

AUTOMOBILE NEGLIGENCE (THIRD PARTY NO-FAULT)

In 1973, the Michigan Automobile Law changed to the present No-Fault Automobile Act. The change did not eliminate actions against careless or negligent drivers who caused injuries to another; however, specifically, did significantly change certain aspects of the law.

The way the Michigan No-Fault Automobile Act is interpreted by the Michigan Courts is constantly changing. This firm, as with most attorneys, will answer questions concerning your injury and/or case, at no charge to you, in order to provide you with the information necessary to allow you to decide whether you choose to pursue an action against the negligent driver. It is imperative that you make contact with an attorney to determine whether there is a basis for your action.

BASIS OF ACTION AGAINST RESPONSIBLE PARTIES

An action is based on general negligence principles for injuries and related damages arising out of the Defendant's use, operation and/or maintenance of a motor vehicle. The concepts of duty, breach of duty, and proximate cause in determining damages provides the basis for automobile negligence Complaints, with specific allegations concerning the violation of the Michigan Motor Vehicle Code, as being the source of responsibility of the Defendant.

It is necessary that the injured person prove a **"threshold"** injury of either death, serious impairment of body function, or serious permanent disfigurement, in order to recover non-economic damages.

Economic losses are covered under the Michigan No-Fault Law, first party file, with the claim being made against the injured person's insurance carrier. Should the economic damages exceed the coverage available then, an action can be maintained against the negligent driver.

The elements necessary to make a recovery include:

1. The Defendant's use, operation, and/or maintenance of the motor vehicle caused the injuries;
2. The Defendant was negligent in using, operating or maintaining the vehicle;
3. There is a relationship between the negligence of the Defendant and the injury or damages claimed by the plaintiff; and
4. The injury to the plaintiff was death, serious impairment of body function, or serious permanent disfigurement.

Serious permanent disfigurement is statutorily defined as ***"an objectively manifested impairment of an important body function that affects the person's general ability***

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to lead his or her normal life.” An exception to this is in the case of a **“closed head injury”** where a special rule requires that a physician specializing in closed head injuries certify that the injured person suffered a serious neurological injury.

STATUTE OF LIMITATIONS

An action must be commenced within three (3) years of the date of the accident, except under special circumstances.

THE PLAINTIFF

The Plaintiff is the person who suffers the personal injury, the spouse or child of the injured person.

THE DEFENDANTS

The Defendants would be the driver and/or owner of the motor vehicle responsible for the injuries suffered by the plaintiff.

COMPARABLE FAULT

If the Plaintiff is more than fifty percent (50%) at fault in the accident, he or she is then barred from recovery for non-economic losses. ***Note: Economic loss is still covered without regard to fault under the Michigan No-Fault first party actions.***

OTHER BARS

An uninsured Plaintiff is barred from any third-party recovery for non-economic damages. ***It is mandatory that all owners of motor vehicles maintain insurance.***

DAMAGES OR AWARDS

You are awarded a reasonable value for non-economic damages (i.e. pain and suffering, loss of social pleasures, recreational pleasures, etc.) Additionally, claim can be made for excess economic loss not otherwise covered by the Michigan No-Fault first party payments.

IT IS SUGGESTED THAT PERSONS BECOME AWARE OF THEIR RIGHTS BY CONTACTING THIS OFFICE AS SOON AS POSSIBLE, BY CALLING 586-752-5640.