

DON'T MISS:

**Four  
real-life client  
stories!**

**Do's and Don'ts  
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Decoded!** *page 22*

**...and more!**

**Rest easy.  
We're here to help.**

## highly recommend



They are everything i hoped for and then some!!! All the associates and lawyers answered all my questions and very patient. They went above and beyond with my case. They are my first choice if i ever need legal assistance in the future n i highly recommend them!!!

*Bill H. on Facebook*

## great experience



I had a great experience, I had a long case that was very hard emotionally and physically for me, for years, and Auger Hollingsworth firm was always very supportive in both ways till the end. They believe and support their cases and fight for their clients. Any complaint or need was answered to and adjusted respectfully and professionally. I highly recommend this firm to anyone injured who deserve support, and compensation for their suffering.

*Pamela F. on Google Reviews*

## beyond fantastic



While the reason for requiring their services wasn't ideal; the service received by all members of the Auger-Hollingsworth team that we dealt with, from start to finish, was beyond fantastic. Compassionate, professional, always available and willing to go the extra mile to be sure you have everything you need and understand everything that is happening throughout the process. A HUGE thank you to Brenda and her team for all their support and a successful outcome—110% recommend.

*Peter B. on Google Reviews*

## changed everything



The phone call I made to this firm is the one that changed everything, and the one you want to make too. This is the firm you want representing you.

*Erin S. on Google Reviews*



# We're ready to fight for you.

Congratulations on taking the first step toward achieving the justice and fair compensation that you deserve.

Dealing with a serious personal injury is stressful and, at times, overwhelming. At Auger Hollingsworth, we'll take care of your case and arrangements so you can focus on recovering your life again.

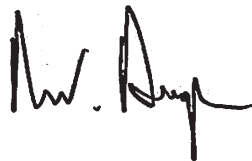
This publication contains info you need to get the legal process started. Inside, you will find helpful tips to help you navigate the process—plus, a vocabulary list to help decode legal jargon into everyday terms.

Thank you for choosing Auger Hollingsworth to represent you. For more than 15 years, our team has been dedicated to winning the maximum compensation for personal injury cases. We look forward to working on behalf of you and your loved ones.

Your advocates and lawyers,



**Brenda Hollingsworth**  
Lawyer and Owner



**Richard Auger**  
Lawyer and Owner



## Free resource

*Recovery*, our monthly company newsletter, arrives in your mailbox with timely tips and news articles...plus the occasional giveaway! Unsubscribe anytime.

Sign up for free at  
**[augerhollingsworth.ca](http://augerhollingsworth.ca)**

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# Our Guarantee to You

When you place your case in our hands, we promise our best. Here's what that means to us.

## 1 **Answers to all of your questions**

We're here to help you understand the legal process, your options, and the solutions we can provide.

## 2 **Close personal attention**

We will meet with you as often as you require, and do everything to treat you as we would like to be treated when we're the client.

## 3 **Availability**

We will meet with you as often as you require, and we will return calls and emails promptly.

## 4 **Quick action**

Anytime you need something from our office, we will provide it as quickly as we can.

## 5 **Confidentiality**

All legal services are performed by our legal team, which upholds our professional standards of confidentiality.

## 6 **Convenience**

We will set appointments at a time and place that is convenient for you, including your office, home, or even the hospital.

## 7 **Efficient meetings**

We will respect your time and energy. When possible, we offer meeting by phone.

## 8 **Current knowledge and competence**

We stay up-to-date in all matters of personal injury law so that we bring the latest knowledge to your case.

## 9 **Assertive representation**

We will not hesitate to sue insurance companies and take them to trial to get the compensation results you deserve.

## 10 **Value that exceeds your expectations**

We want you to feel that the value you receive from us is greater than our fee. If there is some way we can better serve you or if something is troubling you, please let us know. We will help you if we can. And if we can't, we may know someone who can.





# Do's and Don'ts

## Before You Begin Your Personal Injury Claim

Beginning a lawsuit can seem daunting, but we are here for you every step of the way. From helping thousands of clients successfully navigate personal injury claims, we've seen some of the common holdups along the way. As you begin your journey, take note of these tips—and let us know anytime you need “roadside” assistance! ►

## Do's and Don'ts, continued...



**Do not discuss your case with unauthorized people.**

Everything your lawyer tells you is a secret.



**Do not discuss your claim with your own insurance company adjuster.**

Instead, say that you would be willing to give a statutory declaration through Auger Hollingsworth. If the insurer requires something further, ask them to contact us.



**Do not provide your physicians and therapists with copies of information you receive from your lawyer.**

Any document you provide to your physician will become part of your medical file. If a lawsuit is filed, the defence lawyer will obtain copies of your medical file.



**Do not discuss your accident with doctors or therapists beyond your symptoms.**

Doctors and therapists note your statements in the medical records. The insurance company and defence lawyer may use these statements against you. For example, if your doctor records that you said the car that hit you wasn't going very fast, this can be used by the defence to minimize your claim.



**Check with us before signing anything related to your claim.**

Ask your lawyer before signing anything that could affect your case.



**Consult your lawyer before you do anything that might affect your case.**

This includes changing doctors, stopping treatment, or going on long trips.



**Tell your doctor all of your symptoms without minimizing or exaggerating anything.**

What you tell your doctor is noted in your medical records, which can be produced in court or submitted to the insurance company. Statements that minimize or exaggerate your situation can hurt your case. If there are matters in your medical records that you believe can hurt your case or that don't want to be disclosed, let us know.



**Follow all of your doctor's instructions and recommendations.**

For example, if your doctor recommends physical therapy but you don't go or you skip appointments, the insurance adjuster and defence lawyer can use this against you to say that you could not have been suffering very much if you had refused to follow your own doctor's instructions.



**Keep a record of how your symptoms and affect your daily activities.**

A record on how your injuries have affected your day-to-day life will help build your case.



**Send us copies of any bills and receipts you have as a result of your claim.**

Share with us copies of bills and receipts (whether paid by insurance or not) and for anything you buy because of your condition. Keep a record of all expenses incurred as a result of the accident, including anyone you have to employ to perform services for you.



**Notify us immediately if you have another injury or your injury worsens.**

For example, if you are injured in a car accident and then are re-injured in another car accident several months later, we need to know.



