

*A GUIDE TO*  
**PERSONAL  
INJURY LAW**  
IN MISSOURI

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**WITH CARSON & COIL**



# A GUIDE TO **PERSONAL INJURY LAW**

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Personal injury is the area of law that focuses on injuries due to various accidents. Including product liability, workers compensation, motorcycle accidents and nursing home abuse, this practice area is broad. There is no cookie-cutter solution to any case, so we have created a guide to help you navigate your unique personal injury case. Understanding common terms and the process of filing a lawsuit can ease your mind during a difficult time. However, we do not recommend you take any legal action on your own. Contacting a professional is in your best interest because they are experienced in handling a variety of complex cases.

*Disclaimer: The content given is to be used for informational purposes only. This content is created for your benefit and does not signify an agreement Carson & Coil will be able to represent you in the future.*

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Whether you have been injured in a car accident or suffered nursing home abuse, the team of personal injury lawyers at Carson & Coil are here to represent you. Our experienced team of personal injury attorneys have the skill and knowledge to fight for the compensation you deserve, and they understand the difficulty that comes with filing a lawsuit. Representing a variety of cases from car and truck accidents to slips and falls, our attorneys are here to make the lawsuit process easier for you. Contact us at 573-636-2177 for more information!





# PERSONAL INJURY LAW

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Personal injury cases are law cases that involve harm to a person due to an accident. You may be wondering if your injury could result in a personal injury lawsuit. The following guide has been created to help you understand questions about situations that may lead to a personal injury case. However, downloading this guide does not signify a client-attorney relationship and contacting an experienced attorney is always advised.

## ***What Situations are Considered Personal Injury Cases?***

Whether you are suffering from physical or emotional harm due to an accident, you may be compensated by filing a personal injury lawsuit. The details of your accident and the extent of your injuries will determine the damages awarded. If you find yourself with injuries due to the following situations, contacting an experienced personal injury attorney is in your best interest.



**Car Accident Cases**



**Wrongful Death**



**Nursing Home Abuse**



**Workers Compensation**



**Slip & Fall Cases**



**Product Liability**



**Medical MalPractice**

# COMMON TERMS USED IN PERSONAL INJURY LAW CASES

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After an accident occurs, stress and emotions are high. Don't let confusing legal terms and jargon deter you from filing a lawsuit. Our guide breaks down terms commonly used throughout the legal process. Please note, this guide does not initiate a client-attorney relationship but instead is used to help gain a better understanding of personal injury law.

## Term Overview

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**Plaintiff** – The person bringing about the lawsuit. For example, if you purchase a defective product and file a lawsuit against the company, you are considered the plaintiff.

**Complaint** – The lawsuit is initiated by the plaintiff filing a complaint with the appropriate court. This is usually done with the help of an experienced personal injury attorney.

**Prayer for Relief** – Some complaints also include the amount the plaintiff wishes to receive due to the pain or suffering endured. This part of the complaint is considered the prayer for relief.

**Defendant** – The defendant is the eligible party that is responsible for the plaintiff's injuries. A defendant does not have to be a single person. Defendants can include companies or brands, depending on the situation.

**Answer** – Upon receiving a complaint, the defendant will file an answer with the court. This answer notifies the plaintiff of the defendant's response to the claim.



## COMMON TERMS, CONTINUED

### Terms Regarding the Nature of the Case

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**Statute of Limitations** – The time period set by law in which you may file a personal injury lawsuit. In Missouri, the time frame is five years unless the claim is against a governmental body. If filing a complaint against the government, you have 90 days.

**Torts** – Any wrongful act, not including crimes and/or actions resulting from a contract. Intentional torts are wrongful acts committed on purpose. Nearly every civil suit action is considered a tort.

**Negligence** – A wrongful act resulting from carelessness.

When proving negligence the plaintiff has to prove:

- The defendant had an obligation to the plaintiff.
- The defendant violated their obligation.
- The violation caused damages.
- Actual damages exist.

**Burden of Proof** – Addresses the plaintiff's ability to prove their claim is true. In a personal injury case, the plaintiff has to prove the defendant's actions or lack of actions

caused the plaintiff's injuries. For more information on obtaining proof, review the frequently asked questions section of this guide.

**Strict Liability** – Involves a person being legally responsible for specific actions regardless of wrongdoing. For example, companies are strictly liable for defective products. In a personal injury case, strict liability shifts the burden of proof onto the defendant, who now has to prove they are not liable for any actions. Contact a personal injury attorney for more information on how this impacts your case.

