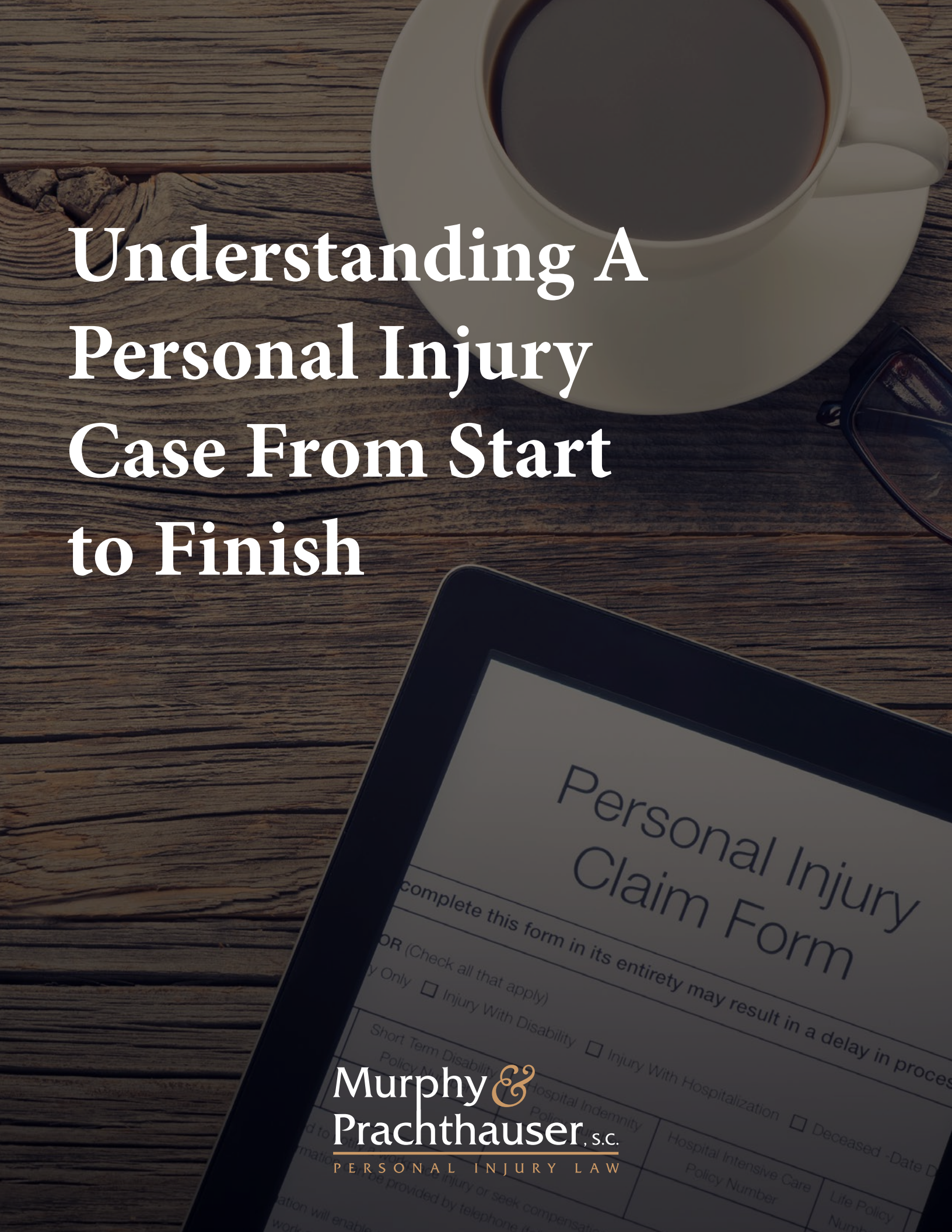
Understanding A Personal Injury Case From Start to Finish



Murphy & Prachthauser, S.C.

PERSONAL INJURY LAW

Understanding A Personal Injury Case From Start to Finish

If you were wrongfully injured, the process of hiring a personal injury attorney and preparing a case for trial may seem daunting. Not only that, understanding your legal rights, navigating through legal jargon and determining your role in the legal proceedings can be overwhelming.

