

MANAGING EXPECTATIONS

On The Way To Your Settlement



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INTRODUCTION

Suing somebody, whether it's an individual or a large institution, is a stressful business. Expectations run high while fears and anxieties spike to alarming levels, fade away for a while, and then come roaring back.

It's a time of great uncertainty.

In a claim against an insurance company, so much is riding on the outcome, which is out of your control. Because you are in pain and seeking justice, it's inevitable that you will come to expect and hope for a lot from the process of taking legal action. You want a lot of money, a lot of vindication, and a lot of support.

You never thought you would have to sue somebody!

In fact, for most of your life you may have thought of people who sued others as frivolous, overly aggressive, perhaps even greedy and dishonest. But now you find yourself in the situation of being forced to sue an insurance company just to get what's rightly yours.

And, as the insurance company plays their games, minimizes the seriousness of your illness or injury, and treats you with shocking disregard, it's understandable that you are upset and want justice.



But what exactly is the justice you seek? What will satisfy you? Do you know?

This booklet is designed to help you keep your head on straight while you go through one of life's most difficult challenges. The period between hiring a lawyer, getting a settlement, and moving on with your life is often a year or more, but in emotional terms, it can seem like a decade.

Following the advice in this booklet will help you maintain equilibrium until you are ready and able to move on with grace and calm.

1. YOUR JOURNEY TO JUSTICE

Until you've been badly hurt by someone, it's difficult to imagine being involved in a lawsuit. The stronger party—in this case, a giant insurance company—is basically holding you hostage. They know how difficult your life is right now, and yet they want to pay you as little as they can get away with or nothing at all.

And there are other stresses in your life—financial and medical— which is why it's important for you to reach a settlement soon so you can get on with your life. With these pressures, it's important to understand where you currently are in the process as well as where you are going. The following are the stages most people go through on their journey to justice.

STAGE ONE: YOUR ILLNESS OR INJURY

Just before stage one, you are a healthy productive person working hard to provide for yourself and your family. Then illness or injury strikes. Although you do everything you can to recover and get back to work, you quickly discover that you are no longer able to sustain a satisfactory performance in your job without sacrificing your health.



"After I contacted Share Lawyers, I went from an extremely stressful situation to one of support, information, action, and compassion."

- Ian E.

STAGE TWO: THE RUN-AROUND

You contact your insurer, expecting a straightforward process. After all, they pledged to protect you in the event that you became too sick to work, but now they are unwilling to live up to their end of the bargain.

When you call your insurance company, hoping to quickly clear up the misunderstanding, they treat you much differently than you'd expect. You are shocked at how they delay, deny, and diminish your "side of the story." It's as though they have suddenly acquired a new personality that they've hidden from you all this time.

They request documents, which you provide, but then they fail to return calls. Their next move is to deny your claim.

But you persist and appeal the decision, and after you provide full documentation again, they ask you for other things or send you off on another wild goose chase. Suddenly you find yourself in need of protection from your insurance company.

STAGE THREE: CHOOSING A LAWYER

After a certain amount of time banging your head against the wall, you realize that working with a lawyer may be a necessity.

In your case, you have retained Share Lawyers and are therefore in good hands and ready for the next stage, which is the most difficult.

STAGE FOUR: AWAITING SETTLEMENT

The stress of a looming mediation, discovery, or trial plays havoc with your emotional equilibrium. This is the stage that you are currently in, and it is important to keep things in



perspective. The more patient you are, even with all the stresses and strains you now face, the better off you will be.

When you know that your law firm is doing everything they can—and we assure you that we are working on your file every day to get you a fair settlement—it puts you in a much less stressful situation than someone who does not have adequate legal representation.

However, even with a dedicated and capable firm behind you, it's still a challenge to deal with all the stress and uncertainty. As you prepare yourself for the various steps in your case, it's important to take excellent care of yourself.

STAGE FIVE: THE SETTLEMENT OR FINAL RESOLUTION

This is the emotional climax to the drama you are currently involved in. You finally have a cheque in your hands and know it's over. The insurance company lawyers close their files and move on to their next case.

At this stage, many people experience elation and then a letdown.

STAGE SIX: THE REST OF YOUR LIFE

After receiving a settlement, you need time to reintegrate yourself into your new life. No longer having to fight for your dignity and rights, you can finally focus on healing and the things that matter.

