



The Litigation Process

In the most simple form, damage claims follow a specific pattern, from when an attorney agrees to represent a client to the completion of settlement negotiations or a jury trial. Throughout this process, the attorney should keep clients completely informed on the developments of the case. In our view, qualified lawyers should follow these steps:

STEP 1

An attorney evaluates the facts involved in a case to determine whether the client has a credible claim against the negligent individual or organization and to decide on the most effective way to proceed with the case. This investigation can be very tedious and time-consuming, and normally involves taking statements from witnesses, obtaining photographs of accident scenes or other relevant images, consulting with other legal experts, and securing all other pertinent details. Issues to consider at the initial stages include:

Penalties for frivolous lawsuits: In addition to gauging the chances for a lawsuit's success, there is another reason that reputable attorneys invest so much time and money in evaluating claims. If an individual files a frivolous or unfounded lawsuit, the court may order the plaintiff to pay all damages — including attorney's fees — related to the case.

Time limits for filing damage claims: These may vary between states and in different courts, ranging from six months to three years. It is important to comply with time limits or the case will be barred, and the plaintiff loses legal rights.

STEP 2

The attorney accepts the case. There should be a clear written fee agreement to be signed by the client and the attorney.

STEP 3

The attorney prepares the case, conducting additional research to collect relevant information, and files a lawsuit with the appropriate court. In some cases, a lawsuit should be filed in order to obtain further information, or for other legal reasons, even before there has been a settlement attempt. For some actions against certain government entities, the plaintiff must submit a written claim to the agency, wait a required period, and then file the lawsuit.

STEP 4

The court assigns a trial date for the lawsuit. During this time, the attorneys for the plaintiff and the defendant will usually begin settlement negotiations. In some areas, including medical malpractice cases, the court requires a settlement conference before a trial can proceed.

STEP 5

If the parties cannot reach an appropriate settlement, the case proceeds to jury trial.