

## **OUTLINE OF MAJOR STEPS IN PROCESSING A LAWSUIT**

9/19/03

This general outline will help you to understand how your case will proceed. I will keep your case moving as quickly as possible, but we have to deal with the schedules of doctors, witnesses, lawyers and judges. Please keep in mind that delays are common and unavoidable. It is almost impossible to finish a case in less than two years.

### **I. INITIAL INTERVIEW.**

The first time we meet I will gather basic facts, explain the process of the lawsuit, and answer any questions you may have. I will provide you with our instruction sheets and questionnaire, and have you sign the necessary papers.

### **II. INVESTIGATION.**

I will then interview witnesses, obtain and review employment, medical and other records, and locate expert witnesses if required. This may take a great deal of time, depending on the complexity of the case.

### **III. RESEARCH.**

In order to properly represent you, I study the applicable law, examine similar cases, and read medical articles if appropriate. I spend as much time as necessary seeking answers to all the potential defenses, and preparing the necessary briefs to explain the relevant cases and statutes to the court.

### **IV. SETTLEMENT NEGOTIATIONS.**

In some cases, it is appropriate to open negotiations at this point in the case process. However, in most instances I wait until after filing the lawsuit. As a matter of strategy, I sometimes let the defendants open negotiations. Each case is very different and depends on many factors, such as strength of proof, theory of liability, defendants, insurance companies, and lawyers on the other side, etc.

### **V. ADMINISTRATIVE PROCEDURES**

In discrimination cases and some other types of matters, a complaint must be filed with an agency of the state or federal government. There are very short and important deadlines for these filings. Once it is filed with the agency, you will have to wait for agency action before starting your lawsuit in district court. The Iowa Civil Rights Commission must keep your case for at least 60 days. The Equal Employment Opportunity Commission must keep your case for 300 days.

## VI. FILE PETITION OR COMPLAINT.

This is a document that outlines your claim and notifies the defendants officially that you are seeking damages because of their conduct. It does not include a specific amount. The defendants then are required to answer your claim by admitting or denying each statement that we make. That answer is usually filed within 20 days.

## VII. INTERROGATORIES.

Written questions asked by each side to the other are then filed. They must be answered under oath. They include background information, education, expenses connected to the incident, etc. Each side has either 30 or 60 days to answer. However, many times, it takes longer than that to prepare and provide answers.

## VIII. REQUEST FOR PRODUCTION OF DOCUMENTS.

Another tool for learning about the other side's case is to ask that they disclose relevant documents. I can make those requests at any time and often, as we proceed, we will learn of many different documents or pieces of physical evidence that we will wish to examine. The other side may, of course, file requests for production of our evidence. The time for answering these pleadings is also 30 or 60 days. Again, delay is very common and often unavoidable.

## IX. DEPOSITIONS.

After interrogatories are answered, I will want to ask the defendants questions in person, and they will want to ask questions of you. A discovery deposition is the means by which each side learns the facts and contentions of the other side. If there are experts, opposing counsel will also want to question them. Fact and damage witnesses are also deposed. This is sometimes the lengthiest part of the pretrial procedure, because of the difficulty of scheduling enough time for several busy people to get together for these depositions.

## X. PRETRIAL CONFERENCE.

A pretrial conference is a meeting of the attorneys for all parties before the judge who will be presiding at the trial or some other judicial officer. These conferences, which occur two to four weeks before the trial, are routinely held in all lawsuits filed in federal district courts and are optional in state court proceedings. The upcoming trial is discussed and the parties advise the court as to the trial's expected length. In addition, the parties generally will be asked to submit trial briefs, requested jury instructions, exhibits, pretrial motions and a list of witnesses at this conference.

## XI. TRIAL.

Before we get to this point, I will have endeavored to settle your case for an appropriate amount. However, I am always preparing for the possibility that such a settlement will be impossible. I will be continuously working on and thinking about what kind of jurors we will want to hear your case, what I will say to them at the beginning of the case, what witnesses and other evidence I need to prove your case, what the judge will tell the jury about the law, and what I will say to the jury in closing arguments. You will have several opportunities to discuss this process before it begins.

The most important thing to remember throughout your entire case, from the initial interview to trial, is to tell the truth. You have hired me to speak for you, to explain how your injuries occurred and what amount justice requires that you be given. Unless you level with me at every stage, I cannot do my job properly. I will provide you with my best judgment about the strengths and weaknesses of your case, and advise you about the applicable law. In return, I expect your complete cooperation and complete honesty. Together we can achieve a fair and equitable result.

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