

Your guide to

Recovery

Mission Statement

Trial experience settles cases fairly, and trial experience will protect the injured if negotiations break down. A lawyer for the injured needs the fortitude to say “no” to unreasonable offers and the commitment and skill to take the injured person’s case to trial.

Where to Begin

A serious injury can have a devastating impact on you and on your family. There are many decisions to be made which can become quickly overwhelming. Trial Lawyers at Boland Romaine ensure that you have an advocate in your corner.

Who We Are

Boland Romaine Personal Injury Lawyers is one of Ontario’s most respected injury firms with over 40 years of trial experience. Voted as one of the top 10 personal injury firms by Canadian Lawyer Magazine, Boland Romaine’s lawyers have represented the province’s most vulnerable injured victims in court and won.



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Tort Claim – Suing the At-Fault Party

A tort claim is a lawsuit against the people or businesses that caused your injury. The claim seeks to restore you, as best money can, to the position that you would have been in had the accident not occurred and to provide you with compensation for your pain and suffering. Typically, a tort claim will seek compensation for:

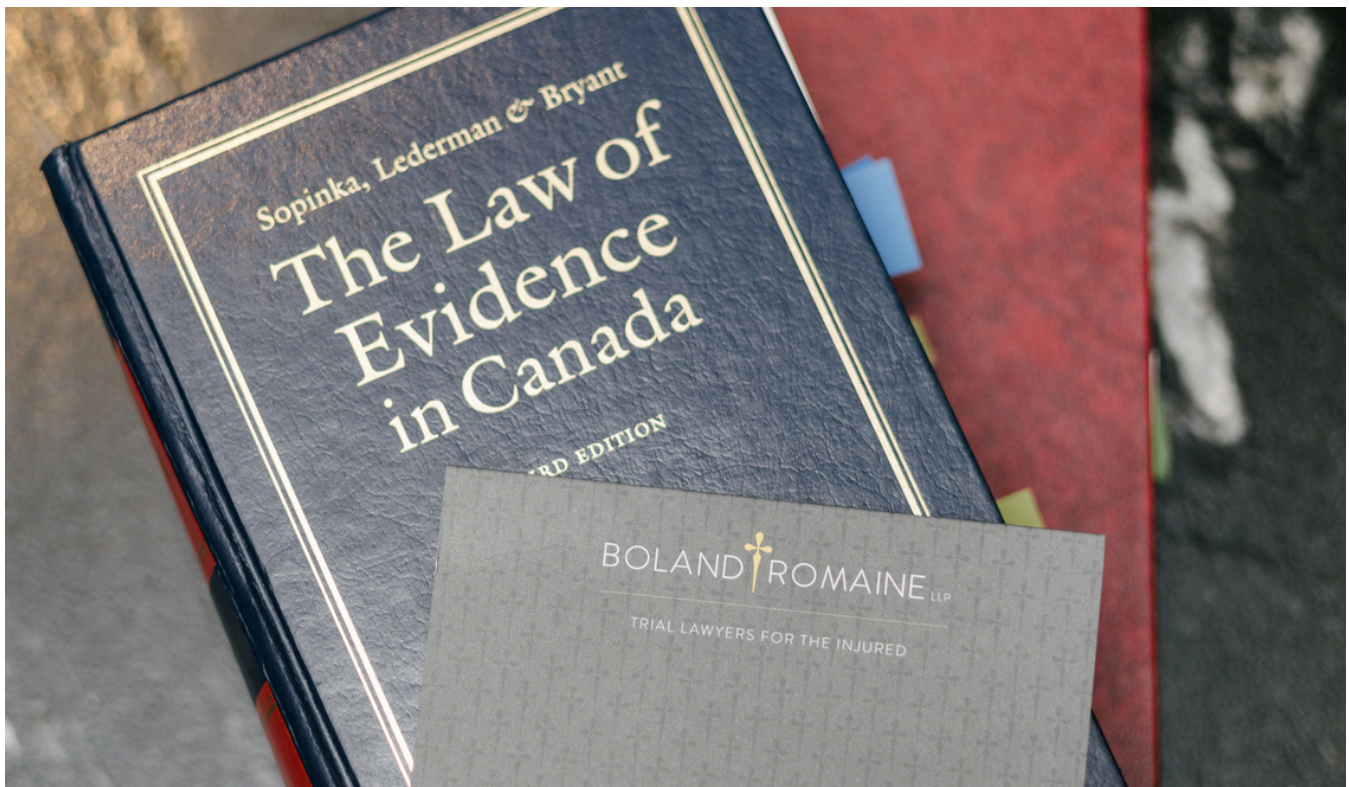
- Past and future loss of income
- Past and future housekeeping and handyman services
- Past and future care costs
- Out of pocket expenses
- Pain and suffering
- Loss of financial dependence
- Family member's loss of care, guidance and companionship

