

INSURANCE CLAIM GUIDE: RECORDED STATEMENTS

By Mark Wolfe, Attorney at Law

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At some point early in the insurance claims process you will be asked basic information about what happened related to your loss. However, further into the claims process it is very common for an adjuster to want to take a **recorded statement** from you to get more details about the claim and your injuries. This is generally not a problem, but before you agree to give a recorded statement you need to be prepared. Do not just answer the telephone and agree to give a recorded statement. Many times legitimate claimants hurt their claim by giving a spontaneous recorded statement. Not because they are being dishonest or untruthful but because they have not taken time to review or think about important facts related to the collision and then they give inaccurate answers or they fail to mention critical information in the statement. You must understand it's not the adjuster's job to try and help you or look out for you in the claims process. Many times the adjuster you are working with must report all information about a claim to a supervisor or a claims committee for final review, and an inaccurate or incomplete recorded statement can be detrimental in resolving your claim.

NOTE: If you think you may hire an attorney to help with your claim, then it might be best to wait to give a recorded statement until after you have hired or at least consulted with an attorney. When you hire an attorney, he or she will help you review and prepare for the statement. However, many times adjusters will need claimants to give a recorded statement early in the claims process. Some companies require a recorded statement before they will finalize or process the property damage claim or accept responsibility for the claim. Because this request for a recorded statement may happen before you know whether or not you will need an attorney, you may have to face this task without the benefit of an attorney. Just like a poor recorded statement can hurt your claim, a good recorded statement will help the adjuster process your claim more quickly and insure the adjuster's overall assessment of your claim is accurate. The following pages have some suggestions and things to keep in mind about giving a recorded statement related to an insurance claim. **We hope you find this information beneficial.**

\$25,000 claim initially denied because of mistake in recorded statement!

Several years ago we became involved in a denied liability claim. It appeared like a simple and straightforward claim and we, like our client, were confused as to why the claim had been denied. The client had not obtained a transcript of the recorded statement she gave the insurance company early in the claims process. After we requested and received the transcript, the reason for denial became clear. Either by her error or by a transcription error, our client's direction of travel was mistakenly reported. This error created enough confusion as to how the collision occurred that the company denied the claim. We were able to help remedy this mistake and subsequently resolve her \$5,000 property damage claim and eventually her \$20,000 injury claim. But this example shows why claimants should always request a copy of their recorded statement.

-Boteler & Wolfe

Determining “fault” for causing a motor vehicle collision requires an interpretation of facts and law. When giving a recorded statement your job is simply to report the facts accurately and truthfully. By following the five simple ideas and suggestions below, you will help make sure your recorded statement is correct and helpful in the claim resolution process.

SUGGESTION NUMBER ONE: Set up the recorded statement for a time and date that is convenient for your schedule and get a transcript or copy of your statement. As you will see below you will need to do some basic preparation before you give your recorded statement, so make sure you schedule the statement in advance so you can prepare. Also, make sure you have enough time for the statement so you are not rushed or hurried. Most recorded statements do not last more than fifteen to thirty minutes, but you may want to allow up to an hour just in case it runs longer. Ask if you will be given a chance to review the statement or at least be given a transcript or copy of the statement. [Most legitimate insurance companies will provide a copy but you must ask for it.] If the adjuster wants to know why you want a copy you can explain it is simply to make sure the transcript is accurate and that you would like to have a chance to correct any misstatements, inaccurate responses or mistakes you may have made. If the company agrees to give you a transcript or copy, verify this in a written communication. Some companies such as Omni Insurance Company now require the claimant to pay \$15.00 for a transcript of the recorded statement. Even if you have to pay for the copy or transcript, it’s worth it to make sure it is correct.

SUGGESTION NUMBER TWO: Prepare for the recorded statement: 1) Review the accident report before giving the statement. If you do not have the accident report, get a copy or ask the adjuster to furnish you with a copy before scheduling the statement. [Again, most legitimate insurance companies will mail, fax or e-mail you a copy of the accident report but just as with getting a transcript of your statement, you have to ask for it.] 2) Make sure you know your direction of travel and the name of the road you were on. You will also need to be able to identify the direction of travel for the other driver and what road he or she was on. 3) Make sure you know the time of the collision. 4) Review in your mind your route of travel and be able to tell the adjuster where you were going and the purpose of your trip. 5) Know the names of all passengers and if possible their contact information, especially if you believe they can help validate your account of how the collision occurred. 6) You will need to know the weather conditions and if safety belts and/or child restraints were being used by you and your passengers. 7) You will need to be prepared to describe the property damage to your vehicle and the other involved vehicles as well as describe the post-collision position of the vehicles. 8) You will need to have the contact information for any witnesses known to you. 9) You will probably be asked for information about your employment such as how long you have been employed, the type of work you do and your job’s physical requirements, your pay rate and the name and telephone number of your immediate supervisor. **NOTE: If you are making a lost wage claim or loss of revenue claim, you can anticipate a more detailed inquiry into these areas.** 10) If you were injured, even slightly, you need to be prepared to describe your injuries with specificity and in detail. Your description of your injuries should always be honest and never exaggerated but you need to make sure all injuries are mentioned. Bruises and small contusions from seat belts are often forgotten or not mentioned as are small cuts or abrasions. If you have received medical attention, or are still receiving medical care for injuries from the collision, be sure you have the healthcare providers name, address and telephone number available and be prepared to tell the adjuster about the number of visits and what you have been told about your injuries. Also, if you were injured in the collision and making a bodily injury claim for medical bills and related damages, be prepared to answer questions about your past medical history, i.e., other similar injuries, other prior accidents or incidents, etc.

