



# New York Personal Injury Lawyers

What is a tort?

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**New York personal injury lawyers** represent people hurt in a wide variety of accidents.

Injury claims fall under a category of law known as Torts. A tort is a civil wrong that wrongful causes someone else to suffer a loss or harm. The person responsible for the tort is called the tortfeasor. The tortfeasor can be held civilly liable for the damages caused to the injured party.



A tort can comprise either intentional or unintentional. Intentional torts include such claims assault or intentional infliction of emotional distress. Unintentional torts are those claims based on negligence or carelessness.

Some of the negligence cases **personal injury lawyers** will handle include: motor vehicle accidents, trip and falls, slip and falls, medical malpractice, hospital wrongdoing, product liability, premises liability, workplace accidents, mass transit accidents and wrongful death. There are also numerous subcategories within each topic.

## How to establish a Tort?

In order to prove a civil tort the **injury attorney** must establish that the alleged tortfeasor was under a duty of care, that the tortfeasor breached that duty of care and that the breach was a proximate cause of the damages sustained.

In intentional tort claims the **accident attorney** must establish that the tortfeasor acted deliberately thereby breaching his/her duty of care.

In unintentional tort claims the **lawyer** must prove that another person or entity was negligent in causing the accident. Negligence is the failure to act as a reasonably prudent would in similar circumstances.

Once a duty is established, the **personal injury lawyer** must show that the alleged tortfeasor breach that duty of care.

For example, in a car accident claim, the duty is to operate the vehicle in a careful manner. If the alleged tortfeasor ran a red light, he/she would have breach that duty.

The last element to establish is that the breach of the duty was a proximate cause of the accident. It does not have to be "the" proximate cause or the sole cause of the damages sustained by the injury party. As long as the cause is not too remote, it can be considered a proximate cause.

In New York, courts consider a proximate cause as a "significant factor" in causing the damages.

## Damages

Damages in a tort claim can be personal injury and/or property damage. Damage in a property claim is the value of the property destroyed or damaged.

There are several elements of damages in a personal injury claim. Damages in such a claim can include:

- Past and future pain and suffering
- Past and future medical expenses
- Past and future loss of income
- Emotional distress

## Processing Your Claim

Insurance companies are not obligated to settle claims. They are, however, obligated to negotiate a possible settlement in good faith.

A **New York personal injury attorney** may attempt to settle a claim before initiating a lawsuit or may start litigation immediately.

In either case, the lawyer has made an evaluation of the liability and damages aspect of your claim and will seek to get the most compensation for you based on the particular facts of your case.

Should the case not settle, for whatever reason, it will go through the litigation process and to trial if necessary.