A tort claim for a traumatic injury (personal injury lawsuit) is a claim for damages. Thus, the main aim of the lawsuit is to indemnify the victim for the traumatic accident and the injuries they have suffered.

Unlike insurance claims, which are limited in scope, a tort claim lets victims claim compensation for the real loss they have suffered and the suffering they have undergone.

A tort claim payout may be decided in one of two ways:

- Settlement – Both parties agree to a tort claim payout and other terms of the settlement before the final judgment; or
- Trial – Upon determination of the merits of the case by the judge or jury





Proving Liability

In order to succeed you must first prove that the people, businesses or institutions that injured you were “negligent”. It is not enough that you were hurt. To prove negligence, you must first prove that the people whose actions caused you harm owed to you a duty to keep you safe or not harm you: for example, a lifeguard owes you a duty to attempt a rescue but a person walking on the beach does not. Such duties are defined in statutes and in case law.

Second, you must prove that the conduct of the person who harmed you or failed to keep you safe fell below what is called the standard of care. For example, if a town did post a qualified lifeguard at a public pool and he or she attempted a prompt rescue and followed proper procedures which were ultimately unsuccessful and lead to an injury, then the claim fails against the town and the law considers the matter an unfortunate accident.

Third, you must prove that the breach of the person’s standard of care “caused” your injury. For example, if the swimmer got into trouble because he suffered a heart attack in the water and the rescue did not go as well as it should have, it must be proven that it was the rescue that caused, or in certain situations materially contributed to, the injury and not the heart attack.

And finally, even if the defendant is found negligent, the total claim can be reduced by the percentage for which the injured person contributed to his own injury: for example, swimming in the deep end of the pool when not knowing how to swim. This is called contributory negligence.

The Right to Sue for Personal Injury Claims

A personal injury is damage or harm to your body or mind caused by another individual or an organization, like a company that manufactured a defective product. Personal injury claims are part of Canadian tort law, and as such, your having been wronged permits you to pursue a lawsuit, should you desire to do so. Tort law in Canada is governed by both national and provincial laws, as well as tribal laws in some locations.

Victims of personal injury, including those hurt through negligence, are entitled to file a personal injury claim for financial compensation. In fact, proving negligence is a key element of your legal case and an area your lawyer will focus on.

In Ontario, personal injury claims often result from many of the same types of incidents. These include:

- Motor vehicle accidents
- Bicycle and pedestrian accidents
- Medical malpractice
- Dog attacks and bites
- Slip-and-fall accidents
- Food poisoning
- Negligent care of vulnerable people
- Defective products and faulty equipment
- Sports injuries

In these cases, the victim is usually not at fault for the injury. Rather, someone else either intentionally or negligently caused the injury. In the worst instances, the victim dies, and the family of the deceased decides to pursue a personal injury claim.

The decision to file a lawsuit often stems from the serious or long-term nature of the injuries involved. These include:

- Disfigurement or amputation
- Traumatic brain injury
- Spinal cord injury
- Permanent disability

The accident victims in these situations frequently have had their lives turned upside down. They may not be able to continue in their chosen career or enjoy activities in which they previously participated.

The Personal Injury Claims Process

If you are not able to come to an agreement via negotiation, a lawsuit is often the next step. However, in Ontario, you must first attempt to settle the matter using mediation.

A mediator is a neutral third party who can help you and the liable parties reach an agreeable settlement. In most instances, you would be represented by your lawyer in mediation, while the other party would have a lawyer or insurance adjuster present. Prior to beginning, both parties agree to follow a specific set of alternative dispute resolution (ADR) rules.

