

How to Repair Your Car Damage

Mini Tort and How it Can Work for You



By: Steven M. Gursten

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Steve is recognized as one of the nation's top attorneys handling serious auto accident injury and wrongful death cases, and No-Fault insurance litigation. He is head of Michigan Auto Law, the state's largest law firm handling car, truck and motorcycle accident cases for more than 50 years.

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— Michigan Lawyers Weekly

At Michigan Auto Law, our lawyers practice exclusively in helping people who’ve been hurt in [car](#), [truck](#) and [motorcycle accidents](#) in the state of Michigan. Here, you will always be treated with the utmost respect, compassion and consideration.

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“I was overwhelmed with my settlement. It was way more than expected. Steve Gursten, my best lawyer, got my one cry in 20 years when he called me with the good news. Even my former attorney was surprised by the auto accident settlement. When I first met Steve, I felt immediate trust. I felt like I’d known him for years. He always made me feel like a priority — even calling me on Sundays. He always takes the time to be there, calling to answer questions and just to see if everything is going okay. I recommend Steve and Michigan Auto Law highly. He’s a very nice guy, down to earth and a very caring person that works hard for you.”

— Rhonda Searfoss, Gladwin

See more Michigan Auto Law testimonials on page 22

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PREFACE:

WHAT IS THE MICHIGAN MINI TORT LAW AND HOW CAN IT HELP YOU?

Our Mini Tort lawyers frequently receive questions from car accident and truck accident victims about their vehicle damage.

Because Michigan does not require a driver to have collision coverage, you can recoup some of your out-of-pocket costs for vehicle repairs via the Mini Tort law. If you do have collision coverage, then a Mini Tort recovery may cover your collision deductible.

Importantly, Mini Tort only covers vehicle damage. If you were injured in an auto accident, then please contact Michigan Auto Law to learn about your rights to No-Fault benefits and pain and suffering compensation.

This guide, **“How to Repair Your Car Damage — Mini Tort and How It Can Work for You,”** is based on Michigan’s No-Fault car insurance law and the experience of Michigan Auto Law’s 20 lawyers. We hope you find our advice and suggestions helpful in getting your vehicle damage repaired and paid for.

If you have questions about your Michigan Mini Tort rights, I hope you won’t hesitate to call us.

Sincerely,



Steven M. Gursten

CHAPTER 1: MICHIGAN'S MINI TORT LAW HELPS VICTIMS PAY FOR CAR OR TRUCK DAMAGE

In this chapter, you will discover:

- How Michigan's Mini Tort law, which is part of Michigan's No-Fault insurance law, can help pay for or defray the cost of repairing the accident-related damage to your car or truck.
- How "collision coverage" insurance works in conjunction with Michigan's Mini Tort law to protect your pocketbook from being raided to pay for someone else's negligent driving.

The Mini Tort law, which is a part of Michigan's No-Fault Insurance Law, gives accident victims like you the right to collect up to \$1,000 from the vehicle owner and/or the negligent driver who caused the accident to help pay for collision-related motor vehicle damage — "to the extent that the damages are not covered by insurance." (MCL 500.3135(3)(e); 500.3135(4)(a))

IMPORTANT: The mini tort law's maximum limit will increase from \$1,000 to \$3,000 for car accidents occurring after July 1, 2020, according to changes made to Michigan's No-Fault law in Public Act 22 of 2019.

One thousand dollars is the maximum amount that can be recovered under the Mini Tort law up until July 1, 2020 and, after that date, the maximum amount will

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increase to \$3,000. However, if repair costs are less than the mini tort's maximum recovery limit, then the Mini Tort law allows an accident victim to recover only the lesser amount.

Therefore, if the damage to your car or truck is \$1,000 or less (or \$3,000 or less for accidents after July 1, 2020), then the Mini Tort law can guarantee payment of all your vehicle damage repair costs. That means zero out-of-pocket costs for you!

The same is true if you have collision coverage and your collision deductible is \$1,000 or less (or \$3,000 or less for accidents after July 1, 2020). The Mini Tort law will provide you with the money to cover your deductible and, depending on the extent of your coverage, your collision insurance will take care of the rest of your repair bill. Again, that means zero out-of-pocket costs for you.

