

Personal Injury And Minors: What You Need To Know About Filing A Claim When A Minor Is Injured

June 17, 2020 | by Christine McCarthy, Amanda Clark

In New Jersey, the statute of limitations for most personal injury claims, whether a slip and fall, car accident, or medical malpractice, is two years from the date of the accident, which means that the injured party has exactly two years from the date of the injury to file a lawsuit. The statute of limitations is that two year time period in which a plaintiff can file a lawsuit. If the statute of limitations expires, the plaintiff is forever barred from filing a lawsuit.

However, there is an exception pertaining to personal injury actions filed on behalf of an injured minor, or someone under the age of 18. In those circumstances, the statute of limitations is extended and does not expire until two years after the injured minor's 18th birthday. In essence, an injured minor has until his or her 20th birthday to file a lawsuit for personal injury.

One reason for this extension is the fact that an injured minor cannot file a lawsuit on his own and must utilize a *Guardian ad Litem*, which is generally the child's parent who acts as the child's representative for the lawsuit.

If a parent is unavailable to serve in this role, or if there is a possible conflict of interest preventing a parent from being the child's representative, a petition must be filed with the court requesting that a guardian be appointed to act on the minor's behalf.

In the alternative, the injured minor may file a lawsuit on his own, without the assistance of a *Guardian ad Litem*, upon reaching the age of 18.

Another reason for this extension is that an injured minor's injuries may heal differently over time. In some cases, an injured minor may heal more quickly than an adult would under similar circumstances.

However, in some cases, it may take years for the minor to fully understand the nature and extent of the injury.

There are some exceptions to the 18th birthday extension, such as medical malpractice lawsuits for injuries sustained at birth.

Also, the facts surrounding the accident and injury may include evidence or witnesses who may not be available many years later. Memories from critical witnesses and/or parties to the lawsuit may fade, witnesses and/or parties may be unavailable for a variety of reasons, and crucial evidence may be forever lost. Thus, even though an injured minor has more time to bring a personal injury action, it is best to seek legal guidance early on in order to know when the case should be filed.