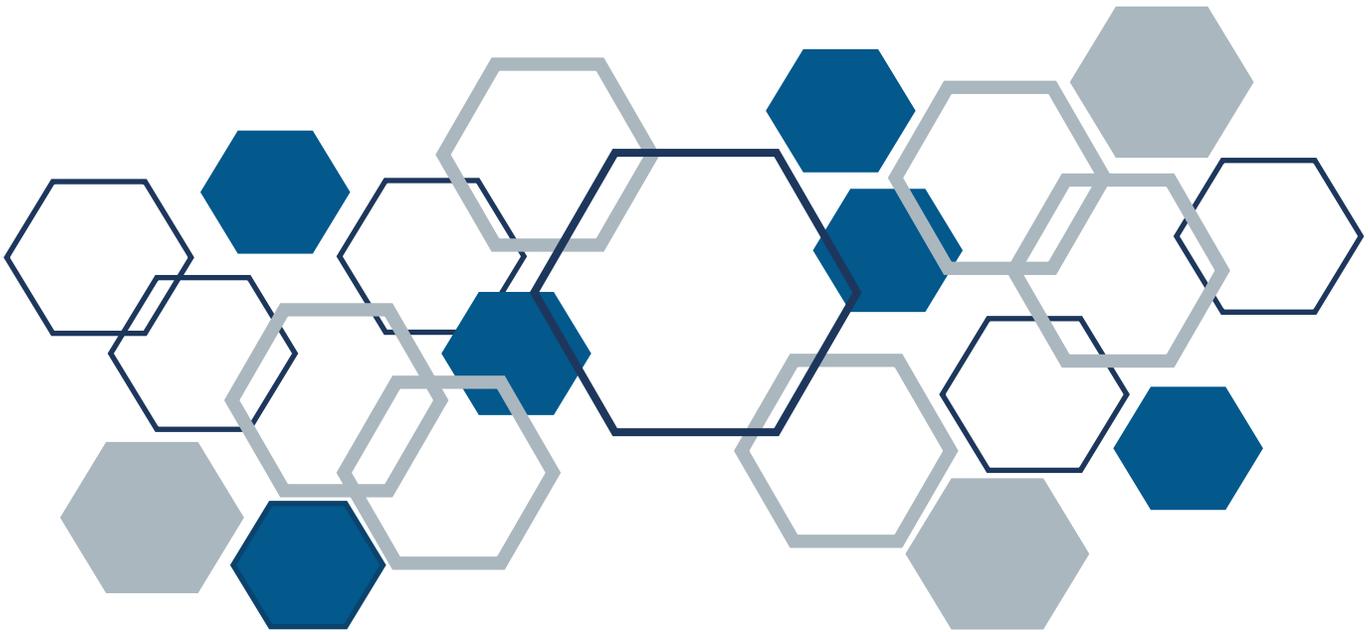


2021

Personal Injury Claims

The Client's Guide



WARD LAW GROUP, PLLC

Disclaimer

This guide is only intended to give an overview of the New Hampshire personal injury claims process and is not intended in any way, shape or form as legal advice. The goal of this guide is to provide helpful, general information about the personal injury claims process with the injured party in mind.

However, no guide can replace the value of meeting and discussing your questions with a competent attorney who specializes in the field. We hope that this guide will help you understand the personal injury process, help you decide whether or not to consult an attorney, and better prepare you to achieve a successful result.

Thank you for reading, and we hope that the information in this guide proves useful to you!

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HELPFUL LEGAL TERMS

Throughout this book you may come across certain terms that you are unfamiliar with. Below is a list of helpful legal terms that you will find throughout this guide along with explanations of how they are used for your reference. These terms may be unfamiliar to you now, but it is important that you are familiar with them as you will see them throughout this guide and in the future as you move forward with your case.

Personal Injury Claim. A request for compensation filed with an insurance company due to an injury caused by another party's negligence.

Personal Injury Lawsuit. A legal action filed in civil court against a business or person accused of being responsible for the injuries of the injured party.

Plaintiff. In a personal injury lawsuit, the plaintiff is the injured party seeking compensation.

Defendant. A person or group against whom a criminal or civil action is brought. In the case of a personal injury lawsuit, the defendant is the one accused of being at fault.

Maximum Medical Improvement (MMI). MMI occurs when an injured person reaches a state where his or her condition cannot be improved any further or when a treatment plateau in a person's healing process is reached.

File Suit. Most likely you are familiar with the idea of suing someone. While the idea is correct, the legal term is to "file suit", often abbreviated as "file" (i.e. to file against x).

Litigation. Litigation refers to the process of resolving disputes by filing or answering a complaint through the public court system.

CHAPTER 1

THE INJURY: WHAT HAPPENED?