**Notify us at once of any changes of address, employment, or salary.**

Let us know any time you move, take on a new job or leave a job, or have to take time away from work because of your injuries.



# Sarah's Story



**Twenty-four-year-old Sarah** was pulling her son in a wagon when she arrived at a crosswalk. At the green light, she began to cross. As she did so, the driver of a heavy truck began to turn left into the crosswalk. He struck Sarah and her son. Although Sarah's son was not seriously injured, Sarah's injuries were serious.

### Sarah's Traumatic Injuries

When paramedics arrived, Sarah was unable to speak coherently. Blood poured from her ear. At the local hospital, Sarah had two seizures. Cerebral spinal fluid leaked from her right ear. She was flown to a trauma centre by helicopter.

While at the trauma centre, was referred to the acquired brain injury clinic. After more than a month, Sarah was discharged to her local hospital, where she developed a pulmonary embolism and required medication for that.

### How Our Firm Helped Sarah

While Sarah was at the local hospital, Sarah's family contacted Auger Hollingsworth. Owner and co-founder Brenda Hollingsworth met with Sarah and her family twice in the hospital.

Once Sarah chose our firm to look after her case, we began organizing a team to help plan

her hospital discharge and rehabilitation. Sarah began to work with occupational therapy, physiotherapy, orthopaedic surgery and the acquired brain injury clinic. Sarah needed 24-hour attendant care, housekeeping assistance and childcare.

With our help, all these services were funded through the Statutory Accident Benefits.

### Sarah's Lawsuit

Our lawyers began a lawsuit against the driver of the truck. During the examination for discovery, the driver admitted that he had made the turn when Sarah had the right-of-way. After the examination for discovery, we sent Sarah to experts for a medical opinion, and to calculate Sarah's economic losses, such as her loss of income and her future care costs.

Our lawyers successfully reached a strong settlement that could last Sarah's lifetime. Our firm also represented Sarah on her Statutory Accident Benefit Claim, ensured her case was categorized as a Catastrophic Injury, and helped her reach a settlement of her claim.

*Names and a few identifying details have been changed to protect our client's privacy. Every case is different.*

## Our firm helped Sarah:

- Organize a team to plan her hospital discharge and rehabilitation
- Attain funding for: all medical therapies and clinical work, attendant care, housekeeping, childcare and more
- Complete all paper-work required for the Statutory Accident Benefit Claim
- Coordinate getting expert medical opinions for the lawsuit
- Calculate economic losses based on medical opinions and school records to get the maximum settlement
- Prepare for a successful legal process
- Break her examination into several short days to prevent cognitive exhaustion
- Win a settlement to support her needs for her lifetime

# “I Wish I Had Known That Before I Started My Case.”

Dealing with an injury as well as the Ontario legal system and the accident benefit system can be overwhelming. Get to know these five common regrets of injury victims, so you won't have them, too.



## **1 I wish I had checked in with my doctor more often in the first six months post-collision.**

Many of our clients seek medical help right after the collision, but then pursue physio or chiro treatments without checking in with their family doctors. If you are not improving, getting worse, or experiencing new symptoms, you should check in with your family doctor to report the symptoms and seek guidance.

## **2 I wish I had kept receipts of my injury-related expenses.**

After an injury, you might need to hire housekeeping help, take taxis, or incur other expenses. Sometimes our clients pay significant expenses that are not covered by accident benefits. It becomes harder to recover those expenses from the defendant in a lawsuit without receipts.

## **3 I wish I had known the government could change the rules part way through my case.**

If you have had a collision in the last five years, the laws impacting the amount

of compensation available to you have changed several times. The government and the courts even have decided that some changes would be retroactively applied. With rules changing, it's key to work with lawyers who keep up with the latest.

## **4 I wish I had known that I could choose my own treatment providers.**

Shortly after a collision, your insurance adjuster may recommend a “preferred” physiotherapist and many clients feel they must accept that recommendation. But clients can attend any licensed therapy providers who accept motor vehicle cases.

## **5 I wish I had kept track of lost business opportunities.**

For people who are self-employed or who work on commission, lost income is more complicated to claim than for salaried employees. Keeping track of networking events missed or clients declined can make a big difference to the amount of compensation you recover.

# Roadmap of a Lawsuit

Every lawsuit is different. Some can take as short as a few weeks to settle, while others may take years. However, most lawsuits involve a similar process. This is a path that many injury cases take.



# 1

## Gathering evidence and hiring experts

With your help, we gather all the available facts about the claim. This means compiling all the documents, photos, medical records, employment records and receipts into an affidavit to produce to the defendant. They do the same. We interview witnesses and sometimes, we hire investigators or experts to help. In most cases we hire medical experts to give an opinion about your injuries, though this can occur later in the process. Sometimes we also hire experts about liability too.



# 2

## Starting the lawsuit

We begin the lawsuit by preparing and filing documents in court.



# 3

## Interim motions

Sometimes, after we start a lawsuit but before trial, we or the defendant's lawyers need the court to decide on certain matters, typically about how the lawsuit should be handled. Going to court to ask for an order is called an interim motion.



# 4

## Examination for Discovery

This is when both sides get examined under oath about the accident at are asked to tell us about all relevant documents.





5

### **Review of the law (sometimes this step happens earlier)**

We review the information we have and give you our legal opinion about the likely outcome of a trial and how much money you can expect to get.



6

### **Negotiation, mediation and settlement**

When it is appropriate, we talk with the defendant's lawyers to see if they will settle the claim. If the claim is settled, it does not go to trial.



7

### **Preparation for trial**

We prepare the case for trial, including gathering documents, arranging for witnesses to attend, and preparing for expert opinions.



8

### **Trial**

We act for you at the trial. When the judge or jury has decided the case, we prepare the court order for the judge to sign, or approve how the other lawyers write up the judgment.



# How Can I Have Success at Examination for Discovery?

Many plaintiffs worry about the Examination for Discovery, a key moment in the legal process when you are questioned by the opposing lawyer. It is the first time the opposing lawyer hears from you directly. Not only will the lawyer form an impression of the strength of your case based on the facts you describe, but also the lawyer will be assessing how strong you are as a witness.

