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## **Tolling of Statute of Limitations is Rare**

The statute of limitations in most personal injury cases is 3 years from the date of the incident that caused the injuries. In cases against state, county and local governmental entities, the statute of limitations is only 2 years.

Failure to file a suit within the statute of limitations bars a lawsuit completely. In other words, if you do not file within the statutory period, then you cannot file the lawsuit at all. The statute of limitations is harsh and a personal injury plaintiff should not flirt with these deadlines.

There are some rare cases where the statute of limitations may be extended or tolled. These are extremely rare and an injured plaintiff would be well advised not to place any reliance on these exceptions to the statutory deadlines.

Perhaps the most common situation where the statute of limitations would be extended is in cases where the injured party is unaware of the injuries. This often arises in cases of **medical negligence**. After all, for instance, the patient may not know of a surgical sponge left inside them for years following the surgery.

An injured person may also be unaware of his or her injuries in cases of **product defects**. Often these too are associated with a medical malpractice claim. The best example currently in the news are the hip replacement recalls from Depuy . There are many other surgical products that have caused injuries to patients which were apparent only years after the surgery.

The same type arguments hold for numerous pharmaceuticals both past and present that have been found to cause serious personal injury to patients. There are currently recalls with either pending or possible lawsuits involving Yaz, Nuvaring, Accutane, Darvon, Darvocet, Gardasil, Fosamax, and Paxil to name only a few. For each, patients may have taken the drugs for years before realizing the harm that the drugs caused. Some may have ceased using the medications long before knowing of their injuries.

There are certainly other situations where an injured party may not be aware of his or her injuries until months or years after the incident. Keep in mind, however, that ignorance of the injuries alone is not sufficient to toll the statute of limitations. If the injured person should have known of the injuries, then there will be no tolling of the statute of

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limitations. By way of example, this is true in New Mexico even where there are differing medical opinions regarding the source of the injuries.

The bottom line is the statute of limitations is real and it is rigid. There are very few exceptions. It would be exceedingly unwise to ignore an injury or illness that may have been caused by medical negligence, a product defect or any other cause. It is entirely possible that ignorance of the cause may not be grounds for tolling the statute of limitations.

If you are injured or sick and you believe it was caused by the products or actions of another, then seek a medical opinion immediately. If there is more than one possible cause, then it may unfortunately be necessary to sue them all and sort out the causation through litigation.

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