

# THE DOMINGUEZ FIRM<sup>LLP</sup>



*Injury Lawyers*

## TOP 10 TIPS FOR THE SERIOUSLY INJURED



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# TOP 10 TIPS FOR THE SERIOUSLY INJURED

## INTRODUCTION

### Get The Justice You Deserve!

Imagine your health, finances, and family's well-being suddenly in shambles after someone's negligence, recklessness, or intentional conduct seriously injures you or kills a loved one.

Unfortunately, tragedies like this happen to ordinary people, every day. An accident that causes serious injury or death is one of the most devastating and shocking events that can happen to you or a loved one.

After your initial injuries have stabilized, you will likely be flooded with emotions ranging from anger and confusion to sadness and fear. You may ask yourself a million questions: Why did this happen to me? What am I going to do?

Are my future plans ruined? Will I ever be the same? Will I ever work again? How will I pay my financial obligations? How will my family be taken care of?

Until someone invents a time machine, you cannot reverse the wheels of time and prevent an accident from occurring. You can, however, take action to secure your finances, your healthcare, your family's well-being, and your future through the power of the law.

After suffering a serious injury, you only have ONE SHOT at getting the justice and maximum recovery you're entitled to. Here are our Top 10 Tips on how to do exactly that.

# WHAT IS A SERIOUS INJURY?

Any injury that impacts your body and your life in a serious way is a serious injury. Yes, you read that correctly - any injury. For example, if a nurse negligently sticks you with a sterile needle, then no big deal, it's just a minor prick to your skin with no serious consequences. However, if a nurse negligently sticks you with an HIV-infected needle, that same minor prick to your skin is now a serious injury.

Injuries can come in physical, emotional, or psychological form and oftentimes entail all three. Objectively speaking, there are a number of injuries that are serious by their very nature. Some examples of such serious injuries include:

- ▶ **Wrongful death**
- ▶ **Traumatic brain injury and brain damage**
- ▶ **Neurological and nerve damage**
- ▶ **Spinal cord injuries, including partial, full, temporary, and/or permanent paralysis**
- ▶ **Loss of limb (amputation)**
- ▶ **Fractures and broken bones**
- ▶ **Organ and internal damage**
- ▶ **Torn ligaments and tendons**
- ▶ **Deformation, major scarring, loss of muscular use**
- ▶ **Loss of sight, hearing, or speech**
- ▶ **Severe infection**
- ▶ **Second-degree or third-degree burns**
- ▶ **Post-traumatic stress syndrome, severe depression, anxiety, and other severe mental health illnesses**



It bears repeating that even small or seemingly minor injuries can result in major disruptions to your life. Furthermore, the same injury to different people can result in very different outcomes. A young student who breaks their wrist may heal well and have little to no disruption to their daily life. A construction worker, however, might develop a seriously debilitating condition, such as reflex sympathetic dystrophy syndrome (RSD),

and lose their job or even career and require vocational retraining.

As you can see, classifying exactly what a serious injury is does not follow any strict set of rules. It simply comes down to how the injury impacts your life and the consequences that follow your personal injury accident.



# HOW DO SERIOUS INJURIES OCCUR?

Put simply, serious and catastrophic injuries can happen anytime, anywhere, and under any circumstance. An innocuous trip and fall in your local Costco or El Super could result in just as serious an injury as falling from a 20-foot ladder.

In our over 30 years of experience and after thousands of cases won for injured clients, we've seen every type of serious injury occurring from the following types of accidents, situations, and industries:

- ▶ **Car accidents, including SUV's and light trucks**
- ▶ **Commercial trucking accidents** (aka big rigs, 18-wheelers)
- ▶ **Motorcycle accidents**
- ▶ **Construction accidents**
- ▶ **Vehicle-versus-pedestrian accidents**
- ▶ **Bus accidents, including school, transit, and long-distance buses** (such as Greyhound)
- ▶ **Slip and falls/ trip and falls**
- ▶ **Pool accidents, including drowning and near-drowning**
- ▶ **Agricultural accidents**
- ▶ **Aviation, train, boating, and mass public transportation accidents**
- ▶ **Sexual assault and battery, sexual abuse, and molestation**
- ▶ **Premises accidents, including falling gates, dog bites, elevators, and others**
- ▶ **Medical malpractice**
- ▶ **Dangerous drugs**
- ▶ **Toxic exposure**
- ▶ **Electrocutions, fires, and explosions**
- ▶ **Defective or dangerous products**