Our team has helped thousands of clients prepare for successful examinations. A little practice and knowledge will go a long way toward success at the examination.

## **Why Have An Examination for Discovery?**

There are three main reasons why the opposing lawyer wants to examine you.

First, the lawyer and their client want to size you up as a witness.

Second, they want to hear your version of the facts, straight from your mouth.

Third, they want you to commit to your story. Because you are giving sworn evidence, if you try to change your answers at trial, you will be cross-examined against what you said

at examination for discovery. This is called being “impeached.” It hurts your credibility if your story is not consistent.

## **How Can You Succeed at Examination for Discovery?**

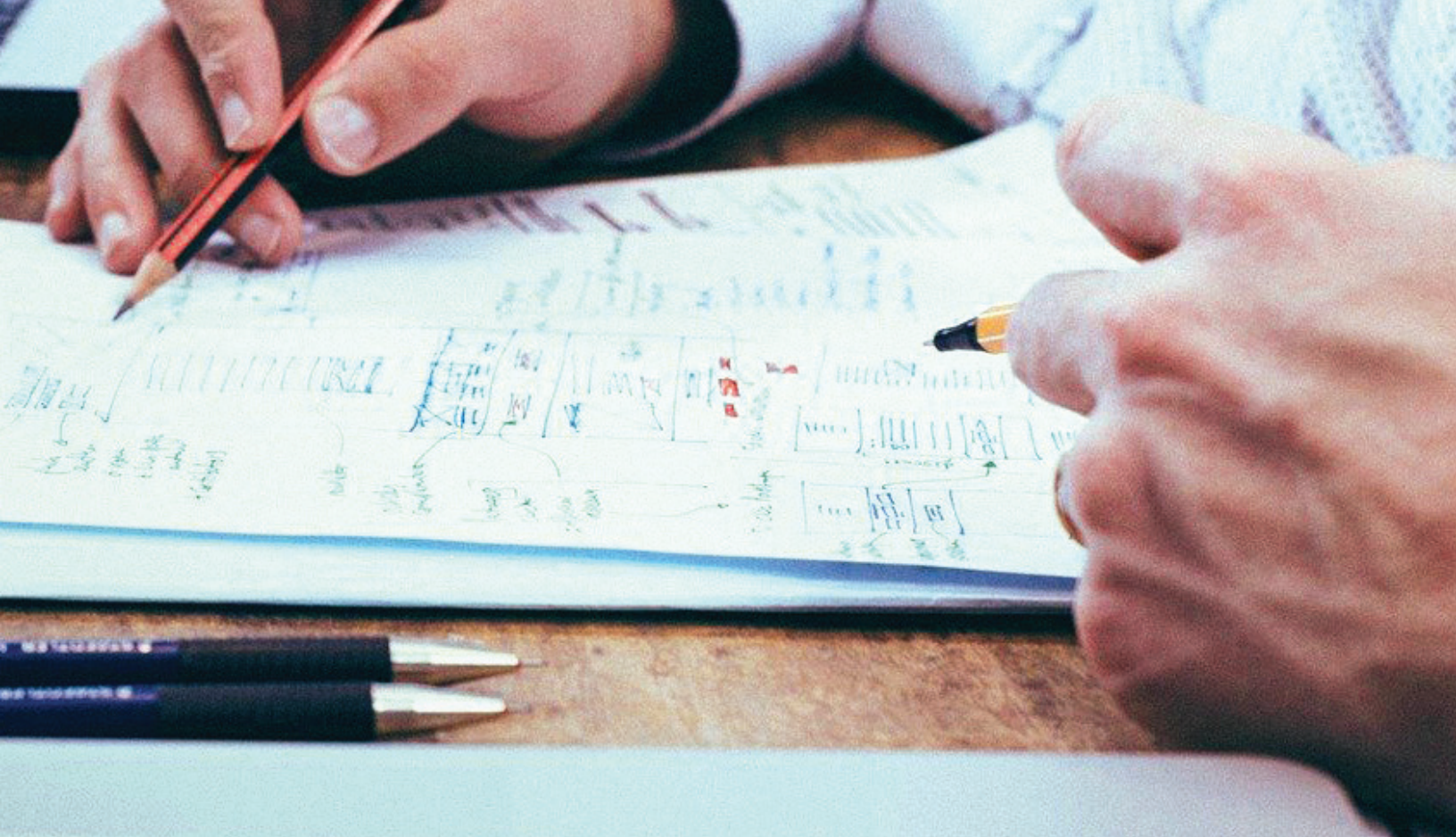
### **1. Always tell the truth.**

The lawyers and insurance adjusters you are dealing with are very smart and very experienced. It is unlikely that you will get away with exaggerating or not telling the truth. In a personal injury case, that means you must admit to past injuries or medical incidents or pre-existing conditions and you must not overstate your injuries. You also have to be honest about your loss of income.

### **2. Stay focused.**

Some lawyers are aggressive. Other lawyers are warm and friendly. Do not be fooled into thinking this is a casual conversation just because a lawyer seems friendly. Answer the questions asked and offer nothing more. Even on breaks, do not talk about anything personal in the presence of opposing counsel.





Nothing said at an Examination for Discovery is “off the record.”

### **3. Listen to the questions.**

Do not answer a question you don't understand. Do not start answering the question partway through. Don't answer more than the question asks. If you listen to the question, these rules are pretty easy.

### **4. What Do You Do if You Don't Know the Answer to a Question?**

Simply answer, “I don't know.” It is perfectly acceptable to tell the examiner that you don't know the answer to the question. Discovery is not a memory test. And most importantly, you must not guess at any answer. Sometimes it is acceptable to approximate. For example, this is acceptable if you are estimating a car's speed or a distance. Just be sure to clarify that it is an estimate.

### **5. What Does Your Lawyer Do While You Are Being Examined?**

Your own lawyer ensures that you are fairly treated during the discovery. For example,

we will make objections to questions that are improper, although in personal injury cases these objections are rare. If your lawyer does not object, you should answer the question. Unfortunately, in a personal injury case, there are subject matters you will be asked about that can be personal. Even your sex life can be a reasonable topic in many cases. Be confident that your lawyer is making all legitimate objections.

