

If you or someone you love has been in an accident, don't delay.  
Contact **The Law Firm of William Babich**  
1125 Centerra Bldg, 1873 South Bellaire Street  
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Call toll free: **888-723-1247**

## Personal Injury Law

### LIST OF TERMS

Below are definitions of some common legal terms:

**Appeals:** A proceeding undertaken to have a decision reconsidered by bringing it to a higher authority; especially the submission of a lower court's or agency's decision to a higher court for review and possible reversal.

**Arbitration:** A method of dispute resolution involving one or more neutral third parties who are usually agreed to by the disputing parties and whose decision is binding.

**Assumption of Risk:** A voluntary encountering and acceptance of a known risk of damage or loss under circumstances where such risk is reasonable or probable. Many state ski statutes say that skiers assume certain risks by engaging in the sport, and therefore the ski area operators are not liable for injuries resulting from the voluntary and knowing assumption of the known risk. For example, falling down while skiing is a known risk that is assumed. Ski areas are usually not liable when this happens. However, if the ski area creates a danger or risk that is not inherent to skiing, such as hitting someone with the groomer, the ski area would be liable.

**Automobile Accidents:** Although the public commonly refers to collisions between two cars as an "accident," the collisions are almost always the result of someone who chose to act irresponsibly. Automobile collisions are the single greatest source of injury, trauma, and unnatural death.

**Boating Accidents:** As is true with the operation of any vehicle or machine, negligent operation of boats can result in serious injury or death.

**Catastrophic Injury:** A catastrophic injury is one that is so severe that the injured person has lost the use of a bodily system or function and is not expected to fully recover. The injured person may require multiple surgeries, long hospital or rehabilitative stays, and full-time nursing or assistive care. Some examples of

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catastrophic injuries include traumatic brain injuries, spinal cord injuries, severe burns, loss of limbs, amputations, and paralysis or paraplegia or quadriplegia.

**Civil Action:** A lawsuit seeking redress or an award of damage for a civil wrong, as opposed criminal proceeding prosecuted by a governmental agency.

**Comparative or Contributory Negligence:** This type of negligence concerns the acts of the injured party and asks to what extent the injured party was responsible for their own injury. The insurance company providing the defense for the wrongdoer will attempt to prove that the plaintiff contributed to his or her own injury in some way in order to reduce the amount of money the insurance company will have to pay on behalf of the wrongdoer.

**Construction Site Accidents:** Due to the heavy equipment, machinery, and working conditions inherent to a construction site, negligence can lead to someone being very seriously injured or to a wrongful death.

**Damages:** An injured party may be entitled to compensation for certain kinds of damages. These types of damages can include: Economic damages, e.g. medical expenses incurred in the treatment of both past and future injuries; lost wages (both past and future) and impairment of earning capacity; Non-economic damages, e.g. loss of quality or enjoyment of life; physical pain and mental suffering, loss of time; and Permanent Physical Impairment and Disfigurement, i.e. partial loss of use or function of the body, loss of a limb, scarring. Other damages might include loss of services, and loss of companionship and sexual relations for the spouse of the injured party.

**Defective Motor Vehicle:** A defect in the design or manufacture of a car tire or seat belt can render the car unsafe and be a matter of life and death.

**Direct Action:** In some states, such as Wisconsin, an injured party can bring suit directly against the wrongdoer's insurance company to recover for damages caused by the wrongdoer. In most states, such as Colorado, however, the injured party cannot bring a suit directly against the wrongdoer's insurance. In fact, the injured party cannot even mention the fact that the wrongdoer has insurance and that damages awarded will be paid by wrongdoer's insurance up to the policy limits.

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**Discovery:** Various pre-trial procedures including depositions, interrogatories and requests for production of documents, whereby parties obtain evidence to be used at trial. (Also see Process of a Lawsuit at [www.denverseriousinjuryattorney.com](http://www.denverseriousinjuryattorney.com).)

**Dog or other animal attacks:** An animal attack is often disfiguring and psychologically devastating, especially if the victim is a child.

**Duty of Care:** the legal obligation to be careful in conduct or care so that people are not injured by our actions or our failure to act.

**Electrical Accidents:** Faulty wiring and other acts of negligence can lead to electrical accidents with devastating consequences.

**Federal Tort Claims Act (FTCA):** A law that gives exclusive jurisdiction to the United States federal courts to hear claims against the United States for money damages arising out of the negligence of any government employee.

