. It is also available online at: www.nadaguides.com.

Different publications may provide different valuations. Therefore, there may be some room to negotiate the value of your property damage claim.



A vehicle is considered a total loss if the costs of repairs equals or exceeds 75% of the pre-accident cash value.

QUESTION 4

What Happens if We Can't Agree on a Valuation?

If you and the adjuster are initially unable to reach an agreement as to FMV, then the adjuster is required to base any further settlement offer not only on published regional average values of similar vehicles but also on the value of similar vehicles in the local market.

Local FMV is determined by using either the local market price of a comparable vehicle or, if no comparable vehicle can be found, quotes from at least two qualified dealers within the local market area. If your vehicle was in better than average condition prior to the collision, the adjuster should give due consideration to this fact in determining value. [11 NCAC 04.0418(1).]

You should require from the adjuster that a written statement accompany the total loss payment. This statement should include estimates, evaluations and deductions used in calculating the payment as well as the source of these values. [11 NCAC 04.0418(4).]



QUESTION 5

What Does “Salvage Value” Mean?

If the vehicle is a total loss, and if you and the adjuster agree on the vehicle’s pre-accident FMV and the adjuster is willing to pay the FMV, then the liability insurance company gets the car. In other words, the insurance company is not going to pay you FMV for a car determined to be totaled and let you keep the car.

This is because there is usually some residual or leftover value in totally damaged vehicles. At the very least, the vehicle can be stripped and some of the parts sold.

The value of what is left of the “total loss” vehicle is referred to as the “salvage value.” When the adjuster pays the FMV, then you must sign over the title to the vehicle and turn over possession of it to the insurance company. **However, if you wish to keep the vehicle, then you must pay the insurance company the salvage value.** You pay the salvage value by accepting a check from the insurance company for the FMV less the salvage value.

Prior to settling the property damage claim, you also have the right to ask the liability insurance company to provide, in writing, the names and addresses of the salvage dealers who will purchase the vehicle for the amount claimed as salvage value by the adjuster. [11 NCAC 04.0418(3).]



You have the right to ask the insurance company to provide, in writing, the names and addresses of salvage dealers who will purchase your car for the amount the adjuster claimed as salvage value.

QUESTION 6

Who Gets the Total Loss Check?



A Financed Car With Equity

If your vehicle is financed, the insurance carrier is likely to determine the pay-off to the finance company, write a check to the finance company for the pay-off, and write you a check for the difference. Sometimes the check from the insurance company may have your name and the name of the finance company on the check.

You would then endorse the check and turn it over to the finance company. The finance company will pay off the loan and refund the difference to you as your equity in the vehicle.

If the pay-off on the loan is greater than the check from the insurance company, then the finance company gets the entire check and you will still owe the finance company the difference unless you had previously purchased “gap insurance.”



A Financed Car With No Equity

Gap insurance is insurance you purchase, generally when you first purchase the vehicle, to cover the “gap” between the amount financed and the vehicle’s value. Sometimes, it is required by lessors for leased vehicles or provided in financed purchases.

Another kind of optional insurance you might have purchased is “repair or replacement” coverage. Repair or replacement coverage obligates an automobile insurance company to pay either the reasonable cost of repairs or the cost of a replacement vehicle, whichever is less.



A Car You Own

If your vehicle is not financed, then the insurance company will write you the check and you can decide whether to get the vehicle repaired.

QUESTION 7

Who Pays for Towing and Storage Charges?

The liable insurance company is responsible for all reasonable towing and storage charges until three days after you and the storage facility are notified in writing that the insurance company will no longer reimburse the owner or storage facility for storage charges. The written notification must contain the name, address and phone number of the facility storing the vehicle. [11 NCAC 04.0418(6).]

QUESTION 8

Am I Entitled to a Rental Vehicle When I Have a Total Loss?

If your vehicle is totaled, you are generally entitled to a rental vehicle from the time of the collision until you receive an offer from the insurance carrier. The moment the offer is received (assuming the offer is reasonable) the insurance company is generally not responsible to pay for your rental vehicle. Sometimes, an insurance company may allow you a few more days if you have had trouble buying a replacement vehicle. If that occurs, it is voluntary on the insurance company's part.

