

ROVISIONS TO BE CONSIDERED	NOTES
<p style="text-align: center;"><b>INTRODUCTION</b></p> <p><b>Purpose and currency of checklist.</b> This checklist is designed to be used with the CLIENT IDENTIFICATION AND VERIFICATION PROCEDURE (A-1) checklist. It sets out matters that plaintiff or defendant's counsel should consider when questioning a plaintiff in a personal injury case in an initial interview, in preparing the plaintiff for examination for discovery, or in conducting an examination for discovery of the plaintiff.</p> <p>The checklist should only be used as a guideline, as the nature and scope of the interview and the examination for discovery in each case are matters for your own professional judgment. Some of what follows may be appropriate for an interview but would be objectionable on an examination for discovery (e.g., asking about a prior driving record). The interview may be wide-ranging and directed to information gathering. The examination for discovery is a cross-examination, and questions posed must be relevant to the pleadings.</p> <p>The general framework of this checklist is relevant to most personal injury litigation; however, parts are oriented particularly toward motor vehicle accident litigation. If you use this checklist for other types of personal injury litigation, you will need to modify items 1.7 through 4.17. This checklist is current to August 31, 2016.</p> <p><b>New developments:</b></p> <ul style="list-style-type: none"> <li>• <b>Law Society Rules.</b> On July 1, 2015, revised and consolidated Law Society Rules came into effect. See <a href="http://www.lawsociety.bc.ca/page.cfm?cid=4089&amp;t=Law-Society-Rules-2015">www.lawsociety.bc.ca/page.cfm?cid=4089&amp;t=Law-Society-Rules-2015</a>.</li> <li>• <b>Code of Professional Conduct for British Columbia (the "BC Code").</b> In July 2015, rule 3.7-9 of the BC Code was amended to require that a lawyer promptly notify the client, other counsel, and the court or tribunal of the lawyer's withdrawal from a file. Rule 3.6-3, commentary [1] was amended in June 2015 regarding the duty of candour owed to clients respecting fees and other charges for which a client is billed.</li> <li>• <b>Articled students permitted to act as commissioners for taking affidavits.</b> Effective September 1, 2015, articled students and temporary articled students are prescribed as persons who are commissioners for taking affidavits in British Columbia (B.C. Reg. 142/2015, made pursuant to s. 60(1) of the <i>Evidence Act</i>, R.S.B.C. 1996, c. 124). Principals remain responsible for students' actions and will need to ensure that students understand the effect of acting as commissioner.</li> <li>• <b>Health Care Costs Recovery Regulation.</b> The Ministry of Health issued an amendment (B.C. Reg. 73/2015, effective June 1, 2015) to s. 3(c) of the Health Care Costs Recovery Regulation, B.C. Reg. 397/2008, with respect to health care services designated for the purposes of the definition of "health care services" in the <i>Health Care Costs Recovery Act</i>, S.B.C. 2008, c. 27.</li> <li>• <b>Termination of Small Claims Court Mediation Program.</b> The Small Claims Rules, B.C. Reg. 261/93 were amended pursuant to B.C. Reg. 244/2015, effective May 1, 2016. Amendments include the repeal of provisions regarding Rule 7.4 mediation of claims for more than \$5,000 or for damages for personal injury. See also Notice to the Profession NP 08, regarding the termination of Rule 7.4 mediations at Robson Square. The Rule 7.2 mediation program was terminated on July 31, 2015 (see NP 07).</li> </ul>	

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<ul style="list-style-type: none"> <li>• <b>Civil Resolution Tribunal.</b> The <i>Civil Resolution Tribunal Act</i>, S.B.C. 2012, c. 25 (the “<i>CRT Act</i>”), as amended by the <i>Civil Resolution Tribunal Amendment Act</i>, 2015, S.B.C. 2015, c. 16, is in force with respect to specified strata property matters (effective July 13, 2016, under B.C. Reg. 171/2016 and July 28, 2016, under B.C. Reg. 206/2016), but as of August 31, 2016, was not yet in force with respect to small claims matters.</li> <li>• <b>Driving Notice Review Board.