

Hiring an Attorney 101: Statute of Limitations

In previous articles in the “Hiring an Attorney 101” series, we’ve looked at the specialty of “personal injury”, the importance of a board certified civil trial attorney, and the process of filing your personal injury claim.

This edition of the “Hiring an Attorney 101” blog series details another important topic: *the statute of limitations*.

Under the law, the “statute of limitations” exists for any lawsuit that arises from an accident or injurious behavior due to the negligence of another.

The clock is ticking on the statute of limitations

The timeframe for filing a lawsuit varies from state to state, but in Florida you must begin the process of a lawsuit within (2) two years of discovering one has become injured due to medical negligence or malpractice (this “reasonable timeframe” will be discussed at length within this article).

There are different statutes regarding wrongful death cases and other areas that make up personal injury, but for the purposes of this article we will only be investigating medical malpractice statutes as they apply to Florida law.

Simply put, “statute of limitations” means any lawsuit filed due to the negligence or another that resulted in serious bodily injury or accident in which damages are being sought need be filed within a certain time limit or it risks being dismissed by the judge.

Discovery of harm rule, identifying the injury, and your rights

The statute of limitations most often dictates that a personal injury lawsuit be filed within a certain timeframe after the accident or injury occurs. However, that time period in most instances does not begin and the clock does not start ticking until the moment the victim filing the lawsuit becomes aware (or should have been aware) that they had been injured. The nature of the injury or permanent damage to the person is also a factor.

A closer look at an example case

Let’s look at one example of the “discovery of harm” rule as it pertains specifically to medical malpractice:

In the instance of a medical malpractice claim made because a surgeon operating on a patient left a surgical tool inside the body cavity on which they were performing the surgical procedure, and this was not discovered until months or years later when the victim sustained a life-threatening infection due to the surgeon’s negligence.

This inability to know what lead to the infection until such a time as an x-ray was taken for another purpose would not be considered “unreasonable” on the patient’s part.

In this example case, the statute of limitations would not begin until the day the surgeon’s mistake was discovered via x-ray. The day of the initial surgical procedure is not a factor in an instance such as this.

A delay considered "reasonable" is required

The delay in discovering the surgeon in the example case’s initial mistake must be considered reasonable.

For instance, if the patient was suffering from severe abdominal discomfort and refused to seek further medical treatment to try to find the cause, the lawsuit may be barred as it was considered “unreasonable” to not seek medical attention for one’s pain and suffering in a timely manner. Seeking medical attention would’ve sooner lead to the discovery of the surgeon’s error and thus the statute of limitations comes into play.

Your case is unique, and you need a board certified civil trial attorney on your side. However, each medical malpractice case is different and only a board certified civil trial attorney can thoroughly understand (and then explain to you) the statute of limitations regarding the details of your case, specifically.

No two personal injury cases are exactly alike and therefore the statute of limitations on one case may begin to run before the statute on another case with a different injury.

Shaked Law Firm, the best personal injury attorneys in South Florida

When it comes to medical malpractice, you’ve been injured and are in pain, and you deserve the best personal injury attorneys in South Florida representing you. That’s why Shaked Law Firm is on your side. We make our clients the priority.

With years of experience, our board certified civil trial attorneys know the ins and outs of the legal system like no one else. If you’ve suffered medical malpractice or substandard care at the hands of a healthcare professional you trusted, Contact us today for your complimentary consultation.

There’s no obligation. Take the first step: (877) 529-0080