

## WHAT IS AN ACCIDENT “CLAIM”?

The term “claim” is part of the language insurance adjusters and lawyers use to refer to someone’s potential entitlement to compensation for his or her injuries due to the negligence of one or more of the drivers involved in an accident. Most of the time (meaning statistically), the injured client’s “claim” can be successfully resolved through skillful preparation and negotiating on the part of the client’s lawyer with the insurance adjuster.

If, however, there are legal problems with the claim or the insurance carrier just won’t be reasonable and refuses to offer a reasonable sum to adequately compensate the injured person, then the client’s attorney may have to file a civil lawsuit against the negligent driver. Once the lawsuit is filed in court, the “claim” then becomes a pending “case,” and the legal process formally begins. This takes place in several stages, which are described in more detail in Chapters 14 and 15. Bear in mind that all personal injury lawsuits are “civil” claims, in that they are brought by private parties alleging negligence and seeking an award of money damages. These are distinct from “criminal” cases, which are brought only by government prosecutors, and seek criminal sanctions (fines and/or jail time) for violations of the criminal code. Contrary to what some people may think, you cannot “sue” to bring criminal charges against someone, but you can sue someone in civil court for behavior that also happens to be criminal.<sup>1</sup>

---

<sup>1</sup> The law on this varies considerably state-by state. One example would be a civil suit to recover damages from injuries inflicted through the “intentional tort” of assault and battery. Another example of a civil claim based upon behavior that may also be criminal in nature is a “wrongful death” lawsuit. Remember the civil lawsuit against O.J. Simpson for “wrongful death” that was brought by Nicole Brown Simpson’s family after O.J. was acquitted in his criminal trial?