There are many types of personal injury cases. Anything from auto accidents and defective earplugs to an unsalted parking lot can cause you harm. New Hampshire law requires that a personal injury lawsuit must be filed within three years from the time an injury occurs or is discovered. (If injured as a minor, the lawsuit must be filed within two years after turning 18.) This time limitation is known as the “statute of limitations.”

COMMON TYPES OF PERSONAL INJURY CASES

Auto Accidents. Over three million people suffer non-fatal injuries in automobile accidents every year (CDC), and auto accidents involving pedestrians are in the thousands annually. Personal injuries from a severe auto accident can leave physical effects and emotional trauma that lasts for years to come. In addition to automobiles, accidents can happen around any vehicle, including boats and ATVs.

Bicycle Accidents. Serious and sometimes fatal injuries occur to cyclists every day for various reasons. Busy roads and distracted drivers are hazards to cyclists, most of whom are fitted with only a helmet. Bicycle injuries can be very severe, causing injury to the brain, spine, and limbs.

Brain Injuries. Brain injuries can range from mild to severe, and can range from loss of consciousness to memory impairment. However, just because an injury has been labeled as “mild” does not mean that the individual’s life has not been affected. Traumatic brain injuries are more common than you think and affect normal brain functions needed for everyday living.

Construction Accidents. Injuries can be costly. They can cost the injured person their quality of life or even their income. Construction workers who are injured on a job site cannot (in most cases) sue

To succeed in a New Hampshire personal injury lawsuit, a plaintiff must prove the following elements:

- The defendant owed the injured person a duty
- The defendant breached the duty of care by driving negligently or recklessly
- The defendant’s negligent or reckless conduct caused the plaintiff’s injuries
- The plaintiff suffered injuries

their employer for injuries that are work related. However, due to the Workers Compensation Act, a third party may be liable. Even if the injury is due to a worker's own carelessness, compensation may still be available.

Dog Bites and Dog Attacks. In New Hampshire, individuals who have received personal injury and even damage to their property by a canine may file a lawsuit. Not only are the dog's owners liable for injuries, but anyone who is found negligent resulting in a dog causing injury may also be held liable under NH's negligence laws (e.g. allowing stray dogs to put others at risk). Injuries caused by a dog, but not a dog's bite, may also be filed in civil court.

Medical Malpractice. Common medical malpractice claims include birth injuries, medical negligence, misdiagnosis, surgical injuries, misuse of anesthesia, and failure to diagnose. Once you discover your injury, the three-year window to file your suit begins. If the suit is being brought against a federally-funded physician or medical facility, it must be filed within two years of the injury occurring.

Nursing Home Abuse. One in every ten nursing home residents face abuse and neglect (NCEA). Knowing how to identify mistreatment, abuse, and neglect of your loved one is a part of providing them the right care for their own health, happiness, and well-being. Unexplained injuries, poor hygiene, or behavioral changes may all be signs that your loved one is not receiving proper care.

Poisoning. Hidden poisons in rental properties, such as lead-based paint or toxic mold, can cause permanent health damage, and your landlord can be held liable. Lead paint exposure, even at low levels, can affect brain development in children and can cause kidney damage, seizures, and nervous system issues. Toxic mold (which can be caused by leaky roofs, doors, and windows) can cause chronic coughing and sneezing; irritated eyes, nose, and throat; rashes; chronic fatigue; and persistent headaches.

Product Liability. Sometimes, despite a company's best efforts, manufactured items pose serious health risks to consumers. You have the right to seek compensation if you experience suffering or damages resulting from a defective or faulty product. The three main areas of product liability are design defect, manufacturing defect, and marketing defect. In the case of deception or fraud where the company or manufacturer attempted to cover up the defect in the product and hide the dangers, you may be able to seek compensation even after the statute of limitations has expired.

Plaintiffs must file a civil lawsuit within three years of the date of injury in order to meet the statute of limitations requirements.

Slip and Fall Accidents. Icy parking lots and wet floors are only two possible causes for slip and fall accidents. In the case of an injury due to a slip or fall on a property that is not your own, it is best to look into receiving compensation for your losses. Both residential and commercial property owners may be responsible if it is determined that your slip and fall was due to their own negligence. You may also be able to receive compensation even if you were partly responsible for the accident (NH-RSA 507:7-d).

Truck Accidents. Tractor trailers, delivery trucks, and other commercial vehicles are heavier, larger, and more unstable than a typical passenger vehicle. This means that these commercial vehicles are more

dangerous and can cause significant personal injuries when involved in an accident. Compared to an accident involving only passenger vehicles, truck accidents are also more complex due to the amount of liability assigned to the driver, business owner, and insurance.

