

The Basics of Personal Injury Law

“Personal injury” is a broad area of legal practice that deals with physical harm caused to somebody’s body by the wrongdoing of another.

There are several different theories under which one could sue for personal injury. However, the most common are referred to as “negligence” and “strict liability.” This article will provide a basic overview of those two different legal theories, as well as some of the common situations in which a personal injury could arise, and how to avoid them.

Negligence

To put it very simply, “negligence” means “carelessness.” Of course, in reality, it’s a bit more complicated than that, and a claim of negligence has several elements. These elements are:

1. **Duty of care:** Everybody has a basic legal duty to exercise care so as not to cause harm to others. In general, you’re expected to behave as a reasonable person would in a similar situation. In most cases, it will be pretty clear what does and doesn’t meet this standard. For example, driving above the speed limit with your headlights out on a rainy night is not something a reasonable person would do, so you would be legally responsible if this conduct caused someone to be injured.
2. **Breach:** In order to succeed in a negligence action, you will have to show that the defendant (the person you’re suing) engaged in conduct which breached the duty of care, discussed above. This is likely to be a bone of contention, as the plaintiff (the person suing) and the defendant (the person being sued) will probably disagree on whether or not the defendant’s conduct was that of a “reasonable person” – each offering interpretations favorable to their case.
3. **Cause:** The injury that the plaintiff complains of must actually have been caused by the defendant’s careless conduct. The fact that they happened at the same time is not enough – there needs to be a clear and direct causal connection.
4. **Harm:** In order to succeed in a personal injury action, you will have to prove that the defendant’s careless conduct actually caused some physical harm to you and/or your property.

In order to succeed in a negligence lawsuit, you must prove EACH of these elements. If a single one is missing, you will lose your case. It is essential that you work closely with your [personal injury attorney](#) to ensure that you have all the necessary evidence and witnesses to prove your case.

Strict Liability

[Strict liability](#) is very different from negligence. Remember that negligence only applies when an injury is caused by somebody’s unreasonable carelessness. However, there are some activities which are so hazardous that they can never be performed in complete safety, no matter how much care is exercised.

If an injury is caused by such an activity, the person or company engaged in that activity will automatically be liable to the person who suffered the injury. All that the plaintiff needs to prove is that an injury occurred, and that it was caused by the person engaging in the highly dangerous activity. They don't need to prove that the defendant was behaving carelessly, since the level of care isn't considered.

This rule exists because some activities are so likely to cause injury to someone that the people who engage in those activities should already be prepared to provide compensation for those injuries. It encourages them to be as careful as they possibly can, so as to avoid causing an injury which they will undoubtedly have to pay for.

Such activities include the storage and transport of explosives or poisonous materials, the keeping of wild animals (or a domestic animal which is known to have aggressive tendencies), and the blasting of rock using explosives, among many others.

Common Situations That Create Personal Injury Cases

While a personal injury case can arise in just about any situation, these are some of the most common:

- Car accidents
- Slipping and falling because of a dangerous condition on someone else's property
- Dog bites
- Use of a defective product
- Medical malpractice

Damages

Once you file your personal injury lawsuit, prove all of the necessary facts, and win your case, the court will have to decide what type of damage award you are entitled to. Many different factors will go into calculating a damage award.

The easy part of this process involves harm that can be very easily quantified into a dollar amount, such as medical bills, property damage, lost wages, and legal fees. Anything with a definite and known monetary cost can be easily remedied with money damages.

However, there are other types of harm which you can suffer because of a personal injury, that can't be easily quantified, such as emotional distress, pain and suffering, and permanent reduction in quality of life. These types of harm are just as real, and just as severe, as the ones discussed above. However, it's much harder to figure out a dollar figure that's appropriate to compensate for them. Nonetheless, courts and juries still have to make this decision, and they have wide discretion in the amount to award.

The Clock is Ticking: Remember the Statute of Limitations

In every state, there are laws called statutes of limitations. Once an injury occurs, you have a limited period of time during which you can file a lawsuit, or lose the right to sue forever.

Typically, the [statute of limitations](#) for personal injury actions is between two and five years. However, it varies from state to state, so be sure to discuss it with your personal injury lawyer.

Usually, a statute of limitations starts running (the clock starts ticking) when the injury occurs. Some types of injuries, however, aren't discovered until months or years after they occur – this is often the case with medical malpractice, or exposure to a toxic chemical which causes long-term health problems. In cases like this, the statute of limitations starts running when the injury is discovered, or reasonably should have been discovered.

Conclusion and Recap

Personal injury cases can get very complicated, but here are a few key things you should keep in mind:

1. Make sure the facts of your case actually merit a personal injury suit. A good personal injury lawyer will often be able to tell right away whether or not a case has merit.
2. Figure out early on how much financial harm you've suffered, in the form of medical bills, property damage, etc.
3. Make sure to hire a lawyer and file your lawsuit early, before the statute of limitations runs out.