THE BEGINNER’S GUIDE TO PERSONAL INJURY CASES
As personal injury lawyers, we’ve seen many unique cases through the years. We’ve found that an important part of our job as attorneys is to provide our clients with the information they need to make good decisions about their cases.

In this guide, we hope to educate you on some of the key terms and phrases of a personal injury case. We can’t offer a specific roadmap for every personal injury case, but we can highlight the situations and scenarios involved with a majority of cases. Specifically, read on for an introduction to the following:

- **Glossary of Key Terms**: Understand the specific language used in personal injury cases.
- **The First Two Weeks**: Learn about the critical time period immediately following an incident.
- **Insurance Matters**: Gain insight into the complicated workings of liability and healthcare.
- **Pursuing a Case**: Familiarize yourself with some of the key questions a lawyer may ask when deciding whether or not to pursue a case.
GLOSSARY OF KEY TERMS

There are a number of terms related to personal injury cases that are used in a specific way. Before digging in any further, familiarize yourself with the following terms and their definitions as they relate to personal injury law:

- **Trial Lawyer**: An attorney who specializes in defending clients before a court of law.

- **Civil Complaint**: A legal document describing the facts and legal reasons that a person has to make a claim or file suit against another person.

- **Plaintiff**: The person filing a civil complaint.

- **Defendant**: The person against whom a civil complaint is filed.

- **Personal Injury Case**: Refers to a legal action in which a person files a civil complaint against another person, business, corporation, or government entity, in which they assert that they were caused injury or harm because of a negligent or careless action of the defendant.

- **Claim**: This is another word for the legal action filed by a plaintiff in a personal injury case. This term can also be used in reference to insurance, meaning the formal request made for payment from the insurance company to cover medical bills or other expenses.

- **Evidence**: The available facts and information used to establish an individual’s claim.

- **Liability Insurance**: A type of insurance policy that protects the defendant from the risk of lawsuits for things like malpractice, personal injury, or other forms of negligence.

- **Deductible**: In insurance, the deductible is the amount of money that the insured person must pay before the insurance company will pay money toward a claim.

- **Copay**: A small payment required at the end of a doctor visit. This is different from a deductible because copays are specific to outpatient doctor visits, prescription benefits, and other services, while a deductible applies generally to any bills to be paid by the insurance company. Copays do not count toward your deductible.
THE FIRST TWO WEEKS

When an individual is injured in some way (let’s call them the plaintiff) and it’s possible that the injury was caused by someone else being careless or negligent (we’ll call them the defendant), the plaintiff may want to pursue a personal injury case. (Note that we wouldn’t actually refer to these individuals as plaintiffs or defendants until a case is brought to court, but we’re using those terms to keep each person straight in this document.)

The problem with many would-be cases, though, is that it is not always immediately clear that an incident is something that would need to be taken to court. It isn’t until months later when the full extent of an injury is understood, or when medical bills begin piling up, that a plaintiff finds him or herself in a position where they may wish to move forward with a potential case.

A majority of the evidence a plaintiff (that’s the hurt person) may be able to mount in a case disappears after the first two weeks of an incident. It’s during that time that both the plaintiff’s and the defendant’s respective insurance providers may be investigating the accident. Since 80% of all personal injury claims involve auto injuries or falls, insurance companies tend to get involved almost immediately when an auto injury or fall happens. Both plaintiff and defendant may rely on their insurance companies to document the scene of an accident to determine liability, but those companies often limit their investigations to whatever evidence they need for their own purposes.

During the first two weeks when these insurance investigations typically occur, this is also the period during which a potential plaintiff can collect any information that may be useful as evidence in a future case. Photographs of the injuries and of the scene of the accident are time sensitive and must be taken immediately to be of use. Records of anything from police reports to insurance communications to medical records are also most easily accessible during this time.

SINCE 80% OF ALL PERSONAL INJURY CLAIMS INVOLVE AUTO INJURIES OR FALLS, INSURANCE COMPANIES TEND TO GET INVOLVED ALMOST IMMEDIATELY WHEN AN AUTO INJURY OR FALL HAPPENS.
INSURANCE MATTERS

Many people who aren’t familiar with personal injury law may not realize how important insurance is to most cases. When a plaintiff pursues a case (which we’ll talk more about in the next section), it’s almost always to receive a fair amount of money from an insurance company or other company in order to make sure that they have enough money to cover medical bills, other expenses, and loss of income related to the injuries they received during an accident. While there are other reasons for a claim beyond medical bills, including seeking recovery for pain and suffering, disfigurement, disability, and deformity, it’s important that would-be plaintiffs understand the workings of medical providers and insurance companies both during and after claims are made.

