



LEVER & ECKER, PLLC  
ATTORNEYS AT LAW



**We take personal injury cases...  
Very personally®**

# Welcome Guide

for New Clients



# We're so Glad to Have You on Board

On behalf of the entire team at Lever & Ecker, PLLC, we would like to personally welcome you as our new client. We realize that the circumstances under which you have come to us are certainly unfortunate, but you have taken the critical first step in hiring a law firm that will fight for you to achieve the maximum justice and fair compensation that you rightly deserve.

This new client Welcome Guide contains the information that you will need to begin the legal process with our firm and helpful tips to navigate the process. We are always available to assist you to make your difficult situation as manageable and stress-free as possible.

Lever & Ecker, PLLC has more than 70+ years of combined experience handling a wide variety of cases, including:

- Car & Truck Accidents
- Slip/Trip & Fall
- Construction Accidents
- Wrongful Death
- Worker's Compensation
- Defective Products
- Medical Malpractice
- Nursing Home Negligence
- Traumatic Brain Injuries
- And more

Thank you for putting your trust in Lever & Ecker, PLLC to represent you. We look forward to working on behalf of you and your loved ones.

Warmest regards,

*David B. Lever*

David B. Lever

*Daniel G. Ecker*

Daniel G. Ecker

## REFERRALS

We sincerely appreciate your referrals and are committed to providing your family, friends, and colleagues with the very best service, quality and integrity. At Lever & Ecker, PLLC, we take personal injury cases...very personally.





# What You Need to Know Before You Begin Your Personal Injury Claim

As you know, our practice focuses on the representation of individuals who have been seriously injured in accidents through no fault of their own. Our unwavering goal is to provide the highest quality legal representation to resolve claims as favorably as possible for our clients – also called plaintiffs and/or claimants – and to do so without ever compromising your legal rights. As we are sure you understand, no lawyer can guarantee any specific outcome in a legal matter, particularly one that involves determining fair and just compensation for pain and suffering, among other injuries and damages. However, we believe that your case has substantial merit and we will commit our time and the resources of our office to your case. Ultimately, the strength of the facts and evidence in your case will greatly impact its outcome.

As part of the work we will do on your behalf, our firm will need to obtain medical and hospital records, conduct investigations, hire experts, incur court costs along with other necessary expenses to achieve the most successful outcome. These types of costs generally come out of your share of the ultimate recovery as defined in our retainer agreement with you. We will attempt to keep these costs as low as possible, but we give you our promise that we will spend whatever is necessary to achieve the maximum recovery on your behalf. At the conclusion of your case, we will provide a detailed accounting of all of the expenses in your case.

We will keep you up to date about the status of your case on a regular basis, however, we always welcome your call or email if you have any questions. There will be times during the course of your litigation when you will need to be more involved, and we will contact you to explain in advance and for what purpose, such as for a deposition. There will also be times when it seems that little is happening in your case and we want you to know that this is simply due to the fact that in every case there are periods of greater and lesser activity. During the quieter times, we may be waiting for medical records, information from the other side or the court, or for upcoming events, to cite just a few examples. This is a normal part of the process, and we appreciate your patience.

It is very important that you keep us posted concerning your medical treatment, which includes times when you may be unable to see your doctors due to insurance coverage issues, as well as any other questions and concerns you may have. We ask our clients to keep us posted as to medical and employment status, and to do so frequently.

We recommend that you be absolutely honest with your doctors and let them know how you are feeling and the extent of your pain and limitations. We never want you to exaggerate your complaints, but on the other hand, it is vital that you do not minimize your complaints either, as your doctors are best able to treat you if you tell them how you really feel. Follow your doctor's advice and do everything you can to get well because your health and well-being is always the most important thing. If there are matters in your medical records that you believe are unrelated to your case, may hurt your case or that are so sensitive that you do not want them disclosed, please contact us immediately so that we may discuss the issues and decide how best to proceed.

# Some General Advice

As your case progresses, we will have some specific advice for you. In the meantime, here are some general suggestions that we ask you to follow.

