



# PERSONAL INJURY CASE FLOWCHART

**A**fter an accident, there are several steps between incurring injury and receiving compensation, and it's important to look ahead. It can be overwhelming to think about the process, but our flowchart outlines each phase of a typical personal injury case. There are also several tasks and steps listed for each phase to help you better understand both the details of the process and the big picture.

## 1. INCIDENT RESULTING IN BODILY INJURY

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Individual (to be referred to as "Plaintiff" once action commenced) sustains bodily injuries

Plaintiff and responsible party or parties (to be referred to as "Defendant(s)" once action commenced) exchange contact and insurance info

Parties take photos/videos/etc. of bodily injuries and any property damage (i.e. damage to motor vehicle)

Statute of limitations begins running unless jurisdiction allows for tolling of statute under circumstances



## 2. INSURANCE COMPANY INVESTIGATION

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Insurance adjuster contacts parties involved in accident for written/recorded statements

Adjuster attempts to settle claim with Plaintiff directly before he/she retains counsel (assuming Plaintiff has not done so already)

Plaintiff continues medical treatment

### 3. PARTIES RETAIN LEGAL REPRESENTATION

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Plaintiff speaks to lawyer and obtains legal opinion as to whether he/she can sue Defendant for money damages

If lawyer determines claim has merit and is interested in handling case, retainer agreement is signed

Plaintiff's lawyer notifies all parties and insurance companies in writing that lawyer has been retained by Plaintiff

All future correspondence in case goes through lawyer instead of Plaintiff directly

Plaintiff's attorney and insurance adjuster begin settlement negotiations and continue to do so periodically throughout duration of case



### 4. CLIENT INTAKE/PRELIMINARY INVESTIGATION BY ATTORNEY

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Plaintiff ("client") meets with attorney in office to go over all facts of case in detail

"Intake" process is conducted wherein attorney or paralegal extracts from client all necessary information for law office file

Client provides contact and bio data, names and contact info for med providers, info on witnesses, documentary evidence, photos, etc.

Attorney advises client regarding additional information or documentation needed for file

## 5. COMMENCEMENT OF THE ACTION/FILING AND SERVICE OF SUMMONS AND COMPLAINT

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Plaintiff's lawyer prepares a Summons and Complaint

Summons gives Defendant(s) notice of the lawsuit to be filed by Plaintiff

Complaint specifies Plaintiff's claims against each Defendant and sets forth basis for court's jurisdiction over case

Original Summons and Complaint is filed with the clerk of the appropriate court where action will be heard along with affidavit of service

Plaintiff serves copies of Summons & Complaint on all named Defendants within court's specified time window (usually 30-60 days)

Court schedules initial court appearance ("preliminary conference") and notifies all parties of date in writing

Attorney and insurance adjuster continue settlement talks



## 6. DEFENDANT'S ANSWER AND INITIAL DISCOVERY DEMANDS

(APPROXIMATELY 30 DAYS AFTER COMMENCEMENT)

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Defendant's Answer affirmatively admits/denies each allegation made in Complaint

Defendant asserts all possible affirmative defenses to Plaintiff's allegations



## 7. PRELIMINARY CONFERENCE

(APPROXIMATELY 2 MONTHS AFTER COMMENCEMENT)

Attorneys for respective parties meet in court and plan timeline for discovery phase of case

Depositions, medical examinations, discovery deadlines, and follow up court conferences are scheduled

Court receives copy of discovery timeline with agreed-upon dates and enters into system

Judge typically does not participate in preliminary conference unless necessary to resolve dispute between parties

Discovery/Preliminary Conference Order is issued and entered by clerk

Settlement talks continue between attorney and insurance adjuster

## 8. DISCOVERY

BEGINS APPROXIMATELY 2-3 MONTHS AFTER COMMENCEMENT; TYPICALLY LASTS UP TO 6 MONTHS

### INTERROGATORIES, REQUESTS FOR ADMISSION, AND REQUESTS FOR PRODUCTION

**Interrogatories**—Plaintiff's attorney prepares and serves list of written questions for Defendant to answer in writing, and Defendant's attorney serves answers on Plaintiff's attorney within specified deadline

**Requests for Admission**—attorneys serve written requests asking other side to admit or deny specific facts; written responses containing such admissions/denials served on requesting attorney within specified deadline

**Requests for Production**—attorneys serve written requests on parties or nonparties asking them to produce certain documentary evidence in their possession; recipient responds in writing within specified deadline

### DEFENDANT'S MEDICAL EXAMINATION

Defendant requires Plaintiff to be examined by an "independent" physician designated by Defendant

Plaintiff's attorney may choose to accompany Plaintiff to examination

Physician issues report/summary of examination; defense counsel serves copy on all parties within 30 days

### ORAL DEPOSITIONS

The respective parties to the action (Plaintiff and all Defendants) are deposed by the attorneys in presence of court reporter

Depositions of Plaintiff and Defendant may occur on same day or be scheduled individually on separate days

If necessary, depositions may also be taken of nonparties (i.e. eyewitnesses to accident)





## DESIGNATION OF EXPERT WITNESSES

If case still not settled, parties move forward with case and hire expert witnesses in anticipation of trial

Experts will typically be hired by both Plaintiff and Defendant

Once expert is retained, he/she conducts investigation and formulates professional opinion

Expert's professional opinion and basis for opinion will be presented in the form of testimony at trial (if case reaches that point)

Both Plaintiff and Defendant(s) are required to disclose to each other the names of all expert witnesses that will be used at trial

Parties must appraise each other of subject matter of expert's planned testimony at trial along with basis for professional opinion

Depositions of expert witnesses may be scheduled by parties if requested

## 9. SETTLEMENT CONFERENCE/MEDIATION

APPROXIMATELY 9-15 MONTHS AFTER COMMENCEMENT

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If the parties have still not resolved case, court may order settlement conference

At settlement conference, neutral third-party mediator reviews case and attempts to facilitate agreement between the parties

If settlement reached, case ends. Settlement funds disbursed within 30 days

If no settlement reached, case marked for trial and placed on trial calendar



## 10. TRIAL

APPROXIMATELY 12-24 MONTHS AFTER COMMENCEMENT

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Trial may last anywhere from one day (simple cases) to several weeks (complex cases)

May be jury trial (jury renders verdict) or non-jury trial (judge decides case)



## 11. DISBURSEMENT OF FUNDS

TYPICALLY WITHIN 30 DAYS OF VERDICT

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Damages awarded by jury are released to Plaintiff