Generally, you should be provided with a rental vehicle comparable to the vehicle that was damaged. Thus, if you were driving a compact car you should be able to rent another compact car. If you were driving a four door sedan, then you should be provided with a comparable four door sedan.

Most insurance companies have arrangements with automobile rental companies whereby a call from the insurance company to the rental company will produce a vehicle to you at fairly modest cost, which the liable insurance company must pay.

Mileage and gas are not typically paid for by the liability insurance company, just the daily rental cost of the vehicle.

When the Insurance Company Refuses

This potential arrangement with rental agencies is among the reasons you should contact the insurance company as soon as possible.

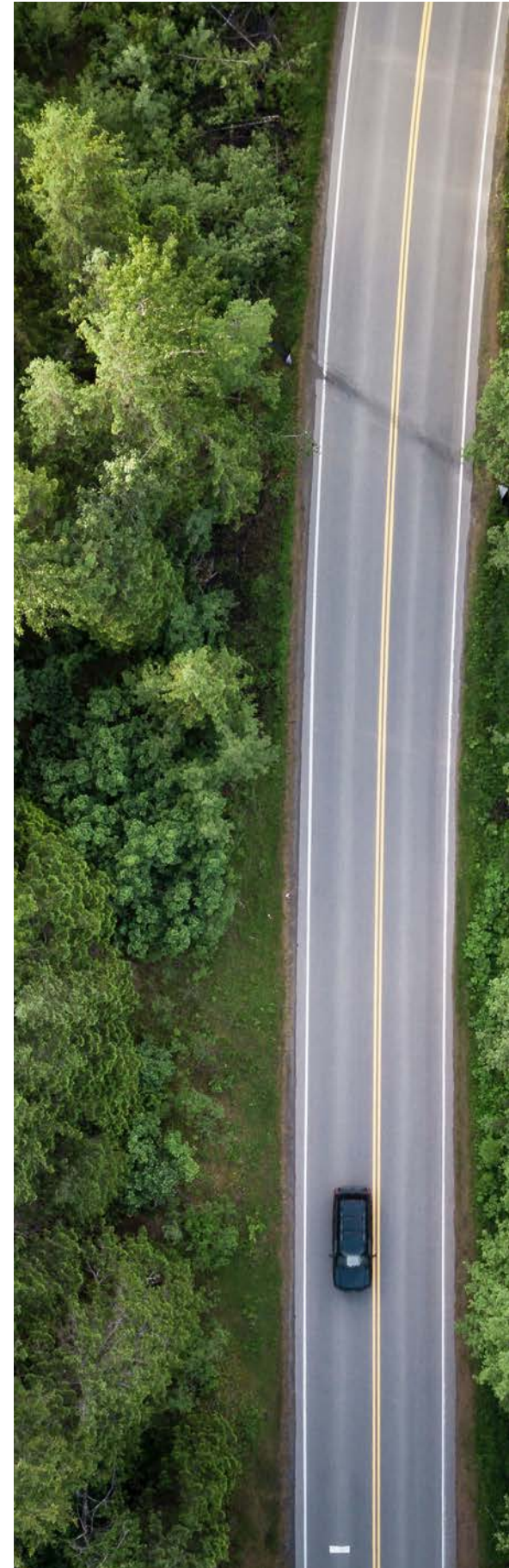
However, some insurance companies will not honor a rental car claim called in by you. Some policies state that there is no claim until their insured calls and reports the claim. In those instances when an insurance company will not provide a vehicle because the insured has not reported the claim, you may choose to rent a vehicle at prevailing market prices.

When the insurance company adjuster contacts you, ask what to do about continuing with the rental. You probably will be told to turn in the rental and rent a vehicle from a rental agency with which the insurance company regularly contracts. In such a case, you can seek reimbursement from the insurance company for the initial rental cost at the prevailing rates until you were placed in a lower-rate vehicle.

Reminder:
You should contact the at-fault driver's insurance company as soon as possible.



Keep in mind, daily rental cost is generally covered, mileage and gas are not.





Repairable Vehicles

What's in This Section?

QUESTION 9

What If My Vehicle Can Be Repaired?

QUESTION 10

Must I Use the Drive-In Facility of the Insurance Company?

QUESTION 11

Do I Have a Choice of Repair Facilities?

