



eBook



Zhivov Law
Personal Injury Lawyers

If you've been injured in an accident, you probably have questions about the process of pursuing an injury claim. Here is a collection of our most popular blogs. These blogs offer insight into the process of pursuing a claim, dispel myths, and answer some of the most commonly-asked questions we hear. If you still have questions or wish to speak to a lawyer about a potential claim, please [contact us](#). We look forward to hearing from you!

Read our other blogs [here](#).

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#1 Common Myths about Personal Injury Law

As with any profession, there are misimpressions about personal injury law and the people who practise it. Below we try to dispel three common ones.

Myth 1: Personal injury lawyers take advantage of their clients

Some people believe that injury lawyers exaggerate their clients' chances of success, and the size of the likely settlement, in order to be retained. This is actually rare with personal injury lawyers, and for a very good reason.

Personal injury lawyers typically work on a contingency basis, so they only get paid if and when they reach a settlement for the client. The lawyer therefore has an interest in taking on only those cases with a reasonable chance of success.

Exaggerating the likely size of a settlement, meanwhile, is only a recipe for disappointment and a bad reputation. Lawyers rely on their reputation in order to get more work. Referrals from satisfied clients are a major source of new clients. It doesn't pay to mislead clients.

Myth 2: Frivolous lawsuits are extremely common

They're actually quite rare. One reason is that they have very little chance of success. Since most injury lawyers work on a contingency basis, they can't make a living if they take on cases with little chance of success.

Why is this myth so prevalent? People love to discuss frivolous lawsuits because they make for great stories. As with other kinds of urban legends, these stories tend to grow in outrageousness with each retelling. But when you look beneath the surface at the actual cases, the real story is typically much less sensational. For example, here is an [article](#) about five famous frivolous cases that didn't actually happen.

This is not to deny that some cases are head-scratchers, even for experienced lawyers. There's no stopping someone with deep pockets from initiating a frivolous lawsuit. And sometimes settlements *are* much larger than the norm. Sometimes the outcome of a case doesn't seem justified by the facts.

Often, cases with unusually large settlements are those decided by a jury, not by a judge. Juries are sometimes unduly swayed by persuasive,



emotional arguments. Sometimes the victims in a personal injury suit are particularly sympathetic, or a defendant seems particularly nefarious. Sometimes juries wish to 'send a message' by giving a windfall to a plaintiff.

These types of results are not the norm. They're even less common in Canada for two reasons: One, jury trials are much less common in Canada than in the United States. Civil cases in Canada are typically heard by judges -- judges who tend to follow prior decisions and are, arguably, less likely to be swayed by emotion. Second, the Supreme Court of Canada has set limits on how much can be awarded for pain and suffering in personal injury cases. Here is our [blog entry](#) about those limits.

The fact is the vast majority of personal injury lawsuits are entirely reasonable. Someone was clearly hurt, someone else clearly caused their injuries, and after some negotiation a settlement is reached (or a reasonable outcome is reached at trial).

Myth 3: Injury lawyers are overly aggressive in finding clients

All lawyers tend to get lumped together. This is understandable, and partly justified. Late-night, in-your-face TV commercials tend to stick in the memory. The more extreme examples tend to cause all lawyers to be painted with the same brush. There's no denying that overly aggressive advertising can be off-putting and can hurt the reputation of the legal profession.



What most people don't realize is that different jurisdictions have different rules for lawyers. (Each state/province has its own law society, which sets its own rules.) Some law societies have very loose restrictions on how lawyers can solicit clients. Others are much stricter.

Canada's law societies tend to be much more conservative than many in the United States when it comes to lawyer promotion. In fact, only recently have some Canadian law societies started to allow television advertising by lawyers! What advertising does appear, in whatever medium, must not 'bring the legal profession into disrepute.'



The vast majority of lawyers, especially in Canada, find their clients with relatively passive, non-obtrusive methods: referrals from existing clients, print advertising, personal networking, and online promotion, including blogs such as this one.

None of the above is to suggest that these myths have no basis in truth. There are excesses and bad apples in every profession. But the truth is more complex, and probably not as bad, as many believe.

If you have been in a motor vehicle collision or a slip and fall accident, you can contact us for a free consultation. You can also review our [checklist](#), or complete our [online claim form](#).



#2 Do I Have an Accident Injury Claim?

A number of situations can result in an accident injury claim including, but not limited to, the following: motor vehicle accidents, motor vehicle accidents involving pedestrians, slip and fall accidents, public transportation accidents and wrongful death.