**Fires and Explosions:** Serious burns and other injuries resulting from a fire or an explosion are a source of catastrophic injuries and life-long physical and psychological scarring.

**Gross Negligence:** A negligent act committed with a conscious or willful or wanton indifference to the consequences; recklessness.

**Informed Consent:** A medical professional is required to get the consent of the patient before providing treatment. At a minimum, the patient should be informed of the nature of the treatment or procedure, any alternatives available, the risks associated with the procedure, and the risks of not having the procedure performed.

**Interrogatories:** Written questions served on a party to a lawsuit to be answered under oath as part of pre-trial discovery. (Also see Process of a lawsuit at [www.denverseriousinjuryattorney.com](http://www.denverseriousinjuryattorney.com).)

**Insurance Company Bad Faith:** Most people carry some kind of accident or liability insurance, such as car insurance or homeowner's insurance, which is designed to cover the insured for certain accidents or injuries described in the policy. When a person is injured through the fault of someone else, it is generally true that the responsible party must pay any compensation to the injured party—

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and the responsible party's insurance policy is usually the source of that the money, at least up to the policy limits. In offering policies, insurance companies promise to pay out funds, up to the policy limits, under certain conditions for any covered accidents. Insurance companies have a quasi-fiduciary duty to carry out these obligations in "good faith." This means that an insurance company cannot put its own interests ahead of those insured. It must fulfill its obligations under the policy promptly unless there is an honest dispute, such as whether the policy was in effect at the time of the accident, whether the accident is covered under the policy, or how much money should be paid out. If an insurance company unreasonably fails to carry out its obligations, such as by not attempting to settle, making arguments that it knows or should know are invalid, or by "dragging its feet" in order to force the parties to settle for less money, it is acting in "bad faith." The insured then has a cause of action against his or her insurance company for violation of its obligations. Accordingly, an award in excess of the policy limits will often end up being paid by the insurance company, which breached its obligations to its insured.

**Liability:** legal responsibility for an accident; a person who is liable (or his insurance carrier) must pay for injuries and damages caused in the accident.

**Lien:** A legal right or interest that a creditor has in another's property, lasting usually until a debt or duty that it secures is satisfied. For example, the hospital, the doctors, and one's own health insurance carrier may take a "lien" against proceeds to be recovered against the negligent party for the value of the service or payment made for the services.

**Malpractice:** Negligence or substandard care by a professional such as a doctor, lawyer or engineer in the performance of professional duties.

**Motorcycle Accidents:** Due to the very nature of their vehicles, motorcycle drivers are often likely to sustain serious injuries in the event of a collision. Motorcycle drivers have the same rights on the road as a person operating a car or truck.

**Negligence:** Negligence is a failure to act in accordance with the standard of care that society expects of its members; in many cases it is synonymous with carelessness. Individuals have a duty to act carefully and avoid causing injury to others. Individuals and companies are required to act as a "reasonable person"

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would act under similar circumstances in order to avoid the foreseeable adverse consequences of his/ her/ its actions or failure to act.

**Negligence Per Se:** The violation of a rule of law, regulation, or statute, the violation of which means that the wrongdoer breached his/her/ its duty and was negligent as a matter of law.

**No-Fault Insurance:** Many states have enacted no-fault insurance laws. Under no-fault insurance, injured party is entitled to medical, rehabilitation and lost wage benefits from his or her own insurance company, irrespective of who caused the accident. Ordinarily, and subject to various options and deductibles, no-fault insurance policies provide for payment of medical, and rehabilitation expenses, as well as a portion of lost wages up to a statutory policy limit, in the event of a covered accident.

**Note that since July, 2003, when the sunset provision of the statute took effect, Colorado is no longer a no-fault state. While there may still be cases under the old no-fault law, persons injured in accidents in Colorado after July, 2003, must now recover the cost of his/her medical expenses and lost wages, as well as his other damages, by making a claim or filing a law suit against the person who caused the injury to obtain recovery of those damages from the wrongdoer's insurance company.**

**No-Fault Threshold:** As a trade off for receiving no-fault benefits (paid irrespective of who caused the accident), an injured party in no-fault states must meet an "threshold" before a claim can be asserted for damages that have not been compensated against the party who caused the accident. Ordinarily, to bring a claim for damages in a no-fault state, the injured party must reach a certain monetary amount in medical expenses or have sustained a serious or permanent injury as defined in the applicable state statute.