QUESTION 12

How Many Estimates Should I Get?

QUESTION 13

Am I Entitled to Depreciation Value?

QUESTION 14

Suppose Something Goes Wrong After Repairs Are Made?

QUESTION 15

Who Gets the Repair Check?

QUESTION 16

When Am I Entitled to a Rental Vehicle During Repairs?

QUESTION 9

What If My Vehicle Can Be Repaired?

A motor vehicle is considered repairable if the costs of repairs and projected supplemental claims are less than 75% of the pre-accident cash value (FMV).


[11 NCAC 04.0418(5).]

QUESTION 10

Must I Use the Drive-In Facility of the Insurance Company?

Many insurance companies have “drive-in” claim service facilities. However, they cannot require you to use their facilities. If you voluntarily utilize their drive-in claim service, this is not likely to prejudice your right to obtain independent appraisals and attempt to negotiate settlement on the basis of such appraisals.

[11 NCAC 04.0417.]



You are not obligated to use the insurance company's repair service, and the adjuster is obligated to disclose that to you. You may use the repair service of your choosing.

QUESTION 11

Do I Have a Choice of Repair Facilities?

Often, adjusters will recommend that you use a particular repair service. You are not obligated to use that repair service, and the adjuster is obligated to tell you that. You may use the repair service of your choosing. [11 NCAC 04.0423(c).]

QUESTION 12

How Many Estimates Should I Get?

You should get two repair estimates. If the adjuster insists that you obtain more than two, then the insurance company must pay for the others.

[11 NCAC 04.0149(1).]

Sometimes, adjusters will have you obtain estimates and then make an offer over the phone. If you do not agree with the phone offer, and if the adjuster has never seen the damaged vehicle, you can require that the adjuster or the insurance company's appraiser personally inspect the damaged vehicle.

[11 NCAC 04.0419(2).]

If the adjuster accepts liability and advises you to have your vehicle repaired with the understanding that the insurance company will reimburse you, then you should request from the adjuster a statement in writing to that effect along with any other oral agreements you and the adjuster have agreed on.

[11 NCAC 04.0420.]

Reminder:
Always request a written statement from the adjuster for any oral agreements.

REPAIRS BY THE NUMBERS

75%

A vehicle is considered repairable if the repair costs and projected supplemental claims are less than 75% of the pre-accident cash value or fair market value.

30

You have 30 days after repairs to assert any claim for additional damages or diminished value.

2

You should get two repair estimates. If the adjuster insists that you obtain more than two, then the insurance company must pay for the others.

QUESTION 13

Am I Entitled to Depreciation Value?

Depreciation value is the potential sum of money that accounts for the decrease in your vehicle's fair market value as the direct result of its having been damaged in a collision, even taking into consideration that your vehicle is repairable or is repaired. It is recognition that a vehicle that has been in a collision and is repaired is of less value than a similar vehicle which has never been damaged. In other words, it is any value of loss over and above the repair costs.

Depreciation can be a very nebulous and gray area. The amount of depreciation will also depend on the severity of the damage. If there is minor damage, there probably is no depreciation.

On the other hand, the more severe the damage, the more likely depreciation is present. When negotiating with the adjuster, you should seek depreciation value if appropriate. The fact is that the value of a repaired vehicle can be greatly reduced just because it was in a wreck. Many adjusters may not volunteer depreciation value; if that happens, you should raise the issue.

On the other hand, some insurance carriers will sometimes volunteer this information if your vehicle is no more than five years old and damage amounts to 25% or more of the fair market value. Depreciation value can typically run between 10% and 20% of the repair bill.

You should be aware that if your vehicle is less than five years old and the damage to the vehicle exceeds 25% of its fair market value, you must disclose that fact to any subsequent buyer. This disclosure is likely to affect the amount anyone would be willing to pay or allow for trade in allowance on the vehicle.



Many adjusters may not volunteer depreciation value. Make sure you do!

QUESTION 14

Suppose Something Goes Wrong After Repairs Are Made?

If you sign a release involving a repair to your vehicle, that release generally does not bar you from later asserting a claim for damage to the vehicle that was unknown to you or the adjuster at the time you signed the release.

