

A Guide to Personal Injury Law

Any legal action relating to personal injury can be classified as either an act of negligence or as an intentional act, or tort. The word "tort" is just a flashy word that refers to the wrongful act of a person that gave an injured party the right to seek damages through the court system.

Negligence cases arise when a person is injured by someone who does not intend to cause harm to that person. The person who causes the injury is careless, or negligent, with other people's safety. Basically, negligence is a failure to be careful when reason dictates that one should be careful. Some of the most common negligence court cases result from automobile accidents, medical malpractice, or accidents resulting from improper maintenance or design.

In order to win a negligence cases, there are four criteria that a plaintiff must prove about the situation that took place. First, it must be clear that the defendant owed a duty to the plaintiff, such as being careful while driving. It must be clear that the defendant violated that duty, and that as a result, the plaintiff was injured. Finally, it must be clear that the injury present was a foreseeable result of violating the duty owed.

A common example of this type of case occurs in automobile accidents. Drivers have a responsibility to be alert and to pay attention while driving. If someone decides to talk on the phone while driving or is distracted by people in the car, that driver's interest is now divided and their level of alertness drops. It's clear that the driver is violating the duty of responsible driving, and as a result of not paying attention, an accident could occur. If this car ends up rear-ending someone because of the distractions and not paying attention, the other person may be able to argue that the driver was negligent and caused the accident.

The focus of a negligence case will be a proximate cause, or a direct cause of the accident. A plaintiff must be able to support negligence by the defendant, as well as a proximate cause. In some cases, multiple causes can exist involving one or multiple parties. In the automobile accident scenario, if another car ran a red light in front of the injured person causing him or her to slam on the breaks, which caused the distracted driver to rear-end him or her, that injured person could bring a case against both the rear-ending driver and the one that ran the red light.

In some states, the amount of money rewarded to the plaintiff for a case will also depend on how much the plaintiff was involved in his or her own injuries. With comparative negligence, the plaintiff is rewarded a reduced amount of money based on the percentage of involvement. With contributory negligence, if the plaintiff had any involvement in his or her own injury, no reward would be available. Many states now use a combination of these two cases. If the plaintiff was over 50% at fault, no reward could be claimed. If under 50%, the amount would be reduced based on how much involvement was present.

When a case of personal injury involves an intentional, wrongful act, it is known as a tort. These cases are more difficult from a legal perspective, as it can be more difficult to obtain compensation since most insurance policies do not cover intentional acts. Some common torts include assault and battery or child abuse.

As with any court case, it is highly recommended to contact an expert to both interpret the law and to make sure a person gets as much of a reward as they deserve. Personal injury can happen at any time and can be very devastating to life and financial situations. Although it does not solve the problem entirely, a negligence or intentional act claim may start a path back to a more financial stable state.

About the Author

The [Minnesota law firm](#) of O'Brien Wolf Law Firm provides [Rochester MN personal injury lawyer and attorney](#) legal services to personal injury and car accident victims in Minnesota.

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