</b> The <i>Motor Vehicle Amendment Act (No. 2)</i>, 2012, S.B.C. 2012, c. 34, which received Royal Assent on May 31, 2012, but is not yet in force, will introduce a new system of assessing monetary penalties for driving infractions, to replace the current violation tickets. The new Driving Notice Review Board will provide dispute resolution, including hearings, when it is in place. For further information, see the DriveSmartBC website at <a href="http://www.drivesmartbc.ca">www.drivesmartbc.ca</a> and search for “Driving Notice Review Board”.</li> </ul> <p><b>Of note:</b></p> <ul style="list-style-type: none"> <li>• <b>Additional resources.</b> See also the <i>Civil Rules Transition Guide</i> (CLEBC, 2010); <i>Introducing Evidence at Trial: A British Columbia Handbook</i>, 2nd ed., print and online (CLEBC, 2012); <i>Discovery Practice in British Columbia</i>, 2nd ed., looseleaf and online (CLEBC, 2004); <i>British Columbia Motor Vehicle Accident Claims Practice Manual</i>, 3rd ed., looseleaf and online (CLEBC, 2012); <i>British Columbia Civil Trial Handbook</i>, 3rd ed., print and online (CLEBC, 2011); <i>Medical Issues in Personal Injury</i> (CLEBC, 2012); <i>Personal Injury Conference—2015</i> (CLEBC, 2015); and <i>Defending Personal Injury—2012 Update</i> (CLEBC, 2012).</li> </ul> <p style="text-align: center;"><b>CONTENTS</b></p> <ol style="list-style-type: none"> <li>1. The Plaintiff—Personal Information</li> <li>2. The Vehicle</li> <li>3. The Accident</li> <li>4. At the Scene of the Accident and Aftermath</li> <li>5. Injuries Sustained by the Plaintiff</li> <li>6. Practical Consequences of Injuries</li> <li>7. Plaintiff’s Medical History</li> <li>8. Treatment of Plaintiff’s Injuries</li> <li>9. Potential Defendants</li> <li>10. Damages</li> <li>11. Other Charges and Claims</li> <li>12. Credibility</li> </ol> <p style="text-align: center;"><b>CHECKLIST</b></p> <ol style="list-style-type: none"> <li><b>1. THE PLAINTIFF—PERSONAL INFORMATION</b> <ol style="list-style-type: none"> <li>1.1 If acting for the plaintiff, consider Law Society Rules 3-98 to 3-109 on client identification and verification, and complete the CLIENT IDENTIFICATION AND VERIFICATION PROCEDURE (A-1) checklist.</li> <li>1.2 Obtain the plaintiff’s name, address, phone numbers, e-mail address, occupation, and employer or school.</li> </ol> </li> </ol>	

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<p>1.3 Take a personal history: date and place of birth, height, weight, marital status, date and place of marriage, spouse, parents, children, dependants, previous residences for last 10 years, education, and medical coverage.</p> <p>1.4 Determine whether the spouse is employed and, if so, the details.</p> <p>1.5 Take the plaintiff's full employment history: name, address, and phone number of current employer, job title and duties, length of employment with that employer, name of immediate supervisor, remuneration (full history), hours regularly worked (and overtime), typical duties and responsibilities, future prospects, benefits (medical and dental plans, life insurance, pension, paid vacation, employer's contribution to employment insurance ("EI"), any board and lodging benefits, investment options, company vehicle, union or WorkSafeBC involvement, paid sick leave, etc.); canvass the same details regarding any previous employment, including reasons why the plaintiff left. Obtain details of any WorkSafeBC claim, and obtain authorizations. Obtain the name of the union and a copy of the collective agreement to assess any claim for collateral benefits or other employment benefits. For the same reason, obtain particulars of any employment disability insurance, and a copy of the policy.</p> <p>1.6 Obtain particulars of any insurance coverage: company, claim number, name of adjuster, type of insurance, any statement made by the plaintiff.</p> <p>1.7 Check the plaintiff's driver's licence: class, how long the plaintiff has had it, any restrictions (and, if so, whether they were complied with), whether the licence has been suspended for any reason in the past, any prior convictions.</p> <p>1.8 Determine whether the plaintiff is an experienced driver and whether the plaintiff has previously been involved in any accident(s).</p> <p>1.9 Obtain particulars of the plaintiff's criminal history, if any, to assess potential for reduction of past and future loss of earnings awards.</p> <p>1.10 Determine whether the plaintiff uses social media and which applications; if acting for the plaintiff, advise that posted photographs and comments could affect his or her claim.</p>	