To help you through this process, we are pleased to present this educational eBook, to help you understand the legal profession, legal terminology and the steps involved in a personal injury case. Our educational eBook will explore a number of legal topics and break them down, step-by-step to help answer your questions. Moreover, we'll help you understand how to find a personal injury attorney with the expertise and experience to win your case favorably.

From simple legal definitions to outlining the detailed process steps and the role your personal injury attorney should take in the proceedings, our goal is to arm you with as much information as possible to help you feel confident in your legal proceedings.

This eBook will explore six main topics:

PART ONE:

4 Things To Expect In A Consultation With A Personal Injury Attorney

4 Things To Expect In A Consultation With A Personal Injury Attorney

Your first meeting with a personal injury attorney is very important. It will provide you with an opportunity to learn more about a personal injury firm and the lawyers' level of experience with a case like yours. Selecting a team of attorneys who are familiar with your type of injury or legal case can improve your chances of a favorable outcome.

At the first meeting, you should expect to have an open and honest discussion with your attorney, including some time focused on these subject areas:

1. Understanding Your Case: Who, What, When, Where and Why

Your personal injury attorney and their team need to fully understand your case before they can proceed with any legal action. This will require a detailed discussion and many questions surrounding the details of your case.

2. Explaining The Legal Process

An experienced lawyer should be able to offer insight on how your case can proceed toward a favorable conclusion. Your attorney should walk you through the legal process, step-by-step, to provide you with an understanding of exactly what may be happening behind the scenes. Filing legal briefs, gathering records and going through documents can take time; your attorney should discuss these steps with you so you understand how your attorney is working on your behalf.

3. Determining Your Role In The Case

Believe it or not, you play a vital role in the outcome of your case. At your first consultation your attorney should thoroughly explain the steps you will need to take to ensure a successful outcome. Some of the key things you will be responsible for during your case include: meeting with the doctor regularly, never missing appointments and being truthful and transparent through every step of the process

4. Establishing A Communication Process

Establishing a regular communication schedule is extremely beneficial for both clients and their attorneys. As you work with your attorney, you should feel like their first priority. You should expect your attorney to initiate regular conversations about your health and injury improvements or any legal developments in your case.

PART TWO:

The 4 Steps Involved In Discovery For A Personal Injury Case

What Is Discovery?

Discovery can be understood simply as the exchange of information between the parties in the lawsuit, including the exchange of evidence, witnesses and facts about the case. Discovery enables everyone involved to know the facts and information about the case. Discovery may be completed before settlement negotiations occur and certainly before a trial beings.

Discovery consists of four key actions: interrogatories, requests for production, requests for admission and depositions. Let's explore each of these in more detail.

1. Interrogatories

To put it simply, interrogatories are written questions one party will send the opposing party. Interrogatories include fact gathering questions relevant to the lawsuit, such as: the name and contact information of the involved parties or any witnesses; information on any insurance covering the incident; a description of injuries suffered and the medical treatment received for these injuries and the injured party's medical history.

2. Request For Production

A request for production is a written request asking the opposing attorney for tangible documents for the purposes of inspection. Depending on the type of lawsuit, the opposing party may request copies of medical records or insurance policies, photographs taken at the scene of the accident, receipts or records of repairs to property and other related documents. All parties are required to turn over relevant documents to the other side in response to a request for production from the opposing party. It is very common for these requests to accompany interrogatories.

3. Request For Admission

A request for admission is one party's written factual statement served to another party who must admit, deny or object to the substance of the statement. If a party fails to respond to requests for admission within 30 days, the statements may be deemed by a judge to have been admitted to by the party who received the request for admissions.

4. Deposition

A deposition is out-of-court testimony, recorded and transcribed by a court reporter, for later use in court or for discovery purposes. Either party can request a deposition of the other parties, lay or expert witnesses in the lawsuit. Depositions can often be beneficial to capture an account of an accident or event before the involved parties forget the minor, often important, details. The transcript or video recording of a deposition may be used later on during a trial to corroborate or dispute testimony. While a deposition is not a formal hearing or trial, it is important for the person being deposed to answer each question truthfully.

