

# Anatomy of a Personal Injury Case: 8 Steps to Expect in the Process

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If you have suffered an injury due to a car accident or a slip and fall, it is advisable that you contact and retain a personal injury attorney to assess your case and take it through the process from the complaint to the recovery. This article explains the typical steps of a personal injury case.

“A personal injury lawsuit can be complex and difficult for a plaintiff to navigate,” explains Christopher L. Musmanno, partner and chair of the firm’s Accidents/Personal Injury practice. “There is no one-size-fits-all approach as the facts, injuries and timelines are all dependent on the particular case.”

It is important to choose a personal injury attorney who will keep the lines of communication open at all times, inform you of each step of the process, answer your questions, and describe the nuances of each step involved.

Chris adds, “Our group will know you personally, and will address any concerns you may have. These cases can feel intrusive to the extent that your medical records, treatment, and many more details may be reviewed. But as experienced personal injury lawyers, we are able to be supportive of you throughout the process, while working diligently to resolve your case. That may mean litigating your matter in court, possibly with a jury, or accepting an arbitration award or reaching a settlement. It is important, then, for you to understand how the process begins, and how it can reach resolution.”

## Step 1: Treating Your Injuries; Notifying the Potential Defendant(s)

For many injured in a car accident or a slip and fall, a doctor will set out a treatment plan and other recommendations for your health and well-being. As this goes on, your attorney will start the process of collecting information about your accident and preparing the legal documents required toward

developing your claim. The attorney's role is to make sure that those responsible for your injuries are put on notice and that a claim for personal injuries is reported to the appropriate insurance company. This individual and/or company/entity may become defendants in a future lawsuit regarding your injuries.

## Step 2: Filing a Complaint with the County Court

When your attorney can reasonably demonstrate the extent of your injuries and establish a claim for liability, the next step is to file a **Complaint** on your behalf. The complaint is a formal court document that details how your accident was caused, when it happened, the extent of your injuries, and the reasons why the defendant is either negligent or responsible for your accident and resulting injuries. Your attorney will review the Complaint with you, and then file it with the Court in the county that has a relationship to your accident. The Complaint will be stamped by the Court and given a Docket Number for reference, and you will now be known as the plaintiff.

## Step 3: Service of the Complaint and the Defendant's Right to Answer

A process server will be hired to physically bring the Complaint directly to the defendant, which is called service of the complaint. The defendant must be served properly, in accordance with the court rules. The defendant then has 35 days to file an **Answer** with the Court and to serve that Answer to your attorney. A defendant's answer will likely deny all of the allegations that were put forth in your Complaint.

## Step 4: Discovery: Form A Interrogatories

Once the complaint and answer have been filed, the parties begin a period known as discovery, the timing of which is set by the court. This process gives all parties the opportunity to discover, among other information, the details of the accident, the injuries and treatment, the economic impact, and the plaintiff's prior or subsequent injuries or accidents.

The process requires the use of standard questions known as **Form A interrogatories**. Your attorney will work closely with you to answer the questions and to produce any documents you possess that are related to this accident or any prior or subsequent accident. The defendant will also have to answer Form A Interrogatories to provide additional information from their perspective. If either party is unable to complete these tasks during the **discovery** period, they can ask the court for additional time by filing a Motion.

## Step 5: Discovery: The Deposition

While the Form A Interrogatories provide information to each party, the process of a deposition allows the plaintiff and the defendant to question any party or any witness to the accident. The person being asked the questions is known as the deponent, and he or she will be put under oath before the questions begin. The oath means that the conversation is considered to be testimony; it can be used in future legal proceedings and has the same force and effect as if it were said before a judge and a jury.

The attorney representing a party will prepare the questions in advance. The deposition will be scheduled, and a court reporter will capture everything that is said in a transcript. Depositions can take a few hours or a few days, depending upon the complexity of the matter. Official transcripts will be provided to both parties.

## Step 6: Discovery: The Independent Medical Examination

The defendant may require the plaintiff to undergo an **independent medical examination** by a doctor chosen by the defendant. An appointment will be scheduled for this doctor to examine you and write a report detailing your medical condition and its relationship, or lack thereof, to the accident that occurred. The findings will be provided to both parties.

## Step 7: Mandatory Arbitration and the Non-Binding Arbitration Award

In New Jersey, once the discovery period is completed and all information has been collected in the allotted timeframe, the court will set a date for a **mandatory, non-binding arbitration**.

An arbitration is a proceeding that takes place at the courthouse and is led by a neutral third-party arbitrator who has been selected by the court for his or her significant level of experience with personal injury legal matters. The arbitrator's role is to objectively evaluate the case and hopefully encourage a settlement.

The plaintiff and defendant will present their cases to the arbitrator. The arbitrator will determine the value of the case and attribute the percentages of fault to the parties through what is called an **arbitration award**. While the arbitration hearing itself is mandatory, the award is non-binding.

Therefore, if a party is not satisfied with the arbitration award, then within 30 days of receiving the award, a motion can be filled that rejects the award and requests a request for a **"trial de novo."** The request effectively erases the arbitration altogether and the parties prepare to proceed to **trial**.

## Step 8: Settlement Conference, or Trial

In some matters, the court will encourage the parties to participate in a settlement conference whereby the judge will discuss the matter with the parties and attempt to settle the matter before trial. If successful, the matter is ended. If the settlement conference is unsuccessful, the matter will proceed to either a bench trial before a judge or a jury trial wherein the jury will render a decision.

At [Einhorn Barbarito](#), we have a team of dedicated [personal injury attorneys](#) who specialize exclusively in resolving [personal injury](#) matters. We will guide you through your case and ensure that you understand each step of the process. Please contact us today if you would like to discuss any type of personal injury matter.