

Auto Liability Claims Scenarios: Negligent or Not?

**Scenario Two:** Our driver was driving along the roadway when he just veered off the road, striking two parked vehicles and then traveling over the sidewalk to strike a tree. The fault is 100 percent on our driver, right?

**What our investigation revealed:** Our driver had actually suffered a heart attack, which is what caused him to veer off of the roadway suddenly and unexpectedly. The driver did not have any history of heart issues and had just had a physical, showing he was in good health. All of this was verified by his doctor.

**Our decision:** The claims for the two cars and tree damage were denied based on the “Unexpected Loss of Consciousness or Capacity” defense, which simply states that a driver (or by extension, the member) cannot be held liable for the loss because he or she suddenly suffered a loss of consciousness or capacity immediately before the loss occurred. In addition, such a loss of consciousness or capacity was not foreseeable or previously experienced.

**Scenario Three:** Our driver rear-ended another party as they were proceeding down a two lane highway in a business district. Was the fault 100 percent on our driver?

**What our investigation revealed:** Our public works truck had been behind the claimant at a four-way intersection controlled by a stoplight. The other party was first at the light and when it turned green, they “gunned it” and began proceeding through the intersection until they were suddenly at a dead stop in front of our driver. The driver of the claimant vehicle stated that they had stopped to allow an animal to cross in front of them. Our driver attempted to brake but was unable to do so in time and struck the rear of the claimant’s vehicle. Our driver also said that they did not see any brake lights – just that the other vehicle was stopped.

As it turns out, there was a video camera on the corner belonging to a nearby business that caught the claimant’s vehicle as it started up from the intersection. The video revealed that no animal crossed in front of the claimant. In addition, when we inspected the claimant vehicle, we made sure our appraiser examined the rear brake lights. We found that the light bulbs were missing from the housing, which is possible in older model vehicles like the claimant’s.

**Our decision:** In Florida, there is a presumption of negligence in a rear-end collision scenario; however, there are rebuttals that can overcome this presumption. Accordingly, we denied the claim for the claimant’s vehicle damages and injury claim, due to an “unexpected stop for no apparent reason,” which was supported by both the business camera showing no animal crossing in front of him and the lack of brake light bulbs in his rear housing.