The discovery process can take anywhere from weeks to months and will almost always involve the client's active participation. Your personal injury lawyer will prepare you for the discovery phase and help you understand your requirements.

PART THREE:

What Are The Steps To Reach Settlement In A Personal Injury Case?

What Are The Steps To Reach Settlement In A Personal Injury Case?

What is a Settlement?

A settlement is an agreement between an injured person and an insurance company or person responsible for causing the injury by which the responsible person/insurance company agrees to pay a sum of money and the injured person agrees to accept the offer.

How is a Settlement Reached?

A settlement is reached through the process of negotiation. In general, an injured person will make a demand for a sum of money, and in response, the responsible party/insurance company will make an offer to pay a lesser amount of money. Through the process of negotiation with an experienced personal injury lawyer, the injured party gradually reduces their demand and the responsible party/insurance company gradually increases their offer. A settlement is reached if the responsible party/insurance company agrees to pay a sum of money, which the injured party is willing to accept.

When Would a Settlement Offer be Made?

The responsible party/insurance company will sometimes make a small settlement offer shortly after an injury occurs. It is generally not advisable to accept such an offer. To properly evaluate an offer the injured party must know their prognosis, in other words, whether they will make a full recovery from their injuries or whether there will be permanent lifetime problems. In most cases a settlement offer will not be made until a doctor is able to provide final medical opinions regarding an injured person's prognosis.

What Happens When a Settlement is Accepted?

When a settlement is accepted the responsible party/insurance company issues a settlement check in exchange for a Release. A Release is basically a contract by which the responsible party/insurance company agrees to pay a certain sum of money to the injured party and the injured party agrees to make no further claim against the responsible party/insurance company.

What Happens When a Settlement is Rejected?

When a settlement is rejected a lawsuit is commenced, or if a lawsuit is already pending when the offer is made, the decision is made to continue the case to a jury trial. At a trial, the jury will determine what amount the responsible party/insurance company must pay to compensate the injured person and the injured person must accept the amount as determined by the jury.

How Does a Personal Injury Attorney Help with this Process?

An attorney helps with this process by first evaluating the manner in which an individual was injured, in other words, considering who was at fault in causing the injury. An attorney will also work with treating physicians to obtain medical reports accurately documenting the injured party's condition. An attorney will then also determine what effects an injury will have on an individual, including medical expenses that may be incurred in the future. An evaluation will also be made as to the effect injuries have on an individual's ability to return to their prior employment or earn other income. An attorney will analyze settlement offers in comparison to what a jury would likely award at trial. This analysis is based on the attorney's experience with prior settlements and verdicts of similar personal injury cases.

PART FOUR:

Top 5 Questions and Answers About Mediation in a Legal Case

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Here's the scenario: You have a lawyer and a lawsuit has been filed on your behalf regarding a car accident you were involved in last year. Your lawyer just contacted you and said the court ordered mediation in your case and there is a mediation coming up in a few weeks.

What exactly does this mean?

1. What is Mediation?

Mediation is an alternative dispute resolution process wherein a neutral third party, the mediator, facilitates a discussion between the parties to a lawsuit to promote the voluntary resolution of disputes before trial. *Wis. Stat. § 904.085 (1).*

Mediation is different from trial in the sense that mediation is an informal process and trial is a formal process. In personal injury mediation, it is most common to have the plaintiff and his or her lawyers in one room and the defense counsel and insurance adjuster in the other room. The mediator then moves between the rooms in hopes of bringing both parties toward common ground in order to resolve the lawsuit before trial.