<p><b>2. THE VEHICLE</b></p> <p>2.1 Owner's consent: if the plaintiff was the driver but not the owner, how did the plaintiff come to be driving the vehicle? In particular, is the plaintiff living with the owner; is the plaintiff a member of the owner's family; or did the owner impliedly or expressly consent? Obtain insurance details of the vehicle owner. It may be necessary to obtain details of motor vehicle insurance within the plaintiff's own household if plaintiff driving another's vehicle.</p> <p>2.2 Identify the type of vehicle: year, make, standard or automatic, licence number.</p> <p>2.3 Canvass the general mechanical condition and details regarding the condition of the brakes, steering, tires and, where relevant, head and tail lights, signal lights, horn, windshield, windows, etc., including when they were last serviced or checked, and whether there have been any previous problems.</p>	

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<p><b>3. THE ACCIDENT</b></p> <p>3.1 Prior to the interview, you may wish to conduct Google Maps searches, including StreetViews, to assist in visualizing the area and obtaining information.</p> <p>3.2 Identify the accident date, time, and location.</p> <p>3.3 Clarify the plaintiff's pre-accident condition (e.g., illness or disability affecting driving, alcohol, medication, or illegal drug consumption, physical condition, whether tired or distracted, last sleep, day's activities).</p> <p>3.4 Seek further details about the vehicles and parties involved: names, addresses and phone numbers of drivers, owners, passengers, pedestrians, witnesses; types and conditions of other involved vehicles. Obtain details of the other driver's insurance.</p> <p>3.5 Determine the road, traffic, and weather conditions: time of day; lighting and visibility; position of sun; road condition; characteristics of accident location (e.g., width of road, number of lanes, straight or curved, centre marking, intersections, traffic controls, pedestrian crossing areas, parked vehicles, any obstructions to vision).</p> <p>3.6 Were the headlights, windshield wipers, heater, defroster, or radio on? Was the windshield clear? Was a sun visor being used? Was the plaintiff wearing sunglasses?</p> <p>3.7 Was the plaintiff wearing corrective lenses? If so, was this required under the plaintiff's driver's licence, and when was the prescription last checked?</p> <p>3.8 Was the plaintiff wearing a seat belt? If so, what type, and was it snugly fastened? If the plaintiff was not wearing a seatbelt, consider information an expert might require if a seatbelt defence is raised (plaintiff's height, weight, body shape, torso length, clothing; as well as the type of belt). Was there a headrest? If so, was it adjusted for the plaintiff's height?</p> <p>3.9 Where was the plaintiff going: point and time of departure; destination; route? Was the plaintiff familiar with the route and location? Why was the plaintiff travelling (was the plaintiff working)? Was the plaintiff in a hurry?</p> <p>3.10 Obtain details about the accident:</p> <p>.1 Before the collision, where were the vehicles:</p> <p>(a) location and direction of travel of each party involved;</p> <p>(b) when the plaintiff first saw the other vehicle; and</p> <p>(c) speed at which each was travelling before the accident, and whether there was any slowing down or acceleration.</p> <p>.2 Before the collision, was the plaintiff distracted for any reason:</p> <p>(a) by children or other passengers;</p> <p>(b) in adjusting the radio, music, or air conditioning; or</p> <p>(c) in operating a cellular phone or other communications device?</p> <p>.3 As the collision appeared imminent:</p> <p>(a) was there any opportunity for evasive action by either vehicle and, if so, was it taken;</p> <p>(b) how much time elapsed between first seeing the other vehicle and impact; and</p>	