'Crash Course' in Mini Tort Coverage

- Damage repair costs under \$1,000 (or under \$3,000 for accidents occurring after July 1, 2020): **Covered**
- Damage repair costs equaling \$1,000 (or equaling \$3,000 for accident occurring after July 1, 2020): **Covered**
- Standard or Limited Collision coverage deductible up to \$1,000 (or up to \$3,000 for accidents occurring after July 1, 2020): **Covered**

However, if your vehicle damage repair costs exceed \$1,000 (or \$3,000 for accidents occurring after July 1, 2020) and you do not have collision coverage insurance, then the most the Mini Tort law can do now is give you

a \$1,000 running start to getting your car or truck restored to its pre-collision condition. For car accidents occurring after July 1, 2020, that running start will increase to \$3,000.

IMPORTANT – WHEN YOU WILL NOT HAVE MINI TORT CLAIM: If you have broad form collision coverage and you were 50% or less at-fault in causing the car accident that resulted in the vehicle damage you seek to repair, then your deductible will be waived. That means you will have no mini tort claim because both the vehicle damage and deductible were “covered by insurance.” (MCL 500.3135(3)(e))

The Top 5 Ways to Get Repair Costs for Car or Truck Damage Paid

1. Make sure you have No-Fault insurance for your motor vehicle.
2. Make sure your No-Fault insurance policy includes collision coverage.
3. Drive carefully so to reduce your chances of causing — or being the primary cause of — an accident.
4. Get a repair estimate as soon as possible.
5. Do not delay in pursuing a claim to recover repair costs, even though you have three (3) years to file a lawsuit.

The ‘Uninsured’ Disqualification for Mini Tort Recovery

Under Michigan’s current Mini Tort Law, the owners and registrants of uninsured vehicles will be disqualified from using the Mini Tort Law to pay for vehicle damage caused by an “at fault” driver.

Specifically, MCL 500.3135(4)(e) provides:

“Damages must not be assessed [under the mini tort law] if the damaged motor vehicle was being operated at the time of the damage without the security required by section 3101(1) [i.e., the No-Fault law].”

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MCL 500.3101 of the Michigan No-Fault law requires all vehicle owners and/or registrants to secure No-Fault auto insurance for their vehicles.

Qualifying for Mini Tort Recovery

The Mini Tort law can be a great friend to motor vehicle accident victims like you who have had their cars or trucks damaged in a collision caused by someone else's negligent driving.

But you must be aware that the benefits provided by the Mini Tort law are available only if three (3), very specific requirements are met. In particular, you must be able to show:

- 1.** You had mandatory No-Fault insurance for your damaged motor vehicle. (MCL 500.3101(1); 500.3135(4)(e))
- 2.** You were no "more than 50% at fault" for your accident. (MCL 500.3135(4)(a))
- 3.** Up to \$1,000 (or \$3,000 for car accidents occurring after July 1, 2020) of your motor vehicle damages are not covered by your insurance. (MCL 500.3135(3)(e))

If any one of those three requirements are not met, then you will be disqualified from recovering under the Mini Tort law.

What Are the Other Negative Consequences of Not Buying Mandatory Insurance?

To learn about the pitfalls of not being properly insured, please order Michigan Auto Law’s guide, “How Much Car Insurance Do I Need? Understanding Your Michigan No-Fault Auto Insurance Policy.”

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Comparative Fault

The corollary to the “50% at fault” rule described above is a concept called “comparative fault,” which is part of Michigan’s No-Fault insurance law.

Specifically, No-Fault provides that “[d]amages” under the Mini Tort law “shall be assessed on the basis of comparative fault ...” (MCL 500.3135(4)(a)).

That means the money damages you recover pursuant to the Mini Tort law depend on your percentage of fault in causing the accident that resulted in damage to your motor vehicle. (MCL 500.3135(4)(a))

A hypothetical illustrates how the comparative fault concept works in the context of the Mini Tort law.

Suppose an accident causes \$100 worth of damages to your motor vehicle, and suppose it is determined the other driver was 75% at fault, i.e., responsible for causing the accident.