You cannot have a secret or private discussion with your own lawyer during your Examination for Discovery. It is simply not allowed. If you have concerns about something that may be asked of you, discuss them with your lawyer before the examination.

The main thing your lawyer is doing during your examination is planning what else needs to be done on the case. Often the discovery will highlight areas that need fleshing out. Your lawyer will be making a list of these areas and planning the next steps.



# Stan's Story



**Stan was a successful salesman in his late 30's.** He was married and had young children.

One afternoon, Stan was stopped at an intersection when he was struck from behind by a delivery truck. The collision was so forceful that it pushed Stan's car ahead about 2 metres. Stan hit the car in front of him. Stan's body whipped forward and back and Stan struck his head on the headrest.

The police ticketed the truck driver who later pleaded guilty to following too closely. Stan's vehicle had \$6500 in damage.

### Stan's Traumatic Injuries

Stan declined an ambulance but called his wife, Linda, who came to pick him up. The following day, Stan was not feeling well. Linda took him to an urgent care clinic. Stan was diagnosed with a concussion, a post-traumatic headache, and a whiplash injury to his spine.

For the next two months, Stan was unable to work or drive. Stan started to feel anxious about his inability to contribute to family life, and about his finances.

### How Our Firm Helped Stan

As the pressure on the family increased, Stan's wife contacted Auger Hollingsworth. Within a few

hours, Stan and Linda decided to hire us. We began to help coordinate all necessary medical and legal arrangements.

Our lawyers helped to prepare Stan for the lawsuit. The examination for discovery was a success. We had high hopes for mediation. However, the insurance company offered a low 6-figure amount that would not nearly be enough to compensate Stan for his losses.

Determined to help Stan reach a fair settlement, our team continued to build Stan's case. At the pre-trial, **we helped Stan reach a settlement offer that was 9 times more** than we had been offered at mediation.

### Stan's Catastrophic Benefits Claim

After the case against the at-fault driver was over, we applied to the accident benefit company, as we felt Stan could qualify as catastrophically injured. Armed with the catastrophic designation, we were able to **win Stan an additional 7-figure amount**, further helping Stan and his family to recover from his traumatic incident.

*Names and a few identifying details have been changed to protect our client's privacy. Every case is different.*

## Our firm helped Stan:

- Organize a rehab team to plan his return home from the hospital
- Attain funding for all medical therapies and rehab services
- Complete all paperwork appropriately for the Statutory Accident Benefit Claim
- Coordinate getting expert medical opinions for the lawsuit
- Calculate economic losses based on medical opinions
- Prepare for a successful legal process
- Decide not to take an initial settlement offer that we knew was less than he deserved, and instead continue to build his case
- Win a settlement that was 9 times more than the initial offer
- Win an additional seven-figure settlement from his Accident Benefit Claim



# Your Social Media Posts Can Be Used Against You

If you're active on social media, what you share can impact your case and final settlement. Keep these tips in mind to be socially savvy!

Every insurance defence lawyer has a law clerk on social media looking at their opponents' pages, profiles and pictures. What are they looking for? Evidence to use in court.

Posts from social media accounts are admitted in Ontario Courts. In the past, the Courts have ordered injured plaintiffs to produce their social media pages to insurance company lawyers, even if they used privacy settings!

If you'd like to stay active on social media, here's what you can do to protect your case.

**Check if there is anything you would not want the**

**insurance company lawyer to see.** Remember that the insurance company will not know the context of your photos or comments. They won't know if you swallowed a bottle of pain killers to get through that birthday party or night out.

**Adjust your privacy settings.** Most sites allow you to block certain people altogether from seeing that you are on the site. Block the opposing lawyer and their clerk. There will be others whose names you won't know, so this step is not foolproof.

**Search your name** in the social media platforms to make sure that what you see

is acceptable. Even if your own privacy settings are strict, your friends may be sharing information about you on their pages.

**Don't accept friend requests or answer messages on social media from people you do not know.** On Facebook, if you send a message, you grant the receiver access to your profile for a certain number of days. That is a common device to get access to your profile. Keep in mind that the opposing legal team could send you a message that may prompt you to reply or connect with them. Simply ignore it.

# Mediation? Maybe.

Not every case goes through mediation. If your case does take this step, here's what you need to know.

## **What is mediation?**

Mediation is a form of alternative dispute resolution. It is a means for people to settle disputes or lawsuits outside of court. A neutral third party—the mediator—helps the disputing parties look for a solution that works for them. Mediators, unlike judges, do not "decide" the case. The mediator's role is to help the people involved in a dispute to negotiate with each other in a constructive manner, to gain a better understanding of the interests of all parties, and to find a resolution based on common understanding and mutual agreement.

## **What is the purpose of mediation?**

The purpose of mediation is not to determine who wins and who loses, but to develop creative solutions to disputes in a way that is not possible at a trial. The mediation process is informal and completely confidential. Parties in mediation may speak more openly than in court. Many people find mediation a more comfortable and constructive process than a trial. Under the court-connected mediation process the parties are required to select the mediator and then to provide that mediator with a brief outlining the case and the issues.

## **What happens in preparation for mediation?**

Before the mediation, we will prepare materials to be sent to the defence lawyer and mediator that support our position in the case. The key message in our materials is usually about your loss of function as a result of the accident, since your damages (compensation) are mostly based on the changes in your lifestyle due to the accident.

We will also discuss with you, before the mediation, what we think the monetary range is for a settlement of your case.

We also receive mediation materials from the defendants that outline their view of the case. Although the briefs are due seven days before the mediation, and although our materials are always on time, we often receive the defence materials late. Where time permits, we will send you the defendants' materials in advance so that you can read them before the mediation. If we get the brief at the last minute, we may ask you to read them the morning of the mediation, before the proceeding begins. We think it is important that you read and hear what the defendants have to say. In particular, clients can often help us respond to the defendants' briefs. Almost every time we are able to add





The Auger Hollingsworth team will prepare your mediation materials and, of course, be available to help you every step of the way.

some comments to our opening presentation as a result of our clients' feedback on the defence briefs.

