



## 1. Statement of Claim Filed

We have filed the Statement of claim and now we have to serve the defendant personally. This can be a quick process, or it may take some time if we cannot locate the defendant. As soon as the defendant is served, the defendant or their lawyer has 30 days to file a Statement of Defence.

Typically we'll allow the defence extra time if necessary. This is very common in litigation, and we recommend trying to work in good faith with opposing counsel from the onset of the case. Upon the Statement of Defence being filed, we will be moving to the discovery stage.



**This stage typically takes 1 - 3 months from filing, depending on the ability to locate the defendant.**

## 2. Discovery

The discovery stage of civil litigation involves fact gathering. Both sides involved in the case are able to formally exchange information about the case including a list of all documents each party is relying on (Affidavit of Records). Generally, we'll keep this in draft form until we've moved into the later stages of the litigation. The other side will also send us their list of documents and we'll review these to see if any new information is revealed.

The discovery stage of a case helps prevent surprises during the trial and allows both sides to re-evaluate the claim, hopefully leading to further settlement discussions. We will need some information from you during this stage, and we will be in touch to obtain this information.

During the discovery process, both sides are permitted to conduct Questioning. This is an in-person interview under oath, and you will be asked questions about the facts and allegations set forth in the case. Questioning has two purposes: (1) to find out what the party knows in order to assist the insurance company in valuing the claim and (2) to preserve that witness' testimony. The intent is to allow the parties to learn all of the facts before the trial, so that no one is surprised once that party is on the stand. By the time a trial begins, the parties should know who all of the witnesses will be and what they will say during testimony. Questioning is an opportunity for all sides to learn where the weak spots are in their respective cases, then prepare for ways to avoid or rebut them at trial.

We will notify you when the insurance company's lawyer wants to question you, and we will prepare you for your questioning.



**The Questioning generally falls towards the end of the discovery stage. The discovery stage can take 4 to 12 months depending on the complexity of the case and the schedule of the lawyers.**

### 3. Undertakings

Coming out of Questioning, we'll have a list of requests (Undertakings) that we have to make to provide the other side with further information. Usually this involves new or updated medical charts as well as confirmation of your economic losses ( income loss; out of pocket expenses; and future treatment costs).

This phase will begin once your Questioning transcripts have been received - the undertakings will be listed and we'll then start making requests. During this time we may need further information from you. As the undertaking responses come in we'll forward these to the opposing lawyer and will also update you periodically.



**Typically this stage takes 2 - 6 months after Questioning, depending on how quick the document requests are complied with.**



### 4. Expert Assessments

During this stage we'll review the evidence and depending on the complexity of the case further expert assessments may be scheduled. These may include:

- Further or updated Independent Medical Examinations (IME) from various specialists, including orthopaedic or TMJ.
- Future Cost of Care assessments if ongoing medical treatment has been recommended.
- Occupational Therapy Assessments to evaluate work place restrictions.
- Economist or Accountant Reports to value past and future income loss and treatment cost claims.

We'll schedule each assessment and will advise you well in advance. We'll also send each expert all relevant documents and records so they can understand the full extent of your injuries and economic losses.



**This stage can take 4 - 8 months depending on the scheduling of the assessments and the time it takes for each expert to provide us with their report.**

## 5. Mediation

Mediation is a method of Alternative Dispute Resolution (ADR). Mediation is essentially a negotiation facilitated by a neutral third party. Unlike the litigation process, where a neutral third party (usually a judge) imposes a decision over the matter, the parties and their mediator ordinarily control the mediation process -- deciding when and where the mediation takes place, who will be present, and how the mediator will interact with the parties.

The mediation process is generally considered more prompt, inexpensive, and procedurally simple than formal litigation. It allows the parties to focus on the underlying circumstances that contributed to the dispute, rather than on narrow legal issues. The mediation process does not focus on truth or fault. Questions of which party is right or wrong are generally less important than the issue of how the problem can be resolved. We are hopeful we will be able to resolve the case during this stage, but if not, we will prepare for trial. Considering there are several people and schedules involved, it takes time to coordinate a mediation date.



**Mediation can occur at any time after the Statement of Claim is filed, but typically happens after Questioning. We will let you know of the time/date/location of mediation when it is set.**



## 6. Prepare for Trial/Trial/Closing the Case

If we were unable to resolve your case in mediation, we plan to move forward and plan for trial. Preparing for trial takes several days, and we will let you know of anything we need from you during this time period. We are at the mercy of the Court in terms of a trial date, and we will let you know as soon as we receive a trial date. From there, we will schedule a time to meet and prepare you for trial.



**This stage can take generally between 18 to 24 months depending on the Court's docket.**

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