This is the stage all the rest of the stages are pointing to. And what happens while you are waiting for your settlement plays a large role in determining the quality of the rest of your life.

2. LIVING WITH FRUSTRATION AND UNCERTAINTY

Everybody likes to be in control. The very definition of a healthy or successful person is someone who feels in control of his or her own destiny. During this stage of your journey to justice—waiting for mediation or trial—you may feel out of control.

But look at your situation another way.

You have selected a dedicated, powerful team who is working for you day in and day out to get you the best possible settlement. You can rest assured knowing that:

- We are experts in our field.
- We always have your file before us.
- We are in constant contact with the insurance company.
- We are doing everything we can to get them to come to the table and make a decent offer.

Even though you feel out of control, give yourself credit for having made the best possible move. From here on it's just a matter of time. Yes, it's difficult and stressful, but the end is in sight.

"Share Lawyer's optimism at getting a positive result was very supportive and encouraging."

- Kevin F.



3. YOU ARE SEEKING JUSTICE, NOT PERFECTION

This is an important distinction. Perfection would be to have the president of your insurance company appear on national television and apologize personally, sign over several million dollars to you, and dedicate a new institution in your name to protect the rights of disabled and injured people everywhere against greedy insurance companies.

This is a nice fantasy, but it won't happen that way. Unfortunately, your case is not that important to the insurance company and never will be. That's both the problem and the reason why we are in your corner working to get them to do the right thing.

There are a few persistent myths that have made their way into the collective consciousness in recent years. Understanding these myths will be a great aid to you in staying grounded at this stage in your journey.



4. COMMON MYTHS

MYTH #1: PUNITIVE, AGGRAVATED, AND MENTAL DISTRESS DAMAGES

Most disability claims filed in a Canadian court include a claim for punitive, aggravated, and mental distress damages. These are to punish the insurer for acting in bad faith and provide compensation for losses that a claimant has suffered as a result of not receiving their benefits when promised. Many people are forced to sell their homes, cash in their RRSPs, and borrow money from friends and family, not to mention being forced into bankruptcy or having to apply for social or other government assistance.

It would seem only fair that the insurance company pay you a lot of money for inconveniencing and insulting you, delaying your claim, hurting your feelings, injuring your pride, and forcing you into financial ruin.

The reality of Canadian law is that the courts have not been overly generous in awarding these types of damages to date. While we continue to pursue such claims and hope that one of these days the courts will come down with a large award that will really send a message to the insurance industry, the reality is that pursuing this part of your claim will usually take years to filter through the system, and the outcome is almost impossible to predict with any accuracy.

You may wonder then why anyone bothers to make such claims in the first place. If it is virtually impossible to recover the large amounts being claimed, why include them in the claim that is filed with the court?

The short answer is that including such claims forces the insurance companies to take your claim seriously and provides leverage in any negotiations that will take place.

By including such claims, the amount of your negotiated settlement is likely to be greater than it would be if such claims were not included.

The key for you is to not focus on the amount being claimed for punitive, aggravated, or mental distress damages.

MYTH #2: DAVID AND GOLIATH

When you imagine getting justice, you might see yourself getting everything you are hoping for, while the other side is vanquished, diminished, embarrassed, chastened, humiliated, and completely devastated.

It's the David and Goliath fantasy, and it's partially a reality.

You really are taking on a Goliath who has retained a good legal team and calculated just how much they are willing to invest in denying you. They are willing to fight pretty hard to not have to make good on their promise to you.

However, once they discover that you've secured a determined law firm that is diligent, thorough, aggressive, and willing to take them to court, eventually they will come to their senses.



Even then, it is in their interests to drag the case out and make the law firm work hard for every cent.

That's how the game is played.

And so your expectations must be tempered with certain realities. The amount you finally receive is usually a reflection of the nature of your contract, the extent of your injury or illness, how long your disability has been in place, how much is owed to you, and other factors.

If you are holding out for a perfect situation, you'll be forced to go to court and risk everything. That means if you lose, you get nothing. Normally these cases are settled before court. The settlement is never perfect, but when you consider the horror scenario of losing at trial, settlement becomes a compelling option.

It's a game of high stakes poker with the rest of your life on the table. There are times when we strongly recommend going to court but not often. In most cases, a mediated settlement is your best option.

