

# A Personal Injury Primer

(Contributed by Bradley R. Finkeldei – 06/2005)

WWW.STEVENSBRAND.COM

STEVENS & BRAND<sub>LLP</sub>

A personal injury is typically an injury to your physical or emotional being, resulting from the negligence of another which constitutes the basis for a claim by the injured party. A personal injury may be caused by intentional wrongdoing, negligence, or strict liability. Intentional torts are those injuries which the defendant knew or should have known would occur through their actions or inactions. Negligent torts occur when the defendant's actions were unreasonably unsafe. Strict liability wrongs do not depend on the degree of carefulness by the defendant, but are established when a particular action causes damage.

The first step in any personal injury case is to determine if the defendant is in fact responsible for the injury. In most cases, this requires a determination of whether or not the defendant's actions were "negligent." A person is negligent when he or she owes the injured person a duty and then fails to act like an "ordinary prudent person". Of course the critical issue in many cases is just how an "ordinary, prudent person" was expected to act in the particular situation that caused the injury. The determination of whether a given person has met his/her "ordinary prudent person" standard is often a matter that is resolved by a jury after presentation of evidence and argument at trial.

After the fault of the defendant has been established, the next step is to determine your damages. In many personal injury lawsuits, expert witnesses are retained to assist in determining the amount of damages sustained by an injured party and to present this evidence to a jury. Some common "damages" that a person may suffer include:

1. *medical expenses* — such as doctors' fees and hospitalization costs

2. *rehabilitation therapy* — the cost of obtaining services provided by others who assist a person to return to the same or similar physical condition s/he was in prior to the negligent act or omission. This could include training for a new occupation if the injury prevents the injured party from working in his/her normal trade or occupation

3. *lost wages* — wages and earnings which would have been earned by the injured party but for the negligence of the tortfeasor

4. *pain and suffering* — compensation for the hurt that an injured party is caused to endure as a result of the negligence of the tortfeasor.

5. *punitive damages* — assessed against reckless or irresponsible behavior to prevent such behavior from the tortfeasor in the future and to deter others from acting in a similar manner.

As with all lawsuits, personal injury cases are time sensitive due to the statute of limitations placed on them and must be handled in a timely manner. If you believe that your personal injury was caused by the negligence of another party contact a personal injury lawyer immediately.