

PERSONAL INJURY

This section discusses various fundamentals of personal injury law. Whether and to what extent an individual can recover damages for an injury depends upon the circumstances surrounding how the victim was injured. Some common scenarios are explored below.

INJURIES GENERALLY

Personal injuries may arise from an intentional act to injure by another, the carelessness of another, a defective product, or a dangerous condition on another's property.

Intentional Acts

If a person intentionally causes injury to another, the injured person may be able to sue for damages in civil court. Civil and criminal law provide recourse for a victim if another person intentionally causes the victim physical (and, in some circumstances, nonphysical) injury. As an example, actions constituting assault or battery may lead to criminal charges as well as a civil claim. (For more information, please see the "Criminal Law" section of this Handbook.)

Negligence

Negligence is a theory of law that provides for the recovery of damages in a civil action. Negligence is a legal term of art—it has a more specific meaning under the law compared to its common use.

Generally, every person owes every other person a "duty of reasonable care." If a person with a duty to act with reasonable care breaches (*i.e.*, fails to meet) that duty by acting with less than reasonable care, and the breach causes injury, the injured party may be entitled to recovery of damages. Each of these elements (duty, breach, causation, and resulting injury) must be proven in order for the victim to recover damages in court for the injury.

Products Liability

If a person is injured by a defective product, then he or she may seek to recover damages against the product maker and others. To recover, the injured person would need to prove that he or she was using the product properly and for its intended purpose when injured. Injuries which are caused by the defective design of a product, the defective manufacturing of a product, or the lack of adequate warnings and labels about a product may give rise to a civil claim.

Premises Liability

If a person is injured because of a dangerous condition on someone else's property that the owner permits to exist, that person may have a civil claim for their injuries based on fundamentals of premises liability. A person may have a claim against the owner of the property on which the dangerous condition existed even if the owner did not expressly invite the injured person onto his or her property.

Generally, to be successful in a premise liability claim, a person must prove (1) that the owner had a legal obligation to consider the injured person's safety, (2) that the owner knew or should

have known that there was an unreasonably unsafe condition on the property, and (3) that the owner did not repair the dangerous condition or warn people about it.

INJURIES AT WORK

Injuries that occur in the workplace should be reported immediately to the appropriate individuals. Many employees are eligible to file for workers' compensation in the event that an injury is sustained in the course of one's job. If recovery for an injury will require the employee to not work for an extended period of time, the employee should explore whether he or she is eligible for disability insurance through the State of California (SDI) or some other private plan.

Workers should know and understand the nature of their employment relationship. An independent contractor is not the same as an employee. Independent contractors may not be eligible for workers' compensation or other benefits. Independent contractors should develop a plan for how to handle work-related injuries.

Workers are entitled to safe working conditions. These protections exist in part for workers to help prevent injuries. If a worker suspects that there is an unsafe condition in his or her workplace, he or she should report that condition to the person designated to address safety issues. If the employer does not remedy the situation, the worker may report the condition anonymously to the California Occupational Safety and Health Act (CalOSHA) Enforcement Unit and request an inspection of the workplace.

INJURIES IN A VEHICLE

If injuries are sustained as the result of an automobile accident, the at-fault party's insurance may be required to pay for medical expenses. Depending on the type of insurance the injured party carries, his or her insurance may cover some of the expenses. For more information about auto insurance, see Auto Accidents. For more information about medical insurance, see Health Law and Insurance.

Getting Help

General Legal

Student Legal Services, 858.534.4374 or <http://sls.ucsd.edu>

Workplace Safety Concerns

CalOSHA Enforcement Unit – San Diego,
619.767.2280 or
<http://www.dir.ca.gov/dosh>