

FREQUENTLY ASKED QUESTIONS: PERSONAL INJURY LAWSUITS

1. WHEN WILL A LAWSUIT BE FILED?

It is entirely possible that your attorneys have already filed suit. If you would like to confirm that, call your attorney's office. Usually, your attorneys will wait until a preliminary investigation of the matter has been completed before they file the case in court. If the investigation leads your attorneys to the conclusion that they cannot truly assist you by filing a legal action, they will contact you immediately.

2. WHAT HAPPENS AFTER THE SUIT IS FILED?

After the suit is filed, there will be two areas of activity.

First, your attorneys will continue to investigate and research your case. Depending upon the requirements of the case, your attorneys may be assisted by professional investigators, research assistants, and expert consultants. This investigation and research often takes weeks or even months, and during this time your attorney may not need to contact you personally.

Second, your attorneys will be engaged in the formal exchange of information with other parties to the lawsuit, an activity that is called "discovery." Statutes and court rules permit representatives from each side of the lawsuit to formally request that the other side furnish information about themselves and about the case. When either side makes such a request, the other side must respond within a fairly short time—usually 30 days. There are various types of discovery devices that the law allows, and which your attorneys and the defense counsel are likely to use:

1. **Requests for Disclosure.** These are a series of items disclosing basic information about the lawsuit—identifying the parties, witnesses, and basic contentions, and requiring the plaintiff (the party who filed the lawsuit) to sign written authorizations that will allow the opposing party to obtain copies of pertinent records such as medical records. Responses to requests for disclosure must be made in writing.
2. **Interrogatories.** These are a series of written questions that one side asks the other side. Interrogatories must be answered in writing and under oath.
3. **Requests for production.** These are written requests from one side asking that the opposing party produce (i.e., make available for inspection, copying or photographing) documents or things that may relate to the case.
4. **Depositions.** A deposition is a formal question-and-answer session in which a party or witness testifies by answering questions from the lawyers about matters relevant to the case. The person testifying is under oath and answers orally while a court reporter transcribes the proceedings. Sometimes depositions are also recorded on videotape. Your attorneys likely will want to take the depositions of the defendant and any experts they intend to use. The defendant will likewise want to take your deposition and those of the experts

Pinkston Law Group, P.C.

55 E. Monroe St. Ste #3800 | Chicago, IL 60603 | 773-770-4771
www.pinkstonlawgroup.com

your attorneys intend to use. There will also probably be depositions of other people who have information relevant to some part of your case. The process of scheduling and taking these depositions usually lasts for at least several months and often takes more than a year.

When your attorneys receive a discovery request from the opposing party, they will need your help in responding promptly. When your deposition is requested, your attorney will contact you to arrange scheduling the deposition and to arrange a meeting to help you prepare for your deposition. When the other side sends a discovery request that requires a written response, your attorneys will contact you immediately and give you specific instructions about what to do. Your role will include providing your attorneys with the information or documents necessary to truthfully respond to the request. Your attorneys will also ask you to call and schedule an appointment to go to their office before your response is filed.

3. WHEN AND HOW OFTEN WILL YOU HEAR FROM YOUR ATTORNEYS?

Except for meeting with you to respond to the opposing party's discovery requests, several months may go by during which it is not necessary for your attorneys to contact you in order to do what they must do to prepare your case.

If your attorneys find that they need additional information from you about your case, they will call you or write to you. If you learn information beyond what you have already given your attorneys, such as the names of witnesses, developments in your physical condition resulting from your injury, or anything else, please let your attorneys know so that they can use that information in handling your case.

If you move, change jobs, or change your mailing address or phone numbers, please inform your attorneys. It is necessary that they are able to reach you at all times.

One difference between the work of doctors and that of lawyers is in the amount of contact between client and professional. You are present while a doctor works on your body and you can see what he or she is doing, but the pre-trial work that a lawyer does for you is often done in your absence—in the office, at the courthouse, or elsewhere.

This will be true in your case. During much of the pre-trial work on your case, it will not be necessary for your attorneys to be in direct or frequent contact with you—your case will be progressing even though you have not spoken to your attorneys recently.

You should also be aware that being involved in a lawsuit requires patience and often involves waiting: waiting for a report from an investigator or expert consultant, waiting for the opposing side to answer discovery requests, waiting for a response to a settlement offer, and waiting for the court to call the case to trial. Although waiting can be frustrating, it is an unavoidable part of the litigation process. Sometimes, during the waiting periods that will occur in progress of your lawsuit, there will be no new information to report to you. Please be patient, and accept this as a part of the process.

It is possible that months will pass without your attorneys having any necessity or occasion to contact you. If this happens, don't get the impression that your case is not receiving your attorneys' interest and attention. Rest assured that your attorneys are interested in you and your case, and will be working to achieve the best possible outcome for you.

4. WHEN WILL THE CASE BE TRIED?

If your case proceeds to trial, the date of your court date related to your trial will vary based on your jurisdiction.

Most cases are not actually called to trial on the first trial date. One reason for this is that judges usually set several cases for trial during a specified two-week period, and then call these cases to trial based upon the age of the case and other factors. If a trial before yours goes longer, your date may also be pushed back. Another reason that your case might not actually get called to trial on the first trial date is that the attorney for one of the parties may be in trial in another case at the same

time. A party cannot be forced to go to trial if his or her attorney is unavailable because of a conflicting trial setting. If the case is postponed, all your attorneys can do is be sure that they remain prepared so that the delay will not disadvantage you.