**Damages** – Damages are what the plaintiff is looking to get out of the claim. In other terms, damages equal money. During a personal injury case, damages are broken down in economic and non-economic situations. Simply defined, economic damages can include medical bills, wage loss and other financial elements. Non-economic damages can include pain and suffering that occurred due to an accident.





# THE TIMELINE FOR FILING A PERSONAL INJURY CASE IN MISSOURI

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Don't let the process of filing a lawsuit discourage you from getting the justice you deserve. By hiring an experienced personal injury attorney and doing your research, you will have a better understanding of what to expect when filing a personal injury claim in Missouri. Our guide helps you to understand the process of filing in Missouri. It is to be used for educational purposes only and does not signify a client-attorney relationship.

In Missouri, a personal injury claim must be filed within five years if it is to be heard by the court. The process begins with an unjust accident occurring. Although lawsuits may take time and no case is the same, if you or a loved one is harmed it is important to take action as soon as possible.

*Timeline on next page*



# THE TIMELINE FOR FILING A PERSONAL INJURY CASE IN MISSOURI

## First Few Months

After an injury occurs it is important to see a doctor even if the injury seems miniscule. During the visit, document what your doctor says about the extent of your injuries. This account from a medical professional will be important to present in court.

Contact an experienced personal injury attorney and begin forming a case. If you are interested in settling and not going to trial you will also begin negotiations with an insurance agency. Every situation varies and these first few steps can differ. However, no matter what the situation may be, documenting and having open communication with an experienced attorney will help your case in the future.

## The Next Several Months

The nature of your injury can determine if negotiations happen in the months or years following an injury. Once you have reached maximum medical improvement, your lawyer will begin negotiations with an insurance agency on your behalf. Maximum medical improvement is the state in which a doctor declares your injury cannot be improved any further. Although waiting can be frustrating, it is done to ensure you receive the appropriate amount of damages for your injury. If no settlement is agreed upon, your case will go to trial.

## One Year Following the Injury

In Missouri, it takes one to two years for a case to go to trial. Once a trial is initiated, the discovery process begins. During this time both the plaintiff and defendant's claims are investigated. This is where documentation of the events that have occurred will be especially important to your success.

## Following the Trial

The discovery process time varies depending on the nature of the case, but usually personal injury trials can last a few days or a few weeks. Once the jury comes to a decision, you will either receive financial compensation for your injuries or be denied. If you win the trial or settlement, the money typically takes 30 days to be processed.



# FAULT SYSTEM IN MO

Many personal injury law cases are due to car, truck or motorcycle accidents. When filing for a personal injury case it is important to understand Missouri's laws for who is at fault and what that entails. To help you gather the information you need, we have put together a guide explaining at-fault vs. no-fault and how the two differ in Missouri.

Please note, downloading this document does not initiate a client-attorney relationship.

## At-Fault vs. No-Fault

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The state in which your motor accident occurs will determine the amount of fault you may be found liable for. There are 18 states in the U.S. that follow the no-fault rule, and Missouri is not one of them.

### At-Fault

An at-fault accident means you caused the accident, whether it be from your own act or failure to take action. For example, speeding up and accidentally hitting another vehicle is your own at-fault act. On the other hand, driving in traffic and failing to brake, thus hitting another vehicle, is an example of a failure to take action.

### No-Fault

In a no-fault state, your insurance company handles all claims. In this case, fault is not as important because included in your insurance is personal injury protection (PIP). This covers healthcare costs endured due to an accident.

For a better understanding of at-fault vs. no-fault, research your insurance plan to understand what is covered. It is important to understand your coverage before an accident occurs. To understand how your coverage may affect an accident, contact a personal injury attorney today.

## At-Fault System in Missouri

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Due to Missouri's at-fault system, there are varying factors that determine which parties can claim damages. Missouri courts follow Pure Contributory Negligence. This means if the jury determines the plaintiff contributed to the accident in any way, they will recover nothing. In other words, if the defendant is 95% at fault and the plaintiff is 5% at fault, the plaintiff will recover no damages.

Determining fault in an accident is complicated. There are many factors contributing to who is at fault in an accident. Whether you believe you are at fault or not, begin by gathering evidence to ensure you have a solid case. Next, contact an experienced personal injury attorney to assess your options and determine how to proceed.

# FREQUENTLY ASKED QUESTIONS

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## How long do I have to file a claim?

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According to Missouri's statute of limitations, a plaintiff has five years to file a claim. However, if you are filing against a government entity, the time period is shortened to 90 days. Not adhering to the timeline will cause your case to not be heard by a court. In addition, it is important to provide evidence if you want to have your case heard. Remember that waiting to file a claim may reduce the amount of evidence you are able to provide.