Wrongful Death. A wrongful death case may be filed when someone dies because of the careless actions of another person or business. Such a case would seek compensation for things such as funeral expenses, medical costs, or lost earnings. In New Hampshire, wrongful death cases are filed in civil court because they are considered civil actions. It is possible to file a wrongful death suit while criminal charges are pending (such as in a manslaughter or murder case). It is also important to note that wrongful death can also be recognized as a personal injury claim due to the injured party (the deceased) being unable to file their own claim or bring their own case to court.

CHAPTER 2

The Response: What Should I Do?

Now that we have reviewed many of the common types of personal injury cases, what should you do if you or a loved one is involved in such a situation?

GATHER INFORMATION

Even before you consider an attorney, start gathering information. The gathering of documentary evidence in the early stages of the case is very important. If you decide to proceed with an insurance claim or lawsuit, you will need as much information as possible, and it is best to start recording things while your memory is still fresh. A personal injury case can take several years to resolve and memories can get hazy as time goes by. Furthermore, insurance companies need documented proof of your injuries for you to receive your full compensation.

The Statute of Limitations. Write down the date of your accident (or the day you discovered the injury) and look up the statute of limitations for the state where the injury happened. In New Hampshire, there is a three-year deadline to file a personal injury lawsuit. It will be important to know both your injury date and that statute of limitations deadline as you proceed.

Medical Information. One of the most important things you can do after being injured is to document all of your medical treatment. Keep a diary of your visits to your doctors, hospitals, therapists, etc. and make notes of what was discussed at each visit, along with any medicines prescribed or treatments recommended. Be sure to advise your doctor at each visit of the nature of your continuing problems resulting from the accident. Save all of your visit summaries and keep your empty medicine bottles/containers for evidence at a possible trial. Write down all of your initial symptoms and keep a pain journal with dates, times, and changing or new symptoms.

Pictures, Pictures, Pictures! Take pictures of your injuries (bruises, cuts, etc.) and be sure to date the photos. If your injury is from an accident, take pictures of the accident location, any vehicles involved, wet or slippery surfaces, broken or cracked stairs or pavement, etc.

Financial Records. Keep a record of all out of pocket expenses. Insurance companies will ask about "special damages," which are specific, recorded expenses incurred because of the actions of the at-fault party. These special damages can include bills for medical treatment, travel expenses for that medical treatment, property damage, and any loss of earnings incurred as a result of the accident. You will not be compensated for expenses that you cannot prove, so keep record of everything.

The more information you can gather at the beginning, the more prepared you will be to pursue your medical claim and any potential legal action. The following is a list of some common documents that an attorney may ask for:

What Do I Need for Documents/Evidence?

1. All medical and hospital records;
2. Photographs (of scene of accident, injuries, braces, casts, damaged property, etc.);
3. All hospital, medical and related bills, either paid or unpaid (doctors, hospitals, private nursing care, therapy, drugs/medication, crutches, car rental, clothing, etc.);
4. Income tax returns for the last five years (if lost wage claim is made); Your health and accident insurance policy or policies;
5. Insurance policy that may require aid of attorney to notify and collect (income protection, hospitalization, etc.);
6. Copies of any statements previously made to anyone (opposing side, your insurance carrier, etc.);
7. Repair bill on any damaged property;
8. Repair estimates on any damaged property;
9. Purchase invoices and estimates of value of personal property damaged or lost in accident (clothing, jewelry, cameras, etc.);
10. All correspondence with your insurance company and adjusters;
11. Business cards from insurance company agents and adjusters, opposing driver, etc.;
12. Copy of any accident reports, witness names/statements;
13. Statement from employer regarding lost wages showing time and wages lost from work (if lost wage claim is filed);
14. Copies of check stubs and/or other records showing hourly rate of pay;
15. Copies of any application for other insurance benefits;
16. Copy of any application for unemployment benefits;
17. A copy of your social security card;
18. A list of the names of any neighbors, friends, fellow employees or relatives who knew of your activities both before and after the accident including their names, addresses, phone number and what they may know or say about you.

CONSULT AN ATTORNEY

A personal injury attorney is a wonderful help to walk you through the personal injury claims process. Handling record requests and phone calls while attempting to recover can quickly become overwhelming, so having an attorney's help allows you to focus on your recovery while someone else takes care of all the legal details. If you're not sure that you need an attorney, most personal injury attorneys will review your information and give you their opinion in a free initial consultation. If you

According to HIPAA (Health Insurance Portability and Accountability Act of 1996), patients have a right to access their health records.

are concerned about costs, personal injury attorneys work on a contingency fee basis, which means that they are paid from the money won in your claim, not out of your pocket. If you don't win the claim, then the attorney doesn't get paid.