Your attorneys will notify you in writing of all trial settings in your case, with as much advance notice as possible.

5. WHAT ABOUT SETTLEMENT?

After a case has been turned over to your attorneys, it is possible that a compromise settlement can be made. Your attorneys cannot legally make a settlement, nor will they wish to make a settlement, unless you approve of and consent to it. If you are not satisfied with the settlement offer, you have a right to let the jury decide your case. By the same token, the defendant also has a right to a trial, and your attorneys cannot force the defendant to settle the case. Bear this in mind, because if you exhibit haste and eagerness in a settlement, you are likely to decrease the value of your case in the eyes of the defendant.

The intelligent evaluation and settlement of a case calls for just as high a degree of legal skill as the trial of a lawsuit and, if done properly, often takes just as much time.

6. WHAT HAPPENS AT TRIAL?

If the case cannot be settled, it will have to be tried. In most cases, this will involve a jury trial: your fellow citizens in this county will sit on the jury. If you testify, you will be asked to tell the judge and jury what you know. Other witnesses will testify as well, and evidence such as records and documents will be introduced. The jury will make a decision, and based upon that decision, the judge will enter a judgment, either for or against you.

7. WHAT HAPPENS AFTER THE TRIAL?

If you win your case, the defendant can either pay the verdict or file a motion for a new trial. If you lose, you have the same choice: to accept the verdict or to challenge it. Your attorneys, naturally, hope to win your case. Although your attorneys certainly cannot guarantee any particular result, they would not have accepted to bring your case if they did not think that you have a good case and that you have a reasonable chance to win or obtain a reasonable settlement.

A motion for a new trial gives the trial judge the same chance that an appeal gives the Supreme Court: the right to grant the losing side a new trial if the first trial was not fair or if the trial judge made legal mistakes that make it right to grant the loser a new trial.

Many people think that an appeal automatically entitles the loser to a second trial. This is not true. An appeal may or may not be successful. Instead of granting a new trial, an appeals court may order only a small change in the judgment granted by the trial judge. Even if a new trial is ordered, there is no assurance that a second trial will have a different or better outcome.

8. HOW YOU CAN YOUR ATTORNEYS SUCCESSFULLY HANDLE YOUR CASE

As discussed, filing a claim or a lawsuit is a team effort, requiring attorneys to work with professional investigators, research assistants, and expert consultants. The most important person they work with, however, is you, the client. You can help your attorneys successfully handle your case by doing the following:

1. **TALK TO NO ONE:** Don't talk to anyone outside of your family about your case, unless one of the lawyers or investigators from your attorney's office is present. You should always require identification so that you are sure to whom you are talking. Do not talk to an insurance company, claim agent, company representative, or any type of agent, attorney, or investigator without first notifying your attorneys so they can have these statements taken with one of their lawyers or investigators present. If you have already given a statement of any kind, notify your attorneys immediately.

2. **YOUR DOCTOR:** You should return to each of your doctors as often as they feel it is necessary. You should always report each of your symptoms to them. Do not minimize your ailments to your doctors: doctors must know these things in order to treat you properly. If you plan to see any additional doctors, please advise your attorneys before you see them and tell your attorneys their names and addresses.

3. **RECORDS:** Please keep accurate and detailed records of the following:

- lost time and wages or income of any sort;
- hospital, doctor, drug, and other medical bills;
- other losses directly resulting from your injury;
- any insurance policy that might afford you coverage or protection.

You should pay all your bills by check or credit cards. If you must pay in cash, be sure to obtain and keep receipts. These records will be very helpful months later when you are asked by the defense to recall your pain, difficulties, and expenses.

4. **WITNESSES:** Immediately furnish your attorneys with the correct names, addresses, and telephone numbers of any and all witnesses you may learn of. This includes not only eyewitnesses, but people who know how your injury has affected you (such as friends, family, neighbors, fellow workers, or employees).

If you have any reason to think that a witness may be moving from the area permanently, please your attorneys so they can take a deposition, if necessary.

5. **EVIDENCE:** Please gather and give, or tell your attorneys about any photographs pertaining to your case, including your injuries or damages. If you are required to be in the hospital and are receiving a treatment like traction or physical therapy, notify your attorneys so that they can have you photographed by their investigator or one of the members of your family. If your injury requires a cane, a brace, traction, or any other appliance, save it for evidence in trial. You should notify your attorneys that you are keeping these items, and bring these items with you when the case is set for trial. Your attorneys will contact your insurance carrier or company for copies of all their photographs and investigations in your case. Talk to your attorneys about any evidence you have or know of that may help your case. Save any physical evidence and discuss it with your lawyer or investigator.

6. **HOSPITAL AND DOCTOR BILLS:** You should have your own medical insurance or any other available insurance pay as many of your doctor and hospital bills as possible. Doctors and hospitals are more cooperative when their bills are paid. You should not expect them to wait to receive payment until after your case is tried or settled. You should, therefore, pay any balance as soon as possible. If any bill remains unpaid, call your attorneys. Your attorneys will try to get your creditors to hold off until the case is concluded. If you do not call your attorneys until creditors have hired a lawyer or started collection procedures, it may be too late for your attorneys to help.

7. **YOUR ADDRESS AND PHONE NUMBER:** Be sure to keep your attorneys advised of any change in your address, telephone number, or your job.