



**Know the HOW and the WHY of an Injury
BEFORE You File or Dispute a Claim**

Don't Put the Cart Before the Horse

“Losing your shirt” or “Bet the company” aren’t just phrases. If a wrong decision is made on whether or how to proceed with or defend against a Products Liability Personal Injury Claim, they can be a reality.

I’ve been serving the legal community as an Engineering Consultant and Expert Witness for nearly 20 years. Like many experts, I decline way too many requests for support because we’re contacted too late to help.

3 Common Reasons for Losing Cases

I encounter three common reasons for plaintiff attorneys pursuing a losing or under-performing products liability claim, or defense counsel advising their client to settle or dispute a claim with inadequate information:

- Failure to accurately identify the Actual and/or Proximate Cause of an injury – the HOW and the WHY of an injury
- Failure to ensure that negligence can be substantiated or refuted
- Failure to understand what investments may be required to litigate a case to a successful conclusion and/or the ramifications of losing a case

The HOW of an Injury (Actual Cause)

Something broke and somebody was injured or killed. Failure to identify HOW something broke, or often worse, misidentifying how it broke can doom a claim or defense from the start. There are many ways that an item can break (the HOW). They include bending, compressive, tensile or torsional overload, stress corrosion, low cycle fatigue, high cycle fatigue, embrittlement and more. Identifying the actual cause of the injury becomes even more complex when there are multiple broken parts and the primary failure needs to be correctly identified.

Broken items and malfunctioning equipment have a story to tell. Not consulting an expert up-front to help you read and interpret that story can result in your wasting considerable time and money and possibly taking an unwinnable position.

The WHY of an Injury (Proximate Cause)

What happened to precipitate the actual cause of the injury? Was some party or parties negligent in the design, manufacture, marketing, warnings or post-sale duties of the product? Or was the product misused, not maintained or simply worn out? Don't assume that the WHY for this matter is the same as something you may already be familiar with.

There are often multiple potential litigants. An up-front expert assessment can usually eliminate the parties that would not be liable and allow a more focused claim or response.

I'm not an attorney; you're (probably) not an engineer. The synergistic combining of our disciplines makes for successful products liability outcomes. Let an Expert advise you on the validity of a claim BEFORE you proceed.

Here's a **free, no opt-in link to my "Products Liability Claim Checklist."** The checklist contains nearly 100 factors to consider before and while pursuing or defending against a Products Liability personal injury claim. I hope you and your team find it useful. <http://LawsuitsConsultant.com/PLClaimChecklist>

The Checklist is a living document that I occasionally update based upon my experiences and contributions from the legal community. Your comments and recommendations are both welcome and appreciated.

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