## 1. Keep It Confidential

Do not discuss your case with anyone other than our office and your immediate family. As discussed further below, you should even be careful with how much information you share with your doctors.

## 2. Talk to Us First

Consult with us before doing something that might affect your case, such as changing doctors, stopping treatment, returning to work or going on long trips.

## 3. Don't Sign It

Sign absolutely nothing pertaining to your claim until you have received our instruction or approval.

## 4. Don't Discuss Your Claim With Any Insurance Company Representatives

All inquiries regarding your case from insurance companies or from any defendants directly must be directed to our office for further handling.

## 5. Don't Minimize Your Complaints

Make sure that your doctors are aware of all of your complaints so that they may include them into their medical records, which can later be produced in court or submitted to the insurance company at the appropriate time. It is very difficult to argue, much less prove, that you had certain symptoms and complaints when they are not in your medical records. It is also very important to tell your doctors (and our office) about any accidents and/or any injuries you may have sustained either prior or subsequent to the accident for which you are currently being treated.

## 6. But Don't Exaggerate Either

If you make statements that could be construed against you, and your physician puts these statements in your records, they will certainly be used against you by the defendant's insurance company and its defense lawyer (whose firm is generally retained by the insurance company). Statements that exaggerate your symptoms or the accident can hurt your case and will be used by the other side to try to minimize your claim.

## 7. Do Not Discuss Your Case With Your Doctors or Therapists

Your discussions with your medical providers should only concern your injuries, symptoms, treatment and physical limitations. For example, it is not necessary to enter into lengthy discussions



with your doctor regarding how your accident occurred. Similarly, statements about your case, any future expected settlement or discussions with your attorneys should not be part of your medical records, particularly privileged conversations with our firm's attorneys. Never forget that the insurance company and its defense lawyers will use these statements against you to suggest that you are only doing this for the money.

#### **8. Follow All of Your Doctor's Instructions and Recommendations**

This cannot be stressed enough. For example, if your doctor recommends physical therapy, and you fail to follow up, or you miss several appointments, the insurance adjuster and defense lawyer will use this against you. The typical defense argument is that you could not have been seriously injured, or suffering that much, when you refused to follow your own doctor's instructions regardless of how much pain you are actually in. Missed medical appointments will also make it harder to ultimately prove to a jury that your pain and suffering is real and significant since we rely on medical proof and treatment records to demonstrate you are hurt.

#### **9. Notify Us Immediately If You Sustain Another Injury or Exacerbate Your Current Injury**

If you are injured in a car accident and then injured again in another car accident or other incident several months later, this will affect your first accident claim. Obviously, the insurance adjuster and defense lawyer will be looking for any excuse, such as a subsequent injury or exacerbation, on which to blame your current condition. We must know immediately if you sustain another injury, to help ensure that your records are clear as to which injury or accident is responsible for your current symptoms.

#### **10. Do Not Provide Your Physicians or Therapists With Copies of Information or Materials You Receive From This Office**

We may send you correspondence or other materials relevant to your case. Under no circumstances should you provide copies to anyone else without our instruction. Please remember that any document or item you provide to your physician will immediately become part of your medical chart. If a lawsuit is filed, the defense lawyer will ultimately obtain copies of any and all materials you provide to your doctors and other healthcare providers.

#### **11. Send Us Your Bills**

Send us copies of all bills you receive as a result of your claim (whether paid by insurance or not) and obtain a receipt or bill for all drugs, medical devices and equipment you purchase. Timely provide those receipts and bills to our office. Also, it is important to keep a record of all expenses incurred as a result of the accident, including anyone you have to employ to perform services for you.

#### **12. Let Us Know of Any Changes**

Notify us at once of any changes of address, employment, raises or reductions in salary, or similar events. Similarly, if you are out of work due to your injuries, keep us informed of all work days missed and the date you are to return to work..



#### **14. Self-Employed?**

If you are self-employed, keep a record of all of the times you are unable to work or perform your duties and discuss with us how we might best document and prove your loss of income.