5. REASONABLE EXPECTATIONS

There is a lot of misinformation about what a lawsuit may be worth. You may read about large awards or settlements in the news media, or friends and family may give you ideas about the value of your case. While the amount we have claimed on your behalf may be large, it is critically important to understand that there is no relationship between the amount of a reasonable settlement and the amount of the initial demand included in the lawsuit.

As we get closer to settling your claim or attending a mediation, we urge you to request information from us on the components that contribute to a reasonable settlement.



6. MEDIATION: AN IMPERFECT YET PRACTICAL SOLUTION

When you are awaiting settlement, the most likely next step is a Mediation Process.

Mediation is a step before a trial in which the parties can seriously negotiate and come to an agreement in order to avoid the risk and expense of a trial. At mediation, you are required to participate in the discussions about your case. However, it's brief, comes along a lot quicker than a trial, costs less, and in most cases, results in a satisfactory outcome for both parties.

Mediators define a good settlement as one that makes everybody unhappy; the two sides compromise in order to close the case and move on with their respective lives. In your case, moving on with your life means getting a fair settlement so you no longer have to live with uncertainty, stress, fear, and financial worry.

Mediation day is important. Here are a couple of ways to deal with it:

Visualize! Many scientists believe that visualization and affirmations are powerful, if for no other reason than to maintain a state of calm. Visualize yourself leaving the mediation happy, relaxed, relieved, vindicated, and ready to move on. Say to yourself: "As I leave the mediation I feel calm, relaxed, gratified, and relieved."

Every time you think of the mediation, think of yourself in that state of relief and gratitude; it will help you mentally prepare. Your subconscious mind will keep before you what is most important, and the process of answering questions, if it is required, will be considerably less stressful.

Note: In some cases it is possible to settle the case without mediation by entering into direct negotiations with the insurance company. We will advise whether your case would benefit from a negotiated settlement or if a mediation is the better approach.



7. DRESS CODE AND ETIQUETTE

The way you dress at mediation is important. Choose garments of high quality that allow you to be comfortable and look your best. Mediation is not a funeral and it's not a party. It's a business meeting, so dress accordingly.

The most important thing is to carry yourself with dignity and confidence and allow your legal team to do their work.

Always keep in mind that your main goal is to secure a reasonable settlement to compensate you for the monies that the insurance company is required by contract to pay. Your other goal is to minimize stress and avoid the uncertainty and anguish of a trial.

Have reasonable expectations. Ask yourself how much you are hoping for and tell yourself the truth.

If you are hoping for a huge settlement, then we need to talk about your expectations. It is important to be honest with yourself and adjust your expectations to something which is possible. Don't be shy. Talk to us and we'll help you set realistic parameters to work within.

The goal of the mediation is not to give you an unqualified victory and vanquish the Goliath of the insurance company. The goal of the mediation is to give the two parties an out.



8. THE RESOLUTION

By agreeing to a settlement, the insurance company will finally, reluctantly acknowledge their obligation to you.

And even though it's an outrage and a gross insult that they tried to get away with denying you all this time, in the end, this is their way of acknowledging their obligation.

They will not apologize to you for delaying and playing games with your life. They will never beg forgiveness. Their lawyers will seem callous and cruel perhaps. But when you receive your settlement, just know that it represents a powerful acknowledgment by the insurance company that they had an obligation and that *you forced them* to meet it.

It's too bad they had to be forced to honour their obligation, but the very act of writing the cheque is the best and only acknowledgement you are going to get.

9. CASH THE CHEQUE AND MOVE ON

When you receive your settlement cheque, you will feel a tremendous amount of relief. Soon enough you'll be ready to move on with your life knowing that you received as much justice as possible from the insurance company. Then you can focus on the things that are really important for the rest of your life.

Always remember, surviving the process and concentrating on the positive things in your life is the best revenge.



APPENDIX: SHARE LAWYERS

Since 1987, Share Lawyers has provided top-quality representation in the areas of insurance litigation. Great client service is a guiding principle at Share Lawyers. The entire team of lawyers, law clerks, and legal assistants show compassion and empathy to all their clients and will pursue your claim through to its conclusion.

If you have been denied on a long term disability claim or other insurance claim, you need excellent legal representation. Share Lawyers is the leading law firm in Toronto and across Canada, for insurance claims and has both the experience and expertise necessary to fight for the maximum settlement you deserve.

All insurance claims are subject to time limits, so don't wait.

Call Share Lawyers today at 1 (888) 777-1109, or visit www.ShareLawyers.com for more information.

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