Your attorney will need all of the information that you can give him to act as evidence in building your case. While the number of required documents may seem overwhelming at first, remember that your attorney is with you every step of the way. Your attorney will ask for the information outlined above, may take their own pictures, and will interview you and any witnesses. They will prepare requests for medical records from your physicians and may want to speak to your doctor personally before requesting a written statement.

If you have any pre-existing medical conditions, these are vital to disclose to your attorney at the beginning of the investigation. Insurance companies routinely attempt to deny claims based on the pre-existing conditions, but thankfully New Hampshire law still holds the defendant responsible for any injuries due to negligence or recklessness, regardless of any potential pre-existing medical conditions.

Keep your attorneys informed about your medical progress and any other new information. Tell your attorney the effects that the accident has had on your life as well as the names of witnesses who can verify your statements. Have your providers bill your health insurance as usual, but send all medical bills relating to the injury to your attorney's office. Your attorney can send your providers a letter stating that you are being represented in an active claim, which should help you avoid any late fees.

Your attorney and their legal staff will handle all phone calls and paperwork related to your case, so it is extremely important that you notify them of any changes to your contact information--phone number, email, address, etc. It is not uncommon for clients to forget to notify their attorney of a new phone number or street address, which can result in unfortunate delays and missed deadlines.

Always report any suspicious activity to your attorney, such as someone taking pictures, videos, etc. Pictures or video that violate your right to privacy may constitute additional legal measures.

LET YOUR ATTORNEY DO THE TALKING

Don not discuss the details of your accident, injuries, or legal case with anyone without permission from your attorney. Any inquiries from the defendant, their representatives, or from any insurance companies should be referred to your attorney. If an insurance adjustor or other investigator asks to speak to you, simply inform him that you are represented by an attorney and refer him to your

How can I help and participate in my case?

- Provide your current contact information (update as necessary)
- Provide any records requested
- Attend doctor's appointments
- Return any phone calls or emails

attorney for any information that he is seeking. You may feel like you're being difficult, but this really is in the best interest of your case. If you have already made statements to an insurance company representative or anyone else before hiring your attorney, tell your attorney immediately about those statements and give him copies of any emails or written correspondence. Do not sign anything without your attorney's permission.

BE DISCREET

We have already said not to discuss the facts of your injury or accident with anyone before speaking to your attorney. That rule goes for social acquaintances as well as for insurance adjustors. In sharing your story with your neighbor, you may unknowingly be giving information to the defendant's aunt or former co-worker. It is a good idea to set rules for yourself detailing the things you can and cannot say about your case until it is concluded.

That rule applies to social media as well. Remember that insurance companies often monitor Facebook and other social media sites, so don't post anything that you do not want seen in court. What does it say to a jury when an opposing attorney shows a picture of you playing with your kids in the park when you have said you are too injured to work a 40-hour week? You may deserve Worker's Compensation benefits, but could expose yourself to loss through wrongly worded statements or photographs. It may be best to avoid social media altogether while your case is pending.

Please do not talk about your case or your lawyers when you see your doctor. Many doctors are hesitant to treat clients of personal injury lawyers for fear of having to testify in court, so please do not volunteer any information that is not asked to you about the legal aspects of your medical problem. If you do talk about your case with your doctor, he or she may get the wrong idea and think that you are more concerned about collecting money than you are about getting well.



Auto accident? Here's what to do!

If you are ever in an auto accident, remember to follow the steps below. The information you gather will be your foundational evidence, and gathering that information as soon as possible may save you a lot of hassle down the road.

Step 1: Stop Your Vehicle and Pull Over if Possible

In New Hampshire, fleeing the scene of a motor vehicle accident can result in a felony criminal charge if someone is killed or injured in the crash. Make sure you pull over to the side of the road as soon as possible. After coming to a complete stop, put on your hazard lights and wait for police officers to arrive. If you are too seriously injured to pull over, remain in your vehicle.

Step 2: Check Yourself and Others for Injuries

Evaluate whether or not you have injuries and the extent of those injuries. Keep in mind that when the body undergoes shock, it pumps out adrenaline that can override your pain awareness. If you are severely injured, try not to move your neck as you await emergency medical care. If you are safely able to do so, call 911 and get out of your vehicle, especially if you see smoke or fire. If a passenger is seriously injured, do not attempt to move him or her unless it is necessary. Moving someone with a spine or neck injury could exacerbate the damage.

Step 3: Call the Police

If the accident involves an injury, the police can arrange for the correct emergency services while also documenting the accident and rerouting traffic. If no one appears injured, it is still wise to call your local police department to inform them of your accident.

