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Personal Injury

What if you are injured in Black Friday crowds across the border?



An influx of vehicle collisions and injuries are inevitable as shoppers rush for Black Friday deals across the border, says Windsor personal injury lawyer [Gino Paciocco](#).

While Ontario auto insurance covers drivers in the event of a crash, it's important for injured people to contact Canadian legal counsel who can help with the intricacies of cross-border lawsuits and accident benefits claims, says Paciocco, partner with [Paciocco & Mellow](#).

But, if someone is involved in a slip-and-fall, assault, or other injury in a Black Friday crowd in the U.S., any potential tort, or lawsuit, may need to be filed in the place the injury occurred, he says.

"It's very important to seek legal representation so a lawyer can help you assess what steps are in your best interest," Paciocco tells [AdvocateDaily.com](#).

He says he frequently gets calls from people who are hurt in the massive crowds descending on shopping centres following the American Thanksgiving, whether they are on the road or in the malls.

Additional auto insurance is not necessary for visits to the U.S., he says.

If one sustains injuries in a crash involving two Ontario drivers in the U.S., they would be able to commence their lawsuit in Ontario.

More common, however, are crashes involving an Ontario driver and someone from the U.S. In those situations, it's important for drivers to know that in most U.S. states, the minimum auto insurance requirements for Americans are "significantly less" than Ontario, where the limit is \$200,000, Paciocco says.

"If someone has a significant injury from an accident with someone from Michigan, or any U.S. state, most Ontario policies will contain a provision known as OPCF44-R which provides coverage for uninsured or underinsured excess claims."

Such excess claims allow a driver to sue their own insurance company to cover the required damages for their injuries which are not available under the other driver's policy.

"So if your injuries were assessed at \$1-million and you get into an accident with someone from Michigan who only has \$100,000 in coverage, you could sue your own insurance company for \$900,000."



Accident benefits claims, which are separate from civil or tort claims, can normally be filed in either the U.S. state where the crash occurred or in Ontario. Depending on the nature of the case, it may be more beneficial to file in the U.S. rather than Canada, he says. As between the jurisdictions, Income replacement and Medical Rehabilitation Benefits to name a few differ widely in term and amount.

“It’s very complex and you should speak to someone who has experience with cross-border cases. We get those calls all the time,” he says.

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