Unlike trial, there are very few rules for a mediation. In a mediation, each party provides the mediator with materials regarding the case to review. Then, once the discussions begin with the mediator, the mediator is required to keep information confidential unless the parties agree to its disclosure. Furthermore, offers of settlement and discussions regarding settlement are not admissible at trial, which helps promote cooperation at mediation. *Wis. Stat. § 904.085 (3)(a).*

Another difference between trial and mediation is that at a mediation, the mediator leads the discussion, but has no power to make decisions regarding the case. The mediator cannot order either party to settle. At trial, the judge has power and influence over the outcome of the case.

One additional difference between mediation and a trial is that the parties have control over the outcome in a mediation. In a mediation, the parties make the decision on whether to resolve the dispute prior to trial. On the other hand, at trial, twelve jurors make the decision on the outcome of the case and the parties have no control over the result. At mediation, the parties are also fully aware of the amount of money which will be awarded to the plaintiff and how much money has to be paid back. At trial, the jury is not told the effects of their verdict and is not told that the plaintiff may not receive the entire amount of the damages they award.

Mediation is not always successful, however, over the past decade, it has become more common for lawsuits to resolve at mediation than proceed to trial. Mediation merely provides both parties with an additional opportunity to resolve the case before trial.

2. When is Mediation Used in a Lawsuit?

Once a lawsuit is filed, mediation is often ordered by the court at the scheduling conference. The court often orders mediation to be completed after discovery is completed and before the pre-trial conference. Mediation is usually only successful if both sides have all the information possible regarding the subject of the lawsuit. As such, an early mediation may not prove worthwhile. Oftentimes, mediation is the last step before a case proceeds to a pre-trial conference and then to trial.

3. Who is Involved in Mediation?

The main parties involved in a mediation are the plaintiff, the plaintiff's attorney, the defense attorney, an insurance adjuster from the defendant insurance company, and the mediator. As previously mentioned, the mediator is chosen by both parties to lead a discussion in hopes of reaching a resolution. The plaintiff and his or her lawyers will be in one room and will have the final authority to make a decision on whether a case is settled at mediation. In the other room, the mediator usually speaks with defense counsel and an insurance adjuster from the defendant insurance company. In addition, some parties may be available by phone in the event a case resolves. For example, if a health insurance company paid some of the bills for the plaintiff's injuries, they may have a right to be paid back by the defendant from the proceeds of the settlement. Usually, representatives of the health insurance companies are put on notice of the mediation and will only become involved if a case settles. These are typically the only parties involved in a mediation.

4. What is the Goal of Mediation?

The goal mediation is to bring the parties together to end the dispute by agreeing to settle the case voluntarily before trial.

5. Why does Murphy & Prachthauser excel in these circumstances?

The attorneys at Murphy & Prachthauser excel at mediation because they prepare every case as if it is going to trial. This results in a tremendous benefit at mediation because the attorneys are prepared, the clients understand the relative values of their case, and if the offer by the defendant insurance company is not adequate, the lawyers at Murphy & Prachthauser will not shy away from a trial.

Many lawyers from well-known personal injury firms prepare a case for settlement and will settle every case without going to trial. The mediator and opposing counsel know these firms will do anything to settle and offer low amounts knowing that they will settle regardless of the amount. In contrast, both the mediator and defense counsel know that the lawyers at Murphy & Prachthauser are not afraid of trying the case and the defendant will have to offer a reasonable amount in order to resolve the case before trial. Preparation and hard work leading up to the mediation helps the our team of experts receive the best results for clients at mediation.

DON'T WAIT!

Consult with a lawyer today.

FREE CASE EVALUATION

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PART FIVE:

What Happens in a Personal Injury Jury Trial and How is a Verdict Reached?

What Happens in a Personal Injury Jury Trial and How is a Verdict Reached?

Key Steps Before A Trial Begins

When a trial begins, there will already have been a great deal of work done on your case. Depositions, which are testimony taken under oath, were taken of the other side and any witnesses. Written questions will have been answered, under oath, by both sides. Doctors will have given their depositions on video. Motions, legal procedures over what evidence will be admitted or excluded, will have been decided.