As long as the discovered damage was caused by the collision, and this damage could not be determined or known by you or your adjuster until the repair or attempted repair of your vehicle, you may file a claim for additional damage. You have 30 days after the repairs to assert the claim for additional damages. [11 NCAC 04.0421(4).]

If you sign a release involving a repair to your vehicle, that release generally does not bar you from later asserting a claim for diminished value (depreciation) as long as this diminishment was directly caused by the collision. You have up to 30 days after repair to make a claim for diminished value. [11 NCAC 04.0421(5).]

You have 30 days after repairs to assert a claim for additional damages, as long as the collision directly caused the newly discovered damage.

QUESTION 15

Who Gets the Repair Check?



A Financed Car

If your car is financed, the insurance company may write the check in your name and the name of the repair facility. The damage to the vehicle reduces the value of the car, which means the finance company's lien rights are also diminished. Therefore, the finance company will likely require that the damaged vehicle be repaired so its interest in the vehicle remains protected.



A Car You Own

If your vehicle is not financed, you get the entirety of any check.

QUESTION 16

When Am I Entitled to a Rental Vehicle During Repairs?

Whether your vehicle is operable or not, you are generally entitled to a rental vehicle from the time of the collision until the repairs are finished.

Reminder:

If your vehicle is less than five years old and the damage to the vehicle exceeds 25% of its fair market value, you must disclose that fact to any subsequent buyer.



Insurance Disputes

What's in This Section?

QUESTION 17

If Things Don't Work Out, Who Do I Complain To?