As an example, let’s assume that a plaintiff was involved in an auto accident, which caused them serious injuries. When that plaintiff receives medical attention, especially immediately following the accident, it’s not always clear whose insurance will pay for it. Sometimes, it’s the plaintiff’s own auto insurance, or maybe the defendant’s. Other times, injuries can be so serious and expensive that they would require coverage beyond an auto insurance policy, which would mean that a liability insurance policy would have to pay for expenses.

Ultimately, it would be the goal of a legal case for the defendant’s liability insurance policy to pay for that treatment. But until that defendant is proven to be at fault in a court of law, or even before insurance companies are able to determine fault, the hospital where the plaintiff is treated has a few billing options.

The hospital may bill the plaintiff directly. At that point, the plaintiff is able to make a claim with their health insurance provider. The plaintiff may also have coverage for medical payments under their auto insurance policy, and depending on their deductible for either policy, may choose one or the other.

It’s also possible, however, for the hospital to send a medical bill directly to either the plaintiff’s auto or health insurance company. Many auto insurance companies will not pay the hospital directly. This can result in a bill in the plaintiff’s name going unpaid and eventually hurting the plaintiff’s credit. Coverage for medical care may also be severely limited under an auto policy— if all the coverage allowance is applied to medical care, there won’t be much left for other accident-related expenses.

When it comes to health insurance, many policies require any medical bills to be submitted within 6 months to 1 year, and any confusion related to liability in that window might make it difficult to get a claim paid out later.

These complexities—the timing, the insurance coverage—make every personal injury case unique. When combined with the plaintiff’s additional stress of medical recovery, they can be overwhelming.

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PURSUING A CASE

When it comes time to pursue a case, typically a plaintiff seeks out a trial lawyer who specializes in personal injury cases to help them explore the details of their own case and determine whether it’s worthwhile or even possible to move forward with legal action. An attorney will review the following information before determining whether to pursue a case:

- **Impact:** What burden has the injury placed on the plaintiff? Are there significant medical bills, emotional damages, or loss of income that are a direct result of the injury?

- **Evidence:** Is there enough evidence to prove the liability of the defendant? This is where those photographs and investigations from the very beginning of a case are critical.

- **Timeline:** Are we still within the allowed timeline for legal action? **Most claims are required to be made within 2 years of the incident,** and if a claim is to be made against a governmental entity, they must be notified of a plaintiff’s intent to sue within 180 days.

- **Available Money:** Finally, and this is something often overlooked by would-be plaintiffs unfamiliar with personal injury law: are there available funds that would remedy the plaintiff’s financial need? In most cases, an attorney will try to understand what liability insurance coverage the defendant would have, or if there are other funds available to pursue. Note that while it is possible to seek punitive damages in Indiana, the state typically reserves most of these funds, and they are often not a viable option.

Keep in mind that the aim of most personal injury cases is to help the plaintiff pay for expenses, loss of income, and legal expenses incurred as a result of an injury, and not to seek punitive damages against the defendant. In many states, it’s not even legally possible to pursue such punitive damages.

If the attorney decides that there isn’t enough of an impact on the plaintiff’s life, that there isn’t enough evidence, that the timeline doesn’t work, or that there just isn’t enough available money to make a case worthwhile, they will discuss with the plaintiff if it’s advisable to move forward with the case.
Hopefully this guide has made you more familiar with some of the important terms and concepts relating to a majority of personal injury cases. Keep in mind that every case is unique, and there is no such thing as a “normal” case. This document only reflects trends we have noticed which can cause cases to fail or succeed, and is in no way intended as legal advice or legal counsel. If you have further questions, or have a specific case you wish to pursue, make sure that you contact a licensed, experienced attorney to help you explore the specific details of your situation.

ABOUT CLINE FARRELL CHRISTIE & LEE

Cline Farrell Christie & Lee is an Indianapolis, Indiana law firm with 150 years of combined experience serving clients in the areas of personal injuries, wrongful death, medical malpractice, and trucking and motor vehicle accidents. With compassion and a focus on fairness, Cline Farrell Christie & Lee is deeply committed to helping its clients move forward in life with peace of mind.

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