

Knowing Your Legal Rights (and How to Protect Them) after an Injury / Disability

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Personal Injury Law

Personal Injury Lawsuit

Suing a negligent party who caused or contributed to a person's injury, or suing an insurance company for denied benefits

Common types of personal injury lawsuits:

- Motor vehicle accidents
- Bike and pedestrian accidents
- Slip / trip and falls
- Disability claims

Generally, you must commence legal proceedings **within two years from the date of the accident** ("the Limitation Period")

Accident Benefits

- Benefits arising from the person's car insurance policy which can provide funding for a variety of different purposes, including medical, rehabilitation, income replacement, attendant care etc.
- The injured person files a claim with their own car insurance company or the insurance company of someone else, depending on the circumstances
- "No-Fault" system – does not matter who is responsible for the accident, anybody injured in a motor vehicle accident may make a claim
- The injured person must notify their car insurance company **within 7 days of the accident** that they intend to apply for accident benefits
- The insurance company will provide a form called an **OCF-1 – Application for Accident Benefits**, which must be filled out and submitted back to the insurance company **within 30 days after receipt of the application.**
- Failure to do so will likely result in a denial or significant delay to accessing benefits

Slip / Trip and Falls

– The Notice Requirement

Lawsuits for slip / trip and falls are subject to the two-year Limitation Period, however, **failure to provide written notice** may be detrimental to an injured person's right to sue

Fall on Municipal Property

- The injured must provide written notice to the clerk of the municipality **within 10 days** after the occurrence of the injury (Section 44(10) of the Municipal Act)
- Notice must contain details of the fall, the date, time and location

Fall on Private Property

- As of January 29, 2021, Section 6.1(1) of the Occupiers' Liability Act requires written notice within **60-days** on all claims alleging injury arising from falls caused by ice or snow
- For non-winter slip / trip and falls, the injured person must abide by the Limitation Period – however, **notice should always be provided as soon as possible** so proper investigations may occur

Short-Term Disability (“STD”)

- If an illness or other medical condition affects your ability to work at your job beyond what your employer provides in terms of sick days, you may qualify for STD benefits after a qualifying period
- STD typically kicks in within a few days of disability and can last **between 15 to 52 weeks** depending on the terms of the policy
- STD insurance can provide coverage for a person’s income either on a partial or total basis, contingent on the policy

Long-Term Disability (“LTD”)

If there appears to be no immediate expectation of medical recovery and re-entry into the workforce at the end of the STD period, LTD benefits should be pursued

The most important element of a LTD claim is the policy itself – some important things to consider in your policy include:

- Definition of “disability”, which will also outline whether the benefits are for one’s “own occupation” or “any occupation”
- Duration of benefits – **typically, to age 65**
- Benefit amount
- Exclusions for pre-existing conditions, which may apply if you have not been employed for a minimum period of time

The Importance of Legal Advice

Legal professionals help injured people in various important ways:

- Educating people about their legal rights
- Using their legal expertise to enhance the person's rehabilitation and recovery
- Advocating on behalf of the person for fair compensation
- Helping the person access benefits they are entitled to or disputing an insurance company's denial of benefits"
- Alleviating stress and the burden of dealing with insurance companies and legal systems

Consequences of Failing to Meet Proscribed Timelines

There are significant potential consequences if an injured person fails to meet the timelines outlined above:

- The person can lose their right to sue or dispute
- Proper investigations may not be possible – specifically, in the context of slip / trip and falls
- Entitlements to benefits may expire (ex. Not applying for a benefit or disputing a denial of benefit within the appropriate time frame)
- Access or reinstatement to benefits may be seriously delayed

NOTE: A court or tribunal will likely not accept a person's ignorance or lack of knowledge as an excuse for failing to meet these deadlines.

**IF YOU OR A LOVED ONE HAS BEEN
INJURED IN AN ACCIDENT, PLEASE
CONTACT CHRISTIAN GENOVA FOR
A FREE CONSULTATION**



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