

DEMAND & NEGOTIATIONS

LANDER LAW PLLC

There are typically two types of claims involved in personal injury matters, the Bodily Injury claim (primary) and Property Damage claim (secondary). The Bodily Injury claim involves payment for damages and injuries that have occurred or are likely to occur. These are compensatory damages, which include medical expenses, lost wages or services, mileage, non-medical expenses, and pain and suffering.

Most Bodily Injury claims are resolved AFTER all medical treatment is complete because insurance carriers enter into a one-time settlement agreement that will not be changed or modified. It's important that you receive all reasonably necessary treatment before the case is settled because you won't be able to re-open the claim.

The primary reason claims settle BEFORE treatment is complete is due to policy limits. Individuals, businesses, and government entities are required to have insurance policies when conducting certain types of activities. The amount of an insurance policy can vary greatly, from one thousand dollars to tens of millions of dollars. The amount of the policy determinates the maximum amount of your possible settlement, unless certain and unique conditions apply.

The first avenue of recovery is directly from the at-fault party, under their applicable insurance policy or from the at-fault individual directly. The second (and possibly third) avenue of recovery is from the non-at-fault driver's applicable insurance policies, which includes Under or Uninsured Motorists coverage, home/renter policy, or an umbrella policy.

If all available limits are exhausted by current compensatory damages, then some insurance companies will "tender" full limits. Going after the at-fault party directly or filing a Bad Faith Claim against your insurance carrier may open additional avenues of recovery, but there are specific statutory requirements for these circumstances.

Our Managing Attorney, Khadijah A. Lander, holds biweekly reviews of our cases with individual team members. We hold a case-specific meeting with all team members at six (6) weeks and again at six (6) months to track progress and tasks, raise red flags, and assess how the case has been developing and our case strategy to maximum our clients' recoveries.

SETTLEMENT DEMAND

Our office gathers medical and billing records and drafts internal summaries as you progress with your medical treatment. However, some providers have delays in their record production process and these delays can cause several weeks or months to pass until we're able to gather your full medical and billing records.

The Demand includes all medical and billing records and supporting documents for lost wages or services, mileage, non-medical expenses, medical declarations, and pain and suffering. Once we have all records and documentation, it can typically take our office two weeks to complete the written Demand and supporting exhibits. This process can take up to four (4) weeks for more complex cases or our crime victim representation cases as we're drafting additional supporting documentation, like a Complaint and Summons or witness statements.

Once we submit the Demand to the insurance company, we typically receive their initial response in thirty (30) days. This is when settlement negotiations begin.

NEGOTIATIONS

After the Demand has been submitted, we are very familiar with the strengths and weaknesses of our cases and prepared to evaluate the insurance company's initial offer. We work with our clients throughout the negotiation process to determine the best settlement approach to suit our clients' needs, whether that means continued negotiations and settlement or filing a lawsuit.

Just as with all negotiations in life, the first offer is rarely accepted. It's important to remember that insurance companies are for-profit corporations and not all insurance companies are created equal; nor are all insurance adjusters created the same. Some adjusters use a standard, tiered approach: start high, counter low, and meet in the middle. Some adjusters critically evaluate the claim and supporting documentation and give an offer that's close to their "best and final" offer, providing little room to negotiate. Some adjusters significantly devalue the claim and there is nothing that can be done to change their skeptical minds, except filing a lawsuit to get a new, more specialized adjuster or attorney to take a critical look at the case and thus restart negotiations. Settlement negotiations can take weeks, or even months, to get the most value from the insurance carrier.

Whichever resolution approach we take, our work doesn't end with an agreed settlement. We work with our clients' medical providers and insurance carriers to address any liens on settlement proceeds. While we're always working hard to get the best outcome, financial medical obligations are ultimately our clients' responsibilities. We always work with our clients to resolve unpaid medical bills, insurance reimbursements, and government benefits.

STATUTE OF LIMITATIONS

The timing of your case is important. There is a limited amount of time to settle your case without filing a lawsuit; this is called the Statue of Limitations. In Texas, the Statue of Limitations for negligent acts is two (2) years.