## Why should I hire an attorney?

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Personal injury law is a broad topic and no two cases are the same. Hiring an attorney will allow you to get your questions answered and provide you with expert guidance. Experienced personal injury attorneys have seen how a variety of cases play out. They can give you an idea of the timeline of your case so you have a better understanding of what to expect.

Whether you or a loved one is affected, hiring a personal injury attorney can ensure the appropriate amount of damages to your case are received. Medical bills and car repairs can add up quickly, investing in an experienced personal injury attorney can help you make the most out of an unfortunate situation. Contact our personal injury attorneys today to get a better understanding of what your case entails.

## What do I need to file a personal injury case?

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To maximize your personal injury case it is important to build evidence. This process begins the moment an accident takes place. To provide the best outcome for your case, documenting and organizing evidence will be essential.

- Steps to take after an accident
- Take photos of the injury
- Visit a doctor & document the results

- Attend and document follow up appointments if appropriate
- Write down a narrative, so no details are forgotten
- Form a list of witnesses with contact information
- Contact a personal injury attorney and follow any suggestions they recommend

## How long does an insurance company have to settle a claim in Missouri?

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An insurance company has 30 days to settle a claim due to the Unfair Claims Settlement Practices Act. It is advised to provide necessary claim forms within 10 days of the notification. Within 15 days there should be an acceptance or denial of the claim. Following the acceptance or denial, an insurance company will establish the amount of damages upon an investigation.

In addition, if a question is submitted by the person filing the claim, the insurance company has 10 working days to respond. Also, it is important to note that homeowner investigations and settlements cannot be answered in 30 days, so they have an extended timeline.

## What is fair compensation for pain and suffering?

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Pain and suffering are subjective, so compensation is determined on a case-by-case basis. However, some attorneys will use an estimation formula to determine a number they believe is appropriate. It begins with multiplying the plaintiff's damages, such as medical bills and lost wages, by a number between one and five. The multiplier is based on the level of injury. It is important to note that not all attorneys determine an estimated amount this way and there is no one-size-fits-all approach. Talk with an experienced attorney to determine what compensation is appropriate for your specific situation.

# NATIONALLY RANKED

## PERSONAL INJURY ATTORNEYS IN MID-MISSOURI

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**Mark A. Ludwig**

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Mark A. Ludwig began practicing law in St. Louis through the representation of insurance companies. Upon moving to Jefferson City, he began representing people who have been injured by insurance companies, individuals and companies. "The gratitude I get from my clients when they know their expenses are covered and their future is secure is tremendously satisfying," Mr. Ludwig said. With experience on both sides of cases, Mr. Ludwig's ability to find justice for his clients has led him to be named a Missouri Super Lawyer in 2011 and 2013. *Contact at 573-636-2177*



**Douglas W. Hennon**

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Upon graduation from the University of Missouri - Columbia School of Law, Douglas W. Hennon began practicing with Carson & Coil as a trial attorney. His expertise in trial cases and leadership earned him exclusive membership into Top 100 Lawyers, a professional organization of America's top trial lawyers. In addition, he serves on Missouri Supreme Court's Alternative Treatment Courts Committee and the DWI Court team for Cole County.

*Contact at 573-636-2177*



**Jason H. Ludwig**

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Jason H. Ludwig serves in a wide variety of law areas including personal injury. As an expert in research and writing due to his previous experience working at the Missouri Supreme Court, he understands various legal issues that may arise throughout a case. Nominated as a Top Attorney Rising Star in 2016, Mr. Ludwig understands the difficulties that come with filing a lawsuit and is there to help you through them.

*Contact at 573-636-2177*

# NATIONALLY RANKED

## PERSONAL INJURY ATTORNEYS IN MID-MISSOURI

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**Blake I. Markus**

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Upon graduation from the University of Missouri - Columbia School of Law, Blake I. Markus began practicing law in business litigation, construction defects and personal injury. Having represented both national and local clients, Mr. Markus understands every case is different and should not be treated the same. His clients recognized his hard work and nominated him for a Missouri Lawyers Weekly Up & Coming Lawyer award in 2014.

*Contact at 573-636-2177*



**Gabe E. Harris**

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Joining the Carson & Coil team in 2017, Gabe E. Harris is an associate attorney focusing on personal injury, employment law and medical malpractice. Before joining Carson & Coil, Mr. Harris spent time serving the Missouri Attorney General's Office where he argued in front of the Missouri Court of Appeals. His knowledge of various state licensure boards and the ability to represent cases in front of the State of Missouri allows Mr. Harris to confidently approach every case given to him.

*Contact at 573-636-2177*



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