As we will explain in more detail below, you will notice that many serious injury accident types may be workplace-related. As such, it is important to discuss the interplay between workers' compensation cases, civil lawsuits, and a combination of the two, known as "cross-over" or "third-party" cases.



# CIVIL COURT VS. WORKERS' COMPENSATION

It's a fact that many serious injuries happen while on the clock at work. When you're injured while performing work duties, you would normally file a claim with your employer's workers' compensation insurance and begin the process of treatment and benefits. In many cases, this may be your sole avenue for redress, known as the "exclusive remedy" rule.

On the other hand, if a non-employer person, entity, business, or company causes or at least contributes to your on-the-job injuries, you may sue that party directly in civil court in addition to your workers' compensation claim. The civil component of your case is known as a "cross-over" or "third-party" case since you and your employer are considered the first and second parties.

Third-party cases provide additional potential redress to maximize your recovery well above and beyond what your workers' compensation may pay out. It is common in third-party cases, however, for your employer's workers' compensation insurance carrier to demand for

the third-party to pay for any benefits it has paid to you, if it is shown that the third-party was at-fault for your accident. This is known as a subrogation claim.

If you potentially have a "cross-over" or "third-party" case, it is important that you choose a law firm with vast experience in handling both workers' compensation and personal injury cases in order to maximize results in both aspects of your case. For over 30 years, our firm has successfully resolved thousands of third-party, workers' compensation and cross-over cases.



**Making a false or fraudulent workers' compensation claim is a felony subject to 5 years in prison or a fine up to \$50,000 or double the value for the fraud, whichever is greater, or by both imprisonment and fine.**



# OVERVIEW OF A CIVIL LAWSUIT

Most civil court cases in Los Angeles, Southern California, and throughout the state can last 12 to 18 months starting from the time you file your lawsuit until your case is scheduled for trial.

**Throughout this guide, it's important to keep in mind that each case is comprised of two main parts:**

## Liability

**which determines who is at fault**

## Damages

**a dollar amount representing the harm done to you**

(such as medical bills, lost wages, and compensation for pain and suffering)

All investigations, fact finding, gathering of evidence, strategy decisions, negotiations, and, if necessary, trial will revolve around proving liability and damages. In the civil justice system, the injured person or victim, known as the "plaintiff," has the burden to prove both liability and the value of their damages. The legal standard to prove these things is known as "more likely than not," and is a far lower standard than the criminal standard of proving guilt "beyond a reasonable doubt," which is a very high standard of proof.



## OVERVIEW OF A CIVIL LAWSUIT continued

**Here are the important steps of your case once it enters the legal system:**

### **FILING A LAWSUIT**

This begins the formal litigation phase of your case within the court system.

### **WRITTEN DISCOVERY**

This is when you (the plaintiff) and the entity and/or people you are suing (the defendants) exchange written questions and requests for documents to gather facts and evidence from each other.

### **DEPOSITIONS**

These are in-person question and answer sessions under oath in front of a court reporter in which each side seeks to gain additional facts and evidence, as well as to get a better understanding of how the accident impacted you and how you present as a witness.

Depositions typically take place in a conference room at an attorney's office and are the most important determining aspect of the success of your case.

### **EXPERT WITNESSES**

This is when both sides have the opportunity to hire experts in relevant fields to review the evidence and to make opinions about the liability and damages aspects of your case.

## OVERVIEW OF A CIVIL LAWSUIT continued

### SETTLEMENT DISCUSSIONS

This is when plaintiff and defendant will try to resolve the case through a court supervised settlement conference, private mediation, or both.

### TRIAL PREPARATION

This occurs if settlement discussions have failed and the parties must gear up to present the case at a trial in front of a judge and jury inside of a courtroom.