What to Expect When You Appear for Trial

When you appear for trial, the judge will typically have a short conference, in the judge's office, called chambers, with the lawyers. This is the equivalent of getting the representatives together and figuring out if there is anything that has come up that the judge needs to be aware of. The judge will also ask the parties about some basic details of the case, which the judge will use to introduce the case to the jury and also to do the initial questioning of the jury. The judge will also want some time estimates from the lawyers as to how long they expect to take with jury questioning and opening statements, so that the judge can plan breaks and lunches and daily adjournment. The judge may also put some time limits on the attorneys if the judge feels they are going too slow.

How Is A Trial Jury Selected?

Potential jurors will be brought into the court and seated according to a chart. The attorneys will be given a list of names that will allow them to match it up with the seating chart, so the attorneys know the names of the jurors in each seat. At this point, there probably are in excess of 20 jurors, allowing for some individuals who will need to be excused for family illness, vacations, or other hardships.

The judge will give a neutral description of what the case is about and then do some initial questioning of the jury. The judge will have each attorney introduce himself, his client, and the witnesses that are expected to be called. The judge will then ask if any potential juror knows the attorneys, the parties, or the witnesses and the judge will then follow up on any "yes" answers. The judge will ask if anyone has knowledge about the specific case or about the subject matter. If you have a juror that treats head injury patients as a nurse or PA, his or her experience doing that work would be very relevant if you have a case involving a head injury, for example.

During this process, if it becomes clear that a juror has some biases that prevents him or her from fairly considering the evidence, that juror can be dismissed "for cause." When the judge and the attorneys are finished questioning the jurors, the attorneys proceed to strike jurors that they feel cannot be fair to their client. These are known as "peremptory challenges" and each side gets either 3 or 4 of these strikes, depending on the number of parties at trial and whether there are alternates. An attorney can remove these 3 or 4 from the panel for any reason except race, sex, or religion.

After the jury selection is complete, there is usually a short break where the attorneys set up for opening statements.

What To Expect when The Trial Begins

Trials are getting much more technology. There probably will be a projector and screen for exhibits and an iPad or computer that will display the exhibits. This technology takes a few minutes to set up and cannot be set up in advance because the jurors will be entering the courtroom from the rear, rather than the front, as they do when they are ultimately selected. So a clear path has to be kept for the jurors and there cannot be projectors and screens in the way.

Next comes opening statements. Each attorney gets an opportunity to address the jury to tell them what they expect the evidence to show. I have read reports of cases from decades ago where the opening statements would go on for hours. Times and culture have changed that. Opening statements in most cases may last a half hour per side or maybe 45 minutes. Attorneys need to get to the point in a clear and concise manner, and if they do not, it could indicate a bad start for their side.

What to Expect During Witness Testimony

After opening statements, the plaintiff (claimant) calls his or her witnesses to testify. There will be lay witnesses to establish the facts and usually expert opinions to establish damages or liability. The plaintiff will question each witness on direct examination and then the opponent will have an opportunity to cross examine each witness. Then the claimant attorney will have an opportunity to re-direct or clarify anything brought up on cross examination.

During this time, exhibits will be introduced establishing the plaintiff's case. If a witness can establish that a document or photo is what it purports to be and the document or photo is relevant to an issue in the case, the exhibit will be received into evidence and can then be used by the attorney for pretty much anything. Sometimes, opponents try to keep certain exhibits out of evidence and establishing the authenticity of the exhibit and its relevance to the case can be a challenge.

After the plaintiff calls all his or her witnesses, the defendants call their witnesses and introduce their exhibits, to establish a defense. Unlike a criminal case where a defendant often does not testify and may not even call witnesses, defendants in civil cases always call witnesses and always testify.

After the defendant has called all of its witnesses, the plaintiff has a chance to call rebuttal witnesses who can address testimony or exhibits introduced during the defense part of the case.

Understanding Jury Instructions and Admissibility of Evidence

As the case gets closer to concluding, the judge will be working on the jury instructions and verdict form. In civil cases, jury instructions may last 30–45 minutes and that is where the judge reads the jury the applicable law. The attorneys argue about the content of those instructions, and whether an instruction is given depends on the evidence presented.

