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PATRICK MALONE & ASSOCIATES, P.C.

From Tragedy To Justice - Attorneys For The Injured



We win exceptional verdicts and settlements for our clients in cases of brain injury, medical malpractice, wrongful death and other severe injuries.

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Steps in the Legal Process

Here are the steps that happen in most lawsuits. Throughout these steps, the attorney should keep clients completely informed about the developments of the case.

Step 1

An attorney evaluates the facts involved in a case to determine whether the client has a credible claim against the negligent individual or organization and to decide on the most effective way to proceed with the case. This investigation can be very tedious and time-consuming, and normally involves obtaining medical records, taking statements from witnesses, obtaining photographs of accident scenes or other relevant images, consulting with medical experts and other legal experts, and securing all other pertinent details.

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Issues to consider at the initial stages include:

- Penalties for frivolous lawsuits: In addition to gauging the chances for a lawsuit's success, there is another reason that reputable attorneys invest so much time and money in evaluating claims. If an individual files a frivolous or unfounded lawsuit, the court may order the plaintiff to pay all damages — including attorney's fees — related to the case.
- Time limits for filing damage claims: These may vary between states and in different courts, ranging from six months to three years. It is important to comply with time limits or the case will be barred, and the plaintiff loses legal rights.

Step 2

The attorney accepts the case. There should be a clear written fee agreement (retainer agreement) signed by the client and the attorney.

Step 3

The attorney prepares the case and conducts additional research to collect relevant information. Sometimes settlement negotiations can take place before a lawsuit is filed; other times it is necessary to file the lawsuit to obtain further information, or for other legal reasons, even before there has been a settlement attempt. For some actions against certain government entities, such as the United States government, the plaintiff must submit a written claim to the agency, wait a required period, and then file the lawsuit.

Step 4

The lawsuit is filed, and the court assigns various deadlines for “discovery” plus a trial date. Discovery proceeds, with written questions that each side sends to the other side, disclosure of documents that each side has, depositions of the parties and other fact witnesses, identification of expert witnesses, and depositions of experts. Usually there is a “pretrial conference” at which preliminary legal issues are identified and resolved so the trial can proceed without delay. Around the time of the pretrial conference, and sometimes shortly before it, the attorneys for the plaintiff and the defendant may begin settlement negotiations. Sometimes there are various legal motions where a defendant seeks to dismiss all or part of the case on legal issues.

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Step 5

If the parties cannot reach an appropriate settlement, the case proceeds to trial.

Step 6

The trial does not end the process. The loser of the trial typically files post-trial motions asking the judge to set aside the verdict. An appeal to a Court of Appeals sometimes also follows. Eventually, the appeal process ends and there is a legally enforceable judgment for one side or the other.

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