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<p>(c) how did the other vehicle move during this time?</p> <p>.4 At the point of impact:</p> <p>(a) where was the point of impact; and</p> <p>(b) how far did the vehicles travel after impact?</p> <p>.5 After the collision:</p> <p>(a) where was the damage on the vehicles;</p> <p>(b) were there skid marks;</p> <p>(c) was there damage to the interior of the plaintiff's vehicle; and</p> <p>(d) did the air bags deploy?</p> <p>3.11 Was anyone or anything else in the vehicle (e.g., passengers, animals, bags)? If so, identify where they were and what happened to them.</p> <p>3.12 What happened to the plaintiff:</p> <p>.1 did the plaintiff brace before impact; or</p> <p>.2 did the plaintiff move or sustain impact inside the vehicle, which might include the head being struck or thrown backwards?</p> <p>3.13 Identify the damage to all vehicles (location, type, severity).</p> <p>3.14 Were other parties injured? If so, how?</p> <p>3.15 Obtain any other information about other parties (e.g., insurance, residence if out of province).</p> <p>3.16 Gather evidence such as witness statements, sketches, available photographs, a copy of the police report, and a vehicle repair estimate or repair documents.</p> <p>3.17 Consider internet search on plaintiff and defendant. Consider CSO (Court Services Online) search to check for prior convictions.</p> <p><b>4. AT THE SCENE OF THE ACCIDENT AND AFTERMATH</b></p> <p>4.1 Enumerate the plaintiff's injuries, specifying location and type.</p> <p>4.2 Ask about the plaintiff's state of consciousness, including feelings of dizziness or disorientation, and the plaintiff's emotional state.</p> <p>4.3 Determine whether the plaintiff realized at the time that he or she had been injured and, if so, how.</p> <p>4.4 Was any of the plaintiff's clothing or other personal property damaged?</p> <p>4.5 What did the plaintiff do after the collision?</p> <p>4.6 Obtain full particulars of any treatment at the scene, including when it was given, by whom, and the type of treatment.</p> <p>4.7 Were the police or fire department called? If so, get details including when they arrived, what they did, and details of all conversations.</p> <p>4.8 Was the ambulance called? If so, get details including when it arrived, what happened after that, and details of all conversations.</p> <p>4.9 Obtain full particulars of any conversations the plaintiff was involved in or overheard at the scene.</p> <p>4.10 Obtain full particulars of any written statements that were given.</p>	

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<p>4.11 Were any of the vehicles driveable after the accident?</p> <p>4.12 Did the plaintiff complain of any physical injuries at the time and, if so, obtain details.</p> <p>4.13 Did anyone help the plaintiff from the vehicle; could the plaintiff walk unassisted, or was a stretcher used?</p> <p>4.14 How did the plaintiff leave the scene of the accident, and where did he or she go?</p> <p>4.15 Was the plaintiff treated in emergency or a walk-in clinic? If so, what treatment was given (including: x-rays, medication prescribed or given, length of stay in hospital before being released). Obtain the name, address, and phone number of any attending doctor.</p> <p>4.16 If treatment was delayed, obtain details of first treatment and reason for delay.</p> <p>4.17 Obtain the names, addresses, and telephone numbers of witnesses to the accident.</p>	
<p><b>5. INJURIES SUSTAINED BY THE PLAINTIFF</b></p>	
<p>5.1 Determine specific injuries: any pain, bruising, numbness, tingling, or clicking in ears or jaw, eyes, head, jaw, neck, shoulders, back, arms, chest, hands, fingers, toes, legs, hips, buttocks, knees, abdomen, other. Specify the exact location and nature of pain, numbness, tingling, or clicking. Specify when the problem began, how long it has lasted, and whether it is constant or intermittent. Specify whether particular movement or activities cause aggravation. Go through all symptoms from head to toes, so none are omitted.</p> <p>5.2 Inquire about other pain and health problems, such as: headaches, lack of concentration, memory problems, blurred vision, light sensitivity, fainting, dizziness, nausea, ringing in ears. Specify when the problem began and how long it has lasted.</p> <p>5.3 Determine timing if onset of symptoms occurred later or over a period of time.</p> <p>5.4 Need for any of the following: cane, crutches, wheelchair, orthopedic supports, trusses, back or neck brace, cervical collar, traction, other. Specify duration and frequency of use, place where used, who prescribed it.</p> <p>5.5 Need for ongoing treatment including physiotherapy (see item 8). What medication has been prescribed, and what medication is the plaintiff currently taking.