The judge will also be working on the form of the special verdict, which is the list of questions about fault and damages that the jury will be given to answer and decide the case. The form of that verdict again depends on the evidence that is introduced at trial. The judge will have a tentative form that is presented to the parties during the later parts of the trial, which can be changed quickly if needed after the evidence is closed.

There are a lot of things going on in the background that only the attorneys and the judge hear about, like disputes about the admissibility of evidence. The plaintiff may have had other injuries that are not relevant to the present issue and there may be a disagreement between the attorneys over relevancy of that evidence. Or a defendant may have made changes to his property or his procedures after the accident happened, and the admissibility of those changes may be in dispute. Sometimes things are not disclosed by an attorney before the trial that should have been disclosed, and the judge needs to decide what to do in that regard.

All of these things are going on during the trial and the judges want to keep the trials moving. It is rude to keep jurors waiting while these issues are decided and that is one of the reasons that on all but the simplest of cases, we have two lawyers at the trial. Two lawyers help keep things moving and the jurors and the judge appreciate it. I have seen defense lawyers who are unorganized and that causes delays. The jurors pick up on that and they get annoyed. From our client's standpoint, we want to keep the jurors happy. One important way to do that is to value their time.

What To Expect During Closing Arguments

After the evidence is presented, the final special verdict form and jury instructions are prepared and finalized. Then, it is time for closing arguments. This is a chance for the attorneys to analyze the evidence and argue how it applies to the law, which will be given in the form of jury instructions. The attorneys can work in how they believe the evidence supports the finding they wish to see in the special verdict. Typically, the plaintiff goes first, then the defense, and then the plaintiff gets a brief rebuttal.

Somewhere in this time frame, the judge will read the jury the instructions that were chosen. Some judges do this before closing arguments, some judges after. But, the instruction reading may consume 30-45 minutes. The jury instructions give the jury the appropriate law for deciding issues of negligence and damages.

How A Verdict In a Personal Injury Case Is Reached

After the closing arguments and the reading of the instructions, a bailiff is sworn to keep watch over the jury deliberations. The jury is lead to their deliberation room, and the bailiff stays in the area, outside the deliberation room, ready for any inquiries from the jury.

Sometimes the jurors have questions about what the instructions mean or want to have some testimony read back. The foreperson of the jury puts the question or request in writing and presents it to the bailiff. The bailiff presents it to the judge, who reviews it and shares it with the attorneys. Then, a decision is made on how to answer or otherwise respond.

Judges have some discretion over how long to keep the jury deliberating. Some judges need to end the day, for budget purposes, at 5:00 p.m., so the clerks, bailiff, and courthouse personnel are not on overtime. Other judges keep the jury deliberating until the jury asks for a break or reaches a decision.

When the jurors make their final decision, a verdict is reached. When a verdict is reached, the jury will notify the bailiff, who will notify the judge, who will notify the attorneys. The verdict is kept by the foreperson, so the only thing we know is that they have reached a verdict, we do not know what it is. The attorneys and the parties come into the courtroom. The jury comes back to the jury box, and the verdict is presented from the foreperson to the bailiff, the bailiff to the clerk, and then the clerk to the judge. The judge reviews the verdict for completeness. If there is something inconsistent in the answers, which can sometimes happen, the judge will call the attorneys into chambers where it will be decided what happens. Sometimes the jury is sent back to deliberate on a question that they missed or an answer that is inconsistent.

When is A Verdict Considered Acceptable?

In a civil case in Wisconsin state courts, a verdict is acceptable if it is reached by 10 out of 12 jurors. In a criminal case, it needs to be unanimous. While only 10 jurors are required to agree on the verdict in a civil case, sometimes we will see 10 jurors that agree on liability questions and 10 different jurors who agree on damages. That could be a problem. There are many cases that deal with whether there is sufficient agreement by 10 out of 12 to support the verdict.

After the verdict is reached, the jury is discharged. Sometimes, lawyers contact the jurors to see how they decided the case and to learn from the jurors what the attorneys did right or wrong and to learn for future cases.