## **Communication With Us**

### **Phone Calls and Meetings With Our Attorneys**

Although we and the other attorneys at our firm will do our best to take unscheduled phone calls with clients, it is much preferred that we schedule a date and time to meet or speak on the phone. As you can imagine, we are frequently in court, at depositions, in meetings or participating in one of many other types of events on behalf of our clients. By scheduling a meeting or call in advance, we can be certain to devote the time and focus that you and your case deserve. For the same reason, we much prefer that you schedule meetings with us, rather than dropping by the office. We welcome emails at any time, of course, and try to respond to them as quickly as we reasonably can.

### **Phone Calls and Meetings With Paralegals and Other Support Staff**

At any time (without an appointment), please feel free to call or email the paralegal or other staff member working with us on your case. Generally speaking, it's best to email us with updates and send us documents, and to call with questions or urgent issues. If you would like to meet with someone, please schedule the visit, so that you can receive the time and attention you deserve, rather than appearing at our offices without an appointment.

## **Warnings About Using Social Media**

While the lure of social media, such as Facebook, Twitter, Instagram, etc. is constant, you should be aware that anything you post online can have a devastating impact on your case. Recent court decisions have made it quite easy for the defense lawyers to obtain access to individuals' social media accounts, even those shared under strict privacy settings. These court rulings have even allowed lawyers to obtain posts by others containing pictures or other information regarding injured plaintiffs.

So, does this mean that you have to withdraw from the 21st century and avoid social media altogether? As your attorneys, we would like to say yes, avoid social media at all costs. However, as human beings, we recognize that it might not be feasible to withdraw from these sites completely, so we ask you to discuss these issues with us.



# What Steps Can You Take to Protect Yourself Regarding Social Media?

## Step 1:

Take a critical look at your social media accounts to see if there is anything you would not want the defense lawyer or insurance company to see. Remember that the insurance company will not know the context of your photos or comments. They won't know, for example, if you took painkillers to get through that party or other event, or that you took a bus to the top of a hike.

## Step 2:

Be sure to check your privacy settings and make them as private as possible. Most sites allow you to block certain people altogether from seeing that you are on the site. But still, remember that courts are routinely requiring injured plaintiffs to produce, or allow access to their posts, regardless of their privacy settings.

## Step 3:

Search your name in the search field to see what comes up and make sure that what you see is acceptable.

## Step 4:

Don't accept friend requests or answer emails through social media from people you do not know. On Facebook, if you send a message, you grant the receiver access to your profile for a certain number of days. That is a common device used by the defense to obtain access to your profile. Keep in mind that because of the lawsuit process, the opposing legal team knows a lot about you and could send you an email that might make it appear as though you know each other.


## The 9 Steps in a Lawsuit & What to Expect at Each Stage

The timing of the steps of a lawsuit are difficult to predict. It depends on many things, including your medical treatment, actions the defendants take, court schedules, and decisions you make. A lawsuit can take up to two years or longer to settle or go to trial. However, most lawsuits go through the same basic steps, although not always in the same order. The steps listed here are the main steps that occur in a lawsuit, and they will give you a general idea of what to expect.

### 1. Gathering the Evidence:

With your help, we gather all of the available facts concerning your claim, including obtaining police reports, interviewing and taking statements from witnesses, requesting medical and hospi-





tal records, and hiring investigators or experts to assist us. Most often this investigatory stage will require us to incur expenses.

## **2. Starting the Lawsuit:**

We begin the lawsuit by preparing a Summons and Complaint for filing with the court. After filing the Summons and Complaint, copies of these pleadings are served upon the defendant(s). After service, we then forward copies to the defendant's insurance company, following which lawyers for the defendant(s) will appear by filing an Answer, or response, to the Complaint. All documents filed with the court will be part of the official public court record. This step also involves expenses such as court filing fees and fees for serving the pleadings on the defendant(s).