</p> <p>5.6 Adverse reaction to medicine, anesthetics, etc. Specify symptoms.</p> <p>5.7 Changes in appearance, such as: limp, weight gain or loss, scars (specify size, location, whether permanent), other disfigurements.</p> <p>5.8 Changes in emotional or psychological state, such as feeling tearful, angry, depressed, tired, happy, sleepy, bored, discouraged, hopeful, helpless, or fearful; having nightmares, intrusive thoughts, or insomnia; need for psychological or psychiatric treatment.</p> <p>5.9 Whether the plaintiff feels that any of the above have caused changes in appearance, hygiene, dress, etc., or the way others perceive him or her (i.e., self-image).</p>	

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<p>5.10 Consider interviewing close family members, friends, co-workers, fellow students, or other witnesses regarding the observed effects of the injuries.</p> <p>5.11 Consider obtaining authorizations and records of all medical practitioners who have treated the plaintiff. Consider request for hospital records, MSP records, and PharmaNet.</p>	
<p><b>6. PRACTICAL CONSEQUENCES OF INJURIES</b></p>	
<p>6.1 Effect on employment:</p> <ol style="list-style-type: none"> <li>.1 Can the plaintiff still do the same type of work as before?</li> <li>.2 Did the plaintiff return immediately to work? If not:               <ol style="list-style-type: none"> <li>(a) Why not?</li> <li>(b) How much time was lost?</li> <li>(c) Did a doctor or anyone else advise the plaintiff not to return to work?</li> <li>(d) Did the plaintiff lose vacation entitlement or sick days, and can sick days be accumulated and paid out?</li> </ol> </li> <li>.3 Did the plaintiff collect short- or long-term benefits, and does any insurer have a subrogated right of recovery?</li> <li>.4 Are there any adverse effects on employment, future earning capacity, or long-term career plans?</li> <li>.5 Was the plaintiff required to take early retirement, give up seniority rights, forego employment benefits, or lose any pension entitlement?</li> <li>.6 Has the plaintiff been accommodated at work, possibly by being assigned lighter duties?</li> <li>.7 Get full particulars of income loss. Consider contingencies such as opportunities for advancement, alternative opportunities, supply and demand for skills. Also, consider whether doing the same work now involves extreme, moderate, slight or no pain.</li> <li>.8 For a student, consider loss of or set-back in education; or, for others, consider delay in entry into the workforce or chosen profession.</li> <li>.9 Discuss mitigation efforts (e.g., if the plaintiff has had to seek new employment, what efforts were made, with what results).</li> <li>.10 Consider whether the plaintiff is less employable for all types of employment, even if able to continue with the same employment.</li> </ol>	
<p>6.2 Effect on business:</p> <ol style="list-style-type: none"> <li>.1 Were additional employees hired to replace the plaintiff, or was the business adversely affected (if so, why and in what way)? Were projects delayed due to the accident?</li> <li>.2 Get full particulars of income loss; get the plaintiff's income tax returns and records, including business records relating to productivity, etc., as well as statements and books of account, accountant's files, bank statements and cancelled cheques, and the plaintiff's files, including correspondence.</li> </ol>	

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<p>6.3 Effect on domestic and recreational activities:</p> <ul style="list-style-type: none"> <li>.1 What activities did the plaintiff do before the accident, and how often? Can the plaintiff do them now and, if so, does this involve extreme, moderate, slight or no pain? Consider ability to lift heavy objects, drive a vehicle, ride a bicycle, perform domestic chores or yardwork, play sports, engage in social and recreational activities, or have sexual relations.</li> <li>.2 Specify any other ways in which the plaintiff's capacity to enjoy life has been affected. Which activities have been resumed or attempted?</li> <li>.3 What vacations have been taken, delayed or cancelled? If vacations were taken, consider requesting vacation photos.</li> </ul> <p>6.4 Bear in mind any other special considerations such as the possibility of marriage or child-bearing.