### **What is the mediation process like?**

Usually personal injury mediations proceed with the mediator making some opening remarks about the purpose and goal of mediation. This is followed by both lawyers making opening statements. Sometimes clients find it hard to listen to us describing their losses in a plenary session. It can be emotional.

Some clients also find it hard to listen to the insurance company's representative and/or lawyer discuss the holes in our case. No case is perfect and there are always comments that can and will be made by the defence counsel. In fact, it is important to appreciate that there are always risks in a lawsuit and that those risks are one reason to consider settlement.

### **Do I have to attend mediation?**

The clients are required to attend the mediation, but are not required to speak. They are usually asked if there is anything they want to add. However, it is quite common for the clients not to speak in the open session. If you think you will want to speak at mediation, please speak to us about it. We want you to have an opportunity to speak if you wish to. However, we would like to give you advice on tone and content.

After the opening statements, the parties usually retire to separate rooms where they exchange offers back and forth with the help and guidance of the mediator. It is often very surprising how much progress can be made over the course of a few hours.

Mediation can be long. If you require mediation, special food, cushions, heating pads, ice etc, please bring it with you. It may also be a good idea if you have a magazine or book to fill the time when we are waiting for a response to our offers. It can be 45 minutes or even an hour of waiting between offers.

Sometimes, the lawyers will speak directly without the clients and with or without the mediator. This can often assist with breaking negotiation log jams.

Personal injury clients are often surprised to learn that the at-fault driver or other wrong doer is not at the mediation. It is virtually always a representative of the insurance company who attends as the defence counsel's client. This is the person who attends because this is the person who will decide about how much, if anything will be paid.

### **Should I expect my case to settle?**

Cases do not always settle at mediation, though more straightforward cases often do. However, even if a case does not settle, the initial discussions at mediation in most cases lay the groundwork for further discussions later on.

# Melissa's Story



**One spring day**, a high school student with a G2 license invited three friends to ride in his car. Seventeen-year-old Melissa was in the back seat when the driver made a left hand turn in front of an oncoming car. The results were very serious for her. Melissa was rushed to the children's hospital by ambulance.

### Melissa's Traumatic Injuries

Melissa had several serious injuries including a collapsed lung and a fractured vertebrae and pelvis. She was put into an induced coma and remained in hospital for nearly three months.

Before the accident, Melissa had been a social, active teenager with a boyfriend and a job. After the accident, Melissa became fearful of leaving her house on her own.

### How Our Firm Helped Melissa

Melissa's parents contacted our firm while Melissa was still in hospital. We met with the family, engaged a rehab team, and helped her family file for the Statutory Accident Benefit Claim. We also helped Melissa to receive an income replacement benefit based on lost wages from her job. Melissa needed significant rehab, which we helped to arrange.

### Melissa's Lawsuit

Our firm started a lawsuit on behalf of Melissa and her family, each of whom had suffered a loss of Melissa's companionship. We sued the driver of the car Melissa was in, as well as the driver of the oncoming vehicle.

The case proceeded to examination for discovery. Our lawyers helped to prepare Melissa for this. The driver of the car Melissa was travelling in was clearly at fault.

With the help of experts, we estimated Melissa's economic losses (such as lost wages and future care needs), and her non-economic losses (such as her suffering).

This case went to mediation but did not settle. The defendants offered all their insurance policy limits, but it was difficult for all of the injured parties to determine an appropriate split.

Our lawyers continued to prepare the case for trial. At the pre-trial, the judge reviewed each injured parties' case in detail. Eventually, we reached a settlement that all parties could accept. Melissa could move forward with her life, knowing her funds were secure and that her future was protected.

*Names and a few identifying details have been changed to protect our client's privacy. Every case is different.*

### Our firm helped Melissa:

- Organize a rehab team to plan her return home from the hospital
- Attain funding for all medical therapies and rehab services
- Complete all paperwork appropriately for the Statutory Accident Benefit Claim
- Receive an income replacement benefit based on her lost wages from her part-time job
- Prepare and practice for her Examination for Discovery
- Coordinate getting expert medical opinions for the lawsuit
- Calculate economic losses based on medical opinions
- Prepare for a successful legal process
- Win her maximum settlement

# What is a Pre-trial and Why May I Need One?



If you have a personal injury lawsuit in Ottawa or certain other jurisdictions in Ontario, you will have a pre-trial before your case goes to trial before a judge or a judge and jury.

A pre-trial is meant to resolve the case through negotiation or to narrow the contentious issues in the case. In a personal injury case, the issues are usually: who was responsible for the collision (liability) and the worth of the injuries (damages).

## **Who presides over a pre-trial?**

A judge or another court official called a case management master facilitates a discussion of the issues and reviews the strengths and weaknesses of each party's case.

## **Who attends a personal injury pre-trial?**

The lawyers for the injured person and the injured person attend. The lawyer for the defence, usually hired by the insurance company, as well as a representative of the defence, usually a claims examiner or adjuster, will also be present.

## **When does a pre-trial happen during a personal injury case?**

Before the pre-trial is held, parties are required to complete all examinations for discovery, produce all of the required documents and complete any related motions.

## **How will my lawyer prepare for a pre-trial?**

Your lawyer will prepare a brief with a detailed outline of the evidence you will be leading at trial. This will include key passages from the transcripts from the examination for discovery, important medical records and

expert reports. The brief will also identify the witnesses you intend to call at trial and what they will say at trial.

## **How will I prepare for my pre-trial?**

You will likely meet with your lawyer before the pre-trial to discuss your settlement position and any developments in the case that arise from the defence lawyer's pre-trial brief.

## **What will happen during the pre-trial?**

Different judges run pre-trials differently. Sometimes, all the parties, lawyers and the judge meet in a courtroom. The lawyers make submissions and the judge comments and gives an evaluation of the case.

In other cases, the judge will meet privately with the lawyers and go through the case and then come back into the courtroom to speak to the parties about his or her views.

A pre-trial may last one hour or it may last several hours, particularly if the parties are actively negotiating.

## **What happens after the pre-trial?**

If a settlement is reached, the case will not proceed beyond the pre-trial.

If a settlement is not reached, the judge will discuss the expected length of the trial with the lawyers and a trial date will be set.

Although the parties will often be disappointed if the case does not settle, having a fixed trial date motivates the parties to continue to work toward a settlement. It also provides a deadline for the resolution of the case—the trial date.



