



What to Expect with your Personal Injury Claim

Personal Injury Resource



The legal process for your civil lawsuit can take a long time, but Hooper Law will fight for you to move your case forward as quickly as possible and will keep you informed every step of the way. You are in control of the process and you can stop your lawsuit at any time. There are also stages when your lawsuit can reach a settlement.

Before starting a civil lawsuit, you need to be aware of the time limits concerning your particular case. If you wait too long to take action, you may not be able to sue the party who wronged you.

There are 7 stages to a civil lawsuit:

1/ Interview 2/ Document Gathering 3/ Pleading
4/ Oral and Documentary Discovery 5/ Undertakings
6/ Pre-trial 7/ Trial

1. Interview

The interview is simply a meeting between you (and anyone you wish to bring with you), and a member of the Hooper Law team. Together we will collect the information we need to fight for your rights.

Our aim is to help you, so we will be asking you questions about your:

- Work history
- Family history
- General background
- Previous medical conditions

Please bring all the notes and documents you have to the interview. For example, expense receipts and accident and insurance reports. This will help us give you the best advice possible.

We will also ask you to sign documents which allow Hooper Law to write to your employers, healthcare providers, government and other agencies for more information. Our gathering of documents is vital in getting you the compensation you deserve, and your details will always be kept strictly confidential.

2. Document Gathering

The next step is to gather as many documents as possible concerning your case. This will provide evidence of your injuries, any expenses you have incurred, how your work or family life has suffered and any other ways you have been wronged.

Some of the documents we will need to gather include:

- Clinical notes and records of all your doctors, physiotherapists, chiropractors, and any other healthcare providers
- Your tax returns
- Your employment file
- The police report
- Witness statements
- Any other information that will help us fight for you to achieve a successful result

Because a large number of people have to be contacted in order to get these documents, this step can take several months.

3. Pleading

To begin your lawsuit, Hooper Law will present a Pleading (Statement of Claim) to the Court on your behalf. This is a legal statement, setting out your general position against the defendants (the people who wronged you).

The Pleading will:

- Name all the parties who you say have injured you.
- Name all the parties who you say deserve compensation because of the injury. These could include your family members for their loss of care, guidance and companionship.
- Make a claim based on your pain and suffering, loss of quality of life, past, present and future wage loss and out-of-pocket expenses.

Your Pleading will then be filed with the Court at a cost of \$229. It must be handed personally to every defendant. This will be done by a process server at a cost of around \$100 per defendant.

Every defendant named in your Pleading has twenty days to respond. Most of them will hire a lawyer, who can ask that the deadline be extended for a period of time so they have time to provide a defense. If the defendant does nothing within the twenty days, you can obtain a judgment against them immediately. However, this happens very rarely.

4. Oral and Documentary Discovery

The next step is to present to the defendants all the relevant documents we have to fulfill document discovery requirements. In an Affidavit of Documents, you will swear that you have listed all the documents that are relevant and in your possession. If further documents become available, they can be then added at a later date.

Once the defendants have your Affidavit of Documents, you can ask for their Affidavit of Documents in return. This will ensure you have all of their relevant documents.

After this exchange has taken place, the next step is oral discovery (or testimony). You will be questioned by the lawyers for the defendant(s), and each defendant will be questioned by Hooper Law. One of our team members will be present with you at the discovery.

The questions are based on the documents provided and the statements in your Pleading. At the discovery, you will be asked to produce additional documents that the defendants' lawyers feel may be relevant to the case. This is called an Undertaking. We can also ask the defendants for additional documents.

You will probably be questioned for three to seven hours, depending on how many lawyers are involved and how complicated your set of facts. We will be there to advise and support you throughout this time. You may take a break whenever you need it throughout the discovery.

The oral and document discovery process takes place within twelve to eighteen months from the pleading being presented to the court.

5. Undertaking

The documents that you promised (under oath) to give to the other parties at your oral discovery must be requested and produced. If we cannot produce them, we must prove that we have done our best to find them.

This step often involves finding records and documents from some time ago so it can take six to twelve months.

6. Pre-trial

Your case is now ready for trial. To request a trial date, we will file a Trial Record with the Court at a cost of \$351. We will then attend Assignment Court two months later so your trial date can be set. The trial usually takes place approximately twelve to eighteen months after Assignment Court.

A Pre-trial will take place approximately three to six months before your trial. This is a meeting between the lawyers involved in the case and a Pre-trial Judge who is selected at random by the court. Each party files a brief with their theory of the case, which is reviewed by the judge.

The judge and the lawyers then discuss the strengths and weaknesses of each party's position. The judge will often give her or his opinion, which can be helpful in resolving the case.

7. Trial

Trials are rare in civil lawsuits. Approximately 10 to 15 percent of cases reach this stage.

Most cases are settled before they get to trial. However, we are experienced trial lawyers, and should your case reach this stage, we are confident that we can fight to get you the compensation you deserve.

We will present all your evidence. We will call your doctors, employers, expert witnesses and your family and friends. You will also have to testify.

Trials generally last seven to fourteen days, with a decision made by a jury at the end of the case. If your case is heard by a judge alone, the judge will send their decision to us in writing one to six months after the trial.

Settlements and Mediations

Cases can be settled at any time, but settlement usually takes place after the Oral and Document Discovery stage, or after the Pre-trial stage when the judge has given his or her opinion.

Cases can also be settled at a private mediation. This is a voluntary process that all parties agree to attend. Each party discusses their view of the case, and you will have an opportunity to talk about your injury and how it has affected your life.

Successful mediations often end with a cash settlement paid to you by the defendants. Hooper Law will be able to advise you and negotiate the best deal possible on your behalf.

Mediation has many advantages. It is:

- *Voluntary* – you can end the mediation at any time
- *Confidential* – nothing you (or the other parties) say in a mediation can be used against you later on, for example at trial
- *Quicker than a trial* – mediations can be over in days, while cases take years to get to court
- *Less expensive than a trial*

Stopping your lawsuit

You can stop your lawsuit at any time. Any expenses incurred to that date will be your responsibility, if we cannot recover them from the defendants.

Time limits

The law in Ontario places a number of restrictions on when you can start a lawsuit. View our Time Counts resource for more information.

Contact us today for your free consultation.



128 Hughson Street North
Hamilton, ON L8R 1G6

fightforyou@hooperlaw.ca
www.fightforyou.ca

905.522.8002