</p> <p>6.5 Consider expenses related to the accident, including damage to personal property, prescriptions, taxis, mileage, lost gym or club memberships, etc. Obtain details of payment, and whether fees were paid by the plaintiff or a third party. If a third party, who, and on what basis?</p> <p>6.6 Canvass any retraining, rehabilitation, or vocational counseling undertaken.</p> <p>6.7 Consider any loss of house-keeping capacity, and obtain details of same.</p> <p>6.8 Obtain details of any services provided by family members or others for which the plaintiff might advance a claim, and the actual cost (if incurred) of any such services. Determine who provided these services, for how many hours, whether the service provider had to leave other paid employment in order to provide these services, and whether these services went beyond what would be expected of a family member.</p> <p>6.9 Obtain details of any disability insurance plan where the plaintiff is a beneficiary, and any benefits received.</p>	
<p><b>7. PLAINTIFF'S MEDICAL HISTORY</b></p> <ul style="list-style-type: none"> <li>7.1 Identify the plaintiff's previous illnesses and conditions requiring medical treatment; obtain details of the attending physician, the date, and the nature of the illness and its duration. Include hospitalization, accidents, injuries, and alternative health care.</li> <li>7.2 Does the plaintiff have any chronic health problems?</li> <li>7.3 Did the plaintiff use any medication or recreational drugs regularly before the accident?</li> <li>7.4 Has the plaintiff ever made a previous claim for damages related to an accident or injury (in a legal action, or to WorkSafeBC, etc.). Get details, including outcome, and consider obtaining documentation such as medical-legal reports, pleadings, orders and releases.</li> <li>7.5 If the plaintiff has been a recipient of disability benefits (e.g., private or CPP benefits), obtain details of plan and benefits.</li> <li>7.6 Has the plaintiff ever had any insurance denied or cancelled?</li> <li>7.7 Has the present accident aggravated an old injury or illness? Get details.</li> <li>7.8 Did the plaintiff have any physical examinations in the five years prior to the accident? If so, determine the date, doctor, and purpose of the examination.</li> </ul>	



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<p>7.9 If the plaintiff has a previous history of injury relevant to the current claim, obtain pre-accident clinical records from any treating health care professionals.</p> <p>7.10 Has the plaintiff had any previous psychological or psychiatric treatment for depression, anxiety, etc.? Have psychiatric medications ever been prescribed?</p> <p>7.11 Have there been any intervening medical conditions or accidents in the post-accident period?</p> <p>7.12 Does the plaintiff have a history of changing doctors frequently? If so, why?</p> <p>7.13 Consider obtaining post-accident clinical records.</p>	
<p><b>8. TREATMENT OF PLAINTIFF'S INJURIES</b></p> <p>8.1 Treating institutions: names, addresses, types of institution, dates of visits or stays, complaints.</p> <p>8.2 Treating physicians, chiropractors, physiotherapists, occupational therapists, massage therapists, osteopaths, and other health care professionals giving treatment of any nature (including alternative medicine): names, addresses, specializations, dates of visits, complaints.</p> <p>8.3 Has any treatment been beneficial, neutral, or detrimental?</p> <p>8.4 Why was any particular treatment discontinued?</p> <p>8.5 Diagnosis and prognosis of each person giving treatment each time the plaintiff was examined.</p> <p>8.6 Place and date of x-rays, MRIs, CT scans, tomographs, etc.</p> <p>8.7 All medications (including alternative medications) prescribed or taken.</p> <p>8.8 Future surgeries planned, future appointments set, prognosis if given.</p>	
<p><b>9. POTENTIAL DEFENDANTS</b></p> <p>9.1 Obtain details enabling you to identify potential defendants (e.g., consider facts that might establish vicarious liability). Consider whether the province, municipality, physicians, commercial hosts, or others might be defendants.</p> <p>9.2 Obtain names, addresses, phone numbers, details of their insurance, if possible.</p>	
