

# 9 FACTORS A PERSONAL INJURY LAWYER WILL CONSIDER IN EVALUATING YOUR CASE

**C**ase evaluation is an ongoing process. It begins with your first meeting with a personal injury lawyer, and continues throughout the life of your case. Here is a list of 9 factors a personal injury lawyer will consider in determining (a) whether you have a case and (b) the value of your case during settlement negotiations and as the trial date nears.

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## 1. WAS THE DEFENDANT “NEGLIGENT”?

Negligence is a failure to use the degree of care that a reasonable person would in a similar situation. If there is some question as to whether the defendant’s unreasonably careless behavior caused your injuries, this doubt weakens your case. Likewise, if an argument can be made that your own negligence contributed to your injuries, this too will decrease the value of your case.

## 2. WHAT ARE YOUR “DAMAGES”?

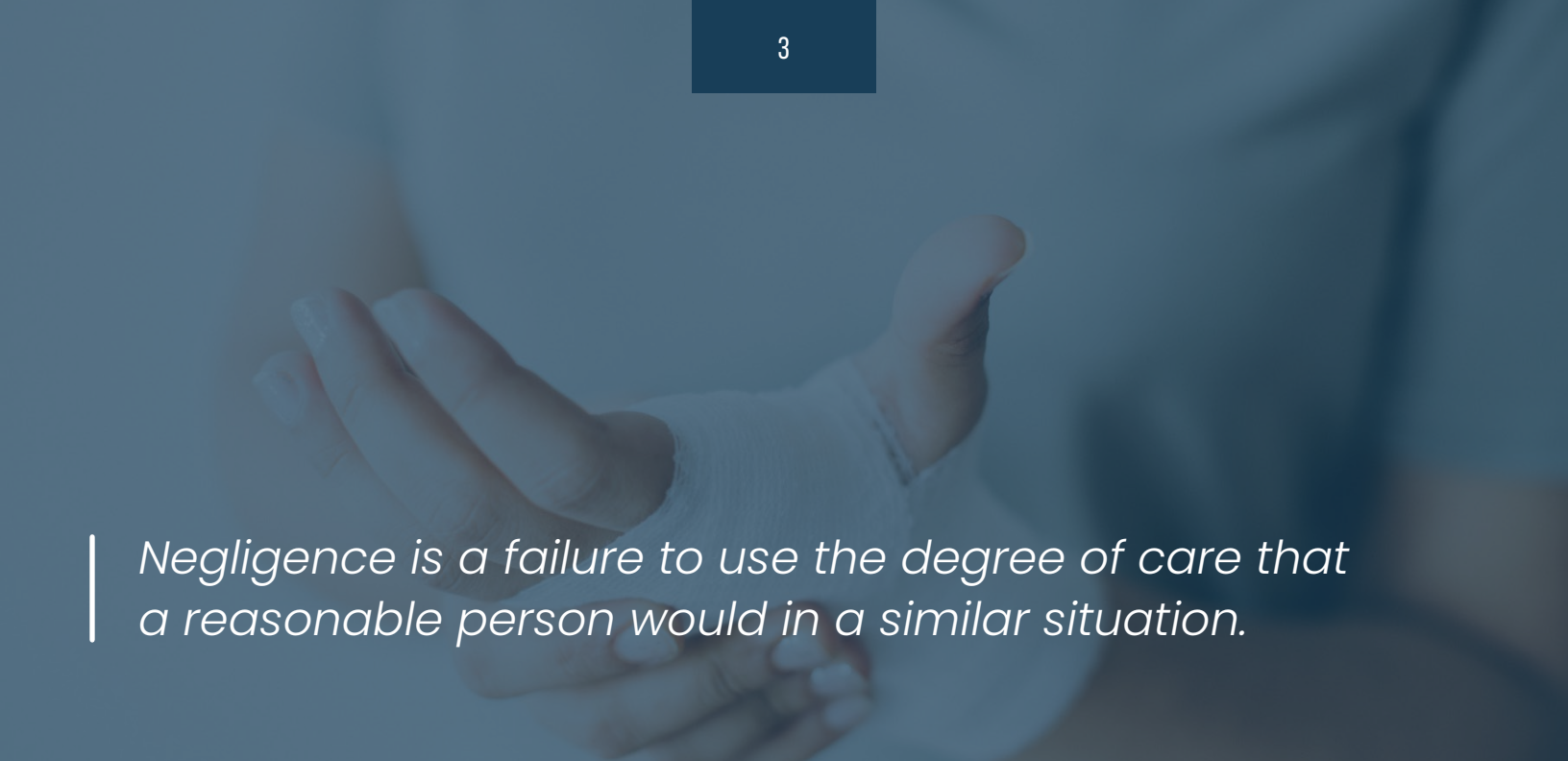
In legal terms, your “damages” represent the potential dollar-value of your case. Your damages include your medical bills and other out-of-pocket expenses; your lost wages and income; and compensation for your pain and suffering. The defendant’s negligence may be clear, but if you were not harmed, then you have no case.

## 3. IS THE DEFENDANT ABLE TO PAY A JUDGMENT?

If a jury decides in your favor, will the defendant be able to pay the judgment you won against him? If the defendant is not able to satisfy the judgment, you and your attorney will have devoted a great deal of time, effort, and resources to the case, for naught.

## 4. HOW WILL JURORS REACT TO YOU AND THE DEFENDANT?

Will a jury like you? Will jurors empathize with your situation? Conversely, will jurors dislike the defendant? If you are dealing with a “bad” defendant - e.g., a drunk driver or an angry driver with a criminal record - the settlement value of your case rises. If, on the other hand, you are dealing with a “good” defendant - a father who was momentarily distracted by his child in the backseat - then your case is more challenging.



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## 5. WILL A JURY BELIEVE YOUR WITNESSES?

Your case is only as strong as your evidence, and much of your evidence will be presented through the testimony of witnesses. If you have impartial witnesses (not your family or close friends) who can testify about how your injuries have impacted your daily activities, your case will be stronger. If your treating doctor is comfortable testifying and makes a compelling witness, this also will boost the value of your claim.

## 6. WHAT INSURANCE COMPANY ARE YOU DEALING WITH?

If you are dealing with a fair-minded insurance company, the settlement value of your claim will be higher than if you are dealing with a more conservative (i.e., tightfisted) carrier.

## 7. WHERE MIGHT A LAWSUIT BE FILED?

Just as some insurance carriers are more conservative than others, jurors in some counties and cities are more conservative than others. If the insurance company refuses to settle your claim for a fair amount, the location (or “venue”) of your lawsuit may be an important factor in valuing your case.

## 8. IS THE LAW ON YOUR SIDE?

If your lawyer can point to a case with facts similar to yours, which was decided favorably, this enhances the settlement value of your claim.

## 9. HOW MUCH TIME HAS PASSED SINCE YOU WERE INJURED?

In general, the more time that has passed, the less inclined jurors will be to award significant damages. This is particularly true if your injuries have largely healed, and your daily life essentially has returned to normal by the time of the trial.