

400 - 275 Lawrence Avenue  
Kelowna, B.C. V1Y 6L2  
**Tel:** 250.762.4222  
**Fax:** 250.762.8616  
**Website:** [www.fhplawyers.com](http://www.fhplawyers.com)



## The Process of Bringing a Personal Injury Claim:

---

If you have been in a car accident in British Columbia, you will need to go through a series of steps in order to pursue a full and fair ICBC settlement. This settlement should compensate you for all your damages, including:

- Repair or replacement of your vehicle
- Past medical bills and future treatment costs
- Any other accident-related expenses
- Lost wages and loss of future earning capacity
- Pain and suffering

In this guide, we walk you briefly through each step you must go through as you work towards a settlement of your ICBC claim. Those steps include:

- Taking important steps at the accident scene.
- Seeking medical attention.
- Reporting your accident to ICBC.
- Filing your collision claim.
- Filing your Part 7 / No-Fault Benefits claim.
- If another driver is at fault, filing a tort claim.
- Recovering from your injury
- Preparing for the Examination for Discovery.
- Going through mediation.
- If necessary, being prepared to go to trial.

Although, the most important decision you can make would be to **contact one of our experienced personal injury lawyers at FH&P Lawyers LLP as soon as possible following an accident**. Our team will work diligently to assure that your rights are protected and will fight on your behalf every step of the way.

### **At the accident scene:**

Your very first step should be to **call 911**. You want law enforcement to arrive as quickly as possible in order to secure the scene. You or others involved in the crash may also need emergency medical treatment.

Remain calm and focused. If you are able to do so, you should:

- Exchange names, contact information and insurance details with any other driver involved in the accident.
- Get names and contact information of any eyewitnesses.
- Take photos of the cars involved in the crash and the surrounding scene, including skid marks on the road, debris and street signs.
- Take note of as many details about the collision as you can remember. What were you doing before it happened? What did you see the other driver(s) doing? Write it down before you forget.

### **Seek medical attention:**

If you are not transported to a hospital from the accident scene, you should go to the emergency room or see your family doctor without delay. You need to be examined, and your injuries must receive immediate treatment.

A doctor will provide documentation of your injuries. This documentation will play an important role in your ICBC injury claim.

Keep visiting your medical care provider. Follow all recommended treatment plans.

### **Request a copy of your accident report:**

The police accident report will play an important role in your case as you move forward. You should get a copy of the report as early as you can. Contact the law enforcement agency that

responded to your crash (Kelowna RCMP). You should expect to pay a small fee, which you can seek reimbursement for later on.

## **Report your accident to ICBC:**

You must report your accident to ICBC regardless of whether you or another driver was at fault. You can report it by phone by calling Dial-a-Claim at 250-860-4069.

You can also report your accident online. The form should take roughly 20 minutes to complete. However, you must report your crash by phone if it:

- Involved a hit-and-run driver
- Occurred outside of British Columbia
- Resulted in glass and windshield damage
- Involved witness reports

Stick to the facts when reporting what happened and do not admit or assign fault. If retained, **FH&P Lawyers will report the claim on your behalf** to ensure your rights are fully protected and your obligations are met.

## **Get your car repaired or replaced:**

In addition to getting medical treatment, your immediate concern will be transportation. The process starts after you file your ICBC accident report. You can get your car repaired or replaced through your own collision coverage or through the at-fault driver's insurance.

An ICBC claims adjuster will be assigned to your case. The adjuster will obtain an estimate of the amount it will cost to repair your car. If the cost exceeds the value of your car, ICBC will simply "write-off" your car and pay you that value. You can put that money towards a new vehicle.

If you agree with the repair estimate, you can take your car to an ICBC-accredited mechanic. If you take it to a non-accredited repair shop, you may need to pay upfront for the repairs and apply to ICBC for reimbursement.

The ICBC claims adjuster also will determine fault. If you are found to be at fault, you will need to pay a deductible for your car repair. If you are found to be 25% or more at fault, your premium payments may go up.

If you disagree with ICBC's determination, FH&P Lawyers can help you to appeal. Specifically, within 60 days after you receive ICBC's fault assessment, you can submit a written application for a Claims Assessment Review. If you disagree with that review, you can take your case to court.

