

# HANDLING YOUR "PROPERTY DAMAGE" CLAIM

[ WITH AN INSURANCE COMPANY ]

This handout, provided by the Parnall Law Firm, is intended to provide you with information that you may find helpful in maximizing the money you receive for damages associated with your car following an automobile accident. This primer is not intended to provide legal advice about any specific situation, since each case turns upon its own particular facts.



PLEASE NOTE: WHEN YOU SPEAK TO THE ADJUST-  
ER, SPEAK ONLY ABOUT PROPERTY DAMAGE –  
NOT THE WRECK, INJURIES, OR TREATMENT.

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CLAIM  
[ WITH AN INSURANCE COMPANY ]

## Parnall Law Firm, LLC

2025 San Pedro Dr. NE  
Albuquerque, NM, 87110

Phone: (505) 268-6500  
Fax: (505) 268-8708

[www.HurtCallBert.com](http://www.HurtCallBert.com)

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## I. Is Your Car a “Total Loss,” or is it worth repairing?

“Total loss” means that the damage to your car is equal to or more than 70 – 75 % of the car’s value. In other words, it is “not worth it” to repair your car. This happens either when the damage to the car is very significant, the car is very old, or both. If a car worth \$10,000 needs \$8,000 in repairs, it will likely be a “total loss.”

## II. Handling Your “Total Loss” Claim

If your car is a “total loss,” the insurance company typically owes you the fair market value of your car immediately prior to the accident. This is what your car was worth, not what you paid for it. A “market survey” may be done to determine this amount, which is based on what cars like yours (same year, make, model, mileage, condition, and accessories) are selling for in your area. Here are some good sources for you to do your own “market survey”:

- Kelley’s Blue Book, or kbb.com
- Autotrader.com
- N.A.D.A., or nada.com
- Craiglist.com
- expert opinion, for a fee.

If your survey is higher than the insurance company, you can negotiate because some adjusters will pay more for your car if you have support for your valuation. New parts or recent service can be important here, so please be sure to tell the adjuster.

If the adjuster has a lower evaluation, ask for the “CCC” report and review it to determine whether the cars in this report are like yours. Try calling the owners of the cars in the CCC report to find out flaws that are creating the lower value and tell the insurance adjuster about the flaws and request another report.

Next, you will get 2 offers from the adjuster. (1) The entire value of the car. And (2) The value of the car, minus the salvage value, if you wish to keep the damaged car. This may seem low to you, because many car owners give higher value to their car. Remember, only “fair market value” can be awarded.

If you disagree with the insurance company about the value, you have to decide whether to file a lawsuit over a difference. This could be 100s to 1000s of dollars. If you want assistance, give us a call. We may be able to include a property claim in a personal injury lawsuit. **Note: lawsuits take time & money to resolve.**

## III. Handling Your “Repairable Damage” Claim

If the insurance adjuster inspects your car to get an estimate, or it was towed to a local body shop that you trust, or both, you may choose to cash the check if the car is still drivable.

If you had the repairs completed and believe it was done improperly or inadequately, we recommend getting a second opinion at another body shop.

## IV. Other Damages You May Be Entitled To

**Rental and/or Loss of Use.** After determining its insured is responsible, the insurance company may provide a rental car, if your car must be evaluated, and/or if it must be repaired. You are entitled to a rental car while your vehicle is in the process of being repaired. When you first speak with the adjuster, ask about a rental car, which rental car agencies you should use, and how much they agree to pay, if you need one.

If you do not rent a car during the period of time the car is being repaired, the insurance company still owes you for “loss of use,” the reasonable value of a rental car. Typically, this is anywhere from \$20.00 to \$50.00 per day or above.

Currently, under New Mexico law, loss of use damages are available for repairable property but not for completely destroyed property. This means, if your vehicle is a “total loss,” you will likely not be able to recover lost use damages or a rental car.

**Diminished Value.** If you sell your car in the future, any potential buyer will likely perceive that the value is lower because of the wreck (*common for frame damage or other significant damage*). If you feel there is substantial damage that would result in diminished value, you have a few options:

1. Compare blue book value of your vehicle model (*without damages*), to Carmax’s estimate of its value with the repaired damages:
  - a. Get the blue book value of your car through kbb.com or Autotrader.com;
  - b. Take your car to Carmax and ask them for a quote to buy your vehicle. Leave a copy of your repair invoice on the seat. (*Do not tell them specifically about the repair or diminished value when you ask to have it valued.*)
  - c. Subtract the Carmax value from blue book trade-in value (*or divide the latter by the former*).

The difference (*or quotient*), is one way of showing how much the value has diminished.

2. Pay an expert to give an opinion of “Diminished Value” that can be demanded in an insurance claim.

3. Use an online service. It will be a bit less expensive, but will not carry quite the same weight since there is no in-person examination of your vehicle.

## V. Storage Fees

If your car is taken to a junkyard or storage facility, that facility will be charging daily storage fees. Usually, the insurance company pays it, however, remember **IT IS YOUR RESPONSIBILITY** to get your car removed from the facility in a reasonable time period. If you allow the car to be stored longer than that, the facility will usually file a lien on the car to pay the storage fees. Conversely, if there is no insurance to pay, or the insurance company initially denies responsibility, you should remove the vehicle to be stored for free or as little as possible.

## VI. Conclusion

Remember to ask a lot of questions, especially if you do not know what the terms mean. Ask the insurance adjusters to pay for everything you feel you are entitled to (*rental car or loss of use*). Finally, use common sense in what costs you incur after the accident so that those costs will be reasonable and more likely to be reimbursed by the insurance company.

If you have difficulty in negotiating this part of the claim, please let us know. While we do not usually take a fee in handling property damage, we understand that in very troublesome situations, a letter from a lawyer may be necessary. If necessary and pragmatic, we can also include the property damage claim in your lawsuit for personal injuries.

Very truly yours,



Bert Parnall