## **3. Discovery and Discovery Motions:**

After we start a lawsuit, but before trial, we gather information, including documents and testimony, through the discovery process. Sometimes, we or the defense lawyers request the court's assistance to resolve discovery matters, such as whether certain evidence should be produced. Going to court to ask for an order is typically done by filing a motion. These motions usually involve a dispute about how the lawsuit should be handled and what each side feels they are entitled to obtain or provide to the other side. For example, we might ask the court to order that the defendant(s) show us a particular letter or document that the defendant would rather not let us have. Or, the defendant(s) may ask the court to require us to provide medical records or other documents that we do not believe are relevant to the case. The judge then makes the determination as to which evidence must be turned over.

## **4. Examination Before Trial (EBT):**

With the assistance of the court, examinations before trial, also known as depositions, are scheduled. At the examination before trial, we question the defendant(s) under oath about the accident. In return, and before we question the defendant(s), the defense lawyers will question you, our client, about the accident and the injuries and damages you have sustained. Rest assured, we will spend substantial time with you to ensure that you are properly prepared for the questions that the defendant's lawyer will ask you.

## **5. Review of the Law:**


Throughout the case, including both before and after we have gathered the evidence and other information about the case, we review the law. We then give you our legal opinion about what the most likely outcome of the case will be, whether through trial, settlement or otherwise, and how we believe the proper resolution of your case should be pursued.

## **6. Negotiation and Settlement:**

When it is appropriate, we communicate with the defendant's lawyers and/or insurance claim representatives to determine if we can settle the case. A settlement is an agreement between the parties to resolve the claim. Any and all settlement offers will be discussed with you, our client, before acceptance or rejection of the offer, as you have the final say as to whether to accept a







settlement offer. We are committed to achieving the best possible settlement on your behalf, and will never settle your case for anything less than its full value. If the claim is settled, a trial becomes unnecessary.

### **7. Preparation for Trial:**

Preparing a case for trial is extremely time intensive and, in many instances, costly. This includes, among various other responsibilities, serving subpoenas, meeting with witnesses, including expert witnesses, to prepare them for their trial testimony, preparing trial memoranda and motions for the trial judge, preparing exhibits, such as photographs, videos, etc., for presentation to the jury, and preparing for the witnesses and other evidence the defendants are likely to seek to introduce at trial.

### **8. Trial:**

During the trial, we act as your advocate. In certain cases, a settlement is reached during the trial. However, many trials are ultimately decided by a jury or a judge. After the verdict, there may be additional necessary steps, including preparing a judgment for filing with the court. Some verdicts are appealed, resulting in additional litigation before a case is resolved.

### **9. Completing the Claim:**

We do all of the work necessary to complete your claim. This includes preparing a closing statement which provides a breakdown of the settlement proceeds and the disbursement of settlement funds. However, this does not include steps such as enforcing a judgment or pursuing an appeal. To enforce a judgment means to start proceedings to force the defendant to actually pay what he or she has been ordered to pay, in the event the available insurance proceeds are insufficient or the defendant lacks insurance entirely. To appeal a decision or jury verdict means to prepare and file briefs and evidence to try to persuade a higher court to change the original decision or verdict.

## **Get to Know Some Key Legal Lingo**

**As your case progresses, you will probably come across some of these legal terms. Find out what they really mean here.**

### **Arbitration:**

When parties are unable to resolve a case, they can opt to submit their dispute to arbitration, as a less time-consuming and less costly alternative to a trial. An arbitrator, who is a neutral third party, makes the final binding decision/award to resolve the dispute.

### **Activities of Daily Living:**

Activities the injured claimant could do before he or she was injured, including, for example, work, recreational activities, home maintenance, family activities, etc.

**Adjuster:**

An employee of an insurance company who is assigned to process claims. An adjuster is responsible for gathering information, assessing and monitoring the claim, and making payments according to the insurance policy.

**Appeal:**

When a losing party makes a request to a higher court to overturn the legal ruling of a lower court.

**Contingency Fees/Agreement:**

An agreement made between a client and a lawyer where a legal fee is payable only if there is a resolution of the case in favor of the plaintiff with the lawyer receiving a percentage of the gross recovery.