### TRIAL

This is when your case is presented to a jury in a court of law before a judge. It consists of jury selection, opening statements, direct and cross examinations of plaintiff, defendant, lay witnesses, and expert witnesses, closing arguments, jury deliberation, and the verdict. This will mark the end of your case under most scenarios.

### POST-TRIAL MOTIONS OR APPEALS

This is when either side has an opportunity to review the trial and determine if there are any appealable issues or need for post-trial motions.



## THE FIVE FUNDAMENTAL STEPS FOR EVERY VICTIM AFTER AN ACCIDENT

**It's very important to follow these steps if you've suffered an accident.**

### STEP 1

Ensure your safety and then seek immediate, necessary medical care after an accident.

### STEP 2

If you're able, get witness information, take pictures or video of the accident scene and injuries.

### STEP 3

Call or have someone call 911 so police or CHP can make a report and, if necessary, request paramedics.

### STEP 4

Do not give a statement to any insurance adjustors, investigators, or representatives.

### STEP 5

Call our powerhouse personal injury law firm to handle it all.

Now, with these very important steps discussed, let's move on to the top ten tips that can turn a mediocre recovery into the true maximum recovery you deserve. It is vital to secure your financial well-being by taking care of the costs of past and future medical care, lost income, pain and suffering, loss of quality of life, and other available categories of damages.







### TIP NO. 1

## REPORT EVERY SINGLE SYMPTOM, ACHE, AND PAIN

In so many cases, injury victims and even their doctors are so focused on the biggest injury or injuries that they forget or pay less attention to other less apparent injuries and medical symptoms. The body, however, works as a system, so your best healing will occur when all injuries are fully addressed from the beginning.

After a serious injury accident, it is incredibly important to identify and tell your medical providers about every single part of your body that hurts and every medical symptom you experience, from your head to your toes; both internal and external. It's important to do so as soon as possible after the accident, including telling first responders such as EMT's/paramedics and emergency room nurses and doctors. It's also important to continue to update your doctors and ultimately your attorney about new developments in your physical and mental condition, no matter

how small or trivial you may think these are. As it relates to your case, if you don't inform your doctors about all of your injuries and symptoms early on or as they arise, it makes it difficult for you to recover financial compensation for these injuries down the road as it brings into doubt whether the accident caused that particular injury or something else did. Worse, if you tell some medical providers about certain injuries and symptoms but not others, then the defense will sow doubt as to the credibility of your damages. Thus, it is important to consistently report all of your injuries and symptoms to all medical providers as you experience them.

Most importantly, do not miss your medical appointments. Your medical treatment, or lack thereof, will be of vital importance as to the value of your case.



### TIP NO. 2

#### BE PATIENT; SERIOUS INJURY CASES TAKE TIME

A serious injury case typically takes longer to resolve than a minor injury case for two main reasons. First, serious injuries are far more difficult to assess, evaluate, diagnose, treat, and determine a future prognosis as opposed to smaller, minor injuries. Second, even if you have a clear picture about your medical condition and your future, because so much money is at stake, insurance companies and their lawyers typically dig in their heels and drag things out for as long as possible to delay having to pay. And even in the very rare instance that your opponent warms up to the idea of possibly paying you a just and fair compensation, because insurance companies work in layers, the more money that your case is worth, the more layers of people, resistance, and corporate bureaucracy you have to cut through.

You only have one shot at recovering the financial compensation necessary to secure your life, so be patient and know your doctors and lawyers have your best interests in mind and that serious injury cases usually take longer to resolve.

Nothing strikes more fear in insurance companies, defendants, and defense attorneys than the thought of going to trial and getting hit with a huge verdict.



### TIP NO. 3

#### HIRE A HIGHLY SUCCESSFUL TRIAL FIRM

Having a highly successful trial firm on your side is the first step to getting the justice and compensation you deserve. Insurance companies know who the heavy hitters are and will automatically respect your case when they see you've enlisted the help of a top trial law firm. Our firm has won over 80 cases with million or multi-million dollar results. Furthermore, on qualifying cases we may be able to arrange for a monetary loan, secured from the proceeds of your case, to assist you while you are recovering and unable to work.

