

人身伤害诉讼的时间轴

许多车辆事故索赔不会上法庭来解决。事实上，95%的此类案件都达成了庭外和解。绝大多数案件的和解程序都会很漫长，只有少数案件可以很快的到和解。因为围绕车辆事故案件会涉及到到任何其他的方面的谈判，所以不要太早解决索赔请求对一个案子是非常重要的。如果省略一些必要的谈判而过早和解的话，受害者可能不会拿到公平的赔偿数额。并且，一旦和解，这些案件是无法再诉的。

如果您或者您的亲人遭遇了严重的人身伤害，一个纽约的人身伤害律师通常能够为您的经济损失争取到赔偿，比如医疗账单，也能够为您的非经济损失争取到赔偿，比如肉体上的痛苦与精神上的创伤。

交通工具碰撞会制造出绝大多数的人身伤害索赔。所以，此文主要集中讨论人身伤害诉讼的整个过程。此程序在其他伤害索赔案件中可能会稍有不同，比如摔伤和产品缺陷案件。

初步评估

当您和您的律师进行初步咨询时，您的律师需要知道发生了什么，包括任何细节，主要包括了对您案件有利的事实，以及对您案件不利的事实。

律师也会想知道其他一些事项，比如其他保险公司的名字。大多数的保险公司处赔付的速度很快，但是也有其他的保险公司会张牙舞爪地拒绝赔付。如下会列举分析保险公司的处理方式会影响到案件的和解金额。

基于这些信息，您的律师会建议您进入法律诉讼程序。通常，法律诉讼会涉及到以下三个理论中的一个：

- **一般过失：**本质上来说，过失就是缺少注意。大多数的司机都有合理注意的义务。他们必须在可能的情况下避免事故的发生以及遵守道路交通规则。如果他们没能做到这两点，他们可能会要为损失负责。
- **法定过失：**在法律层面上，如果过失的司机违反了安全法并且此违法行为本质上造成了伤害，侵权者（过失的司机）也许要为损失损害负责。例如，超速，非法转弯以及酒后驾车。
- **严格责任：**产品缺陷，比如有缺陷的轮胎，有时也会造成事故。通常情况下，制造商对他们有缺陷的产品造成的伤害负有严格责任。原告不需要证明被告存在过失或者过错。

初步咨询后，律师通常会将客户引荐给医生。事故后立即去看医生是至关重要的。否则，保险公司也许会反驳受害者的伤势也许并没有很严重。

医疗救治

证据的收集也许是人身伤害索赔案件中最重要的一部分，而且医疗救治也许是证据收集过程中最重要的环节。

许多车辆事故造成的伤势是非常难诊断和治疗的。颈部损伤就是一个好例子。车辆事故中的猛烈撞击通常会使头部和脖子受伤。颈部损伤是一种软组织损伤，在核磁共振映像和其他影像学标准检查中都很难显现出来。而且，除非医生正确医治了此类损伤，不然该损伤会造成永久的瘫痪。

一旦医疗救治程序基本完成后，一个纽约的人身伤害律师大致就能很好地了解到该案涉及到的损失。所以，案件才有可能进入下一步。

保险赔偿要求信

就如该信的名称暗含的意思，这份要求赔付一笔钱来换取责任免除。如果责任清晰合理，绝大多数地保险公司都有法律义务在几周内完成赔付。

此赔付要求包括了所有的工资损失，医疗账单以及其他经济损失，也包括了合理数额的非经济损失。根据案件事实和一些其他前文提到的情况，大多数的纽约人身伤害律师会把经济损失乘以二，三或四来决定“合理”的数额。

在大多的案子中都会存在关于过错和责任的问题争议。不论这些问题意义是否重大，保险公司通常会用这些问题以借口来推迟理赔。所以，推动案件进行是非常必要的。

提起法律诉讼

仅仅是提交法律文书的动作就会说服多数不情愿的保险公司启动有意义的和解谈判。而且，提起法律诉讼会保留受害者的权利。如果一个律师等待的时间太长，受害这会失去获得赔偿的权利。

在此阶段，许多保险公司会提交程序动议来将被害者的诉讼请求移出法院。如果纽约的人身伤害律师敬业地完成了他们的工作，那么这些动议总是会失败的。在得到更多的信息之前，绝大多数法官都不会做出最后判决。并且，这些信息通常都会在调查阶段浮出水面。

庭前调查

在该法律程序中，原被告双方将交换关于他们索赔和抗辩的信息。如果有任何证据缺口，这正是律师可以补充证据的时候。

保险公司的律师也会发出调查要求。一般来说，受害者必须接受医疗检查并且配合提供证词

法院将监督这一过程。绝大多数的法官都不能容忍保险公司的律师提起轻率的要求。如果发生了任何争议，法官将充当裁判。

解决

绝大多数的人身伤害索赔都在调解程序中被解决。在这种替代性纠纷解决的场合中，原被告双方需要同一个中立的调解员会面。调解员通常是独立的纽约人身伤害律师。调解员会和双方进行谈话并且尝试促成和解。如果原被告双方都真诚地进行沟通，整个调节程序一般都会成功。

