

Thank you very much for retaining me to act on your behalf in this matter. This letter is a brief summary of how I handle cases of your type. I hope you find this information interesting and helpful.

THE INITIAL CONFERENCE:

At my first meeting with you, I obtained general information from you regarding the accident. I enclose a questionnaire concerning your background, the accident and your present circumstances, a formal retainer and several authorizations to allow me to obtain essential information. Please return same to me, once completed.

I ask you to complete the questionnaire and to provide me with other information and material. Since you know much more about your background than I do, this will greatly assist me in representing you.

I will be obtaining copies of certain other corporate and business records to determine the identity of all involved parties.

I will notify the insurer of any other party involved that I am representing you and that you are asserting a claim.

Letters will also be sent to all Doctors and Hospitals involved in your care requesting medical information about your injuries. Depending on the circumstances of the accident, any Police Officers who may have been involved will be interviewed, witnesses will be contacted and photographs arranged. Any necessary information from Revenue Canada, employers, schools or other parties will also be obtained.

EVALUATION:

It is important to know that no case is settled until the damages have all been determined and all the investigation has been completed. It generally takes several months to gather the necessary information (although it can take longer, depending on the complexity of the case). If a Trial becomes necessary, it may take much longer. One of the most difficult requests I must make of you is to have **patience**.

As soon as my investigation is complete, I will discuss it with you. I will then contact the insurance company's representative for the purpose of negotiations. Rest assured, however, that no settlement is ever concluded without your consent.

I would also ask that you keep an accurate record of the following:

1. Money spent for medical supplies and drugs: From time to time, please bring in **original** receipts for prescription and non-prescription drugs and related expenses (i.e. crutches). Same will be forwarded on to the insurers for payment.

2. Receipts for expenses relating to the accident: I enclose herewith a docket sheet in order that these expenses may be kept in order.
3. Mileage: I enclose herewith a docket sheet on which you are to keep track of your mileage travelled to and from the offices of your various doctors, physiotherapy, etcetera.
4. A daily log: (A wall calendar will do) Tracing your symptoms; i.e. how you felt on any particular date, dates of doctors' appointments, chiropractic treatments, etcetera.

STARTING A LAWSUIT:

If settlement cannot be reached with the insurance company, we will consider the advisability of commencing a lawsuit. In some cases, however, it is important to start a lawsuit as soon as possible. No lawsuit, however, will be started without your permission.

A lawsuit is generally started by preparing and having issued by the Court, a document called a **Statement of Claim**. It is served upon the party or parties being sued. The Statement of Claim sets out in a general way, the facts upon which the Plaintiff relies in support of the claim against the Defendant, but does not set out in detail all of the evidence in support of the allegations. The party being sued is called the Defendant. You are called the Plaintiff. The Defendant takes the Statement of Claim to his lawyer, who serves me with a document called a **Statement of Defence**. It similarly sets out in a general way, the facts upon which the Defendant relies in the defence of the action.

I want to point out to you that although a lawsuit is started, settlement is always possible. In fact, the vast majority of personal injury cases are settled without the necessity of Trial.

LAW SOCIETY SURCHARGE

As of April 1, 1995 a \$52.50 disbursement is chargeable and paid to the Law Society of Upper Canada with respect to any action commenced or defended on your behalf.

OFFER TO SETTLE:

At any time after the commencement of the lawsuit, either party may make an offer to settle in writing. In the case of the Plaintiff, the offer may specify the amount which he is prepared to accept in settlement of one or more of the claims in the lawsuit. There are certain advantages to making a written offer, in that the Defendant may have to pay the Plaintiff extra legal costs if the offer is not accepted; and if the case is later settled or goes to Judgement for an amount equal to or greater than the offer. If you wish to make an offer at any time, be sure to speak to me.

DISCOVERY:

Once the lawsuit has started and the documents exchanged by the lawyers for the Plaintiff and the Defendant, both sides have the right to obtain information about the case by way of Discovery through the use of the following:

1. Affidavit of Documents: This is a sworn written statement in which a party to a lawsuit must list in detail each and every document which relates to the case and which has been or now is in his possession or which he could obtain on request of another party.

2. Examination for Discovery: This is testimony of a party given under oath in the presence of the lawyer for the other party, and taken at an office before a stenographer who records it. There is no Judge present. The questions and answers may be used at Trial, and may also provide the basis for negotiating a settlement.

I will discuss these matters with you again, and correspond with you further about them. At the present, however, you should ensure that you deliver to my office **all** documents pertaining to this case, so that I may prepare a complete Affidavit of Documents.

MEDICAL EXAMINATION:

The law authorizes the Defendant in a personal injury case to require the Plaintiff to go to a Doctor of the Defendant's choice for a medical examination. This doctor will deliver a report to the Defendant's lawyer. If there is a trial, the report may be filed in evidence or the Doctor may be called to testify. If the Defendant requires a medical examination of you, I will give you notice and full advice about what to do well before you undergo the examination.