A lot of lawyers claim to be trial lawyers, but many simply aren't heavy hitters. Read the fine print. Look over their websites in detail. Ask specific questions. You have one shot at maximizing your recovery and while you can change lawyers at any time, it is always best to start strong and finish strong to maximize the value of your case and ensure that irreversible mistakes that could jeopardize your case aren't made from the start. Ask them to tell you about their courtroom achievements, remarkable settlements, and importantly, jury verdicts. Beware of firms that tout trial victories, but only refer their clients to real trial firms then simply ride their coattails and take credit for an alleged victory!





### TIP NO. 4

## IDENTIFY AND UTILIZE THIRD PARTY WITNESSES

Any witness to your accident and to relevant events before and after your accident is vitally important, as is securing their statements shortly after your accident. Our firm is equipped with a team of seasoned, in-house investigators available 24/7 at a moment's notice to secure time-sensitive evidence pivotal in obtaining top compensation for our clients.

Of all witnesses that make a great impact at trial, third-party witnesses such as spouses, children, parents, coworkers, supervisors,

teachers, family, friends, pastors, workout/recreational/sports partners, and any other people you see often can help paint a picture of who you were before the accident and who you became after the accident. With their outside perspective, they may be able to describe things about you that you didn't even realize yourself. This is an extremely powerful tool when explaining to the opponent, a mediator, judge or jury why your injuries are so serious.



### TIP NO. 5

## UTILIZE TOP EXPERTS AND BE VERY WARY OF THE OPPOSITION'S

An expert witness is a professional who has many years of experience in a certain field (such as an engineer or surgeon) that can be used by either side to help analyze the evidence, form opinions and conclusions, issue reports, and give testimony explaining their positions. Expert opinions typically fall into two categories: liability and damages. Two examples are an accident reconstruction engineer testifying about liability and a medical doctor testifying about damages.



**TIP NO. 5** | Utilize Top Experts and Be Very Wary of the Opposition’s



Experts are invaluable in a serious injury case as they can explain very complicated subject matter to the jury in an easily understandable and compelling way. Cases can be won or lost due to the strength of your experts. Unfortunately, experts are not cheap, in fact, quite the opposite, and can oftentimes cost tens of thousands of dollars for their participation in a case. However, this is money well spent and something only a law firm with substantial financial resources will be able to pay (and risk) up front. In two of our recent verdicts totaling over \$10 million dollars each, our firm spent over \$600,000 in case costs to obtain such substantial verdicts. This highlights the importance of selecting a powerhouse law firm with the resources to hire the best experts and front the costly expenses necessary to get the best result possible.

While your experts will undoubtedly help your cause, you have to be wary about the defendant’s experts and, in particular, their “medical expert,” who is allowed by law to examine you. This “doctor” may appear nice and helpful, but in reality, they are paid by the defense to offer opinions that are most likely going to diminish your injuries and ultimately devalue your case. As such, it is important to be well prepared for this examination or you could risk losing out on maximum recovery. This examination is so fraught with peril that it’s our firm’s practice to send a medical professional with you to make sure the doctor plays by the rules.





### TIP NO. 6

## TAKE FULL ADVANTAGE OF PREP SESSIONS

If you watch sports, you know that athletes study game tape. They learn their opponent's every move and they get in the gym or on the field and practice over and over again. If you love a good film or television show, you know the actor does everything in their power to learn about their character to deliver an award-winning portrayal.

When giving your testimony in a deposition or at trial, you, the plaintiff, are the star in your own movie, so preparation is a vital component of your case. This is especially so, as it pertains to your deposition, since over 95% of cases settle after depositions have taken place. Our firm has produced a **deposition video** to prepare you for this all-important deposition which can be found at <https://dominguezfirm.com/depositions/> or herein below:



### **TIP NO. 6** | Take full advantage of prep sessions

We also hold in-person lawyer-to-client preparation sessions. In these preparation sessions, we will discuss the do's and don'ts of testifying, what to expect during the proceeding, and what the opposing attorney will say and do. No one wants to take a test or run a race without first preparing for it and the same goes for your lawsuit.

