



# Your Personal Injury Case: HOW IT WORKS & WHAT TO EXPECT

**WHAT IS A PERSONAL INJURY CASE?** Personal injury involves injury to an individual. This area of law allows an injured person to sue in a private action, known in the legal community as a *tort*<sup>1</sup> action. This area of law also includes *wrongful death*.<sup>2</sup> If you are successful, you can recover money damages for a number of reasons: medical bills, lost income and other economic and *non-economic damages*.<sup>3</sup>



CLIFFORD LAW OFFICES

## IN COURT: WHAT HAPPENS AT TRIAL?

A trial is an opportunity for the plaintiff and the defendant to **argue the case**. When both sides have presented their arguments, the judge or jury examines the evidence and considers whether to find the defendant *liable*<sup>8</sup> for the plaintiff's claimed injuries, and if so, to what extent.

### TRIAL - A PLAY BY PLAY

- Choosing a Jury:** Potential jurors are questioned and selected
- Opening Statements:** Initial dialogue from the attorneys
- Witness Testimony and Cross-Examination:** Evidence and arguments are presented to the jury, during which witnesses may be called and questioned
- Closing Arguments:** The attorneys sum up the case, recapping evidence in a light favorable to their respective positions
- Jury Instruction:** The judge gives the jury a set of legal standards it will need to decide whether the defendant should be held accountable
- Jury Deliberation:** The jurors attempt to agree on whether the defendant should be held liable for the plaintiff's claimed injuries, and if so, appropriate compensation
- Verdict:** Once a decision is reached, the jury foreperson informs the judge, who announces the verdict in open court

## Meet with an Attorney: DO YOU HAVE A CASE?

Tell your lawyer what happened. He or she will most likely need to collect information including **a) facts about your medical treatment, b) others involved in the accident and c) potential witnesses**. If the lawyer thinks you have a case, he or she will discuss your legal options with you.

## Fact Finding: UNDERSTANDING DISCOVERY

Discovery is the **written or oral process** by which all relevant facts and documents are disclosed to the other side prior to trial.

### TYPES OF DISCOVERY

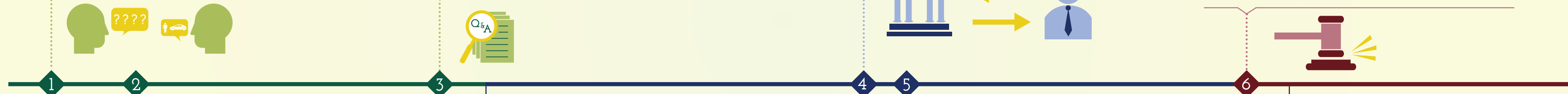
- Interrogatories:** A set of generic or specific written questions
- Deposition:** An oral Q & A session transcribed by a court reporter

## Resolution Prior to Trial: COURT MOTIONS

If your lawyer files a pretrial *motion*<sup>7</sup>, it is possible to **end your case** before the trial.

### TYPES OF MOTIONS

- Motion to Dismiss:** A formal request for a court to dismiss a case
- Summary Judgment:** When the facts are not in dispute and a trial is unnecessary
- Motion for Default Judgment:** Failing to cooperate within the allotted time annuls the defendant's power to dispute whether he or she is liable to the plaintiff; the only question is how much the plaintiff should receive in damages



## Starting the Case: INITIAL COURT PAPERS

The **legal papers** filed in court at the beginning of a lawsuit are called *pleadings*<sup>4</sup> and they differ based on the context of your case.

### LEGAL PAPERS

- Complaint:** Outlines the *plaintiff's*<sup>5</sup> case against the *defendant*<sup>6</sup>
- Summons:** Notice to the defendant of the complaint filed against that party and an order to respond to the complaint
- Answer:** The defendant's response to the complaint

At this point in the process, it's possible for your case to be resolved before it goes to trial



## RESOLUTION BEFORE TRIAL

Prior to trial, there are several actions that can help speed up the processing of issues. One step is the use of **pretrial motions**; the other is **negotiated settlement**.

## Resolution Prior to Trial: SETTLEMENT NEGOTIATION

The majority of legal claims arising from accidents or injuries are resolved through a **negotiated settlement** among the parties. In exchange for the payment of an agreed-upon sum from the defendant or an insurance company, the plaintiff gives up the right to pursue further legal action in connection with the accident or injury.

Settlement can be achieved by a mediation in a pre-trial meeting with the court.

If the losing party feels they did not receive a fair trial, they can choose to appeal the case to the next level



## THE APPEAL PROCESS

If the defendant lost at trial and owes the plaintiff money, interest accrues from the time of the verdict as provided for by statute. In Illinois, that court is known as the Appellate Court. A party can try one more appeal to the Illinois Supreme Court, but that court is not under a duty to accept the case. **Only one right to an appeal exists.**

<sup>1</sup> **Tort:** A body of rights, obligations and remedies applied by courts to provide relief for persons who have suffered from wrongful acts of others

<sup>2</sup> **Wrongful Death:** When a deceased person's estate brings a legal action against the negligent parties

<sup>3</sup> **Non-Economic Damages:** A money sum intended to compensate an injured party or its estate for injuries and losses that are hard to quantify, such as pain and suffering, disability, physical and emotional distress and disfigurement and loss of a normal life

<sup>4</sup> **Pleadings:** Written allegations of what is affirmed on the one side or denied on the other

<sup>5</sup> **Plaintiff:** A person who files a civil lawsuit initiating a legal action in court

<sup>6</sup> **Defendant:** The party named in a plaintiff's complaint against whom relief or recovery is sought

<sup>7</sup> **Motion:** An application made to a court or judge to obtain a ruling or order directing that an act be done in favor of the applicant

<sup>8</sup> **Liable:** Describing the condition of being actually or potentially subject to a legal obligation