The background of the page is a solid blue color. In the top right corner, there is a cluster of white puzzle pieces. In the bottom left corner, there is a single white puzzle piece. On the right side, there is a vertical strip of white puzzle pieces.

# Piecing Together Your Strongest Case

As soon as you put your case in our hands, Auger Hollingsworth gets to work. Piece by piece, our legal team tracks down every item that will help to build the strongest case for you. Here's a sampling of what we may gather to achieve the maximum value of your case.

## **First, we have to prove who is responsible for your injury.**

- We collect photos. These can be of the accident scene, a vehicle, a map, or footwear.
- We collect police records. Sometimes we have to go to court to get the complete records from the police.
- We interview witnesses and seek available video footage.
- We gather weather records.
- We collect any relevant maintenance records.
- We gather records about any relevant traffic signals.
- We take measurements.
- Sometimes we hire an expert to prepare a report.

## **Second, we have to prove what losses you have suffered because of your injury.**

- We collect all your medical and rehab records from before and after the accident
- We collect photos of you before and after the accident
- We gather your work records and income tax returns
- We collect any receipts you have for expenses you have had due to the accident
- Sometimes we hire an expert to describe your injuries and give a prediction or prognosis about the future
- Sometimes we will hire a finance expert to calculate your future losses.

Once we have all the information about who caused your injury and what losses you have suffered because of the injury, we can assess the value of your case.





# How We Determine the Value of Your Pain and Suffering

In Canada the maximum amount that an injured person can receive for pain and suffering and loss of enjoyment of life is capped at just under \$400,000. It is indexed to inflation, so every year the number edges up a little bit. Very serious spinal cord injuries or traumatic brain injuries are the type of cases where claims get close to the damages cap.

If your injury is not at the damages cap, Auger Hollingsworth determines the value of your pain and suffering by looking at what judges have decided in cases similar to yours. For example, if you have a broken ankle with two surgeries

and now you walk with a limp, we look for cases like that.

Sometimes your case is risky. For example, there may be a disagreement about whether there was ice on the ground where you slipped or who had the right away in a car accident.

Risk can decrease the value of your claim. For example if your pain and suffering is worth \$90,000 based on the caselaw, but there is a 50-50 chance of winning if the case went to trial, an appropriate settlement offer might be \$45,000 or half the value of your injury.

In a car accident, insurance laws includes a deductible on pain and suffering for certain

cases. Your lawyer will explain if the deductible applies to you and, if it does, how much that deductible is.

Pain and suffering is not the only form of compensation. Your lawyer will discuss whether you have a claim for loss of income, future medical care costs, family law act claims, attendant care claims or any other appropriate type of compensation.



# Legal Jargon, Decoded!

## Arbitration

When two parties are unable to agree, they can opt to have an arbitration. An arbitrator is a neutral third party and makes the final binding decision to resolve the dispute.

## Accident Benefits (ABs)

Also called **no-fault benefits** or **SABs**. Accident Benefits are available to anyone injured in a car accident in Ontario. Accident benefits include income replacement, attendant care, medical treatment and rehabilitation, visitor expenses, housekeeping expenses, caregiver expenses, and funeral expenses.

## Acquired Brain Injury (ABI)

Also called **traumatic brain injury**. Injury to the brain that occurs as a result of a trauma.

## Activities of Daily Living (ADLs)

Activities a claimant could do before they were injured, including hobbies, housekeeping, personal hygiene tasks, and meal preparation.



## Adjuster

An employee of an insurance company who gathers information, assesses and monitors the claim, and makes payments according to the insurance policy.

## Appeal

When a losing party makes a request to a higher court to overturn the legal ruling of a lower court.

## Attendant Care

An accident benefit available to an injured party when they require help with personal care, such as feeding and bathing. If the injured party is eligible for this benefit, the insurer will pay the person or company that provides the care.



## Caregiver Benefit

Compensation for caregiving expenses incurred by an injured person who is no longer able to provide care to dependents for whom they had been primarily responsible. This benefit is only available to catastrophically injured people and those who purchased it as an optional benefit under their auto insurance policy.

## Catastrophic Impairment

Under the Accident Benefit regulation, this includes paraplegia, quadriplegia, an amputation, impairments causing total and permanent loss of one or more arm(s) or leg(s), complete loss of vision, certain severe brain injuries, extreme or significant mental and/or behavioural disorders. There is also a formula that a medical team can use to help find someone catastrophically injured. A catastrophically injured person has access to increased accident benefits throughout their lifetime.



## Contingency Fees/Agreement

An agreement made between a plaintiff and a lawyer where a fee is only payable if there is a settlement in favour of the plaintiff.

## Contributory Negligence

When the defendant argues that the injured party's injury was due, at least in part, to the injured party's own negligence.

## Damages

The money that may be awarded to the suing party.

## Deductible

In Ontario a deductible applies to an award of pain and suffering damages that is below a certain amount in motor vehicle cases. The amount changes yearly.

## Defendant

The person or company being sued.

## Death and Funeral Benefit

A lump sum payment payable to the spouse and/or dependents of a person who died as a result of a motor vehicle accident.

## Disbursements

Legal expenses spent by a lawyer in the lawsuit.

## Enforcing a judgment

When proceedings are begun to force the defendants to pay what they have been ordered to pay.

## Examination for Discovery

An examination during which both the plaintiff and the defendant are

questioned to discover pertinent facts.

### Expert Witness

A person who presents their expert opinion on a specific topic.

### Family Law Act (FLA) Claim

A claim that is made by the injured person's family to compensate them for the loss of care, guidance and companionship from the injured person. In Ontario, a deductible applies to some damages awarded under the Family Law Act.

### Future Damages

Losses that an injured person will suffer in the future as a result of an accident, including lost income and expenses associated with medical care.

### General Damages

The monetary award in a lawsuit given for the pain and suffering as a result of an accident.

### Income Replacement Benefit (IRB)

An accident benefit that pays for lost income if you cannot work due to an accident. It is capped at a fixed amount.

### Incurred Expense

An expense for goods or services you've received and paid for (or are legally obligated to pay for).