**Comparative Negligence:**

In personal injury lawsuits, the defendant will usually argue that the plaintiff's injury was due, at least in part, to his or her own negligence. The plaintiff's financial recovery will be offset by the percentage of fault attributed to him or her by the judge or jury, if any.

**Damages:**

The financial compensation (money) that a plaintiff may be awarded in a lawsuit or a settlement.

**Deductible:**

An amount of money that an insurance policyholder must pay out-of-pocket when claiming insurance policy benefits to cover certain expenses. For example, in New York an automobile insurer can offer No-Fault insurance with a \$200 deductible. If your policy has a deductible for No-Fault, this means that if you make claims against the No-Fault portion of your automobile insurance for medical expenses arising from an automobile accident, you will be responsible to pay the first \$200 towards any medical treatment.

**Defendant:**

A person or entity, such as a corporation, being sued by a plaintiff.

**Defendant's Medical Examination (DME):**

A plaintiff in a personal injury action must submit to a physical examination with respect to his or her injuries by physicians chosen by the defendants. Although these examinations are often referred to as Independent Medical Examinations or "IMEs", they are clearly part of the adversarial process and should more accurately be called "Defense Medical Examinations" or "DMEs".

**Death and Funeral Benefit:**

A lump sum payment payable to the spouse and/or dependents of a person who has died as a result of a motor vehicle accident.

**Disbursements:**

Legal expenses spent by a lawyer on behalf of the client's claim, including, for example, medical records from providers, expert opinions and medical reports, court filing fees, and fees for serving papers on the defendant or other witnesses.



**Examination Before Trial - EBT:**

An examination, also known as a deposition, during which the lawyers for both parties (the plaintiff and the defendant) question each other's clients while under oath to discover the pertinent facts about the case.

**Examination Under Oath - EUO:**

A formal proceeding during which an insurance company representative questions a claimant under oath and in the presence of a court reporter.

**Expert Witness:**

A person who has knowledge of a certain subject and presents his or her expert opinion in relation to a lawsuit (either for the plaintiff or defendant, depending on who hired the expert). The expert witness opinion helps support the party's claim or defense.

**Household Vehicle Insurance Policy:**

In personal injury claims resulting from motor vehicle accidents, the household insurance policy refers to the auto insurance policy coverage held by the injured party or a "resident relative" - a family member who lives in the same household.

**Independent Medical Examination - (No-Fault IME):**

In personal injury claims resulting from automobile accidents, the No-Fault insurance carrier will request the injured party to submit to physical examination(s) with respect to their injuries by physicians chosen by the insurance company. If the injured party does not comply with this requirement, no-fault insurance benefits will be denied based on failure to comply with the terms of the insurance policy .

**Litigation:**

The lawsuit or other similar legal proceeding pertaining to one party's legal claim against others.

**Mediation:**

When parties are unable to resolve the case, they may try to resolve the claim through mediation. A mediator, who is a neutral third party, and often a retired judge, participates in the process by helping the parties reach an agreement on the issues in dispute or settle the claim. However, unlike arbitration, mediation is not binding.

**Medicare/Medicaid/Public Assistance:**

If an injured party is a recipient of Medicare, Medicaid, or any type of public assistance, we are required to notify the appropriate party when a claim is made as any settlement may be subject to recovery. For example, if Medicare covers expenses for medical treatment arising from injuries sustained in an accident, they are entitled by law to a recovery claim against the settlement for medical claims paid out in connection with an accident.

**Motor Vehicle Accident Indemnification Corporation (MVAIC):**

MVAIC was created to provide benefits to victims of motor vehicle accidents in New York where there is no other available insurance coverage either through any of the involved motor vehicles or motor vehicle(s) owned by a resident-relative of the injured person.

**Municipality:**

A government entity; any lawsuit one might bring against such an entity would be a lawsuit against the government. When suing the government there are special procedural rules and time sensitive deadlines that apply.