### **File your Part 7 / No-Fault Benefits claim:**

As part of your Basic Autoplan Coverage, you are entitled to file a claim for Part 7 benefits – no matter who was at fault. These benefits include:

- Medical and rehabilitation expenses (up to \$150,000)
- Total disability benefits for lost income
- Homemaker benefits
- Death benefits

You must file your Part 7 benefits claim within 30 days after your accident. Our team can assist in the event of any obstacles when seeking Part 7 benefits.

### **If another driver is at fault, file a tort claim:**

If another driver caused your accident through his or her negligence, you have the right to seek a recovery of damages through that driver's third-party liability insurance coverage. A driver should have a minimum of \$200,000 in coverage as part of the driver's Basic Autoplan Coverage.

During this stage, a member of our team will represent you and carefully prepare your case. We will gather and present evidence establishing:

1. the other driver's fault and
2. the amount you should be entitled to recover in damages.

If ICBC challenges your claim, you have the right to file a claim in the Supreme Court of British Columbia. However, you must do so within two years after you have suffered injuries in your accident, or else you may lose the right to bring action.

## **Recover from your injury:**

After you have filed your claims with ICBC you will begin the process of recovering from your injury. The recovery time will vary considerably from individual to individual. It will depend on several factors such as the nature of the injury and the nature of your employment. Often, longer recovery times are anticipated with more significant injuries and typically, those with physical jobs are slower to get back to normal duties than those with sedentary jobs. Age can also be a factor. Those with pre-existing injuries may take longer to recover than those who enjoy good health.

Your only duty during this recovery phase of your injury is to follow reasonable medical advice. A failure to do so may result in a reduction in the value of your claim. FH&P Lawyers can advise you on the best course of action and guide you through your recovery. Our team will be able to refer you to appropriate medical specialists and otherwise ensure you are getting the benefits you deserve from the insurance company.

In some cases, your claim can be resolved without needing to sue the other motorist. However, FH&P Lawyers will not recommend attempting to settle your claim until you have either completely recovered, or at the very least are as recovered as you are going to get. Some people will never recover fully. FH&P Lawyers will always want to have a medical report with a clear diagnosis and prognosis outlining anticipated recovery time, future care needs (if any), and the potential impact upon employment. In some cases, the opinions from a number of different specialists will be necessary.

If FH&P Lawyers is unable to negotiate a fair settlement for you at this stage, you again have the right to file a claim in the Supreme Court of British Columbia.

## **Prepare for the Examination for Discovery:**

If your claim has not been settled within two years, FH&P Lawyers will commence a Supreme Court action on your behalf. Once this has been done, the next step in the settlement process is usually an Examination for Discovery.

An Examination for Discovery is an important step in the claims process where each side prepares and answers questions in an informal setting.

Our team can prepare questions for the other driver which will be aimed at determining the driver's responsibility for your crash. For example, was the driver texting while driving, speeding or engaging in other irresponsible behavior?

Additionally, our team can get you ready for questions that will be posed to you. For instance, the other side may seek information about your injuries and how they have impacted your ability to work and enjoy your life.

### **Go through mediation:**

After the discovery phase, your case will enter into ICBC settlement negotiations. Your lawyer's goal will be to ensure that you are fully compensated without the need to take your case to trial. One way to accomplish that goal is through an alternative dispute resolution.

Mediation is conducted by an impartial third party, or mediator. They will work with both sides to reach an agreement and can ultimately serve as an efficient and effective way for clients to obtain just compensation and move on with their lives.

### **If necessary, be prepared to go to trial:**

If your ICBC claim is not resolved through a settlement, our team be prepared to take your case into the courtroom.

The goal will be to tell your story to the judge and jury in the most persuasive manner as possible. We will carefully select which evidence to present, including eyewitness and expert testimony in accident reconstruction, life-care planning and other fields. While you will need to attend the trial, you will not necessarily be required to testify.

ICBC settlement negotiations may continue through your trial and even in the aftermath.

**CONTACT THE PERSONAL INJURY TEAM at FH&P**

Your initial consultation is free. If we do take on your case, we take our fees from your settlement. If we do not get a claim for you, we will not charge you for our services. We will fund the disbursements through your case, until it is resolved.