### Limitation Period

The period of time after an accident during which you can issue a claim for a loss that you sustained.



### Mediation

When two parties are unable to agree on an issue in dispute, mediation occurs. A mediator, who is a neutral third party, helps the parties reach an agreement on the issues in dispute. In Ottawa and Toronto, mediation is mandatory,

but it is not required everywhere in Ontario.

### Medical Benefit

Accident benefit funding for certain medical expenses resulting from an accident, such as medication and assistive devices. These are expenses that are not covered under any other medical plan or extended health benefits available through the injured person's employer.



### Minor Injury Guideline (MIG)

Pre-approved funding up to \$3500 is provided under accident benefits for treatment of minor injuries.

### Non-Earner Benefit

An accident benefit that is available to an insured person over the age of 16 who is entirely unable to carry on a normal life and doesn't qualify for an income replacement benefit or caregiver benefit.

### Plaintiff

The person who begins a lawsuit by suing another person, company, or corporation.

### Rehabilitation Benefit

An accident benefit that pays for rehabilitation expenses resulting from an accident.

### Release

A contract signed at the end of a lawsuit that outlines the agreed-upon settlement terms and states that obligations from the accident have been completed.

### Retainer Agreement

The contract that outlines how the lawyer will be paid for.

### Settlement

An agreement that sets out how the parties in a lawsuit will resolve the claim.

### Statement of Claim

This document starts a lawsuit. It outlines the damages being

claimed and describes the accident and injuries.

### Statement of Defence

A document prepared by the defendant's lawyer to deny the allegations in the statement of claim.

### Structured Settlement

When the money awarded is distributed as regular payments over a certain period rather than given one lump sum. Structured settlements are tax-free.

### Threshold

The baseline for being able to sue for pain and suffering after a motor vehicle accident. In Ontario, your injury must be serious or involve permanent disfigurement or impairment of an important physical, psychological or mental function.

### Tort

Refers to a wrong committed negligently by one person against another that results in injury or harm.

### Treatment Plan

A form completed by a health professional that outlines the treatment required by an injured person. Before funding is released by a car insurance company, the insurance company must approve the form.



### Underinsured Coverage

Insurance coverage that compensates the injured person when the party who caused the auto accident has insufficient liability coverage.

### Visitor Expenses

An accident benefit that has an insurer pay for the reasonable expenses that the insured person's family members have incurred in visiting the person during their recovery, such as flights, mileage, and hotels.



# Stephen's Story



**Stephen, a husband and father** in his late 20s, had been drinking at a bar with a friend. Afterwards, he got in the car with his friend. His friend was intoxicated and crashed the car into a cement wall.

When police arrived, they found Stephen bleeding profusely. He showed signs of facial trauma and a broken leg. The ambulance rushed him to the trauma centre.

## Stephen's Traumatic Injuries

Stephen required 15 hours of surgery and remained in the intensive care unit for almost 3 weeks. Stephen suffered many serious injuries and was diagnosed with a cognitive communication deficit. Stephen needed multiple therapies and rehab and was referred to an acquired brain injury clinic.

## How Our Firm Helped Stephen

A colleague of Stephen's wife recommended us to Stephen. Stephen contacted our firm while he was still in the rehab centre.

Our team ensured that Stephen's Statutory Accident Benefit Claim was started and that he was appropriately labeled as catastrophically injured. We assembled a rehab team to prepare Stephen for his eventual discharge. We ensured that his home could accommodate his injuries.

With our help, all of Stephen's care was funded through his Statutory Accident Benefits.

## Stephen's Lawsuit

Stephen did not have car insurance to cover the loss, but our team located an insurance policy that followed the owner of the vehicle. We also sued the bar that overserved Stephen and the driver.

The case proceeded to examination for discovery. Our team helped Stephen prepare for this.

Stephen went to a neuropsychologist for an opinion of his recovery and a prognosis. This report supported that he was unlikely to be competitively employable.

The case did not resolve at mediation; the gap was too wide. Our lawyers continued to fight for Stephen. We ultimately achieved a seven-figure settlement that would provide him with the security he and his family needed.

## Long-Term Disability

The Long-Term Disability company cut Stephen off benefits after he enrolled in school as part of his rehab. Our firm sued the company, and the claim settled successfully for a lump sum.

*Names and a few identifying details have been changed to protect our client's privacy. Every case is different.*

## Our firm helped Stephen:

- Organize a rehab team to plan his return home from the hospital
- Attain funding for all medical therapies and rehab services
- Complete all paperwork appropriately for the Statutory Accident Benefit Claim
- Coordinate getting expert medical opinions for the lawsuit
- Calculate economic losses based on medical opinions
- Prepare for a successful legal process
- Break his examination into several short days to prevent cognitive fatigue
- Win a seven-figure settlement
- Win a lump sum from suing the disability insurance company for cutting his benefits

# Why Do People Choose Auger Hollingsworth?



## **National reputation**

Our firm is known across Ontario for our meticulous preparation, fearsome cross-examinations, and relentless legal research. TV producers and publications rely on us as authorities in our field. (Can you think of a serious injury lawyer that you've seen on TV more often than Brenda Hollingsworth? No, we can't either!)

## **Skilled trial lawyers**

Our team has won more than 1600 cases. With years of in-court experience, we have a significant advantage over many lawyers.

## **Specialization in serious personal injuries**

Serious injury cases are fundamentally different, and deserve special expertise. Our firm focuses on handling all legal issues related to serious injuries, from disability benefits to helping finance your care.

## **Deep legal breadth**

While we specialize in serious personal injury law, our team has a diverse background in law. For instance, founders Richard Auger and Brenda Hollingsworth have deep experience handling criminal defence and business law. When clients have complicated cases, we are prepared with our rich knowledge base.

## **Share-worthy client care**

Many of our customers come to us through word-of-mouth, because they know that we will handle their loved ones or colleagues with outstanding care.

## **We stay at the forefront**

In Ontario, personal injury law changes often. We win cases that other lawyers might lose, because we stay current with the law. By joining our team, all of our lawyers commit to continual learning and updating their knowledge of the law.

## **Easy, accessible communication**

Whether it's email, phone, or video calls, we're known for being responsive, friendly, and clear. While we love our legal jargon, we understand you might not—so we always try to explain everything as though we were in your shoes.