**No-Fault Benefits (a/k/a Personal Injury Protection (PIP)):**

New York's No-Fault insurance law is designed to make sure insurance coverage is available to anyone injured in a car accident in New York, regardless of who is at fault for the accident. Types of accident benefits include income replacement, medical treatment and rehabilitation, attendant care, housekeeping expenses, caregiver expenses, and death and funeral expenses. New York's No-Fault insurance benefits are not necessarily automatic - you must apply for No-Fault insurance benefits within thirty (30) days after an accident. As your attorneys, we will assist you in ensuring this is accomplished by submitting a completed NF-2 Application for Motor Vehicle No-Fault Benefits form to your insurance company after the accident.

**No-Fault Wage Verification:**

If you will lose time from work as a result of the injuries sustained in an automobile accident, you are required to provide additional information with your No-Fault application, such as your lost earnings information. To report your lost wages, we will ask your employer to complete and submit an Employer's Wage Verification Report (NF6) to the appropriate insurance company as soon as possible but no later than 90 days from your accident date.

**Notice of Claim:**

The name that is given to the written notice that is required by law for a person suing a municipality (i.e., a government entity or public corporation). In New York, the most important thing to know about suing a government entity is that you need to serve a formal Notice of Claim within 90 days from the date of the incident. This is an extremely short time frame, so if you think you might have a claim against a government entity or public authority, time is of the essence. A Notice of Claim notifies the municipality that you plan to sue them and generally states the date, time, location, and circumstances of the event which gave rise to the injury.

**50-h Hearing:**

Under New York's General Municipal Law, after a Notice of Claim is served, the municipality is permitted to examine the injured individual under oath at a 50-h hearing (also referred to as a pre-action hearing or statutory hearing) regarding the events and circumstances under which the injuries occurred.

**Plaintiff:**

A person who brings a case against another in a court of law.

**Release:**

A contract that is signed at the end of a lawsuit. After signing a release, the injured person fully releases the other party or parties from any future claims in relation to the accident or injury. The release outlines the agreed-upon settlement terms and states that obligations from the accident have been completed. The insurance company for the other party or parties will not issue a settlement check before receiving a signed release.

**Retainer Agreement:**

This is the legal contract signed by the injured party and their lawyer, setting forth their respective rights and responsibilities, and also setting forth the terms of payment to the lawyer, among other issues.

**Serious Injury Threshold:**

In a motor vehicle accident, Article 51 of the Insurance Law specifies the types of injuries that allow a claimant to be compensated from a car accident. Serious injury is defined as personal injury which results in one of the following: Death, dismemberment, significant disfigurement, fracture, loss of a fetus, permanent loss of use of a body organ, member, function or system, permanent consequential limitation of a body organ or member, significant limitation of use of a body function or system and/or a medically determined injury or impairment of a non-permanent nature which prevents the injured person from performing substantially all of the material acts which constitute such person's usual and customary daily activities for not less than 90 days during the 180 days immediately following the occurrence of the injury or impairment.

**Statute of Limitations:**

In general terms, a statute of limitations is a time limit within which a person must file a lawsuit. If the time limit expires, the individual who wishes to bring forth a claim is forever barred from doing so.

**Structured Settlement:**

When a plaintiff is awarded an amount of money in a lawsuit, they can choose to have the money divided into regular payments over a certain period of time rather than be given one lump sum. Interest accrued on monies invested in a structured settlement is tax-free (as are the settlement proceeds themselves). Structured settlements can provide a guaranteed income stream and help ensure the plaintiff will have the money necessary to pay for future care or needs. However, not every case is appropriate for a structure.

**Tort:**

Refers to a wrongful act or omission committed negligently by one person against another that results in injury or harm. Your lawsuit may be called a tort claim.

**Underinsured Motorist Coverage:**

A type of insurance coverage that provides compensation to a person who is injured in an accident when the party who caused the accident doesn't have enough bodily injury liability coverage.

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# Thank You!



**LEVER & ECKER, PLLC**  
ATTORNEYS AT LAW

**White Plains Office**

120 Bloomingdale Road, Suite 401  
White Plains, NY 10605

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(914) 288-9191

(877) 288-9191

[info@leverecker.com](mailto:info@leverecker.com)

[leverecker.com](http://leverecker.com)

