



# Personal Injury Lawsuit in Tennessee - from start to finish (part 2)

In the first part, we walked through the initial automobile accident. Now comes the time to actually file a lawsuit.

## 01

### **Statute of Limitations and Suing**

You have one year from the date of the accident to file a lawsuit. You are actually suing someone! Oh, that sounds so awful. And you're not suing an insurance company, like All State or State Farm. You're suing that nice person who just so happened to rear end your vehicle in rush-hour traffic.

This is something you have to do in order to recover the damages your vehicle and your physical body incurred because of the accident in which you were involved.

So what does it mean to sue someone? What do you actually do?

All that it takes is drafting up a short document called the Complaint. This is just a brief letter that explains what happened, and that you are seeking compensation for your injuries.

What do you do with this document?

Well, you take three copies to the courthouse in the county where the accident occurred. The clerk at the courthouse will have a stamp which they mark your copies of the Complaint. The clerk will keep one copy, you will get one copy, and you will have one copy to serve on the person you are suing.

## 02

### **Getting the Defendant Served**

What does it mean to serve someone? What this means is that you are providing them a copy of the Complaint in person, or if you serve them at their house, the Complaint must be served to someone over the age of 18 who lives at the house where the Defendant lives.

There are two ways to do this. For a small fee, the clerk will take the Defendant's copy of the complaint and give it the sheriff's office for them to serve on the Defendant. You can also hire a process server to serve the Defendant.

Sometimes the sheriff's office doesn't always make the extra effort to track down the, but a process server, because this is how they make a living, will typically work harder to see that someone is served.

## 03

### **Filing an Answer**

From the time the Defendant receives a copy of the complaint, they have 30 days to respond.

How do they respond? With something called an Answer.

Does the Defendant need to go hire their own attorney or can they draft up this Answer themselves? Neither. What the Defendant needs to do is make a copy of the Complaint for their own records, and then immediately turn over the Complaint to their insurance company.

At that point the insurance company will contact an attorney who will represent the Defendant (and the insurance company is paying for the attorney, not the Defendant), in defending the lawsuit. They will file an Answer and they will generally deny everything in the Complaint, and say, "None of that stuff happened!"

## 04

### Written Discovery

Along with the Answer, the Defendant's attorney will often send what is called written discovery.

A written discovery is also called Interrogatories or Request for Production of Documents. Through these questions, the Defendant is essentially saying, "Alright, Plaintiff, you are required to prove your case. I want you to answer all of these questions, and provide all of this documentation, showing us how you are going to prove your case."

It's like playing poker with someone and allowing them to look at all of the cards in your hand.

Why is this allowed? It didn't use to be this way.

Attorneys would just show up at court ready to try their case with no idea what the other side was going to say. But now, judges and legislators have decided that if we do this, everyone will get a clear picture of what's going on, and cases will be more likely to settle and not actually have to be tried.

The Plaintiff has to answer all of these questions, and sometimes they can be absolutely ridiculous. If you're in a car wreck and you've hurt your back, one question the Defendant might ask is, "List all doctors, their phone numbers, and office location that you have seen in your entire life."

Seriously? That's crazy! But the Plaintiff is doing the best he can to answer these questions, and might send some written discovery to the Defendant.

If the Defendant wore glasses, you might inquire about whether he had a license that prevents him from driving at night, or you might ask what drugs they are taking, or whether they had consumed any alcohol, or maybe something as simple as, where they were going, what do they remember about the accident, and were they on the phone when the accident occurred.

There's a bit of detective work that you can do through the written discovery process.

## 05

### **Depositions**

After you have done the written discovery process, you will move on to the oral discovery process. This means depositions.

What's a deposition? It is a sworn statement under oath by someone who has knowledge of the incident that is the subject of the lawsuit.

You will almost always have the depositions of the Plaintiff and the Defendant, and you will likely have the deposition of a doctor because the Plaintiff has to prove that they received medical treatment and what cost was associated with that medical treatment.

The depositions of the party will typically take place in an attorney's office in a conference room and there will be a court reporter who swears you in and you promise to tell the truth, the whole truth, and nothing but the truth, and she keeps a record of everything that is said.

Why are depositions taken? This is another step in both parties revealing to the other side where they are coming from. It will also let the attorneys prepare their case for trial.

## 06

### **Why Are Depositions Important?**

If the Defendant is a real jerk or is using profanity in the deposition, the Plaintiff may think that they will look terrible in front of a jury. Or, if the Plaintiff comes off as kind, friendly, and knowledgeable, then the Defendant's attorney may go tell the insurance company they need to settle this case and not go to trial on it.

Depositions can be very monotonous and mind numbing. You will get asked about so many things that you don't remember. You will get asked about doctor visits that happened 8 years ago. But they may also be very beneficial in determining the direction you want to go in a case.

Primarily, its used as a fact finding expedition for the lawyers, as well as for each side, to size up what they think of the other side and the other side's position.

In part 3, we will discuss what to expect during a personal injury lawsuit trial.

### **Additional Resources:**

[Author Website](#)

### **About this Author:**

Born and raised in Knoxville, Tennessee and received his education just up the road at Carson-Newman, Jed loves everything about East Tennessee, from the Smoky Mountains to his hometown Tennessee Vols. After a brief stint practicing law in Clarksville, TN, Jed came back home to Knoxville where he has enjoyed practicing law since 2008.