Step 4: Exchange Insurance Information and Take Photos

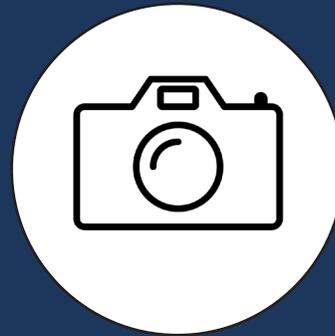
It is vital to obtain the insurance and contact information of the other driver or drivers in a car accident. You will need the other driver's name, address, license plate number, and driver's license number. It is also recommended to take notes on your phone or on paper about what happened. Try to write out as much detailed information as possible. Write down or take pictures of any road hazards or conditions that are relevant as well as the badge numbers of the police officers. Take photos of the positions of all vehicles involved as well as any damage.

Gather Information



- Be courteous and polite, but do not admit fault.
- Take the names and car insurance information of any drivers involved in the accident.
- Provide your name and insurance information to the police and to the other driver(s).
- Find witnesses. Get names and contact information for any witnesses to the accident.
- Use your phone to take pictures to document the scene if it is safe to do so.

Take Photos



- License plates of the cars involved.
- Damages to your vehicle and to other vehicles.
- Objects at the scene, including accident debris, skid marks, fallen branches, etc.
- Street signs or other landmarks to identify the accident location
- Any contributing factors to the accident, such as obscured traffic signs

Successful New Hampshire car accident plaintiffs are entitled to the following damages:

- The value of your damaged property
- Any income lost due to the injury
- Reasonable medical expenses
- Compensation for any pain and suffering

The Claim: What Do I Need to Know?

When dealing with a personal injury claim, you may be dealing with unfamiliar concepts and terms. It is important for you to understand how the process works so you will know what to expect.

THE PROCESS

The Injury. The process begins when “the injury occurs or is discovered.” This typically happens when you are in an accident, though sometimes the injury is only discovered later, such as in the case of lead paint poisoning or medical malpractice.

It is important to be seen by a medical provider as soon as possible after your accident and to continue that medical care until you are fully recovered. If you reach a point in your recovery where your progress seems to stop, you may have reached your Maximum Medical Improvement (MMI), the point where you can recover no further. Your medical provider will work with you to determine your MMI, and it is important to reach that MMI level before determining the value of your personal injury case so that all losses are known when calculating compensation.

Filing a Personal Injury Claim. To file a personal injury claim simply means to file a medical claim with an insurance company in order to seek compensation for your losses due to the injury. In the case of a personal injury, you will typically be filing this claim with the at-fault party’s insurance company. Once you have filed the claim, the insurance company will assign an insurance adjuster to represent them in your case.

At this point you can work with the adjuster yourself or hire an attorney to work with the adjuster for you. A simple, minor injury claim may be handled yourself, but anything of significance should be handled by an experienced attorney. The adjuster will collect information about the accident, your medical care, property damage, etc. and will offer you a settlement based on his findings. You (or your attorney) can negotiate with the adjuster in an effort to come to a mutually-satisfying settlement that saves both parties the costs of a lawsuit. Do remember that the adjuster is working for the insurance company, not for you, so he will negotiate in a manner to save his company as much money as possible. Insurance companies are businesses, not charities, and they survive by making a profit.

Once you hire an attorney, you have acquired representation and will not be able to speak to the adjuster yourself.

Now is also the time to watch the statute of limitations. In New Hampshire, a person has three years from the time of injury (or discovery of the injury) to file a personal injury lawsuit. If the insurance company is dragging out the negotiations, the option to pursue your damages in civil court may pass without you knowing it, leaving you with whatever the insurance company is willing to give you with no further recourse.

Your personal injury claim can end in one of two ways. Either you are able to come to a satisfactory settlement with the insurance company and you sign papers closing the matter and receive your check, or you come to a stalemate with neither side willing to budge. If your situation ends up being the latter, the next step is to bring the matter before the court.

Hiring an Attorney. If you have not hired an attorney by this point, then that will be your next step. Your first meeting with a personal injury attorney is called an initial consultation, and will be for the purpose of getting the attorney's opinion of your case. This consultation is typically provided at no cost. At this initial meeting, a paralegal or other staff member will walk you through a lengthy questionnaire to gather details about the accident, your injuries, insurance information, and other information required for the attorney to form an opinion about your case. (At our office, we will collect most of that information over the phone when you call to set up the consultation.) After your information has been gathered, the attorney will come in to discuss the information and may ask you more questions. He can then give his opinion of what your case may be worth and how you should proceed. You should also ask any questions that you have about the legal process, how payment works, or what kind of experience the firm has with similar cases.