Under those circumstances, the other driver would be liable to pay \$75, and you would be responsible for the remaining \$25 because your degree of being “at fault” would have been the remaining 25%. (MCL 500.3135(4)(a)).

Collision Coverage

Collision coverage dovetails nicely with the protection that you, as a motor vehicle accident victim, are afforded by the Mini Tort law.

Generally speaking, if you have collision coverage insurance for your car or truck and you were “not substantially at fault in the accident from which the damage arose,” then your insurer will likely cover all of your vehicle damage repair costs (depending on the nature and extent of the coverage you purchased). (MCL 500.3037(1)(a)) Under those circumstances, you will not be able to file a mini tort claim for vehicle damage because the mini tort is available only for vehicle damages “not covered by insurance.” (MCL 500.3135(3)(e))

However, under some forms of collision coverage such as Standard Collision (which is sometimes referred to as “Basic”) or Limited Collision, you will likely still have to pay a deductible – even if you were 50% or less at-fault in causing the accident.

That is where the Mini Tort law comes in. Instead of paying the deductible out of your own pocket, you can use the Mini Tort law to pay the deductible with money

from the negligent driver's insurer or from the negligent driver directly.

IMPORTANT NOTE ABOUT LIMITED COLLISION: Please note that if you have Limited Collision and you are "more than 50% of the cause of the accident" resulting in the vehicle damage in question, then your auto insurance company will not pay for "collision damage" to your vehicle. (MCL 500.3037(1)(a) and (8)(b)) Additionally, because you were "more than 50% at fault," you will be barred from pursuing a mini tort claim against the other driver. (MCL 500.3135(3)(e) and (4)(a))

Broad Form Collision Coverage

If you have broad form collision coverage and you were "not substantially at fault in the accident from which the damage arose" (i.e., you were not "more than 50% of the cause of the accident"), then your vehicle damage repair costs will be covered by your insurance and your collision deductible will be waived.

Under those circumstances, you will not be able to file a mini tort claim against the other driver because the mini tort is available only for vehicle damages "not covered by insurance." (MCL 500.3135(3)(e))

Pursuing Your Mini Tort Claim

You can start the Mini Tort claim process by writing a letter to the insurance company for the person who caused the accident (assuming he or she is also the vehicle's owner), and request money up to \$1,000 (\$3,000 for car accidents occurring after July 1, 2020) to cover the repair costs for your accident-related motor vehicle damage.

If the negligent driver is not also the vehicle owner, and if both the driver and owner have different insurance companies, then submit your Mini Tort claim request with the owner's insurer first, because it will be primarily responsible.

If the insurance company ignores or denies your request, then you may wish to attempt contacting directly the negligent driver — or the owner of the negligently driven vehicle — and asking him or her to pay you.

But if both of those approaches fail, then you should file your Mini Tort claim in small claims court. (MCL 500.3135(4)(c)) This lawsuit should probably be filed in the relevant court where the accident occurred or where the defendant(s) reside(s).

However, if the other driver doesn't have insurance and your repair costs exceed the jurisdictional amount of Small Claims Court, you will need to file your Mini Tort claim in the District Court, not Small Claims Court. **[NOTE:** Starting on January 1, 2018, the "jurisdiction of the small claims division shall be confined to cases for the recovery of money in which the amount claimed does not exceed . . . \$6,000.00." On January 1, 2021, the

small claims court jurisdictional amount will increase to \$6,500. (MCL 600.8401(c) and (d))]

You have three (3) years after the date of the collision to either recover from the negligent driver's insurance company or to file a Mini Tort lawsuit in small claims or district court. (MCL 600.5805(2))

If you haven't done either within the three (3) year time frame, then your claim will cease to be valid and your right to collect under the Mini Tort Law will have expired.

Essential Paperwork for Collecting on Your Michigan Mini Tort Claim

Include the following documentation with your Mini Tort claim request:

- A copy of the police or accident report – also known as the “UD-10” – which details the facts surrounding the crash and identifies who was assessed fault.
- A copy of your No-Fault insurance policy's declaration page (not the proof of insurance which you keep in your glove box) which proves your insurance coverage at the time of the crash.
- A copy of the estimate to repair your car or truck damage.
- A photo of your damaged vehicle with the license plate to prove identification, if requested.
- A copy of your motor vehicle title, if requested.