Then, the losing party has 20 days to file some legal papers, if they choose, requesting a new trial, or to change in the verdict. Although the judge has the power to order a new trial, this rarely happens. In order to appeal, the trial judge must be given the opportunity to correct any errors before asking an appellate court to do so. After the judge is given the opportunity to correct any errors, an appeal may be filed.

PART SIX:

Appealing a Personal Injury Verdict from The Appellate Court to the Supreme Court

Appealing a Personal Injury Verdict from The Appellate Court to the Supreme Court

Understanding the Wisconsin Court System

Wisconsin has a three-tier court system: Circuit Courts, Appellate Courts and the Supreme Court. These courts cover all types of cases, criminal, civil, family and dozens of other cases.

Cases start out in the circuit courts. Every county has a circuit court, and most circuit courts have more than one branch, or judge. In larger counties, each branch typically handles a certain type of case, such as criminal, family, or civil cases. In less populous counties, there may only be one or two branches, each with its own judge that handles everything.

Legal Discovery and Validity

Before a case is argued or goes to trial, discovery and an evaluation of validity for each case must be completed. It is at this level that the parties learn about facts through a series of statutes called discovery statutes. Each side can find out about the facts behind the other sides claims or defenses, by taking depositions or issuing subpoenas. Each side can request production of documents or electronic files that may hold relevant evidence. And lastly, each side can inspect any physical evidence held by the other side.

It is at the circuit court level where the judges decide the validity of potential claims. In other words -- is there likely enough evidence that a jury could decide something in a party's favor?

Once a case gets past the first gate keeping, the judge decides what evidence can be presented. This is often the subject of legal arguments called "motions," where the court decides what evidence can be presented to a jury and what evidence is excluded.

A Case Is Decided - By a Judge or a Jury

Following legal discovery, the next stage is when the case is decided, by a judge, or more likely, by a jury. Either the judge or jury listen to the testimony, view any physical evidence or photographs, and come to a decision on the case. Each word that comes from a witness on the stand, each piece of evidence admitted, each argument made by attorneys in front of the jury is recorded and transcribed by a court reporter. This transcription, along with the evidence that was admitted, is what the appellate courts use to do their review work.

What Is An Appellate Court?

In simple terms, an appellate court is where judge or jury case decisions are reviewed. The appellate court is tasked with reviewing what went on in the trial court and deciding if the parties got a fair trial that followed appropriate law. Appellate courts do not hear any new evidence. They do not conduct trials. They do not have juries. They generally do not decide damages. Most of their work is done based on the transcript of what happened at trial at the level below them, and with appellate briefs submitted by the parties. Sometimes oral arguments are allowed, where the attorneys primarily answer questions about their legal arguments on the case.

How Does the Appellate Court Review Cases?

Appellate courts usually are not making decisions, but are reviewing decisions made by the circuit court judges. Circuit courts are given a lot of discretion on rulings of evidence and appellate courts are looking at those decisions to see if the circuit judge appropriately exercised its discretion. The appellate court looks to the facts presented to the trial court, looks at any relevant statutes and case law, and determines if the circuit court judge came to a decision that a reasonable judge would make. In other words, the court of Appeals is not going to nit-pick a decision admitting evidence, unless the circuit court did something horribly wrong in allowing that evidence before the jury.

Why Are Appeals Requested?

After the circuit court is done with its case, the losing party can appeal to the court of appeals. Appeals typically occur when the losing party is not happy with the result or decision of the circuit court, or when they feel something was not done correctly during the trial. In order to file for appeal, the appealing party has to pay for the cost of the court reporter typing out the transcripts, the clerk of the circuit court has to organize the exhibits, and everything must be sent to the court of appeals.

It is important to find a personal injury attorney with experience handling appeals that is not afraid to fight through all levels of the court system for your legal rights. The steps of the appeal process are very specific and require special expertise. Make sure your personal injury law firm has the knowledge to adequately represent your case on appeal, if needed.

What are the Steps of the Appeal Process?