To establish an accident injury claim, the following conditions must be met:

1. You've suffered a physical, mental or emotional injury.
2. The injury was caused by the fault or negligence of someone else, be it a person, company, municipality, etc.
3. The injury inflicted must have monetary value. You are entitled to damages for pain and suffering, lost wages or loss of housekeeping capacity, out-of-pocket expenses including medical costs, the cost of any future care, the loss of income earning ability in future, etc.

Zhivov Law handles all types of injury cases, including the following:

Ankle Injury

Arm Injury

Back Injury

Bone Injury

Brain Injury

Burn Injury

Chronic Pain Injury

Dental Injury

Fatal Injury

Fibromyalgia Injury

Hand Injury

Head Injury

Hearing Injury

Hip Injury

Internal Injury

Knee Injury

Leg Injury

Ligament Injury

Loss of limb

Muscle Injury

Neck Injury

Paraplegia

Pelvis Injury

Quadriplegia

Scarring Injury

Shoulder Injury

Spinal Injury

Tendon Injury

Vision Injury

Whiplash Injury

Wrist Injury

Wrongful Death



#3 Can I Afford a Personal Injury Lawyer?



The cost of hiring a lawyer can seem out of reach for many people. Fortunately, anyone can get the professional legal assistance they need if they've been injured in an accident. This is because personal injury lawyers typically charge on a contingency basis.

This means that the client pays nothing out of pocket. The lawyer only gets paid at the end of the process – and only if they reach a settlement for you. If they don't reach a settlement, they don't receive any payment for their services.

How much is the contingency fee? This ranges somewhat. Some factors are the size of the potential settlement, the type of claim, and market conditions. A typical rate is in the range of 33 to 39 per cent.

Let's say your injury lawyer gets you a \$10,000 settlement and the contingency fee is 35 per cent. Does that mean you get \$6,500 and your lawyer gets \$3,500? Not quite. Your lawyer will subtract disbursements from the settlement amount.

Disbursements are the various fees incurred during the process of resolving a claim. These fees include photocopying and postage, costs for medical charts obtained, court filing fees (if any), and so on. All of these fees are itemized on the lawyer's final bill to the client.

Once a settlement is reached with the defendant (or typically with the defendant's insurance company), the settlement funds are sent to your injury lawyer. These funds are held in trust by your lawyer. He or she then calculates the final bill and releases the balance to you.

For example, here's what a final bill (with a contingency fee of 35 per cent) might include:



<u>Settlement amount:</u>	\$10,000
<u>Fees pursuant to contingency agreement:</u>	\$3,500
<u>Disbursements:</u>	
Faxes, photocopying and postage:	\$60.00
Chart copy from ABC Medical Clinic:	\$100.00
Chart copy from Alberta Health Services:	\$25.00

<u>Total disbursements:</u>	\$185.00
<u>Total GST:</u>	\$184.25
<u>Total fees, disbursements & GST:</u>	\$3,869.25

In the above example, \$3,869.25 would be subtracted from the settlement amount of \$10,000. You, as the client, would receive a cheque in the amount of \$6,130.75.



#4 What to Expect From Your Personal Injury Lawyer

When you hire a personal injury lawyer, there are certain things you should be able to expect from him or her. These are some of the key ones:

1. Explain the Terms of the Agreement

Most likely, you will sign a contingency fee agreement with your personal injury lawyer. This agreement should be written in plain language. It should clearly outline what the lawyer is being retained to do and what the fees will be. If anything is unclear, ask the lawyer about it. If you still don't understand, or if you have any unaddressed concerns, you should consider having another lawyer review the agreement.

2. Explain the Process



Your lawyer should give you some idea of what to expect in terms of timelines and potential outcomes. This doesn't mean firm answers. Many factors influence how long it will take to reach a settlement and how much you end up receiving. But your lawyer should give you an idea of what is likely to happen,

and the factors that will affect outcomes, so that your expectations are realistic. This helps reduce the chance of misunderstanding and disappointment down the road.

3. Respond within a Reasonable Time to Your Inquiries

This is a big pet peeve for clients. For whatever reason (overwork, poor organization, etc.), some lawyers do a very poor job of communicating with their clients. In fact, poor communication is probably the number one complaint that clients have about their lawyers. According to some surveys, more than half of ethics complaints against lawyers involve communication issues.



At Zhivov Law, we respond to most voice and electronic messages within a couple of hours (and often within a few minutes) on business days. Virtually every call and e-mail we receive is responded to the same day. If you're not happy with your lawyer's response time, talk to them about it. You should not have to fight to be noticed!