SUGGESTION NUMBER THREE: What to do when giving the statement: 1) Relax and try not to be nervous. 2) Be polite and use yes or no instead of unghn-hughn or ungh-ungh's. The later responses can be very difficult to discern and transcribe and are easily transcribed incorrectly. Also, remember this may be your only chance to interact directly with the insurance company. For the remainder of the claim process, you are primarily just another claim number to the insurance company. You want to make a good impression. *See Claimant Profiling information in Suggestion Five.* 3) Answer the question. Many times people go into a long narrative in response to a simple question. Try to be concise and accurate in your response. 4) Confirm on the record that you will be getting a transcript or copy of the statement. Many companies will now send you a digital sound document of your statement by e-mail. 5) **If you were injured in the collision and anticipate making a bodily injury claim, ask the adjuster on the record and at the end of the statement if he or she has a preferred healthcare provider or doctor you need to go see to verify or validate your injury.** Most of the time at the end of the statement the adjuster will give you an opportunity to say or add anything to the statement and this is the perfect time to ask the adjuster about a preferred healthcare provider. **WHY THIS IS IMPORTANT.** Most companies do not have preferred healthcare providers for you to see and most will not ask you to see a doctor of their choice to validate the claim, but by offering to do so, you are telling the adjuster early on that your injury claim is legitimate and meritorious because you are willing to allow them to "independently verify" the truthfulness of your injury claim. Obviously in catastrophic injury situations or broken bone claims, this offer is not as important, but if you have a soft-tissue injury such an offer can help establish in the adjuster's mind that your claim is legitimate and you are not trying to present a fraudulent or exaggerated claim.

SUGGESTION NUMBER FOUR: What not to do when giving the recorded statement: 1) Do not exaggerate or overstate any aspect of the collision or your injuries. Be honest and candid in your account of the collision and your injuries. 2) Do not speculate. If you do not know an answer it is OK to say you do not know; however, try to give an estimate if at all possible. **NOTE: Excessive use of "I don't know" is often considered by adjusters as being deceitful or not completely honest or candid.** 3) Do not give out personal information such as your date of birth and your social security number during the statement. You can confirm the last four digits of your social security number but in this day and age of identity theft it's better not put your personal information into a statement that will be transcribed by someone you do not know. Understand the adjuster will need this information to process your claim. We are not advocating that you not provide said information, we just do not believe the recorded statement is the appropriate place to disclose said information. Often times this information can be confirmed with the adjuster after the statement is over and the recorder turned off. 4) Do not agree with any commentary or suppositions asserted by the adjuster about your actions or details of the collision. In other words, do not let the adjuster "put words in your mouth." **NOTE: Most legitimate insurance companies do not allow adjusters to do this, but some companies encourage, or do not strongly discourage, this type of gamesmanship by their adjusters.** Some examples: "So you're saying you're really not hurt that bad and aren't going to need medical care." - "OK, if I understand what you've said, you're not really really 100% certain the accident was our insured's fault." - "Based on what you've told me so far, wouldn't you agree that you could have avoided this collision if you would've swerved just a split second sooner?" - "So based upon what you've told me about your work requirements, wouldn't you agree you could probably be working even though your doctor told you to stay off work for two to three weeks." If you find yourself confronted with this situation, you can simply tell the adjuster you are not going to agree or disagree with any of his or her characterizations. Also, if you do not believe the adjuster is being fair to you because of these types of forced questions, stop the statement. Giving a recorded statement is a courtesy and if the adjuster is going to abuse that courtesy then you have a right to stop or cancel the statement. **NOTE: If you stop or cancel the recorded statement for whatever reason, send a written communication to the adjuster documenting why you felt it necessary to cancel or adjourn the statement. If you do not believe the adjuster was being fair or if he or she was rude, describe the adjuster's behavior in detail.**

SUGGESTION NUMBER FIVE: A few last things to consider. 1) While the adjuster's main job in a recorded statement is to gather information related to the claim, he or she will also be gleaning notes for your "Claimant Profile." Most major insurance companies now use some sort of "claimant profile" in the claims process. A claimant profile can be very detailed and complex or it can be something very simple but the main idea is to bring into the claims process some sort of general assessment about the personality and background of the claimant. We live in the information age and information is power. The more information about you an insurance company can gather the more accurate their profile of you will be. This profiling can be very complex and include personality traits, such as "likelihood to consult an attorney," "easily discouraged," "financially distressed," "very anxious and impatient for claim resolution," etc. The company will have also reviewed your past insurance claims history and may bring that into your claimant profile: "Past bodily injury litigant." Your driving history will also be pulled in to your claimant profile. **How you handle yourself during the recorded statement may also find it's way into your claimant profile: "Claimant was polite and well spoken during statement. High credibility assigned."** So remember to be polite and courteous during the recorded statement. 2) Try to be understanding of the adjuster's job and position. While most adjusters handle themselves in a professional and civil manner, please remember because of continued cut-backs by insurance companies, most adjusters are overworked, underpaid and mostly unappreciated by their company. Sometimes the stress of their job is reflected in the way they communicate with claimants. So even if the adjuster is having a bad day, try not to react in-kind. Stay calm and polite. Finally, 3) if the insurance company sends you a transcript or digital recording of your statement, take time to review it as soon as possible. Send a written communication to the adjuster with any corrections. Also, if you think one of your responses may need further explanation or more details, make the additions in the written communication.

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& Wolfe**
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433-7766 / 866 975-7766

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