每一个人身伤害案件都不同，但是大多数都遵循相同的大纲。如果想要与经验丰富的纽约人身伤害律师进行免费咨询，请联系 Napoli Shkolnik, PLLC。我们的可以去您家或者医院进行拜访咨询。

Timeline of a Personal Injury Lawsuit

Most accident claims do not go to court. In fact, [over 95 percent](#) of these matters settle out of court. A few cases settle very quickly. But for the most part, the settlement process takes time. As with any other negotiations, it's important to not resolve the claim too early. If that happens, the victim might not receive a fair amount of compensation. And, these cases are almost impossible to reopen once they settle.

If you or a loved one sustained a serious personal injury, a [New York personal injury attorney](#) can usually obtain compensation for economic losses, such as medical bills, and noneconomic losses, such as pain and suffering. Additional punitive damages might be available as well, in some cases.

Vehicle collisions make up most personal injury claims. So, for purposes of this post, we'll primarily concentrate on this process. The procedure in other kinds of injury claims, such as falls and defective products, might be slightly different.

Initial Evaluation

When you meet with your attorney for an initial consultation, your lawyer needs to know everything about what happened. That includes the facts which support your claim, and the facts which do not support it.

An attorney will also want to know other things, such as the name of the other insurance company. Most insurance companies settle claims quickly, but others fight claims tooth and nail. That posture could affect a case's settlement value, as outlined below.

Based on all this information, your attorney recommends a legal course of action. Usually, this action involves one of three theories:

- **Ordinary Negligence:** Essentially, negligence is a lack of care. Most drivers have a duty of reasonable care. They must avoid accidents when possible and obey the rules of the road. If they fail to do these things, they might be liable for damages.
- **Negligence Per Se:** Tortfeasors (negligent drivers) might be responsible for damages as a matter of law if they violate a safety law and that violation substantially causes injury. Some examples include speeding, making an illegal turn, and DUI.
- **Strict Liability:** Sometimes, a defective product, such as a defective tire, causes a crash. Typically, manufacturers are strictly liable for the injuries their defective products cause. There is no need to prove fault or negligence.

After the initial consultation, attorneys usually refer clients to doctors. It's important to see the doctor straightaway. Otherwise, the insurance company might later claim the victim's injuries must not have been very bad.

Medical Treatment

Evidence collection is probably the most important part of a personal injury claim, and medical treatment is probably the most important part of this process.

Many car crash injuries are difficult to diagnose and treat. [Whiplash](#) is a good example. The violent motion of a car crash usually causes this head and neck injury. Whiplash is a soft tissue wound which does not appear on MRIs and other standard diagnostic tests. Furthermore, unless a doctor treats this injury properly, it could cause permanent paralysis.

Once the medical treatment process is at least substantially complete, a New York personal injury attorney probably has a good idea of the damages involved. So, it's possible to go on to the next step.

Demand Letter

As the name implies, this letter demands a sum of money in exchange for a liability waiver. If liability is reasonably clear, most insurance companies have a legal duty to settle the claim within a few weeks.

This demand usually includes all lost wages, medical bills, and other economic losses, as well as a reasonable amount of noneconomic losses. To determine a "reasonable" amount, most New York personal injury attorneys multiply the economic losses by two, three, or four, depending on the facts of the case and some of the other aforementioned circumstances.

In most cases, there is at least some question about fault and liability. Insurance companies generally use these questions, no matter how significant they are, as an excuse to delay action. Therefore, it's necessary to move on.

Filing a Legal Claim

The mere act of filing legal paperwork often convinces even the most reluctant insurance company to begin meaningful settlement negotiations. Also, filing a legal claim preserves the victim's rights. If a lawyer waits too long, the victim could lose any right to compensation.

At this point, many insurance companies file procedural motions seeking to throw the victim's claim out of court. If New York personal injury attorneys have done their homework, these motions almost always fail. Most judges do not make final decisions until they have more information. And, this information usually surfaces during the discovery phase.

Discovery

During this part of the lawsuit process, the parties exchange information about their claims and defenses. If there are any evidentiary gaps, this is the time when an attorney fills them in.

Insurance company lawyers also make discovery requests. Typically, victims must submit to medical examinations and give their depositions.

The court supervises this process. Most judges have very little tolerance for insurance company lawyers who make frivolous requests. If any disputes arise, the judge acts as a referee.

Resolution

Most personal injury claims settle during mediation. In this alternative dispute resolution forum, the parties meet with a neutral mediator. This person is usually an unaffiliated New York personal injury attorney. The mediator talks to both sides and tries to forge a settlement. If both sides negotiate in good faith, mediation is usually successful.

Every personal injury case is different, but most follow the same general outline. For a free consultation with an [experienced New York personal injury attorney](#), contact Napoli Shkolnik, PLLC. Home and hospital visits are available.