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Can You Receive Mini Tort Protection When You Caused the Accident?

Although the Mini Tort law is primarily geared toward protecting the innocent motor vehicle accident victim, it also provides some protection to the negligent driver.

That is important to know, especially if you happen to be the cause of a motor vehicle accident that results in damage to another person's vehicle.

Here is how it works: Assuming you have purchased mandatory No-Fault insurance for your car or truck, then the Mini Tort law caps at \$1,000 (or \$3,000 for car accidents occurring after July 1, 2020) your liability for collision-related damage you caused to another vehicle – or to each vehicle that is damaged in a multiple-vehicle car crash.

In other words, the same Mini Tort law damage cap that prohibits you from recovering more than \$1,000 (or \$3,000 for car accidents occurring after July 1, 2020) from the negligent driver who caused damage to your car or truck, protects you from having to pay more than \$1,000 (per vehicle) (\$3,000 for car accidents occurring after July 1, 2020) when you are the cause of damage to someone else's car or truck.

IMPORTANT – WHY IT IS IMPORTANT TO HAVE MINI TORT COVERAGE ON YOUR AUTO INSURANCE POLICY:

Mini tort coverage, which is usually called “Limited Property Damage” on most policies, is optional coverage. Even though the No-Fault law provides for recovery under the mini tort for vehicle damage repair

costs, it does not make mini tort coverage mandatory. However, that's not to say that mini tort coverage is not a good idea. In fact, it is an excellent idea! Consider this: Once the mini tort recovery limit amount increases to \$3,000 after July 1, 2020, if you are deemed to be at-fault and, thus, responsible for causing a car crash involving multiple vehicles, then you could be held financially liable for up to \$3,000 for each vehicle damaged. Therefore, it is highly recommended that you have mini tort coverage on your No-Fault auto insurance policy.

No Insurance — No Mini Tort Recovery

The consequences of not having mandatory No-Fault insurance can be quite severe in the Mini Tort claim context.

For a motor vehicle accident victim — even one who did nothing to contribute to the accident — recovery is prohibited if he or she did not have mandatory No-Fault insurance for his or her vehicle.

And, for an at-fault driver (i.e., a vehicle operator who was “more than 50% at fault” for causing the accident) who did not have mandatory No-Fault insurance, he or she loses the benefit of the Mini Tort law’s maximum damage cap of \$1,000 (or \$3,000 for car accidents occurring after July 1, 2020)

Consequently, the uninsured, at-fault driver’s liability for vehicle damage that he or she caused is unlimited and he or she could be held liable for not only vehicle damage repair costs, but also costs for car rental, loss of

use, damaged or lost vehicle contents, and other incidental expenses.

Is There Mini Tort for Motorcycles?

As generous as the Mini Tort law is for motor vehicle accident victims — and even for drivers who cause accidents — the Mini Tort law is remarkably stingy for motorcycle riders and/or owners who have suffered accident-related motorcycle damage.

Regardless of whether you were in an accident with another motorcycle or with a car or truck, you cannot get the repair costs for motorcycle damage paid for under the Mini Tort law.

The Mini Tort provision of Michigan’s No-Fault insurance law applies only when there is damage to a motor vehicle. (MCL 500.3135(3)(e)) And, under the No-Fault law, motorcycles are not considered motor vehicles. (MCL 500.3101((3)(i)(i))

But all may not be hopeless...

If you have motorcycle collision coverage, then your insurance company may cover the damages to your motorcycle.

Alternatively, if the motorcycle was parked and unoccupied – like a piece of property – and there was a motor vehicle involved, then only under those limited circumstances would you be able to pursue a claim under the Property Protection Insurance (“PPI”) provision of the vehicle owner’s or driver’s auto policy.

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CHAPTER 2: NO-FAULT PROPERTY PROTECTION INSURANCE (PPI) BENEFITS CAN HELP YOU PAY FOR VEHICLE DAMAGE

In this chapter, you will discover:

- How Property Protection Insurance (PPI) benefits, which are provided under Michigan's No-Fault insurance law, can help pay for the cost of repairing the accident-related damage caused to your car or truck.
- How Property Protection Insurance (PPI) benefits differ from the Mini Tort law in terms of helping accident victims like you pay to repair accident-related vehicle damage.