Usually, offers and counter-offers pass back and forth until an agreement is reached on compensation. It's not uncommon for multiple mediation sessions to be required before an acceptable solution is found. If an agreement cannot be reached in mediation, you have the right to a trial as the next step.

When engaging a personal injury lawyer, it's important to find someone who also works as a trial lawyer in case you wind up going to court after a failed mediation attempt. You must be within the statute of limitations — generally two years in Ontario from the time the injury occurred or was discovered — in order to file a lawsuit in civil court.

Before you proceed with discovery (evidence) and go to court, your lawyer will file a statement of claim denoting your injuries and who you believe is the responsible party, as well as what you are seeking in compensation and why. The liable parties will then reply with a statement of defence, typically offering denials or defences of their actions.

Your lawyer will have to establish all four of these facts in a trial:

1. The defendant (the party who injured you) had a duty of care to you, the plaintiff. This might be a duty to drive responsibly at all times, for example.
2. The defendant violated or breached their duty of care either accidentally or intentionally. For instance, the defendant drove under the influence of alcohol and was driving in the wrong direction on the highway.
3. You, the plaintiff, suffered an injury resulting from the defendant's breach of duty of care, e.g., a spinal cord injury when the defendant hit your vehicle.
4. There is causation between your injury and the breach of duty of care. In the example used above, the injury would not have occurred had the defendant not been driving to endanger others.



“Your future will be decided based on evidence. So should the lawyer you choose to represent you.”



Steps in Litigation

- notice to defendants
- □□liability investigation
- □□Issuing Statement of Claim
- □□Delivering Statement of Defence
- □□Exchanging Documents
- □□Attending Examination for Discovery
- □□Collection of further documents
- □□Motions
- □□Expert opinions
- □□Set action down for trial and schedule trial date
- □□Pre-trial meeting with a judge
- □□trial

Our Approach To Litigation

We investigate your claim thoroughly: we attend the scene ourselves, store evidence, conduct interviews and, most importantly, we retain experts who are at the top of their field.

When we present your damages, we elicit the essence of your life story so the true impact of your injury on your life is understood. We work hard to get to know you, your family, your friends, your employers, teachers and mentors. We need to know what your aspirations were, where you were in life at the time of the accident and how hard you had worked to get there



How to Apply to Accident Benefits

In order to receive accident benefits following a car accident, you must first notify your insurance company within seven (7) days of the date of the accident, or as soon after as is practical, and submit an application for accident benefits to your insurance company. Failure to notify the insurer within the specified time periods is not fatal to your application for benefits but can delay determination of your entitlement to various benefits.

The application package contains a number of forms, some of which must be completed by your physician and your employer. These Automobile Insurance Claim Forms are called "OCF" forms and the corner of each form will have the letters "OCF" accompanied by a number, such as OCF-1, along with the title of that specific form. Unfortunately, there is an OCF form for everything!

Your insurer is obligated to provide the application forms to you, although you can obtain the forms from the internet by going to the following address, www.fSCO.gov.on.ca and clicking on "Forms". This is an important step as you will not typically receive any benefits until your application has been received by your insurer. Also, you are not allowed to sue the at-fault or negligent driver unless and until you have applied for accident benefits.

A hand with red nail polish holds a blueprint of a building. A yellow starburst graphic is overlaid on the blueprint. The background is dark and textured.

How to Apply to Long Term Disability Benefits

Applying for long-term disability (LTD) benefits in Ontario begins with identifying your coverage, whether through employer-sponsored group insurance, private insurance, or government programs like the Ontario Disability Support Program (ODSP) or Canada Pension Plan (CPP) Disability Benefits. Review your policy details to understand eligibility criteria, including the definition of disability, waiting periods, and required documentation.

Notify your employer or insurance provider to obtain and complete the necessary application forms, ensuring you include detailed medical records that demonstrate how your condition impacts your ability to work. Submit the completed forms and supporting documents as instructed. If your LTD coverage is through government programs, follow the specific application processes outlined on their websites. If your application is denied, consider seeking legal advice to appeal the decision. Thorough preparation and documentation are key to a successful claim.



Gathering Evidence In a Personal Injury Claim

In personal injury claims, gathering comprehensive evidence is essential to establish negligence and secure compensation.