The appeal process begins when the involved parties submit legal briefs. The rules are very particular about the different sections of the brief, its format, and its length. The appealing party starts out with its opening brief, then the responding party files its brief, and then the appealing party gets a short reply.

Then it's a matter of waiting for a decision. Occasionally, the court of appeals will hear oral arguments, where the principal attorneys are asked to argue the case, which is a bit of a misnomer, because it is mostly answering questions from the appellate judges.

How Are Appeals Decided?

Appellate cases are decided based on the record from the circuit court, the briefs of the parties, and the arguments of the attorneys, if arguments are held. A decision is mailed to the parties and released on the court's website. It is typically a multi page decision that contains the facts of the case, the legal principles involved and whether the trial court's result is affirmed (agreeing with the circuit court ruling) or reversed (disagreeing with the circuit court ruling).

The Role Of The Wisconsin Supreme Court

A party that loses in the court of appeals has the option to petition the Wisconsin Supreme Court to review the matter. The petition is a formal document, with very specific requirements about what must be included. The successful party in the court of appeals files a response. Then, the Supreme Court decides if they want to take the case.

Most cases are not accepted by the Supreme Court. This past term, the Supreme Court was asked to review 408 civil cases. This includes family law cases such as divorce, business lawsuits, construction disputes, real estate disputes and personal injury. The court accepted petitions for 30 civil cases.

The Supreme Court also handles many administrative matters for the entire court system, such as rules governing evidence, procedure and attorney conduct. They also handle attorney disciplinary cases. The Supreme Court can also receive cases that the court of appeals deems so significant or so in need of clarification that the court of appeals asks the Supreme Court to just bypass them, and hear the case directly.

What Happens During a Supreme Court Case?

Once the Supreme Court accepts a case, another set of procedural rules applies. Another set of legal briefs are filed that address why the court of appeals was wrong or right. The legal briefs again have very specific requirement on the contents and the presentation, and strict filing deadlines. If one little thing is missing or incorrect, the Supreme Court clerk can reject the filing. Our team of personal injury lawyers has taken a number of cases to the Supreme Court, so we are well versed in the requirements and specific procedures.

The Supreme Court always has oral arguments, which are held in the courtroom in the state capitol. They typically hear oral arguments once or twice a month, two in the morning, two in the afternoon. The rules for oral arguments are very specific. There is an appointed check in time. The marshal gets the attorneys together and goes over the ground rules. Each side has 30 minutes. The party that goes first can reserve time for rebuttal. There are lights on the podium, green means you have time, yellow means you have 5 minutes, red means you need to stop. If you are the appellant, you sit to the right of the podium. If you won below, you sit on the left. There are seven justices that sit on an elevated desk almost 50 feet wide. They will let you say whatever you want for about a minute or two, and then the questions start.

Most of those 30 minutes will be non-stop questions coming from the justices. Mostly, they will have a very good understanding of your case, and of the general area of the law. They will have tentatively decided which way they are going to vote, and it is the attorney's job to convince anyone on the fence to come over to their side, and to deflect any arguments that are made and anticipated from the opponent.

When your time is up, you wait for the court's decision. The day before it is released, the clerk of the Supreme Court will call to tell you that the decision is being released the next day on the court's web site.

The judges on the court of appeals are typically very prepared, and the lawyers arguing really need to read and study the opinions of each justice in that particular area to understand their leanings, and attempt to develop arguments that may resonate with the cases they have decided in the past.

Having gone through four Supreme Court arguments, I can tell you that the first few minutes were unbelievably stressful. After those first two minutes, I can usually feel how things are going, and it becomes much less stressful, but still challenging. The court is deciding not only your case, but making law that could affect hundreds of other cases for many, many years. It is important that you are comfortable with your personal injury law firm and that you trust them to represent you to the best of their ability.

Let the experts at Murphy & Prachthauser help you get started with your personal injury claim.

Let us know or if you have a case for consideration, complete a free case evaluation to see if we can help you.

At Murphy & Prachthauser we practice personal injury law the way it should be practiced – motivated and equipped to do our best for you. We take pride in being good lawyers who help people.