Property Protection Insurance Benefits vs. the Mini Tort Law

It is true that Michigan's No-Fault insurance law provides two ways to pay for motor vehicle accident-related damage to your properly insured car or truck.

One is through the Mini Tort law. And, the other is through Property Protection Insurance (PPI) benefits.

But it is also true that those two ways of paying for accident-related vehicle damage are not the same. They

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cover different kinds of vehicle damage and provide different levels of damage coverage.

For example, as explained in the previous chapter, the Mini Tort law covers accident-related damage to your vehicle up to \$1,000 (or \$3,000 for car accidents occurring after July 1, 2020) that was caused by someone who was “more than 50% at fault” for causing the accident.

However, PPI benefits cover accident-related damage to your parked, unoccupied vehicle regardless of who was at fault for causing the accident — whether it was you or someone else. (MCL 500.3121(2), (“Property protection insurance benefits are due ... without regard to fault.”))

And, PPI benefits are not capped at \$1,000 (or at \$3,000). To the contrary, benefits “paid under 1 policy for damage to all tangible property arising from 1 accident shall not exceed \$1,000,000.00.” (MCL 500.3121(5))

Pursuing Your PPI Benefits Claim

Property Protection Insurance (PPI) benefits help motor vehicle accident victims like you, pay to repair accident-related motor vehicle damage, contents, car rental, etc., if your vehicle was parked, but only if the vehicle was unoccupied and “parked in a manner as not to cause unreasonable risk of the damage which occurred.” (MCL 500.3123(1)(a))

Additionally, PPI benefits can help you pay accident-related motor vehicle damage repair costs if the damage occurred when your insured vehicle was in the “shop”

being repaired, serviced or otherwise maintained – but not when being test driven. (MCL 500.3121(1))

The “damage” that is covered by PPI benefits includes “physical injury” to, “destruction” of, and “loss of use” of your motor vehicle. (MCL 500.3121(3))

Generally speaking, you must pursue your No-Fault PPI claim against the **INSURANCE COMPANY** of the owner and/or driver of the at fault vehicle as soon as possible after the accident. (MCL 500.3125)

That’s because you only have one (1) year from the date of the accident to file a lawsuit to recover No-Fault PPI benefits. (MCL 500.3145(2))

You should only sue the driver and/owner of the at-fault vehicle if they will not disclose who their insurer is. However, once their insurer is identified, you must amend your Complaint to add their insurance company as a party. If there is a responsible insurer and it is not sued within one (1) year of the accident, the insurer will not be held responsible and your case will be dismissed against the driver and/or owner.

Michigan’s No-Fault insurance law makes clear how PPI benefits are to be calculated:

- “Property protection insurance benefits consist of the lesser of reasonable repair costs or replacement costs less depreciation and, if applicable, the value of loss of use.” (MCL 500.3121(5))

CONCLUSION

The attorneys, paralegals, and professionals at Michigan Auto Law wish you success in repairing the accident-related damage to your car or truck.

Please do not hesitate to contact Michigan Auto Law if you have questions about this guide or injuries you or a loved one suffered in a car, motorcycle or truck accident. There's no cost or obligation, and we can answer all your questions about your auto accident or your No-Fault insurance policy.

Additionally, please visit Michigan Auto Law's website, www.michiganautolaw.com/auto-law-books, or call (877) 776-0791 to get your additional free guides:

- "Guide to Michigan No-Fault Law: How to Get Care and Compensation from Your Insurance Company"
- "The Attorneys Guide to the Best Auto Insurance Companies"
- "How Much Car Insurance Do I Need? Understanding Your Michigan No-Fault Auto Insurance Policy."

