



## PERSONAL INJURY CASES: QUICK TIPS

In Oregon, 18% of malpractice claims and 22% of indemnity costs involve personal injury cases. Personal injury cases come in all shapes, sizes, and values. Fortunately, you can take steps to reduce the potential for error. The following are five quick reminders that will help you avoid the most common errors.

**Verify the Date of the Injury:** Timing controls personal injury cases. You must determine at the outset of the case when the client's injury occurred. Don't take your client's word that the injury happened on the day he/she says. Find out for yourself. Verify the accuracy of your client's memory by checking police reports, medical records, and insurance reports.

**Know the Appropriate Statute of Limitations:** Of course you know the correct statute of limitations - you've been handling personal injury cases for twenty years. But even experienced lawyers make mistakes. Take your time analyzing the date on which the statutory period ends. Make sure you know all the facts of the case. For those who live on an interstate border and practice in a number of states, you always run the risk of applying the wrong state's statute. Double check that you know where the accident occurred and that you are using the correct state's statutory period.

**Have a "Double Check" System:** None of your thorough investigation will do any good for you or your client if the statute of limitations (SOL) expiration date does not get on a calendar. Establish a

system that includes having one person enter the SOL dates and a second person checking to make sure they are entered. In addition, develop a process where you, your secretary, and your paralegal all look at the new file once it has been created to ensure the file set up is proper and the SOL date is correctly entered on your calendar. Lastly, make sure you have a backup of your calendar. If your docketing is computerized, be sure to frequently back up the system. Whether computerized or not, maintain more than one copy of your calendar. Staff members should know how to find and access the back-up calendar. Your secretary or paralegal should check your calendar daily and advise you of all major deadlines far in advance of their occurrence.

**Consider the Unique Facts of the Case:** It is easy to get into a rhythm of handling similar types of personal injury cases in a nearly assembly-line fashion, processing one after the other. Yet, every case has its own peculiar set of facts and circumstances. Take time at the beginning of the case to look at the facts and assess whether any factor may trigger unusual time requirements such as tort claim notices.

**Explain and Document the Settlement:** Clients often expect to receive a larger portion of the settlement than they are entitled to. When hearing an initial settlement offer, the client may forget that medical bills, costs, and attorney fees must be paid from the amount. To avoid an allegation that you "settled without authority" or that the client "would not have settled" if he knew his share would be so small, give the client a written breakdown of where the money will go. Make sure the client reviews it

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and understands it before accepting a settlement offer.

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