



# PERSONAL INJURY QUIZ DO I HAVE A CASE?

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Have you been injured as a result of another person's carelessness? If so, you may be entitled to compensation for the harm you have suffered.

Take our quiz to see if you have a case.

Regardless of how you were injured – whether in an auto accident, a medical accident, a slip or fall, a dog attack, by a defective product, or by some other means – you must be able to prove “negligence” in order to have a viable case and obtain compensation for the harm done to you.

So, what is “negligence”? Negligence is a legal term that means “unreasonably careless.” To make out a personal injury claim based on negligence, you must be able to prove:

1. The person who injured you owed you a “duty of care” – that is, had an obligation to act with reasonable care toward you;
2. That person did not fulfill his obligation;
3. That person's failure to abide by the duty of care caused you to be harmed; and
4. You were, in fact, harmed.

The following quiz will help you determine if the circumstances surrounding your injury will support a negligence case. Be sure to answer all the questions because you must prove all the elements of negligence in order to state a claim. If you can't prove all four elements, you don't have a case.

## DUTY

1. **Prior to the accident, did you have a professional relationship with the person you claim is responsible for your injuries?**

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- Yes?
- No?

2. **Given the circumstances surrounding the accident, was it foreseeable that someone might be injured?**

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- Yes?
- No?

3. **Can you identify an individual or entity that, in fairness, should bear some or all of the responsibility for your injuries?**

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- Yes?
- No?

***If you answered “yes” to one or more of these questions, then you might have a case.***

As a threshold matter, you must establish that the “defendant” (the person you claim is responsible for your injuries) owed you a legal duty of care – that is, that the defendant had a legal obligation to be reasonably careful in his or her dealings with you. A duty of care may arise out of the relationship between the parties (e.g., doctor/patient); the foreseeability and likelihood of harm to the injured party; and/or a sense that it is fair and just to impose this duty. For example, a person who gets behind the wheel of a car owes a duty of care to the other drivers, bicyclists and pedestrians with whom shares the road. Similarly, a storeowner has a duty – a legal responsibility – to keep the premises safe and clean for his customers. If you can establish a duty of care, then you may have a case against the defendant.

***If you answered “no” to one or more of these questions, then you probably don’t have a case.***

If you cannot establish a legal duty of care, then you have no one to hold responsible for your injuries. However, even if you think this is the case and the accident can only be chalked up to terrible, horrible bad luck, consider consulting a lawyer (especially if your injuries are severe). Often, more than one person or entity may be held legally responsible. Depending on the circumstances surrounding your injury, it may be, for example, that a corporation; the defendant’s employer; a municipality; a contractor or subcontractor; or the designer, manufacturer, distributor, or retailer of a dangerous product owed you a duty of care. An experienced personal injury lawyer can review your situation and identify all potentially responsible parties.

## BREACH

4. **Did the defendant (the person you claim is responsible for your injuries) act in a way that was unreasonably careless? Alternatively, did the defendant fail to act in the way that a reasonably careful person would?**

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- Yes?
- No?

***If you answered "yes," then you may have a case.***

When the defendant acts with unreasonable carelessness or fails to act in a way that a reasonably careful person would, this is "negligence," in the eyes of the law. This means the defendant did not meet the duty of care owed to you. Whether the defendant was negligent is measured according to an objective, "reasonably prudent person" standard.

***If you answered "no," then you don't have a case.***

Sometimes, an accident is just that – an accident. If the defendant was not unreasonably careless in his actions or failure to act, then the defendant was not "negligent"; therefore, you don't have a case against him.

## CAUSE

**5. You would not have been harmed but for the defendant's careless actions or failure to act.**

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- True?
- False?

***If you answered "true," then you may have a viable personal injury case.***

In order to maintain a personal injury case, you must be able to establish a causal link between the defendant's negligence and your injuries and other losses. That is, you must be able to prove that "but for" the defendant's actions or failure to act, you would not have been harmed.

***If you answered "false," then you probably don't have a case.***

A personal injury attorney can review the circumstances leading up to the accident and assess your legal options, but if you cannot establish causation, then you have no case, regardless of how unreasonably careless the defendant's conduct was.

**6. Which of the following best describes your situation?**

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- A. The defendant is 100% at fault for the accident and the harm done to me.
- B. I may be partially to blame for the accident and the harm done to me.

***If you answered "A," then you have solid grounds for a personal injury case.******If you answered "B," then you may have a case, but the potential value of your case is less than it would be if the defendant's fault (or "liability") was clear.***

In legal terms, the phrase "comparative negligence," refers to the role your own careless behavior may have played in causing your injuries. As your negligence approaches 50%, the value of your case decreases significantly. At that point, you may have to answer a tough question: Yes, I have a case, but is it worth pursuing?

## DAMAGES

### 7. Which of the following statements best describes your post-accident circumstances/situation?

- A. It was a frightening experience and my nerves were on edge for a few days, but that has passed. I visited my doctor not long after it happened. I said I was fine. I feel fine now.
- B. I visited my doctor the morning after the accident. I was diagnosed with a severely strained muscle in my lower back and my neck. I went to the chiropractor and physical therapy for several months, and I missed a week of work. My injuries have mostly resolved now, but I still get headaches.

#### ***If you answered "A," then you don't have a case.***

If you suffered no harm (or, in legal terms "damages"), then you do not have a claim for negligence, even if the defendant's conduct was unreasonably careless. Let's say, for example, that you slip and fall in the frozen foods section at the grocery store. The store owner knew that a freezer unit had been slowly leaking a clear coolant, but had failed to fix it and, on the day of your accident, there were no orange cones or other signs to alert you to the danger. After the fall, your wrist is a little sore and your pride is wounded, but you are otherwise okay. Because you have suffered virtually no harm, you have no case, even though the defendant's liability is absolute.

#### ***If you answered "B," and you can establish the other elements of negligence described in the preceding questions in this quiz, then you have a case.***

When you are harmed – physically, mentally, emotionally, financially – by another person's negligence, you are entitled to compensation. In a personal injury case, you may be entitled to compensation for:

- Medical expenses, including anticipated future medical expenses;
- Lost wages and benefits;
- Loss of future earning capacity;
- Miscellaneous expenses (e.g., childcare, transportation, medical devices or appliances, etc.); and
- Mental, emotional and physical pain and suffering.

The law calls this compensation "damages." Early in your case, it may be difficult to assess the full spectrum of your damages, and cases involving broken bones are always easier to prove than cases involving soft-tissue injuries (e.g., muscle strains, whiplash), but as long as you have suffered some form of harm because of the defendant's negligence, you are entitled to compensation.

## CONCLUSION

This quiz should give you a good indication of whether the circumstances surrounding your accident will support a personal injury case. If you are unsure, reach out to an injury lawyer for a case evaluation. Likewise, if you think you have a case, contact a personal injury lawyer as soon as possible to make sure you don't run afoul of any deadlines and inadvertently forfeit your rights.