4. Treat You With Respect

Law can be stressful and uncertain. But that's no excuse for treating people poorly, especially clients. Although everyone has bad days and bad moments, you should expect a certain level of respect and consideration in the e-mails, letters and phone calls you get from your lawyer. Unfortunately, not every lawyer does this. Rude e-mails from lawyers are actually a [leading source of client complaints](#). This shouldn't happen.

5. Offer Client Testimonials

With thousands of dollars at stake, and a process that will take months or years, you want to make sure you have the right personal injury lawyer. Reading or listening to client testimonials on a lawyer's website is a great way to ensure this happens.

You can check out our [client testimonials here](#).

These are just a few of the things you should expect from your personal injury lawyer. If you have any questions, please [contact us](#).

If you have been in an accident, please review the [checklist](#), or complete the [online claim form](#).



#5 How Not to Mess Up Your Personal Injury Claim

We care a lot about our clients. And we fight tooth and nail to get them the best settlement possible. But some clients are their own worst enemy. They hurt their chances of a fair and speedy settlement by doing silly things. Help your personal injury lawyer help you by doing the following:

1. Be honest with your lawyer



Share whatever documents you have and be truthful about your injuries, your medical history and your treatment progress. Your lawyer can't effectively pursue your claim if he or she doesn't have all the facts. Surprises and inconsistencies only hurt your chances of a fair and timely settlement.

2. Avoid social media

People get themselves into all kinds of trouble with social media. This is especially true when they're pursuing a personal injury claim. Photos and comments can paint a very damaging picture -- a picture that may or may not reflect reality. *You* might know that you were only playing Frisbee for a couple of minutes before the pain from your injured hip forced you to stop. But do you really want to have to (and can you) prove that to an insurance adjuster or judge? Better to avoid social media altogether while your claim is in progress.

3. Do your best to get better

Get your injuries diagnosed as soon as possible. Then follow the instructions of the medical professionals. This might include doing stretching and strength-training exercises at home, taking medication and attending ongoing treatment sessions by a physiotherapist or chiropractor.

Doing your best to get better also involves continuing your daily activities to the extent that you can safely do so. This includes engaging in suitable employment, with modified duties as necessary.



Victims of personal injuries are expected to mitigate their losses. This means finding ways to get on with life, to the extent that you reasonably can. If you do this, your credibility with the adjuster, as well as with the court if your case goes to trial, will be greatly enhanced.

4. Don't take everything personally

It's natural to feel threatened and worried when you're pursuing a personal injury claim. Your life has been disrupted, often through no fault of your own. Perhaps you've heard awful stories of insurance companies taking advantage of people. You don't want to be victimized yet again.

Try to put aside those concerns. The insurance adjusters are just doing their jobs – it's nothing personal. That's why you have a lawyer to help you get a fair settlement.

The key is to find a personal injury lawyer that you trust, and then follow his or her instructions. Do your best to be patient and reasonable in your expectations. This will help make the entire process a smooth one.

If you have any questions, please [contact me](#). If you have been in an accident, please review the [checklist](#), or complete the [online claim form](#).



#6 Sobering Statistics — Motor Vehicle Accident Injuries in Canada

There is no doubt that driving is a dangerous activity. In fact, it may be one of the most dangerous activities we undertake in modern society. This means that the chance you will be injured at some point in your life as a result of a motor vehicle accident is higher than the chance of being injured during many other activities, especially considering the amount of time that most people spend driving over the course of their lives. According to the [most recent report released by Transport Canada](#), there were 149,900 total injuries resulting from motor vehicle accidents in Canada in 2014.



The Transport Canada report also suggests that drivers are more likely to be injured as a result of motor vehicle accidents in Alberta as compared to several other provinces. Per 100,000 licensed drivers in Alberta, 613.1 were injured in 2014 in a collision, according to the report.

This is slightly higher than the Canadian national average which suggests nationwide, per 100,000 licensed drivers, there were 601.7 injured in a collision in 2014.

The types of injuries sustained in motor vehicle accidents are various. Both physical and psychological injuries can result from motor vehicle accidents. Physical injuries common to motor vehicle accidents include brain and head injuries, neck injuries, spinal cord injuries, back injuries, facial injuries and internal injuries. The injuries sometimes include fractures and other damage to the skeletal system, but more often consist of a combination of sprains, strains and tears of the soft tissue. Psychological injuries can result from physical brain injury, or can come as a result of the emotional and psychological stress and difficulties that follow the motor vehicle accident. [Psychological and emotional issues often go hand in hand with physical injury.](#)

No matter what injuries have been sustained in a motor vehicle accident, or develop soon after the accident, the driver who is to blame for the accident (or by extension, their insurance company) is responsible to compensate you for them all.