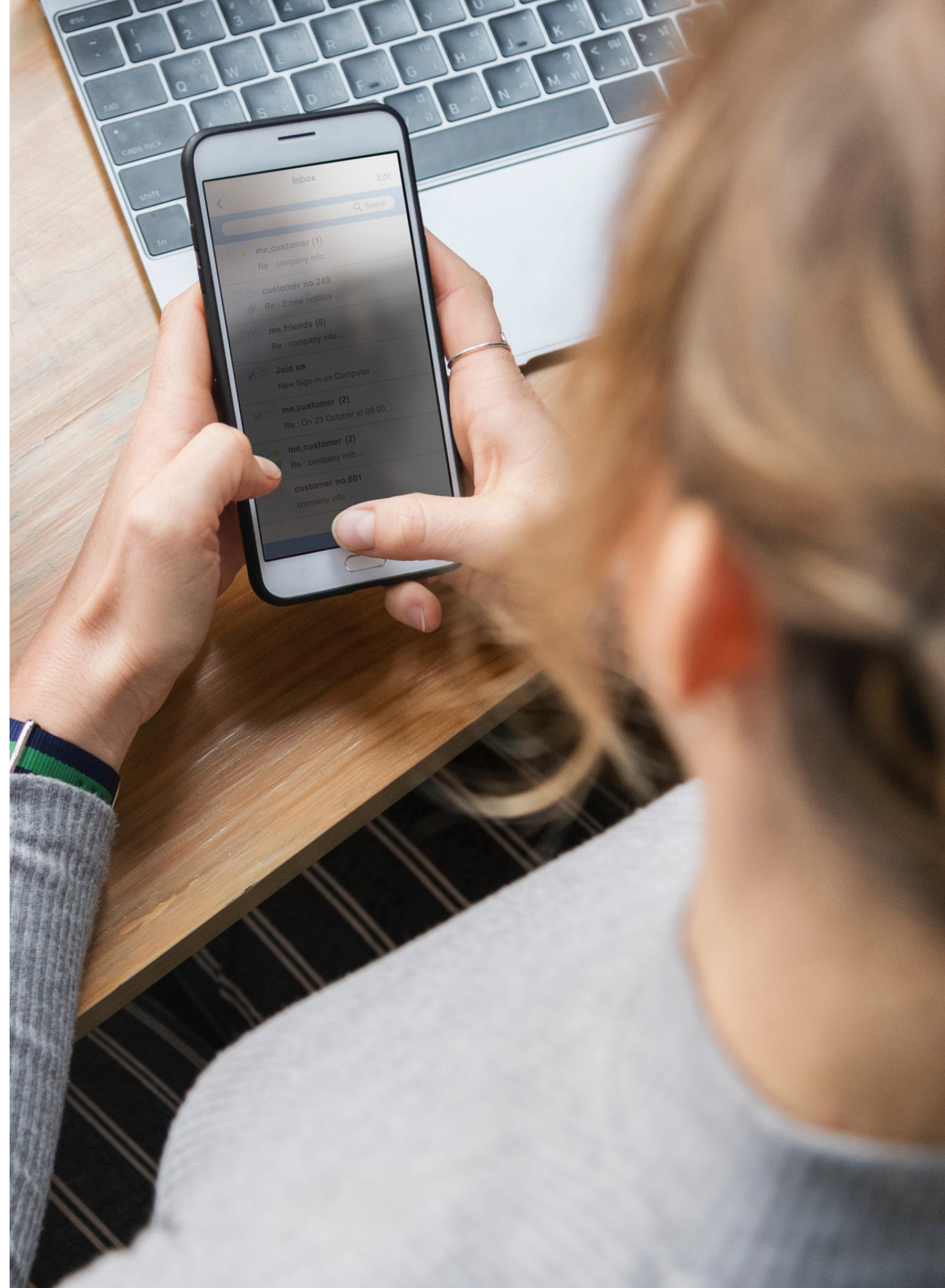
QUESTION 17

If Things Don't Work Out, Who Do I Complain To?

If you have a complaint about an insurance company and the way in which it is handling your claim, you may call or write the Consumer Insurance Information Division of the North Carolina Department of Insurance.

Generally, when a complaint is received, the Consumer Services Division will take information from you and then an analyst from the Division will request information from the insurance company, agent, or adjuster. If the analyst finds that there is just cause for the complaint, a recommendation will be made to both sides as to how to settle the situation.

If this does not resolve the problem, a deputy commissioner may arrange a conference with the insurance company involved to resolve the problem. If the conference does not resolve the disputed issue, the deputy commissioner may recommend to the commissioner that appropriate legal action be taken including a public hearing or filing a lawsuit. (The Division will not investigate a complaint that is also the subject matter of a lawsuit. If a lawsuit has not been filed, but you have an attorney, the Division will investigate only with the attorney's consent.) [11 NCAC 04.0115.]



What We Do

We've recovered over \$1.4 billion total for over 55,000 clients since 1997.¹

Plus, when 18,400 African American claimants were discriminated against by the U.S. government, we fought for them to recover the **\$1.25 billion**¹ they were entitled to.

Fighting for justice is not just our job — it's our passion. It's what gets us out of bed in the morning and keeps us motivated day in and day out.

Thousands have turned to us when faced with injustice, whether personal injury, workers' compensation, eminent domain, or Social Security Disability. We're now among the largest personal injury law firms in North Carolina.

We strive to maintain a personal and personable one-on-one relationship with each client.

Why? Because our clients like it that way. And frankly — we do too.

We've recovered over **\$1.4 billion** total for more than 55,000 clients since 1997.¹

¹Each case is unique and must be evaluated on its own merits. Prior results do not guarantee a similar outcome. Re: class action suit against the U.S. government, the Law Offices of James Scott Farrin led a team of firms to recover \$1.25 billion for African-American farmers from the U. S. government for discrimination.

STOCK PHOTO

Who We Are



We're one of largest personal injury law firms in North Carolina — with more than **150 staff members**, including over **60 attorneys**, and **17 offices**.



In 2021, we were recognized as a **“Best Law Firm”** by *U.S. News* — *Best Lawyers®* for workers' compensation for the greater Raleigh area.²



Several of our attorneys are **NC State Bar Board Certified Specialists**. Only a small percentage of North Carolina attorneys can make that claim.³



Many of our attorneys are recognized professionals in their fields. They've **authored books**, spoken at **seminars for other attorneys**, and have **won awards**.⁴



We know how the “other side” likes to operate. We have **former insurance defense attorneys**, **former insurance adjusters** — and even a **former state senator** on staff!



We've been featured on **public radio**, interviewed on **local TV**, and appeared in **nearly 100 newspapers** and websites.

We hope this booklet has been helpful. Please feel free to share it with others. We want to make sure you are armed with information to make some decisions after your accident.

Cases handled by lawyers who principally practice in our offices in Durham (Main), Raleigh, Charlotte, Greensboro, NC, and Greenville, SC.

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