## **Charitable contributions**

Our firm is proud to be a regular donor and contributor to a number of charities and not-for-profit organizations, including the Ottawa Food Bank, the Multiple Sclerosis Society, and the Canadian Cancer Society. We believe in giving back to the community and helping others beyond the work we do at the firm.



# It's Not Big Brother... Just a Private Investigator!

If you've been in an accident and begun your injury case, there is a good chance that you will be the subject of some surveillance by a private investigator.

When you make a personal injury claim, it is the insurance company's job to make sure that your story is accurate. One aspect of the investigation will be looking at medical records and history, but another option will be surveillance.

During surveillance, an investigator will record video footage of you doing your daily activities, but you will probably never

know when it's happening. The investigator is looking for discrepancies between what you say you can do and what they see you doing.

Avoid surveillance issues by keeping your lawyer and insurance company in the loop about the state of your injuries. If your condition changes, always provide updates.

Remember, surveillance cannot hurt your case if you are honest about what you can or cannot do as a result of your accident. Accuracy is key!

## LAWYERS AND PARALEGALS:

# Refer serious injury cases to our firm!

### With us, the case is in great hands.

- Our team will handle **all aspects** of your clients' case, including a trial if required.
- **Rest assured** that your clients will thank you. We pride ourselves on outstanding client satisfaction.
- We provide a **referral agreement** in accordance with the Law Society of Ontario. We will keep you apprised of the status of every referral you place with us.

Auger Hollingsworth regularly accepts client referrals from lawyers and licensed paralegals. **We pay referral fees** in accordance with the rules of the Law Society of Ontario.



### CONTACT US AT:

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Get yours by calling **613 233-4529**  
or at **augerhollingsworth.ca**



# In our mailbox...

Dear Brenda

For everything  
you have done...  
For everything  
you have given...

THANK YOU VERY MUCH.

...d like to take this time  
thank-you for you support  
about all your compassionate  
people's feelings, and  
all staff, always cho  
...ly enjoy workin  
I'm happy you  
me - Thanks

For you're among  
the nicest people  
I have ever known,  
And you'll never be  
for the thoughtful  
you've shown.



Thank you! Everything you have done has  
made the rest of life better and easier.  
Your patience and guidance is remarkable.

Thanks for Everything

Thank you



Everyone at Anger  
Hollingsworth

Best wishes for a  
and wonderful holiday season

Thank you for helping us  
through this difficult process  
I appreciate all that  
you have done + continue  
to do for us  
Cheers

Charles, Andrew, Brenda and all  
support staff,

I just want  
to thank you  
for the way  
that you came through,  
Your help  
won't be forgotten —  
I'm so grateful  
to know you.

We truly appreciate the kindness  
and compassion you have all  
shown us, through this  
difficult time.

Dawn & All Staff Involved:

The combined decision of  
your team did much more  
than you can ever imagine.  
Your thoughtfulness &  
kindness allowed hope and  
new found faith in justice  
to prevail. I'm very grateful  
to have become acquainted with  
your firm.



MS. Dawn

ing me through  
difficult day.

I so appreciate your  
empathy, your support  
and have the utmost  
Respect for your professionalism.  
And thanks to your  
wonderful staff, who always  
make me feel, Support is  
only a phone call away.







Thanks for being there!

Thanks to all  
of you at  
Auger-Kollingsworth.

Very sincerely,



Thank you so much  
for your kindness and  
professionalism in helping me  
through this difficult time  
in my life. Sincerely,

Dear Brenda,

Once upon a time my first  
adjuster told me it was too expensive  
for me to get better. Asked me to  
stop submitting OCF18s, and the  
last thing they would pay for was  
a gym membership.

Well, now there are these happy tears  
that I can focus on recovery with  
all these other complications.

You are Brilliant!

I couldn't get there without the entire  
A-H team. Richard's prep helped in  
the remainder of my I.E's,

For all the frustrating days you  
may have, remember the ones  
like the news your team shared  
with me.

With warm regards,

To the Auger/Kollingsworth  
Team

Thank You Everyone!

It's been a long & sometimes  
frustrating journey, but now it's  
done. I can move forward towards  
a "healthy" future.

Thanks again for everyone's  
dedication & hard work!  
Sincerely,

Thank you very much for  
helping me & family through this  
challenging time. Your kindness  
& professionalism made this  
journey so much better.  
Also accept a small token of  
my thanks/appreciation.



**In 2005,** Brenda Hollingsworth and Richard Auger founded Auger Hollingsworth. Their mission was to create a personal injury law firm unrivalled in Ontario for outstanding service and legal expertise.

Since then, our firm has won more than a thousand cases across Ontario. With five offices across the province and an expanding team of lawyers, we've earned a reputation for remarkable results. What drives our success? A relentless commitment to serving with care and competence.



1997: Brenda and Richard, called to the Ontario Bar!



## Meet the Founders

### Richard Auger

Richard has successfully represented clients at all levels of court in Ontario, including the Ontario Court of Justice, the Superior Court of Justice, the Ontario Court of Appeal, Federal Court, and Commissions of Inquiry. He has also worked regularly as an agent for cases at the Supreme Court of Canada and gained national recognition when he represented a key witness at the Gomery Commission of Inquiry into the Sponsorship Program.

As a lawyer and co-owner of Auger Hollingsworth, Richard both represents clients and leads a growing legal team.

Richard holds degrees from Carleton University (BA, 1991) and the University of Ottawa (LL.B. Cum Laude, 1995).

### Brenda Hollingsworth

As a lawyer and co-owner of Auger Hollingsworth, Brenda regularly settles six and seven figure accident claims. Her success has been widely recognized, including being named Forty Under 40 in Ottawa Business Journal and noted as Businesswoman of the Year by the Women's Business Network.

Brenda has been featured as an expert on many media platforms, including CTV Ottawa Morning Live, Globe and Mail, National Post, Ottawa Citizen, Sun Media, CBC, Toronto Star, The Gazette, and CFR A.

Brenda holds degrees from Queen's University (BA with honours, 1991) and the University of Ottawa (MA, 1992 and LL.B. Magna Cum Laude, 1995).



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