### **TIP NO. 7**

## **THE IMPORTANCE OF BEING PLEASANT, TRUTHFUL, AND AUTHENTIC**

You don't see this tip on a lot of lists, but it's as important, if not more important, than any of the others. Why? Because at the end of the day, if a jury likes you, they will often return a favorable verdict in the full amount you are seeking or possibly more.

Oftentimes we hear about our civil justice system's adversarial nature and how you have to go toe-to-toe against your opponent. While this is true, it's critical to understand that oftentimes the real reason people want to give you a substantial award is because they like and can relate to you and because they truly believe you deserve it.

It's a sociological fact that people have an innate desire to help other people. If you are warm, genuine, cordial, and honest, even the oldest, staunchest defense attorney, judge, or juror will be hard pressed to slight you. On the other hand, people have no problem punishing or saying no to someone who appears dishonest, mean, or inauthentic, and you will be hard-pressed to find sympathy and compassion for the claimed extent of your injuries. In these regards, it is important to note that defense attorneys will search high and low for any social media postings they can use to devalue your case, thus, be very careful with your social media postings and activity.





### TIP NO. 8

## COMMUNICATE WITH YOUR DOCTORS AND LAWYERS

Communication is about listening and about being forthcoming with information. Your lawyer and doctors have gone through extensive education, passed rigorous exams and licensing tests, have undergone laborious studies, and have perfected their craft through years of practice. Listen to what they have to say, and do as they say. Does this mean you can't ask questions, challenge their opinions, or have debates and discussion? Of course not! In fact, such discourse is welcome and anticipated.

Moreover, never try to hide anything from your past from your doctors or lawyers, such as a previous similar injury or accident, even if you think it might hurt your case. For starters, if you've had any previous related health issues or accidents, the other side likely already knows about them. It's far better for you to be truthful and upfront so your team can strategize and prepare for it appropriately. If you are caught in a lie, it will likely destroy your case. Thus, truth and complete honesty with your attorney is of the utmost importance.

### TIP NO. 9

#### FIND AND USE PHOTOGRAPHS AND VIDEOS TO YOUR ADVANTAGE

Showing your opponent, a mediator, or a jury your pre-accident life to establish a baseline is essential. All serious accidents change the course and trajectory of someone's life. A traumatic brain injury to a high school student will set them on a course far different than what was previously expected. A loss of limb to a construction worker will likely end their ability to work in that field and alter their life's journey tremendously.

To show the discrepancy between your pre-accident and post-accident life, photographs and videos speak volumes. They are without a doubt some of the most powerful tools at mediation, during settlement negotiations, and at trial. Telling a stranger, like a juror, how great your life was before the accident carries some weight but showing them a picture or video of you at a wedding, birthday party, graduation, playing with your kids, or holding up a race number after running a 5k can be very profound. As such, it's essential to find and to show these types of pictures to your trial lawyers.

Moreover, pictures and video of your accident, the injuries sustained, and your treatment and recovery process are also extremely powerful. Saying something hurts is one thing, but showing the injuries is another. Pictures and videos land with far more gravity and force than words. Our firm typically produces "day in the life" videos that put together photos, videos, and much more into an impactful video production.

### TIP NO. 10

#### REMAIN INVOLVED, POSITIVE AND HOPEFUL

People want to help those who help themselves. What does this mean? It means if your opponent, a mediator, or a juror sees that you've gone through this horrific ordeal, yet have maintained a positive attitude, have been involved and active in your recovery, and have taken steps to get back on your feet, they will be more apt to reward you. Put another way, if the people who are going to give you money get the sense that you are sitting back and just going for the ride, milking it, or feeling sorry for yourself, they may not want to help you on a human level, let alone on a financial level.

Also, when an insurance company settles a case for a large amount of money or a jury awards a huge verdict, they want to know you're going to use that money to heal yourself, take care of your family, and to right the wrongs you've suffered. On the other hand, if they sense you're faking or exaggerating your injuries hoping to profit from an accident, do you think they'll award you a lot of money? Not a chance.