<p><b>10. DAMAGES</b></p> <p>10.1 Vehicle: age, mileage; cost of vehicle and improvements; condition before accident; damage; whether vehicle can be repaired; whether vehicle has been repaired; invoices and estimates. Consider whether the issue of accelerated depreciation arises.</p> <p>10.2 Damages incidental to damage to vehicle, such as cost of renting another vehicle while repairs are being made, and any cost of repair not covered by insurance (e.g., insurance deductible).</p> <p>10.3 Damage to other property, such as clothing and contents of vehicle.</p> <p>10.4 Medical expenses and costs of health care services (see item 11.5).</p> <p>10.5 Other damages incidental to personal injury, such as economic loss and loss of enjoyment of life (see item 6).</p>	

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<p>10.6 Obtain receipts for all expenses.</p> <p><b>11. OTHER CHARGES AND CLAIMS</b></p> <p>11.1 If criminal or quasi-criminal charges were laid against any of the parties in regard to the accident, obtain copies of police file and trial transcripts.</p> <p>11.2 Consider whether a “no fault” (“Part 7”) claim for benefits has been started and, if so, identify claims centre, claim number, and adjuster. Were any benefits under Part 7 of the Insurance (Vehicle) Regulation, B.C. Reg. 447/83 claimed or received, or both? What documents were given to or signed for ICBC? Were any advances paid?</p> <p>11.3 Consider whether there is a WorkSafeBC claim (if the accident arose out of, and in the course of, employment: <i>Workers Compensation Act</i>, R.S.B.C. 1996, c. 492, ss. 5 and 10).</p> <p>11.4 Consider whether there is an obligation to repay or make claim for the benefit of an employer or insurer (i.e., a subrogated claim), short- or long-term benefits.</p> <p>11.5 Consider whether the <i>Health Care Costs Recovery Act</i>, S.B.C. 2008, c. 27 applies, and, if so, whether there is an obligation under s. 3 to include a claim for the cost of past and future health care services, to provide notice to the Attorney General, and to submit a portion of the amount recovered to the government. See items 2.13.3(c), 3.1.12, 5, 8.8, 8.13.3, 8.14.2(b), and 14.2(5) of the GENERAL LITIGATION PROCEDURE (E-2) checklist.</p> <p>11.6 Obtain copies of any documents relating to ICBC claims, Part 7 benefits, WorkSafeBC records, etc.</p> <p>11.7 If there were previous accidents or WorkSafeBC claims, obtain pleadings for any claims commenced and copies of any settlement documents including orders or releases.</p> <p>11.8 Consider whether there are special issues where there is an out-of-province insurer, such as needing to make a claim or commence a Part 7 action with ICBC or the out-of-province insurer.</p> <p>11.9 Consider whether there is a potential underinsured motorist protection (“UMP”) claim in the event there is insufficient insurance coverage and the defendant’s assets are insufficient to compensate the plaintiff. This is done by way of a separate process (arbitration) which is commenced by giving notice to ICBC (see Insurance (Vehicle) Regulation, ss. 148.1 to 148.4). Note that notice of an action brought against an underinsured motorist must be given to ICBC immediately, with a copy of the notice of civil claim: s. 148.1(10).</p> <p><b>12. CREDIBILITY</b></p> <p>12.1 In proceeding through the interview or examination for discovery, it is important to assess the plaintiff, whether client or opposing party, as a witness. This may be as simple as considering whether the plaintiff appears honest, but also may include language issues and whether the plaintiff makes a good impression or is verbose, reticent, nervous, argumentative, a poor historian, etc.</p> <p>12.2 Consider what steps will be required to prepare your own client, including an overview of the process and purpose of the examination, a mock examination, discussion of behaviour, etc.</p>	

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<p>12.3 In preparing to examine an opposing party, consider the most effective approach. For example, you may start with general questions and then narrow to the specific. You may also consider if and when to confront the witness with documents, such as medical records or income tax returns.</p> <p>12.4 Subject to the direction of the tribunal, the <i>Code of Professional Conduct for British Columbia</i> (the “BC Code”) s. 5.4 contains rules that lawyers must observe respecting communication with witnesses giving evidence.</p>	