Filing a Personal Injury Lawsuit. If the attorney feels that the insurance company is not offering you a fair settlement, then he will recommend filing a personal injury lawsuit in civil court. A complaint will be filed with the court with you listed as the plaintiff and the at-fault party listed as the defendant. The defendant will be served papers within thirty days of the filing to inform him of the lawsuit. At this point he will most likely hire his own attorney (or the insurance company may appoint one for him) and he will have thirty days from the time he is served to file a response to the complaint. All communication from both sides will now be handled by the attorneys.

Remember, as the victim, you are referred to in the court system as the plaintiff.

The pre-trial process starts with the "discovery phase," when both parties make formal requests for information from each other and from outside witnesses and experts. You and other involved parties may be called for a deposition, which is a questioning under oath. The defense may ask that you be examined by one of their doctors to substantiate the injury. There will also be pre-trial court appearances, motions, and hearings as both sides petition for more information and ask the judge to make certain rulings. This pre-trial period of information gathering and court appearances can take months, and the trial date is often pushed back.

Throughout the pre-trial process, both sides are involved in settlement negotiations. By far, most personal injury cases do not go to trial, but are resolved through pre-trial negotiations between the two attorneys. Both attorneys will work to reach a settlement before the trial since it benefits

everyone to come to a satisfactory agreement rather than incur the costs of a courtroom trial.

Trial. If a settlement cannot be agreed upon in the pre-trial negotiations, then the case goes to trial before a judge and possibly a jury. Both sides will present their cases, and then the judge or jury will decide if the defendant is responsible. They will also determine the amount of damages paid to the plaintiff.

Post-trial settlement, motions, and appeals. If the court finds in your favor as the plaintiff, then your attorney will assist you in the process of collecting and distributing your funds, even to the point of negotiating costs with your medical providers to help maximize your settlement. If the court finds in favor of the defendant, then you will have lost your lawsuit and not be awarded any damages. Either side can file post-trial motions to do things such as get the judge to set aside the judgment or reduce the damages that you were awarded. Both sides may also appeal the ruling, which brings your case to a higher court to be ruled on again. During an appeal, settlement negotiations can actually resume in an effort to settle the case before appearing in the appeals court. At our firm, we immediately appeal the ruling if the court finds for the other party.

COMPENSATION: HOW MUCH IS MY CLAIM WORTH?

The end goal of the personal injury claim process is to receive compensation for your losses. So how are those losses determined? There are many factors that can contribute to the value of your claim, and these fall into two categories of damages.

Special Damages. Special damages are out-of-pocket expenses due to the actions of the defendant. These are specific and measurable, so they are easily determined.

Medical Bills. The most obvious area for compensation is the cost of your medical care. This can include doctor visits, hospital stays, surgery, medication, medical equipment, home health care, and emergency transportation. Potential future medical expenses can also be estimated and included.

Personal Property Damage. While there is obvious property damage in an automobile accident, personal property damage can also include any other items that were damaged in the accident, or even costs that you incurred because of the loss of the use of your vehicle. Damages will cover the repair or replacement of damaged property, as well as the value of any

Some auto insurance policies have an optional add-on called "Med Pay," which can provide you between \$1,000 and \$5,000 towards your medical bills and those of your passengers. While often overlooked, this extra benefit is a "no-fault coverage," so you have access to this whether you were found at fault or not. Simply call your auto insurance and ask if you have this as part of your policy.

irreplaceable items.

Lost Wages/Loss of Earning Capacity. If you are unable to work because of the injury, you are entitled to reimbursement for those lost wages, as well as the loss of any future wages because of any permanent damage from the injury.

General Damages. General damages are the natural consequences of the defendant's negligence. These are subjective, but very real, losses with no set dollar amount.

Physical Pain & Suffering. There is no precise formula for calculating the value of physical pain and suffering, so the amount for compensation is usually related to the severity of the bodily injuries a person has suffered and the length of their recovery.

Emotional and Mental Anguish. You may have medically-documented emotional distress, such as depression or anxiety, or other trauma such as loss of sleep, fear, and humiliation. Though some emotional trauma is expected from an accident, proof that the trauma is ongoing can substantiate compensation.

Physical Disfigurement or Permanent Impairment. This compensation will consider loss of cognitive ability, loss of speech, or paralysis. Qualifying disabilities could include facial or bodily scarring, loss of a limb, or an inability to bend or lift your arms above chest level.

Loss of Consortium or Companionship. The definition of consortium is the "legal right of an individual to enjoy the company, affection, and support of, as well as sexual relations with, his or her spouse." It is intended to compensate the spouse for any loss to the personal relationship as a result of the accident, and therefore is considered separate from the personal injury damages. Loss of consortium may be pursued in cases where permanent physical or mental injury has incapacitated the injured party from helping around the house, providing love and affection, or providing companionship and conversation. It also may be pursued as part of a wrongful death case.

