

El Derecho Del Pueblo

Columna de comentario [Situaciones de Riesgo Policial](#) abogado y maestro Matthew “Mateo” Katz.

The People’s Right

A column of social commentary [Disclaimer](#) and legal advice by attorney and teacher Matthew “Mateo” Katz.

All kinds of people walk into a law office to ask for help, but not everybody can be helped by our legal system. Often, there is a misconception, perhaps promoted by our televisions and media, that all you have to do to get rich is have an accident and walk into a lawyer’s office! This, my friends, is entirely false.

To the end of helping to dispel this falsehood, I would like to take a moment to explain the concept of “damages.” What are damages? They are the monetary quantification of the harm done to you by an illegal act. Take, for example, a car accident. If someone rear-ends you, driving over the speed limit, they have acted in a negligent manner, and you can file a lawsuit against them. They will be called the “defendant” and you the “plaintiff” in that suit.

Let’s say, though, that your defendant was going one mile above the speed limit in a five-mile an hour zone, like a parking lot, and they hit your bumper, causing a scratch. Will you file a lawsuit? Of course not!! Why? Because there are no significant damages. The fee you would have to pay to the court to file the lawsuit would alone be more than the cost to fix your bumper!

But, let’s say that you got into an accident in which your car was damaged badly and you went to the hospital for surgery. What then are your damages? Well, any lawyer starts with the actual damages, the costs you have lost out-of-pocket or what you will have to pay: the price tag to fix or replace your car, whichever is cheaper, and the expense of the hospital bills.

If you have suffered a serious injury, you can begin to talk about damages beyond these basics. You can look to being compensated for things like: lost work, pain and suffering, and sometimes “punitive damages” which exist purely to punish where the defendant has acted in a

malicious manner, or has behaved in a way so as to have acted with complete disregard for the welfare of others.

But, the obvious question here is: what kind of damages can a plaintiff look to for pain and suffering? For punitives? There's really no clear answer to these questions. It's ultimately up to the jury in each distinct case. Each attorney argues before the jury about just how much would be appropriate to compensate Mr. Smith for his left hand having been severed by a faulty chainsaw or to compensate Mrs. Jones for her constant back-pain resulting from her car accident.

Of course, the courts themselves set artificial limits, meaning that judges daily chop off figures returned by juries that they consider “excessive.” In fact, in one case, the Utah Supreme Court allowed a \$145 million dollar punitive damage award against State Farm Insurance where the actual damages were only one million. But, you guessed it, the U.S. Supreme Court threw this amount out, and sent the case back to Utah for the court to lower the figure.