**Pain and Suffering:** An element of non-economic damages to which the plaintiff is entitled if injured as the result of the wrongdoing of another.

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**Pedestrian and Bicycle Accidents:** Colorado has laws protecting pedestrians and bicyclist who have been injured due to a collision. Just because a person is not riding in a motorized vehicle, it does not mean he or she has no rights.

**Plaintiff:** The person who brings the lawsuit against the person causing the injury or damage. In most states, such as Colorado, the actual wrongdoer must be named as the defendant, and it is not permissible to name the wrongdoer's insurance company as a party, even though it pays the judgment entered against the defendant, at least up to policy limits.

**Premises Liability:** Premises liability refers to the duty of a property owner or person responsible for the condition of the property to maintain the "premises," that is the land and buildings, in a reasonably safe condition. If the property owner fails to do so, he or she may be responsible for any injuries suffered by someone who comes onto the premises as a result of the unsafe or defective condition. The specific duty required as to a particular individual may be different depending on whether that person is an invited customer, a permissive user or guest, a trespasser, or child. Under premises liability principles, for example, a homeowner may be responsible for an injury to a repairman who enters the house and is injured when he trips on loose carpeting; a store owner may be responsible for an injury to a customer who is injured when a store display collapses and falls on the customer; the owner of an apartment building may be responsible for injuries caused by someone falling down an unlit stairway; or a railroad company may be responsible for an injury to a child who is playing near train tracks and is hit by a train.

**Products Liability:** Products liability refers to the legal liability of manufacturers and sellers to compensate purchasers for damages or injuries caused by defects in the products purchased. For example, a passenger in a car involved in a crash may be able to seek compensation for a malfunctioning or poorly designed seatbelt or airbag; or a manufacturer of machine parts who fails to apply proper quality controls may be responsible for injuries caused to a machine operator when the part fails during use.

**Proximate Cause:** That which in natural sequence produces an injury.

**Punitive Damages:** Damages awarded to punish a party who committed a

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wrongful act rather than to compensate an injured party for actual damages; exemplary damages.

**Slip-and-Fall Injuries:** A person is entitled to compensation if he or she falls and suffers an injury as a result of someone else's negligence.

**Statute of Limitations:** A statute that fixes the time within which a lawsuit on a claim must be filed, and beyond which, it will be forever barred.

**Strict Liability:** legal responsibility that attaches in certain circumstances, e.g. for injuries caused by a defective or dangerous product; the injured person is not required to show that the product maker or seller was negligent.

**Subrogation:** The right of an injured party's own insurance company (i.e. health insurance), which has paid benefits to an injured party as a result of a third party's wrongful action, to be reimbursed by the injured party upon the injured party's receiving any compensation from the responsible party.

**Third Party:** One who is not a party to a lawsuit, agreement, or other transaction but who is somehow involved in the transaction; someone other than the principal parties.

**Tort:** A private or civil wrong that results in an injury; a breach of the duty of care causing damage; a negligent act.

**Tortfeasor:** One who commits a tort; a wrongdoer.

**Truck Accidents:** Truck accidents often result from the violation of one of the many regulations that are designed to protect the motoring public. Because of the mass of the vehicles, the consequences of a truck accident can be disastrous, especially if there are other, smaller vehicles involved.

**Uninsured Motorist:** One's own insurance coverage that pays for the insured's injuries and losses negligently caused by a driver who has no liability insurance.

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**Underinsured Motorist:** One's own insurance that pays for losses caused by a driver who negligently damages the insured but does not have enough liability insurance to cover the damages.

**Workers' Compensation:** The Workers' Compensation laws provide certain benefits to employees who are injured at work, generally without regard to who was at fault in causing the injury. The benefits typically include a percentage of the workers average weekly wage while he or she is off work due to injury, reimbursement for mileage when traveling to or from medical appointments, repayment of related medical expenses and a lump sum compensation for permanent impairment or disfigurement. Upon recovery against a negligent third-party, the workers' compensation insurance carrier will be entitled to be re-paid by the injured party for certain benefits paid.

**Waiver:** The voluntary and intentional surrender of a right or privilege.

**Wrongful Death:** A wrongful death action is a type of lawsuit brought on behalf of the surviving family or beneficiaries of a person who died through the fault or negligence of another. The surviving spouse and children may seek compensation from the responsible party for the loss of support and companionship that the decedent would have likely provided, as well as for their emotional grief.