



Hiring a Lawyer

What you need to know

If you've been seriously injured, it's in your best interest to make sure you have full information about your legal rights before signing any documents presented to you by ICBC or any other insurance company. Getting legal advice early on is an important part of this essential information gathering exercise.

Personal injury lawyers usually offer free initial consultations because of how important it is that you know what your claim is and what your rights (and obligations) are. Based on this information a lawyer can usually explain:

- 1. Who is at fault in the eyes of the courts.**
- 2. What types of compensation you can expect to receive.**
- 3. Where that compensation will come from and when.**
- 4. Possible complications related to your claim.**
- 5. What out-of-pocket losses you can recover and what receipts you should keep for reimbursement.**
- 6. What you can expect ICBC or an insurance company to do.**

Where do I find a lawyer?

Many people turn to family, friends, colleagues and trusted advisors for a referral. A referral from your personal network can work well but, as with any legal matter, you should make sure you have the right type of lawyer for your case. A lawyer who has practiced real estate law for 30 years and has never seen the inside of a courtroom is not likely to have the expertise needed to handle a complex personal injury or medical malpractice case. The consequences for you (as the injured person or caregiver of an injured child) can be financially disastrous, so it is important to take the time to make the necessary inquiries and satisfy yourself that you have the right lawyer for the job. In other words, clarify that you are looking for an experienced personal injury lawyer.

In addition to canvassing your personal networks, you may want to Google “personal injury lawyers” in your location to see other options. Even if a friend has provided you with a referral, take the time to check the lawyer out online before you add them to your shortlist.

Review the lawyer’s website to learn more about the kinds of cases he or she has done and what success they have had. If you find a lawyer you want to talk with about your case, look them up on the Law Society of BC website ([Link](#)) to confirm they are a member in good standing and have not been the subject of any discipline proceedings.

If they check out, the next step is to call the lawyer and ask for a consultation.

What does it cost?

As noted, most (if not all) personal injury lawyers will provide a free initial consultation. This is an opportunity to get some advice about your rights and obligations—whether your injuries arose from a car accident, a medical procedure, defective product, slip and fall, or other situation. **There is no downside.** If you have been seriously injured, you would be wise to find out from a plaintiff’s personal injury lawyer whether you have a claim for compensation and what you need to do to make sure you don’t lose the right to make that claim.

There are two different ways that lawyers charge for their services: hourly under a retainer agreement (you pay upfront) or by a contingency fee agreement. Most personal injury lawyers charge by contingency fee.

What are contingency fees and agreements?

A contingency fee agreement is a contract between you and the law firm under which you pay legal fees as a percentage of the amount recovered as damages.

The legal fees are payable only if your case is successful. This means that if the case is not successful, you do not pay any legal fees.

In British Columbia, contingency fees are capped at 33% of the damages awarded and many lawyers offer a lower contingency rate. Therefore, there is no downside to shopping around for the lawyer best suited to take your case.

Should I get a second opinion?

Yes. We recommend that people speak with more than one lawyer to ensure they feel as good as possible about who they choose to represent them. This is an incredibly important aspect of getting back on track and setting up your future. You need to feel confident that you have the best lawyer possible for your case. Do your research to make sure you find someone who has the experience, expertise and time to ensure that all the evidence is collected before making an assessment of your chances of success and fair compensation for your injuries.

Can I switch lawyers?

If you find that the lawyer you initially hired does not have the expertise to deal with your situation or you are uncomfortable with how they are handling your case, you can switch lawyers. In serious injury cases, experience matters. Signing a retainer or contingency fee agreement does not mean you are stuck with that lawyer. Just as in the medical context, it is perfectly acceptable to get a second opinion and many people do. Should you find you have reason to be concerned, you are free to change lawyers – it is not a problem. There is no need to worry about having to “pay out” your previous lawyer or go through the awkward process of telling them you no longer require their services. Your new lawyer will take care of everything necessary to make the switch for you. There is rarely any additional amount to pay as most often the lawyers involved will simply split the contingency fee. But do make sure to discuss this with your new lawyer if you decide you want to make a change.

Which lawyer is right for my case?

Most personal injury cases are settled without the need for court. However, it is important to hire a lawyer that is ready, willing and able to go to court on your behalf. Why? Because if an insurer or defence counsel knows that your lawyer has a reputation of being hesitant or reluctant to take a case to court, it can have an impact on the amount of initial settlement offers. If your lawyer has a strong track record of successfully taking cases to trial, an insurance company is more likely to offer a reasonable sum. You want someone who is willing to fight for you and go to court for you, if needed, to ensure that you get a truly fair and reasonable settlement or award. A second reason is that if a lawyer approaches a case as if it is going to go to court, they are more likely to take the time necessary to make sure that all the evidence required to support your claim is collected and presented properly.

How do I check a lawyer’s track record?

Many lawyers will list a sample of their successful case results on their websites.

You can also check what kinds of cases a lawyer has done and their success in court by searching the lawyer’s name on the British Columbia courts website (courts.gov.bc.ca)





Meeting with a lawyer

In order to confirm that you have a claim and provide you with advice on your options a lawyer will ask you for some basic information about yourself and how your injuries occurred. It can be helpful to collect as much of this information as you can before you talk to a lawyer. What they ask may vary but the following is a basic outline of the information they will want to cover.