Loss of quality of life. Loss of quality of life may include such intangible items as damage to reputation, loss of the enjoyment of living, and the inability to engage in previous hobbies or social activities. Factors such as the age, education, and work history of the injured party will be considered when determining how much quality of life was lost.

After an attorney has considered all of the information, he will determine an estimate of what your case is worth. He will consider the lowest and highest possible jury verdicts that could be obtained and the probable jury verdict. He will also evaluate all of the available evidence to determine his chances of obtaining a judgment in your favor.

HOW CAN I BEST HELP MY CASE?

Now that we've looked at the whole process of a personal injury claim and lawsuit, you may be asking what your roll is in the process. What can you do to help while your attorneys tend to most of the work?

Be Yourself and Stay Calm. Because you are the key focus, being yourself is very important. Others in the system did not witness your injury. They do not know you, and they may doubt you, try to challenge you, and test your story. If that does happen, staying calm and giving straight and honest answers is to your greatest advantage. Other parties are simply trying to protect themselves against individuals who abuse the system. If your injury is legitimate, you have nothing to worry about.

Many plaintiffs experience denials of benefits, delayed payments, unreturned phone calls, lateness, and rudeness in the system. You might be experiencing it right now. Don't give into the behavior of anyone who is being unfair, unclear, or uncooperative. Just remember to stay calm, tell the truth, and stick to it, especially when talking to your medical providers. Medical records contain a lot of information and are highly influential in injury cases, making them one of the most important pieces of evidence.

Work Towards Complete Healing With Your Doctors. You and your provider are a team because each of you wants your injury to significantly improve. Make sure to accurately follow any treatment plans given to you and to keep detailed and accurate records of your progress. While your attorney will need detailed records of your treatment and condition, unless those details are in an official medical record, the information will not be useful for your case. We recommend keeping any record of your ongoing condition that may be helpful for you, but we ask that you convey that information to your doctor so that it can be placed on official record.

Being prepared with information for your medical providers will improve the effectiveness of your treatment and the speed of recovery. Tell the doctor (1) where you hurt, (2) how it feels (stabbing, aching, pins and needles, etc.), (3) how it limits you, and (4) how you were injured. Like putting pieces into a jigsaw puzzle, your description to your provider will complete the whole picture of your condition and the challenges you face.

It is important that you continue medical treatment of your injuries until they are fully healed or you reach your MMI. You cannot expect a doctor to give effective testimony as to your conditions at time of trial if several months have elapsed since he last examined you. Moreover, insurance companies will often treat the failure to obtain medical treatment as evidence of doing better than you actually are and submit a request to lower or stop any payments you might be receiving.

Keep Your Lawyers Informed. Try to obtain copies of your medical records after each visit. Starting this practice helps your representation keep up to date records in case they need to submit court documents or send updated records to your adjustor. If you do not have access to a scanner or do not routinely visit your attorney, check with the staff to find acceptable ways to send in records. Some offices may accept photographs of the records if you intend to send in the records shortly.

Due to the nature of the process, you may not hear from your attorney for several days or even a week or two. However, if something needs to be updated or worked on, your attorney's office may contact you for information. Information that is typically requested includes medical bills, pay stubs, and insurance information. Since the legal process progresses in a very linear fashion, the time it takes for you to submit the information directly impacts the time it takes to finish your case.

CHAPTER 4

The Recovery: What Happens Now?

Once your settlement is issued, your case is done... right? Unfortunately, even after your case is settled, you may not be fully recovered from your injury. Physical therapy and the safekeeping of your medical and legal records are processes that may extend beyond the settlement of your case.

PHYSICAL THERAPY

Your doctor may recommend physical therapy to help you recover from your injuries. Not every injury will heal 100 percent, of course, but your therapist will work towards reducing pain, restoring mobility, and getting you back to as close to your normal as they can.

But what if your doctor has not prescribed physical therapy and you still are experiencing joint pain or limited mobility? New Hampshire is a "direct access state," which means you do not need to see a medical doctor or primary care physician before seeking help from a physical therapist.

Physical therapists typically see a mix of patients after injuries, surgeries, and more. Physical therapy helps with musculoskeletal health issues such as the muscles, ligaments, tendons and bones, and is known for being a "safer way to manage pain" than medicines like opioids (American Physical Therapy Association).

For your first visit, expect an examination and a series of questions to help the physical therapist understand your situation. You will be evaluated on your strength, flexibility, and range of motion. Your therapist will then help you set goals that you and your therapist will work toward together to improve your quality of life. You will do this through exercise, massage, use of heat and ice, and more.

