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# CAREGIVERS & SPOUSES:

## The Key to Winning Your Personal Injury Case

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**W**ho knows you best? Your spouse? Your children? Your co-workers? Your friends? When you file a lawsuit against a person or company that hurt you, whoever knows you best will be your star witness and crucial to your outcome. Here's why:

Personal injury litigation can be grueling. In your average metropolitan area, personal injury lawsuits take anywhere between 10 and 16 months to complete. Add in the usual delays, especially with your trial date, and you can easily add six months to both sides of that range. If you cannot prove you have a worthy cause, your lawsuit will be a major uphill climb and will likely end in a way that, even if you “win,” does not satisfy you.

As all traumatic brain injury lawyers know, the biggest dispute in your case will be whether you have objective evidence of injury. Except in the most serious cases, brain imaging (CT, MRI) will not show objective evidence of brain injury; therefore, your lawyer will have to prove the extent of your injuries through the impact they have on your life. One of the best ways to do this is by asking whoever knows you best to participate in your case. If you have someone who saw you frequently before the accident as well as after, or if you have someone who had to care for you, or continues to care for you, they would be a great witness to help your case.


If you have someone like this in your life, you should absolutely tell your lawyer about them and then ask them to participate personally in your case. All this means is they would need to make themselves available to give a deposition. A deposition is simply a statement under oath. It is like an interview, or a question-and-answer session. The deposition is taken by a lawyer for an insurance company, but your lawyer will be there as well and, if you want, you can be there too. The lawyer will ask a series of background questions about the witness – their name, address, birth date, occupation – and then will transition to asking questions about their relationship with you. Your



witness should be prepared to discuss how you appeared, acted, etc., before the accident versus after. Assuming you have “changed,” your witness should use this opportunity to explain that to the insurance lawyer. The deposition is a good opportunity for the insurance lawyer to hear what day-to-day life is like for you from an outsider's perspective.

One of the biggest mistakes lawyers and their clients make is not producing a witness like this or producing a witness like this too late. Some rules may prevent witnesses from participating in lawsuits unless they have been identified or disclosed in enough time for the insurance lawyer to take their deposition. Often, especially in tough cases, the lawsuit does not settle and is being prepared for trial. At that point, you will sit down with your lawyer and go through the strengths and weaknesses in your case. If your lawyer suggests to you the insurance company is questioning the impact your injuries have on you day-to-day, it will be too late to introduce other witnesses at that point. Therefore, it is crucial to discuss this with your lawyer up front. If your lawyer is prepared, they will bring this up during your first meeting.

A witness who can explain your “before and after” is critical. While you can obviously explain from your perspective how your injuries have affected you, having a third-party who has no investment in your case or the outcome, can be a game-changer when it comes to describing the impact the accident and injuries have had on you. Everyone sees things through their own eyes, so having a witness who sees what you are going through and can explain it in their own words can really help your case.

Every personal injury lawsuit is tough. But with adequate preparation and help from your friends and family, you can successfully achieve what you deserve and obtain a favorable result. 

**Jeffrey M. Heller** is a trial attorney with Nurenberg, Paris, Heller & McCarthy Co., L.P.A., in Cleveland, Ohio. Mr. Heller focuses his practice solely on personal injury and medical malpractice. He frequently represents traumatic brain injury (TBI) survivors in a wide range of cases, including motorcycle crashes. Mr. Heller firmly believes in the right to trial by jury and has tried more than 25 cases to a jury verdict. His past five jury verdicts have resulted in more than \$3 million in damages for his clients. Mr. Heller has been included on Ohio's Rising Star list, which is selected by the research team at Super Lawyers. He has also been selected to America's Top 100 Personal Injury Attorneys and the National Trial Lawyers Top 40 Under 40. He can be reached at 216.621.2300.