Meeting Checklist

Client Info

- Full legal name
- Contact information (address, phone, email)
- Date of Birth
- Social Insurance Number
- Personal Health Number (Care Card)

Accident

- Accident particulars (date, time, description, were you working at time of injury)
- ICBC Claim Number (if there is one)
- Witnesses (contact info)
- Statements (copies of any statements)
- Which emergency responders attended (police, fire, ambulance)

Injuries

- List of injuries sustained
- Did you attend a hospital for your injuries and if so, which one
- List of your health care providers
- Referral notes

Employment/Education

- Employer, position, salary
- Do you have access to extended benefits (paid sick leave, short term, long term)
- Educational history

Previous Injuries or Conditions

- Review prior injuries, accidents or medical conditions
- After the lawyer has gone through your information to establish whether there is the basis for a claim, it's your turn to ask questions

Questions to ask any lawyer you are thinking about hiring:

It is very easy to suffer from information overload when talking about your case, particularly if you have never dealt with a lawyer before. It can help to make a list of the questions you want to ask before you talk with a lawyer. You may want to take a trusted friend with you to remind you of questions or to take notes of important information the lawyer gives you so that you can focus.

Ask the lawyer:

1. **How long have you been a personal injury lawyer?**
2. **Do I have a claim?**
3. **Have you handled a case like mine before?**
4. **Do you take on claims for injured people as well as defence work for ICBC?**

If a lawyer acts for both you may want to consider whether that will hamper the lawyer's ability to act for you. This is because some lawyers have signed agreements that preclude them from pursuing certain remedies against insurance companies and this may limit their ability to effectively represent an injured person.

5. **What is your case load? Do you have the time and resources to take my case?**
6. **How long do you think it will take to resolve my situation?**

This will depend on the nature and severity of your injuries and the complexity of the evidence involved. If you or a loved one has been seriously injured it is unrealistic to expect a settlement quickly. The full impact of injuries can take time to develop and plateau to the point where the extent of any long-term damage can be assessed. To gain an accurate picture of fair compensation, your lawyer needs to be in a position to evaluate the costs of your rehabilitation and future care. This is not possible until your injuries have plateaued. Every case is different so don't be afraid to talk to the lawyers you interview about this. Be wary of promises to settle quickly because you may not get the compensation you need in the long term.

You may well feel a great deal of stress: physical, emotional and financial. It is important that you be able to focus on your recovery, so look for a firm that will take these pressures into consideration and can provide you with access to rehabilitation networks and options for dealing with financial obligations during your recovery.

7. **What compensation can I expect?**
8. **How do I pay my bills if I can't work and I'm waiting for my case to be resolved?**

At this point, the lawyer should talk to you about no-fault benefits (also called Part 7 benefits) and explain how they work. If your case is complex and will likely take a long time to resolve (2-3 years is not unusual in cases involving serious injury), you may want to ask about litigation financing or what you can do should your Part 7 benefits run out before your case is concluded.

9. **Who will be handling my case?**

If the lawyer has a team approach, ask what each member of the team does and who will represent you in court if your case goes to trial.

10. **What can you offer in terms of rehabilitation resources?**

11. **What do you charge?**

Confirm that legal fees are payable on a contingency fee basis. Learn more about contingency fees [here](#). This information will be in the form of a written contract. Ask for a copy and review it before you make your final decision.

Don't be afraid to ask for clarification if something is not clear to you.

12. **Last but not least, ask for references from past clients.**

Yes, you can do this, and you should not hesitate to follow up with a reference. Ask them how they felt about how the lawyer handled their case.

Questions to ask yourself:

1. **Do I trust this person and do I feel that they care about me and my case?**
2. **Is this the person I want speaking for me and my family?**
3. **Do they take the time to explain things fully and in plain language that I can understand?**

4. **If English is my second language, does the lawyer or a law firm staff member speak my language?**

It is important that you be able to communicate with your lawyer so that you can tell your story and explain fully how your injury has affected you.

5. **Is this the best lawyer I can hire?**

In personal injury cases remember that legal fees are usually paid on a contingency basis. This means that the legal fees payable will be the same no matter who you hire.

6. **The accident was a while ago; can I still start a claim?**

It depends on how much time has passed. Under the BC Limitation Act, an adult has two years from the date of an injury to begin a tort claim. There are exceptions, but if you are nearing the two-year mark get some legal advice as soon as possible. For children who have been injured, the two years don't begin to run until they turn 19. However, there are some cases where the limitation period can start to run earlier and expire before a child turns 21. In the case of injured children, it is always wise to get legal advice as soon as possible. This avoids the risk of missing any limitation periods and allows your lawyer to begin immediately collecting evidence, interviewing crucial witnesses and working with the child's healthcare providers to monitor medical progress reports. As time passes, memories fade, witnesses may move or become unavailable, and information can get lost so getting a legal team on your case promptly is the prudent way to go.

The bottom line is that it is in your best interest to speak with an experienced personal injury lawyer as soon as possible. It's free, and it will give you the assurance and peace of mind that you are doing everything you can to get your life back.



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About Spinal Cord Injury BC

Spinal Cord Injury BC is the best source of information on living well with a spinal cord injury or related disability in British Columbia. Our programs and resources are here to help people with spinal cord injuries and their families adjust, adapt and thrive in their communities.



*Information provided courtesy of
Murphy Battista LLP:*

www.murphybattista.com