

PERSONAL INJURY

UPSEU Members receive reduced fees for Legal Assistance from Morici & Morici LLP for numerous matters. If you are injured, the following is what you need to know. If you have any questions or are interested in a free consultation, please see our Contact Information below.

Personal Injury Lawsuits:

You may have the right to receive monetary damages if you are injured in an accident as a result of someone else's carelessness.

Examples of accidents:

- Slip/Trip and Fall
- Construction Sites
- Motor Vehicle Collisions
- Dog Bites
- Pedestrians Struck down by a Motor Vehicle
- Defective or Unsafe Products
- Medical Malpractice

Reasons to File a Personal Injury Lawsuit:

If you are the victim of an accident, there is no definite way to predict how the injury will affect you in the future.

Common scenarios you should consider:

- If you become unable to work
- If your medical needs exceed what your health insurance will pay
- If you require long term care or special equipment

Necessities for a Successful Personal Injury Lawsuit:

Liability

- It must be proven that you were injured by someone else's carelessness
- That person must have acted negligently and the accident must have been foreseeable

Related Injuries

- Insurance companies are responsible to pay monetary damages if an injured party sustained damages AND the injuries were caused by the accident
- It is important to document your injury
 1. You should take periodic pictures of any scarring
 2. You should also see doctors

It is important to let your doctors know the seriousness of your injury and how it has changed your life

Types of Personal Injury Lawsuits:

Motor Vehicle Accident Case

Must show that another party acted negligently and this negligence caused the accident

Uninsured (UM) and Underinsured Motorist Coverage (UIM)

UM and UIM can cover you, the insured members of your household, and your passengers for injuries caused by the negligence of a person without any or with insufficient insurance

Construction Accident

- Governed by the Labor Law of NYS
- It depends on how the accident occurred in order to determine who is responsible for the accident
- In certain cases, the owners and general contractors are responsible for the injuries
 1. If you are involved in erection, demolition, repairing, altering, painting, cleaning or pointing of a building structure, scaffolding, hoists, stays, ladders, slings, hangers, blocks, pulleys, braces, irons, ropes, and other devices, the owner of the property may be responsible for your injury
 2. The owner and general contractor may be absolutely liable for violations of certain laws, even if the injured person acted negligently

Dog Bite Case

- The animal must be proven to have "vicious propensities" AND the owner of the dog must have known of the dog's viciousness
 1. This is proven if the dog has bitten before, if the dog is a watch dog, if the dog has growled and charged at people in the past, if the dog is a certain breed that is known to be vicious

Slip/Trip and Fall Case

- Must show that another party acted negligently
- It must be shown that the responsible party knew or should have known that the defective condition existed

Snow and Ice Fall Case

- The obligation to plow, salt, or sand does not begin until the storm is over, then the responsible party has a reasonable time to clear the snow and must do so responsibly

Products Liability Case

- Manufacturers and distributors will be liable for injuries if the product was defective and that defect was a substantial factor in causing your injuries
- Manufacturers and distributors are generally responsible for:
 1. Manufacturing Defects - an imperfection in a particular product that causes the product to fail during its use
 2. Design Defects- a particular product, manufactured exactly as intended, still poses an inherent danger to the user

3. Inadequate warning - a manufacturer or distributor must adequately warn of known or knowable particular dangers

Medical Malpractice Case

- Must show that the duty owed to the patient was breached by the health care provider and this breach caused an injury to the patient
 1. Breach by failure to conform to the accepted standard of care

What to do if you are injured:

- Seek medical attention
- Contact the police immediately
- Obtain insurance and ownership information from the other party involved
- Obtain name and telephone numbers of any witnesses
- Speak with a qualified attorney before contacting insurance adjusters

Time Frames or Statutes of Limitations for Filing Personal Injury Cases:

- Statutes of Limitations are restrictions placed on the time in which a person can bring a lawsuit
- Statutes of Limitations vary according to the subject matter of the injury; therefore, it is extremely important to contact an attorney immediately after being injured

Person Injury occurred while you were working:

- You should apply for Workers' Compensation benefits by filing a C-3 Form with the NYS Worker's Compensation Board if you were injured while "in the course of your employment"
- You may also have a Personal Injury suit against a responsible third party

Time Length of a Personal Injury Case:

- Your attorney will try to settle your case once your doctors have advised him of the full extent of your injuries from the accident
- Insurance companies do not always offer fair settlements when they negotiate with your attorney
 1. If they do not offer a fair settlement, a lawsuit will be commenced
 2. Once a lawsuit is commenced, the time it will take depends greatly upon the part of the State where the lawsuit is taking place

Costs of a Personal Injury Case:

- **Retainer Agreement**
 1. There is no fee payable unless your attorney is successful in recovering monetary damages on your behalf
 2. Usually, an attorney receives 1/3 of the net settlement as its fee
- **Disbursements and Expenses**
 1. Money your attorney pays on your behalf during the case
 2. At the conclusion of the case, your attorney is reimbursed by deducting these costs from the gross settlement

- **Reduced fee schedule available for UPSEU members**

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