

TIPSHEET: HOW TO SHOW FAULT

The amount of a person's liability for an accident is determined by comparing that person's or businesses' carelessness with your (or the injured parties') carelessness. The defendant in your personal injury claim will be liable for a higher percentage of the damages if you prove the defendant bears responsibility for a higher percentage of liability for the accident. In other words, the more evidence you present that the defendant was at fault, the defendant will be responsible for paying more damages.

Use the following tips to gather evidence to demonstrate the defendant's fault in the accident.

1. Witnesses
2. Violation of traffic laws – check the state's vehicle code
3. Police report
- 4.

Who Might Be Responsible

Motor Vehicle Accidents

1. Driver(s) of the vehicles involved in the accident
2. Owners of all the vehicles involved
3. Employer of the driver
4. Parent of a minor who was driving
5. Jaywalker
6. Property owner who allowed an object to interfere with the roadway
7. City government if a road crew improperly obstructed the roadway

Slip/Trip/Fall Accidents

1. Person who caused you to fall or become injured
2. Owner of the property on which you were injured
3. Renter of the property
4. Owner of the business at which you fell or were injured
5. Parent of a minor who caused you to fall or become injured
6. Employer of a person who caused you to fall or become injured if that person was "on the clock" when the accident happened.

Dangerous or Defective Product

1. The business where you purchased or rented the product
2. Manufacturer of the product

FACTORS AFFECTING DAMAGES

Factors That Decrease the Value of Damages

1. Soft injuries
 - a. Sprains or strains
 - b. Bruises
2. Medical expense related to diagnosis rather than treatment
3. Treatment by alternate health care providers, rather than an M.D.
4. Brief medical treatment and short recovery periods
5. No physical therapy or follow up visits
6. No medication prescribed
7. No emotional distress

Factors That Increase the Value of Damages

1. Hard injuries
 - a. Broken bones
 - b. Head or joint injuries
 - c. Vertebrae injury
 - d. Nerve damage
2. Expenses for treatment
3. Prescribed medication
4. Physical Therapy
5. Long treatment and recovery
6. Permanent injuries
 - a. Scars
 - b. Stiffness
 - c. Weakeness
 - d. Loss of mobility
 - e. Speech impairments
 - f. Sight or hearing impairments
7. Emotional distress
8. Missed work, school or training
9. Missed attendance at special events
10. Missed vacations

Non Medical Factors That Increase the Value of Damages

1. No comparative negligence
2. Your calm, professional approach to the claim
3. The defendant is not credible
4. Favorable witnesses
5. Defendant violated a traffic law or building code