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* * *

“My husband was killed in an automobile accident involving a gravel hauler truck on the freeway. It became apparent that I needed to seek out an attorney. After interviewing four different lawyers, Steven Gursten of Michigan Auto Law stood out amongst them as the guy to go to for several reasons. **There was a genuine nature about Steve. He was exceptionally easy to talk with and an incredible listener. Of course, his knowledge and the know how to get the job done was apparent. He treated me with a real sense of kindness as an individual and not a potential case.** Steve settled my husband’s case out of court so I didn’t have to go through a trial. Throughout the whole process, **Steve went above and beyond my expectations in terms of his hard work to uncover the truths of the matter and all the things the trucking company did that were unsafe and contributed to the accident.** Steve treated me with a lot of respect. He responded to my questions and phone calls very promptly. I never felt like he was in a hurry to get me off the phone. He listened to everything I had to say all the time. In terms of when I had to give my deposition, he prepared me and was next to me every step of the way. That was also the case when I had to go to court before the judge for the settlement. It made me feel very safe. **Steve gave me confidence and the strength to get up**

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there and do what I had to do. He did so much research and he explored every possible avenue to get me the best settlement possible. He worked very hard for me. Along the way, he kept me informed of the status of everything. **I would say if anybody is involved in an automobile accident involving trucks or other commercial vehicles, to not hesitate to contact Steve. You will not be let down.** If you've done your homework and investigated attorneys, Steve is the obvious right choice. I walked out of his office knowing it was a no-brainer decision to go with him. It was the right thing to do for my family, in the wake of such a terrible accident and traumatic time in our lives. I felt it in my heart, and I was right. **Another thing I would like to note is that even after the case was closed, Steve is still here for me with advice and all the time I need."**

- Lynda Nunez, Riverview

* * *

"My cousin and wife referred me to this firm, as they were previous clients. I had never been involved in an accident so I did not know how things worked. Tom is an extraordinary attorney. He answered all of my questions, explaining the law as well as my rights. Tom and Michelle checked in with me to see how I was doing and helping me with my case. The staff is very very friendly. I met Steve, who was kind to me and he answered my concerns. **I am always going to recommend this firm and tell them how I was treated here. This is a caring and companionate firm. If I could give them 100 stars I would indeed."**

— Rozell Bozeman, Ypsilanti

* * *

“My sister found Michigan Auto Law for me while I was in the hospital after an auto accident. Brandon, Kevin, and Elize were all such great people. Elize is such a trooper. I contacted her a lot. She was very efficient and got back to me right away. **The way I was treated at Michigan Auto Law was nothing short of amazing.** I want to add that the founding partner Larry Gursten contacted me as well. I was able to speak with him several times. **I never thought I was a client, but more like a friend or family member that they cared about.** This firm is a win win!”

— Karen Stokes, Benton Harbor

* * *

“I was introduced to Lenny many years ago by a friend. When I got into an auto accident in 2016, I knew who I would call. Lenny and Brenda are nothing short of amazing. If there was a bigger word for them, I would be using it. **Lenny makes me feel like family. The comfort level is indescribable.** He took my calls and questions right away, even while on vacation. I had no worries throughout this whole ordeal. Brenda and I shared a very personal bond that meant the world to me. Lenny and Brenda are the best two people that have come into my life. There is no other place to come but Michigan Auto Law! No words can express how I feel about them.”

— Debra Roberts, Farmington Hills

How to Repair Your Car Damage

Discover the simple steps you can take to use Michigan's Mini Tort Law to repair your vehicle damage after an accident.

Based on our 60 years of experience representing auto accident victims, this guide includes all of the information you need to use the Michigan Mini Tort Law to help pay for your accident-related car damage.



About the Author: Steven M. Gursten is head of Michigan Auto Law, the largest auto accident law firm in Michigan that exclusively handles car, truck and motorcycle accident cases. He is a nationwide expert in automobile accident and Michigan No-Fault laws and has held numerous legal leadership positions including president of the Traumatic Brain Injury Litigation Group of the American Association for Justice and president of the Motor Vehicle Trial Lawyers Association. He is a Michigan Lawyers Weekly Lawyer of

the Year, and is listed as a Top 50 Michigan Super Lawyer® as well as Best Lawyers in America®.

"Michigan Auto Law has been listed for 15 consecutive years with the top reported injury settlements and trial verdicts in Michigan ... This remarkable record eclipses every other law firm in Michigan ..."

— Attorney at Law Magazine

"Michigan's largest law firm that completely specializes in serious automobile accidents."

— Michigan Lawyers Weekly

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