Many cases which are not settled initially with the insurance adjuster are settled after the Examination for Discovery or the defence medical assessment, because then a more accurate evaluation of the case by each side is possible.

PRE-TRIAL:

A Pre-Trial Conference is an informal hearing held before a Judge and attended by the lawyers for both sides. The Judge reviews the transcripts of the Examinations for Discovery, Medical Reports and other information; and then gives an opinion as to what he might decide were he trying the case. Frequently, the Pre-Trial Judge encourages the parties to negotiate settlement of some or all of the issues in the case.

TRIAL PREPARATION:

If your case cannot be settled for a proper amount of money, I will, with your instructions, proceed to Trial. The last several weeks before the Trial date are spent in detailed preparation of your case. What is expected of you at Trial will be explained to you in minute detail, well in advance of your going to the Court House.

Once again, the vast majority of cases are never tried, even though a lawsuit has been started. Sometimes however, they are not settled until a few days before the Trial date.

THE TRIAL:

All Trials are conducted in basically the same manner. They may involve the following steps:

1. Selecting a Jury: In a jury case, the first step is to select a jury to determine the Judgment. If the case is non-jury, this step is not necessary, as the Judge alone makes all the decisions.
2. Opening Statement: After the jury selection (if there is a jury), the Judge advises the jury of its duty and then the Plaintiff's lawyer has the opportunity to tell the jury what the case is about and what proof will be presented. The Defendant's lawyer makes his opening statement once the Plaintiff's lawyer concludes his statement or may defer it until after the Plaintiff's lawyer has finished presenting his case. If there is no jury, the statement is made to the Judge alone.
3. Presenting Witnesses: The Plaintiff's lawyer calls witnesses first and presents the Plaintiff's case through witnesses and exhibits. The Defendant's lawyer is given the right to question these witnesses when the Plaintiff's lawyer has finished asking them questions. When the Plaintiff's lawyer has finished representing witnesses, the Defendant's lawyer is given the opportunity to make an opening statement if he has not already done so, and to call the Defendant's witnesses. The Plaintiff's lawyer has the right to question the Defendant's witnesses.
4. Argument: After the testimony is complete, the Plaintiff's lawyer and the Defendant's lawyer are each given a chance to argue on behalf of their respective clients.
5. Instructions: After all the testimony has been presented, the Judge will instruct the jury as to the law. The jury then goes to the jury room and determines how the case should be decided, including who should win, and how much money, if any, should be awarded. If there is no jury, the Judge may give his decision immediately or he may adjourn the case to consider his decision.

KEEPING YOU INFORMED:

Appropriate enquiries will be made, letters sent and your claim processed automatically, and you need not concern yourself about this aspect of the case. You will receive copies of all significant material sent or received by this office. I suggest you keep all documents together in a folder marked "Client's Brief", so that all material will be easily available to you for our meetings.

DO NOT, under any circumstances, discuss your case with anyone except members of my office!

Rest assured that you will be informed at all times of any offer that is made to settle your case.

CONFIDENTIAL INFORMATION:

As your lawyer, I must have all the facts in order to represent you properly. Any information given to me by you is strictly confidential and will not be disclosed without your permission.

FEES, DISBURSEMENTS AND DEPOSITS:

The **fee** is the amount of money which is charged for the time spent working on your case. The **disbursements**, on the other hand, consist of money spent for things such as photographs, copies of Police reports, Hospital records, photocopying, long distance charges, the Investigator's Account (should an investigation prove necessary, which is often the case when liability is an issue), and for your Doctors for the medical reports, which are needed to describe your injuries and disabilities.

If your claim cannot be settled without litigating, further disbursements for issuing the statement of Claim and serving it on the Defendants personally, the transcripts of the Discoveries, the Court fee for setting the action down for Trial, and other related expenses are necessary.

The amount of the professional fee charged depends primarily upon the following factors: the time and effort spent on your case, the amount awarded by the Court or agreed upon by way of settlement for damages and interest, and the Defendant's contribution towards the Plaintiff's fees and disbursements. In a typical settlement or Judgment, the insurance company will pay part of your fees and disbursements. While it is impossible to predict precisely how much the overall legal bill will be, or the amount which the insurance company will pay as partial contribution towards your overall expense, generally speaking, the fee payable by you over and above the amount contributed by the insurance company will not exceed 15% of the gross amount received for damages, interest and costs.

We will discuss costs throughout, and I hope to be able to make a more informed assessment of your ultimate legal expense as the claim proceeds. I must point out, however, that you are responsible for my legal account for fees and disbursements irrespective of the outcome of the case.

While I am prepared to defer payment of a deposit against fees at this time, I do require a deposit against disbursements in the amount of \$100.00. I may, from time to time, ask you for a further deposit to cover disbursements incurred to date and for those anticipated in the immediate future. Depending on the complexity and duration of your case, I may ask you at some time in the future for a deposit against fees as well.

OTHER MATTERS:

If you have any questions, please feel free to call my office at any time. You will find my secretary very helpful. A personal interview can always be arranged at a mutually convenient time to discuss any particular problem.