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# Steps to Your Case

## **Litigation**

After careful and thorough preparation, a case may need to have a lawsuit filed if the insurance company or the governmental agency denies liability or makes a low settlement offer. At that time, a lawsuit is filed and the case is finalized for presentation to a court and often a jury.

Litigation is an expensive undertaking and there is no guarantee that a verdict, large or small, will be accomplished. Nonetheless, the Barudin Law Firm is a trial litigation firm prepared to try cases should settlement efforts through mediation, or arbitration prove to be unsuccessful.

Litigation and trials are time consuming and can take anywhere from two to five years to be tried. Each Court is different and has different local rules which control how a case is tried and the time period in which the case will be called to trial.

Each lawsuit will have depositions taken of the parties and witnesses, which is sworn testimony under oath taken by the opposing attorney for purposes of preserving trial testimony. In addition, there are motions filed, some minor and some are very important which can determine if a case is won or lost. Preparation and presentation are the two key elements at the Barudin Law firm so that these motions filed by the Firm or against the Firm can be vigorously prosecuted.

The Barudin Law Firm has been successful in trying personal injury cases, including medical malpractice cases and insurance bad faith cases both in state, tribal, and federal courts.

The Barudin Law firm is licensed to practice in all of the courts of New Mexico, the federal court for New Mexico, and the tribal courts of the Navajo Nation, Zuni Pueblo, Hopi, and Isleta Pueblo.

A case listing is available to demonstrate that going to Court is part of the litigation capabilities of the Firm.

## **Mediation and Arbitration**

Not every case goes to trial. In fact, 95% of cases in the United States are settled prior to a trial.

Mediation is when both sides to a dispute agree to use a neutral third person to assist the parties in reaching a settlement. We prefer using retired trial or appellate judges from the state or federal courts who have years of experience and have a good sense of how personal injury cases work and the range of recovery for each of the unique cases being mediated. After the sides work out their claims for a settlement, the mediator will assist the parties in reaching a final number that both sides can live with at the end of the day. Mediation will result in both sides working together in a cooperative fashion to decide their case. Mediation is cheaper than a trial and can reach a very similar result without the expenditure of costs and time associated with waiting for a trial.

Arbitration is different from mediation in that there will be a single arbitrator or three arbitrators who will sit as a judge and hear the facts, the testimony of the witnesses, and after all of the evidence is presented, will reach a decision and make an award. Such decision is usually final in nature. Arbitration is like a trial except there is no jury to make the decision and render a verdict.

## **Trial**

If settlement efforts fail, mediation had not reached a favorable result; the next step is to proceed to trial. Depending on the court where the trial will be held, there is usually a twelve person jury who will hear and decide the outcome. Some cases like those filed against the United States under the Federal Tort Claims Act will only have a judge hear and decide the case. Alternatively, should a jury trial be held in federal court, a six person jury is empanelled to decide the case.

Jury trials are typically expensive and very time consuming for the attorney and client. Typically a case will go to trial some three years after the injury or death and will require an extensive amount of preparation. Witnesses have to be deposed, expert witnesses have to be secured, motions trying to dismiss the case must be fought, and often there are many court hearings before the case will be tried to the court and jury.

There are no guarantees that a jury will decide in our favor or decide to order a verdict. Sometimes, a great case can be lost, despite the best preparation and presentation.

Should we secure a favorable result, there is always a strong likelihood that the adverse party will file for an appeal to the appellate court. Such appeals can result in several more years added to the time when a decision will be final.

No matter what the legal needs may be, the Barudin Law Firm is ready to assist you with your case and to work towards a favorable outcome.