

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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“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 20](#).

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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 17 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

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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 vehicle owner 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))

The \$1,000 Mini Tort maximum recovery limit took effect on October 1, 2012, pursuant to Public Act 158 of 2012. Previously, and for accidents that occurred prior to October 1, 2012, the maximum Mini Tort recovery was \$500.

One thousand dollars is the maximum amount that can be recovered under the Mini Tort law. However, if repair

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costs are less than \$1,000, then the Mini Tort law allows an accident victim to recover only that lesser amount.

Therefore, if the damage to your car or truck is \$1,000 or less, 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 your vehicle damage repair costs exceed \$1,000 and you have collision coverage insurance. The Mini Tort law will provide you with the money to cover your deductible (assuming it is no more than \$1,000) and, depending on the extent of your coverage, your collision insurance will take care of the rest of your repair bill. That means zero out-of-pocket costs for you.

‘Crash Course’ in Mini Tort Coverage

- Damage repair costs under \$1,000: **Covered**
- Damage repair costs equaling \$1,000: **Covered**
- Standard or Limited Collision coverage deductible up to \$1000: **Covered**

However, if your vehicle damage repair costs exceed \$1,000 and you do not have collision coverage insurance, then the most the Mini Tort law can do is give you a \$1,000 running start to getting your car or truck restored to its pre-collision condition.

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

Although Michigan’s Mini Tort Law changed in October 2012 (see above for discussion of Public Act 158 of 2012) to the benefit of Michigan drivers by increasing the maximum recovery limit from \$500 to \$1,000, the change in Michigan’s Mini Tort Law also increased the penalty for failing to properly maintain valid and current Michigan No-Fault auto insurance coverage.

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.

Public Act 158 of 2012 amended the Mini Tort statute, MCL 500.3135(4), by adding subsection (e):

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“Damages shall not be assessed if the damaged motor vehicle was being operated at the time of the damage without the security required by Section 3101.”

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.

Previously, Mini Tort coverage applied regardless of whether the damaged vehicle was covered by a No-Fault auto insurance policy.

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 \$1000 of your motor vehicle damages are not covered by your insurance. (MCL 500.3135(3)(e))

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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, "What Auto Insurance is Right for Me? The Best Insurance Plans for Your Family and What to Ask Your Agent."

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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 you, as a motor vehicle accident victim, are afforded by the Mini Tort law.

Assuming you have collision coverage insurance for your car or truck, your insurer will generally cover all of the repair costs (depending on the nature and extent of the coverage you purchased). However, under some forms of collision coverage (i.e. Standard or Limited), you will still have to pay a deductible. 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.

Please note that if you have Limited Collision and are more than 50% at fault, your insurance company will not cover your collision damage and there will be no Mini Tort recovery from the other driver.

Broad Form Collision Coverage

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If you pay extra for broad collision and are not more than 50% at fault, your insurance company will waive your deductible. This is effectively a zero deductible and you will not have a Mini Tort claim.

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 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, which is a part of either your local district or municipal court. (MCL 500.3135(4)(c))

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. (MCL 600.8401(b)) (Note: As of January 1, 2018, the "jurisdiction of the small claims division shall be confined

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to cases for the recovery of money in which the amount claimed does not exceed ... \$6,000.00.” MCL 600.8401(c))

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(10))

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 your damaged vehicle with the license plate to prove identification, if requested.

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- A copy of your motor vehicle title, if requested.

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 your liability for collision-related damage you caused to another vehicle.

In other words, the same Mini Tort law damage cap that prohibits you from recovering more than \$1,000 from the negligent driver who caused damage to your car or truck, protects you from having to pay more than \$1,000 when you are the cause of damage to someone else's car or truck.

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.

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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 \$1,000 damage cap.

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(2)(h))

But all may not be hopeless...

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

And, alternatively, if there was a motor vehicle involved, you will be able to pursue a claim under the Property Protection Insurance “PPI” provision of the vehicle owner’s or driver’s auto policy, but only if the motorcycle was parked and unoccupied – like a piece of property.

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 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. 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))

1. The damage occurred when your insured vehicle was in the “shop” being repaired, serviced or otherwise maintained. (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))

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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 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"
- "Protecting Your Legal Rights After an Auto Accident: Simple Steps to a Quick Recovery"
- "How to Choose the Right Lawyer: Breaking Through the Sea of Legal Advertising to Find the Best Answers"
- "What Auto Insurance is Right for Me? The Best Insurance Plans for Your Family and What to Ask Your Agent"
- "How to Keep Your Children Safe: Simple Steps to Protect Your Loved Ones from Hidden Dangers"

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“I was in a head-on collision on M-37 in Grand Rapids and sustained a head injury, a traumatic brain injury, neck, disc and muscular injuries. I turned to Michigan Auto Law when my auto insurance company refused to pay my benefits. **The lawyers at Michigan Auto Law were fantastic. Their knowledge of law brought us to what I consider a very good situation — getting our medical benefits covered and a great settlement.**”

— Dan Johnston, Grand Rapids

* * *

“From the very beginning, Michigan Auto Law had someone to come to my home to get things started, as I could not go anywhere at the time because of my injuries. Jeff is a great attorney. He answered all of my questions. **Everything was explained to me very thoroughly.** I am very happy with Jeff and the staff at Michigan Auto Law.”

— Lois Sumerel, Adrian

* * *

“I have talked to so many people here at Michigan Auto law during my case. Their entire staff is amazing. They all were helpful, understanding, and respected me a great deal. Josh, Laurie, Amber, and Michael Shaffer are a great team. Everyone was very easy to get a hold of if

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I needed anything. I definitely will be recommending Josh to anyone I know that is injured in an auto accident.”

— Deserra Clark, Garden City

* * *

“This law firm is awesome. They have explained my case from beginning to end. Michael and Alison were really there for me. Their personalities are beyond measure. Both were very warm and easy to talk to. They both called me even though I was not responsive to them always, as I was busy a lot. I have already referred my friend to this firm who worked with Jordan. She is also very happy with the outcome of her case, as I am. “

— Maryan Isaac, Sterling Heights

* * *

“I went on line and found Michigan Auto Law and chose them based on their glowing reviews. Let me tell you, **I made the right decision. Everyone here really knows what they are doing.** Unfortunately, I sustained a brain injury. A firm with compassion was necessary. They surpassed my expectations. I sent my attorney Josh a page of 30 questions at least. He took the time to answer each one of them very thoroughly. Amber and Alex assisted me as well. **I feel I could not have picked a better attorney or law firm.** “

— Laura Maniccia, South Lyon

* * *

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, a 17-lawyer firm that only handles car, truck and motorcycle accident cases. He is a nationwide expert in automobile accident and Michigan No-Fault laws. Steve is President of the national Motor Vehicle Trial Lawyers Association. He is a Michigan Lawyers Weekly Lawyer of the Year, a Top 50 Michigan Super Lawyers® and listed in Best Lawyers in America®.

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