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Personal Injury

## Claims involving minors



[By Jasmine Daya](#)

One of the most difficult areas within personal injury involves claims involving minors. Injuries arising from daycare or school negligence, playground incidents due to faulty equipment or lack of supervision or any other injuries sustained by children due to the negligence of others are all cases that I want to handle most. It's not that I have a desire to take on the most challenging cases but these are the cases that make me feel amazing about what I do. I want to advocate for young children and help make their voice heard.

If your child has suffered an injury due to someone else's negligence, ensure you do the following:

1. Report the incident – if it occurred at a store, a school or a facility, they will likely have a reporting process whereby they will create an incident report for internal purposes
2. Take pictures – recall the old adage, pictures say a thousand words. Take a picture of where the incident occurred as well as the injury itself.
3. Witnesses – obtain names and contact information for witnesses, preferably a phone number, email address and home address, if they are willing to provide it. People change numbers and email address so much these days that having more than one way to locate them is helpful.
4. Chronical events – doctors appointments, pain complaints, etc.

As a parent or guardian, your child depends on you to assist them in advancing their claim, so obtaining this information at the outset could prove incredibly helpful in the future.

The current limitation period in Ontario to sue for a personal injury is two years however the time does not start to run for a minor until they turn 18 years of age. I would not recommend waiting for years before starting a lawsuit as evidence gets stale and proving the case becomes more difficult but sometimes, the impact of a personal injury may not be realized for years to come, in particular, the psychological consequence of an incident.

If you decide to pursue a lawsuit for your child's injury, an adult will need to serve as "litigation guardian" to instruct the lawyer on the case. When the child reaches the age of majority which is 18 years of age, the litigation guardian would be removed.

In personal injury settlements involving minors, there is an extra layer of protection in that the settlement must be approved by a judge.

It is important to note that settlement funds payable to minors don't actually get paid to minors. The funds get paid to the accountant of the Superior Court of Justice. When the minor turns 18 years of age, they can obtain the funds plus interest which will have accumulated. There are certain instances when the funds can either be left out for treatment needs or reimbursement to parents, for example for expenses incurred. There could also be an application to the court at a later point after settlement to obtain the funds for needs but generally, the funds are paid into court for the benefit of the minor to safeguard funds until they become an adult.