It is important to seek proper medical diagnoses and care for each of your injuries following an accident. Your injury lawyer will be better able to obtain the full compensation you deserve if you are diligent in having your injuries assessed and treated by medical professionals.



#7 Should I Call an Injury Lawyer After a Minor Car Accident?

Another driver hits your car. The damage to your car is minor and you don't seem to have any injuries. Should you still call a personal injury lawyer? Here are a few reasons why it might be a good idea:

1. The call is free.

We're not aware of any personal injury lawyer who won't offer a few minutes of their time to a potential client. It is in your interest to call a reputable personal injury lawyer and get their take on things. Tell them what happened. Get the lawyer's assessment of whether you need legal representation. Since most personal injury lawyers work on a contingency basis (meaning no win, no fee) they have no incentive to exaggerate your likely settlement or to say that you need a lawyer when you don't. Why not get some free advice?

2. You might have injuries of which you are unaware.

Vehicle damage is not a reliable predictor of bodily injury. Many factors contribute to the likelihood of an injury, including the angle of impact, your body position at the time of impact, your prior medical issues, and so on. Symptoms of injuries such as whiplash can take time to reveal themselves. In the meantime, you could exacerbate the situation with your work and leisure activities. Failure to get diagnosed and treated shortly after the accident can also hurt your ability to later prove the nature of your injuries. It can also make it harder to prove that your injuries were caused by the accident in question.

3. The other driver might change their story.



At the time of the accident the other driver might admit fault. If the impact seems minor, and the other driver admits fault, you might think, "Why involve a lawyer?" But the other driver might have a change of heart. They might even claim that you caused the accident. If there were no other witnesses, it could be



your word against theirs. A personal injury lawyer can help address these issues.

4. There may be other issues affecting your claim.

Personal injury lawyers handle motor vehicle injury cases on a daily basis. This experience makes them very adept at spotting potential issues that could affect your claim. The issues described above are just a few examples. If you want to ensure that your rights are protected and that you receive a fair settlement at the end of the day, consult with a personal injury lawyer. This will give you peace of mind that you made an informed decision.



#8 Slip & Fall Accident – What To Do?



Every accident injury lawyer's website probably has a guide for people involved in a car accident. It seems that victims of slip & fall accidents have been somewhat neglected, so here is my brief guide as to what you should do if you have had the misfortune of injuring yourself in a slip & fall.

1. If possible, take some photos of the accident scene, showing location and surface conditions. I appreciate that taking photos might be the last thing on your mind, especially if the injuries are serious, and if you cannot take them at the time, try to return later or have a friend or family member return later to take photographs.
2. Preserve and take photos of the footwear you had on at the time of the slip & fall. The suitability of your footwear is always an issue, and this is very important evidence.
3. If there are any witnesses, get their names and contact information.
4. Get the exact address of the location of your slip & fall.
5. Notify the property owner/manager of your fall, so that they have a record of the incident.
6. It goes without saying, but get appropriate medical attention.
7. Contact an injury lawyer. Insurance companies tend to fight slip & fall claims, and you likely won't get far without a lawyer.

If you are a victim of a slip & fall accident or just have questions, please [contact me](#).



#9 Do I Have to Pay Taxes on My Motor Vehicle Accident Award?

If you have been in a motor vehicle accident, you might wonder if you will have to pay taxes on the settlement that is ultimately reached (or the damages awarded if it goes to trial). After all, a motor vehicle accident settlement can be in the range of tens of thousands or even hundreds of thousands of dollars.



After all, a motor vehicle accident settlement can be in the range of tens of thousands or even hundreds of thousands of dollars.

Fortunately, at least in Canada, there is a straightforward answer to this commonly asked question. The answer is no. The Canada Revenue Agency does not treat compensation for motor vehicle accidents as taxable income. As is the case with lottery winnings, most life insurance payouts, and most gifts and inheritances, this type of compensation is nontaxable.

Note, however, that income earned from a settlement or other non-taxable amount might be taxable. An example would be interest earned from a settlement amount that you have invested. You should consult a tax professional to review how the tax laws apply to your particular situation.

You can read more about the Canada Revenue Agency's guidelines regarding nontaxable amounts [here](#).

Thank you!

We hope you found this collection useful.
Please let us know if you have any questions.





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