RECORDS

Over the course of your relationship with your attorney, they will have gathered possibly hundreds of pages of your medical records. Once your case is settled and your file is closed, your attorney must abide by proper document retention policies when it comes to how long they will keep your records.

Our office will save all portions of your file for a minimum of 3 months. During this period, you may stop by the office to review your file or retain any documents (originals or copies) that are in the file. After the initial 3 month period is completed, your file may be extensively purged and many of the

documents discarded. The remainder of the file will be stored with our closed files for at least seven years. Following that period of time, your entire file may be shredded and discarded.

It is advised that you keep copies of your claim and especially your medical records forever. While your current claim may be over, the records collected will be invaluable if you have another accident in the future. Hundreds of pages may take up a lot of space, but current technology makes it very easy to have the file scanned and stored electronically so it will be safe and easily accessible for the future if needed.

FAQS

Q: Can't I just do this on my own? Do I really need to hire a lawyer?

A: If you have not hired an attorney, you will need to gather all of your medical documentation and do your best to work with the adjusters. However, it is very likely that you are unaware of the value of your injuries or the nature of the proceedings. If you find yourself out of your depth, most personal injury attorneys offer free consultations. Setting up a consultation could help you learn the value of your case and whether or not you are receiving adequate compensation. Plaintiffs are able to file suit on their own. However, it is not recommended that you attempt your own defense without the aid or counsel of a legal professional.

Q: What should I do if I am injured in a car accident?

A: After car accidents, many people experience some degree of shock. It is important that certain steps are taken to ensure that you have a strong case. If possible, do the following:

- Take photos of the accident scene.
- Talk to any witnesses and get their contact information.
- Call the police.
- Get the insurance information from the other driver.
- See a doctor and document any injuries.

Q: Am I eligible for compensation if someone caused my accident injuries?

A: If another driver was at fault, you may be entitled to financial compensation for your medical bills, lost wages, and pain and suffering. Consult with an attorney regarding what compensation you may be eligible for.

Q: How much does it cost to hire an attorney?

A: Personal injury cases are usually contingency fee cases. That means that the attorneys receive payment based on what they are able to get for you. Attorneys are usually paid one third of the recovery. If you receive nothing, the attorney does not get paid either.

Q: What will happen at my free consultation?

A: You will meet with an attorney and a claims administrator to review your case. They will go over what happened on the day of the accident, your injuries, and what options you have moving forward regarding your claim.

Q: What is the value of my case?

A: The value of your case is tied to the nature and extent of your injuries. Commonly, you can be compensated for medical bills, lost wages, pain and suffering, loss of spousal support, and loss of quality of life. Your attorney may be able to provide an opinion regarding value if you can provide your relevant medical records, medical bills, and lost wage documentation.

Q: If I do not have health insurance, will the medical providers take my bill to collections?

A: The answer is "it depends." Many times, our office will send medical providers a letter of protection, which advises them that you have legal counsel and that they will be reimbursed at the end of the case. Usually, they will wait for payment and stop any harassing calls.

Q: What happens if I am in a car accident and the person does not have car insurance?

A: In New Hampshire, there is no requirement to carry or maintain auto insurance. Many times, clients contact us who have been involved in an accident where the other driver does not have any insurance, so the client thinks that they cannot get compensation. However, if the injured party has auto insurance, they likely have uninsured motorist coverage (UM), which provides benefits if you are injured by an uninsured motorist. If the other driver does not have insurance, it is recommended that you contact an attorney, as there may be benefits that you are entitled to.

Q: The insurance company wants me to sign a release. Should I sign it?

A: No, you should not sign a release without having an attorney review it. Releases are drafted by attorneys for the insurance company and may preclude further action on your case. It is important that you speak with an attorney before signing a release.

Q: Do all cases require a trial?

A: No. Many cases, in fact over 95% of cases, are settled before trial. Cases are often resolved before filing suit or settled at mediation before trial. If you wish to settle your case, it is important that you gather all necessary documentation, including medical bills, medical records, and lost wage documentation, to adequately value your case and increase the chances of a fair settlement offer from the insurance company.

Q: What if my doctor does not want to get involved in the case?

A: We frequently see that many treating providers do not want to get involved in any personal injury litigation. It would be helpful if you have a supportive medical provider who is willing to write a letter or provide other documentation regarding your injuries, but you may still proceed without one. Frequently, we will hire medical experts who will testify about the nature of your injuries and whether they are related to the accident.

Q: How long does the process take after I am injured?

A: Dependant on the number and severity of your injuries, your claim may be settled within a few weeks or it may take a few years. If you have a single injury with well-documented treatment, your case may be settled quickly. However, if settlement negotiations outside of the court fail, your claim will take much longer to close due to the nature of the court system.

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