Here's a breakdown of helpful evidence:

1. **Police Reports:** These official records provide an objective account of the incident and often contain details like weather conditions, location, and statements from involved parties.
2. **Accident Scene Photos/Videos:** Visual evidence can depict the condition of the scene, vehicle damage, hazards, injuries, or other critical factors. They often offer insights into how the accident occurred.
3. **Car Mechanic Reports:** If the accident involves a vehicle, these reports provide details about the extent of damage and whether there were any mechanical failures contributing to the accident.
4. **Eyewitness Accounts:** Statements from those who witnessed the accident can help corroborate your version of events and provide additional perspectives.
5. **Medical Records:** These documents are key in proving the extent and nature of your injuries. They include doctors' notes, diagnostic test results, prescriptions, and treatment plans.
6. **Expert Witness Opinions:** Expert testimonies, such as from accident reconstruction specialists or medical experts, can strengthen your claim by providing professional assessments of the accident or injury.
7. **Receipts and Bills:** Financial records like medical bills, receipts for medical supplies, and repair costs for property damage demonstrate the financial impact of the accident.
8. **Insurance Documents:** These may include communications with your or the other party's insurance company, claim details, and coverage information.

It's crucial to keep all documentation and not discard anything potentially related to your case. The more thorough your records, the stronger your case may be.

Limits in Personal Injury Lawsuits

It's important to remember that there is a time limit involved in filing a personal injury lawsuit. The statute of limitation is two years from either the time you were injured or the time you discovered an injury.

Perhaps you have been using a product that has a harmful chemical in it for several years. You may have begun feeling ill a year ago but only confirmed what caused the illness last month. Therefore, the countdown for the statute of limitations began last month, not a year ago.

Other Limits

You should be aware that non-pecuniary damages (general damages) are capped in Ontario. While the amount adjusts roughly every year or two for inflation, it's currently under half a million Canadian dollars. Furthermore, you may be assessed a statutory deductible that reduces your compensation if it is below a certain threshold.

There are instances where the victim played a role in their injury. This is known as contributory negligence. For example, you may have knowingly used a defective item that caused you injury. While the defect was the primary cause of your injury, your participation in the injury may reduce the amount of compensation you are entitled to.



“Insurers know which lawyers go to trial for their clients and which ones don't. Shouldn't you?”

Frequently Asked Questions

Why Do I Need A Personal Injury lawyer

Our personal injury lawyers will coordinate all aspects of your case and your recovery, ensure that your rights are protected, and will work towards obtaining the benefits and compensation to which you may be entitled to. Our lawyers have a reputation of trial lawyers for the injured which means that you do not have to settle for a low offer.

What Questions to Ask my Personal Injury Lawyer?

Do you, personally, regularly take cases to trial?
Have you, personally, won cases like mine at trial?
Do you, personally, have precedent- setting decisions?
Can I see your written decisions and jury verdicts?

Do I have a case? And, if so, what kind of damages might I be entitled to?

While it is impossible to know the value of your case in the early stages, a conversation about the strengths and weaknesses of your case is both possible and necessary. Our lawyers should also give you some insight as to what types of damages you can expect and how they might be calculated. A personal injury lawyer who will tell you that your case is worth a lot of money without much additional analysis is more interested in getting your case than properly representing you.

Why Boland Romaine?

To protect your future, our focus is to build a solid legal claim against the persons or businesses that caused your injury. Our goal is to restore you and your family, as best money can, to the position you would have been in had the injury not occurred.

You need to know that Boland Romaine has earned the respect of insurance companies through numerous successful trial results

Trial experience settles cases fairly, and trial experience will protect the injured if negotiations break down. A lawyer for the injured needs the fortitude to say "no" to unreasonable offers and the commitment and skill to take the injured person's case to trial.

This is overwhelming, how should I deal with all of this

That is where we come in. Dealing with insurance companies, medical appointments, and lifestyle adjustments or interruptions is an unwelcome burden. By engaging with a personal injury lawyer, a significant part of that burden will be managed by our firm on your behalf, allowing you and your family to focus on your recovery.

Our Commitment Is to get you

Justice



Your future is worth
Fighting for

Tell Us What Happend

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