

The Differences

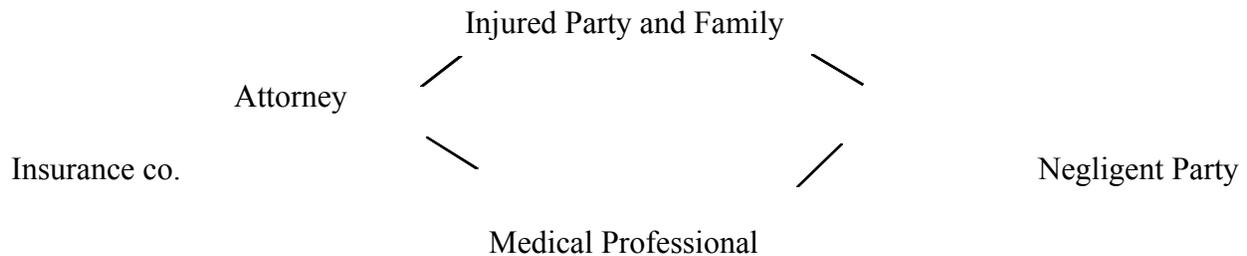
Adversarial Civil System

Promotes illness
Expensive - time consuming
Little if any emotional support
Apology discouraged
Needs of injured person and family not addressed directly

Restorative Justice Process

Encourages wellness
Cost effective - quicker, better, faster
Emotional support and understanding encouraged
Apology encouraged
Identifies needs and tries to address them

The Stakeholders



The solution:

The first step to implement restorative justice principles in the resolution of a personal injury claim would be a recognition by the key stakeholders that there could be a better, faster, and cheaper way to resolve some claims. It should also be recognized that this process would not be appropriate in all claims. Identifying which claims appear to be appropriate for a restorative process will help to ensure that the efforts are more likely to be successful.

In a restorative process, one of the first steps would be for the negligent party to accept responsibility for his/her actions. In order to overcome resistance by an insurance company or negligent party to do so, a restorative process should be implemented under the auspices of the Colorado Dispute Resolution Act. The provisions of this Act will ensure that the statements and actions of the parties will be confidential and will not be used against any party in the event that the claim proceeds to litigation. The protection of the Act will allow for the negligent party to offer an apology and acknowledgment of responsibility as soon as possible after the accident. This step will increase the likelihood that the injured party and their family will begin the healing process sooner and move through the medical system quicker. There should also be an acknowledgment by both the negligent party and his/her insurance company that they will do their best to meet the needs of the injured party and ensure that they are fairly compensated for their damages. At some point, the insurance company, negligent party, the injured party and his/her family should meet in an informal setting with the help of a facilitator to conclude the claim in a mutually agreeable manner. Utilizing this process will undoubtedly lead to a better, faster and less expensive resolution of the personal injury claim.