Be involved, stay positive, and carry an aura of hope for justice and people will be far more willing to help you succeed.



# CONCLUSION AND KEY TAKEAWAYS

When someone or something takes away your most precious gift - your health - our civil legal system allows you the due process to seek compensation to “pay” for the injuries you’ve suffered, the costs of medical care, lost income, pain and suffering, and every other impact it had on your life.

After an accident, feelings of depression and anxiety can be overwhelming. But if you suffered a serious injury, you can take comfort in knowing that help is available from an injury law firm with the skills and resources to deal with your needs. Taking action will not only empower you but will give you the best opportunity at getting your life back to where you want it. You have one shot at getting the justice you deserve. Follow the tips below to get you there.

### KEY TAKEAWAYS:

- ▶ **A serious injury is any injury that seriously impacts your life.**
- ▶ **Serious injuries can happen anywhere, but typically happen in dangerous industries and on roadways.**
- ▶ **If you’ve been injured on the job, you can pursue justice through your employer’s workers’ compensation insurance while you pursue justice in a civil lawsuit if a “third party” caused, in whole or in part, your injuries.**
- ▶ **The civil litigation process takes about 12-18 months to complete and is a multiphase process that takes exceptional skill and strategy to navigate successfully.**
- ▶ **Fundamental tips include seeking immediate medical treatment, documenting witness and scene information, involving the proper authorities, avoiding giving statements to insurance reps, and enlisting the help of a powerhouse personal injury law firm.**

### CONCLUSION AND KEY TAKEAWAYS continued

## 10 Tips for the Seriously Injured Recap

- 1 Do not ignore or pass over any symptom, ache, or pain.
- 2 Be patient. These types of cases need time, so you can heal and get the best result possible.
- 3 Successful trial firms have the skill to develop your case and hit a home run at trial.
- 4 Witnesses from your family and community are best able to paint your before and after picture to a jury.
- 5 Your experts are invaluable to your case and the opposition's experts only want to minimize your case.
- 6 Utilize prep sessions with your lawyer to get yourself ready to give the best testimony possible.
- 7 People, specifically jurors, want to help others and tend to help out nice, honest people.
- 8 Your doctors and lawyers want you to succeed. Take their advice to heart.
- 9 As they say, one picture (or video) is worth a thousand words, so utilize them.
- 10 People reward those that help themselves, so stay positive and upbeat about your future.

**Serious injuries are devastating, but by taking control of your future and utilizing the due process afforded to accident victims, you can go on the counter attack, maximize your recovery, and move forward with your life to a brighter future.**



ABOUT THE AUTHOR



**J.J. Dominguez**, the founder, CEO and Managing Partner of The Dominguez Firm, LLP (TDF) has dedicated his life’s work to enforcing the rights of injured people, fighting for the individual, and leveling the playing field. TDF is founded on three core ideals: compassion, service, and results that translate to personal, friendly, and custom service for each client.

For his efforts inside and outside of the courtroom, Mr. Dominguez has been honored with many awards and accolades. In 2011, CAOC nominated Mr. Dominguez for its Attorney of the Year Award. In 2013, The Hispanic National Bar Association named Mr. Dominguez its Attorney of the Year.

In 2015, the *Los Angeles Business Journal* awarded him its Latino Business Award for setting the example of excellence. In 2020, Super Lawyers selected Mr. Dominguez to its esteemed Southern California Super Lawyers list for the 11th time. Only 5 percent of attorneys are selected to the Super Lawyers list after a stringent multi-phase selection process.

TDF is one of the most widely recognized and successful injury law firms in Southern California. Attorneys at TDF have an accumulated and proud record of over \$750 million dollars in recovery for injured clients.

If you or a loved one has been injured, as a result of an accident, please do not hesitate to call us for a free, confidential consultation with one of our experienced personal injury attorneys. If there is no recovery, there is no fee. 800-818-1818.

The Dominguez Firm is here to help.

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