



The Road to Justice Starts Here...

BenGlassLaw.com

Malpractice - Accidents - Insurance Disputes

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This newsletter is published by the law offices of Benjamin W. Glass, III & Associates, P.C. It is for informational purposes only and no legal advice is intended.

SUITE 22-B
3915 OLD LEE HIGHWAY
FAIRFAX, VA 22030

Tel: 703-591-9829

Fax: 703-783-0686

email: Ben@BenGlassLaw.com

www.BenGlassLaw.com

Visit our Web site for more information.

To be removed from our mailing list, call 800-561-1670, ext. 999.

Almost Home!

If all goes as planned, you will be reading this newsletter while Ben and Sandi Glass are in China to adopt six-year-old Emma. Through the magic of the Internet, Ben and Sandi have met other parents traveling to the orphanage in Jinan, China, to adopt their children. They've been able to connect and to have gift packages and photo albums delivered to Emma. They also have received word from everyone who has met Emma that she seems bright and cheerful and has been very well cared for. They have received pictures of her orphanage, and it appears to be a modern, clean, well-equipped facility.

The trip will take about two weeks. While in China, and before traveling to Emma's city, Ben and Sandi plan to visit and spend a night at the Langfang Children's Village, run by the Philip Hayden Foundation. The Philip Hayden Foundation is a nonprofit charitable organization established for the purpose of helping China's orphaned and special-needs children. To learn more about the Philip Hayden Foundation, visit www.PhilipHayden.org.

The primary work of the foundation is the establishment of children's villages in mainland China, where at-risk and special-needs orphans are taken in, loved, and provided with surgeries to correct their special-needs conditions. The foundation also works to find loving families to adopt the children.

Ben and Sandi will be visiting to hold and play with the babies and older children, and set the groundwork for a future mission trip, perhaps with a surgical team to repair cleft lips and palates. Finally, if we get our act together, we'll be "blogging" while in China. You can catch up to us at http://www.benandsandi.blogspot.com.



Emma holds a gift box sent by Ben and Sandi to her orphanage and delivered by another Virginia family in China to adopt their new daughter.

(Real Life) Mistakes Accident Victims Make With Their Cases

In Ben Glass's book, The Five Deadly Sins That Can Wreck Your Virginia Accident Case, he advises potential clients to not hide prior accidents or injuries from their attorneys.

Why? Because in today's world, there are records of EVERYTHING. You can't hide past medical care and treatment. A reference to past treatment is going to show up in another doctor's medical record, or an insurance company's records, or in an insurance database. Trust us on this one!

Recently, an accident victim not only had her case thrown out of federal court, but she was ordered to pay damages to the insurance company for trying to hide her prior injury. Thankfully, this was not one of Mr. Glass's clients.

According to a published opinion, the plaintiff had been asked about prior accidents and injuries by the attorneys for the insurance company. She testified under oath that while she had previously been involved in a car accident that necessitated medical treatment, she had not received treatment on her back in over nine years.

Just two weeks before trial, however, the insurance company attorneys found years of prior treatment for back injuries. In fact, the records showed that the treatment had continued right up to several months before the accident in issue.

Had she disclosed this to her attorney at the beginning of the representation, the attorney would have been able to deal with the issue. Instead, when the judge heard what had happened, he not only threw her case out, but also ordered her to pay the costs and attorney fees the insurance company incurred in the case!

# Tips from Lemon Law Expert Steve Swan

From time to time, we get calls from consumers who feel that the new or used cars they recently bought are significantly defective. They want to pursue claims under Virginia's "Lemon Laws."

We don't handle these claims but refer them to Virginia's expert, Arlington attorney Steve Swan ([www.CarLaws.com](http://www.CarLaws.com); 703-243-7938).



*Ben Glass highly recommends that you visit Steve's Web site and call Steve if you have a "Lemon Law" question.*  
[www.CarLaws.com](http://www.CarLaws.com)

Ben recently spoke to Steve to get his tips on what to do if you suspect you've bought a "lemon":

- Document everything. Use a diary or calendar to record details and names.
- For most defects or impairments, give the dealer three tries to get it right. The longer the car is in the shop, the better the case.
- Use certified mail to notify the manufacturer and the dealer of the suspected problem. Don't threaten or exaggerate. Be factual. There is no need to use the term "lemon law" or threaten a lawsuit.
- Apply for any arbitration program pursuant to the manufacturer's dispute-resolution procedure.



## More Stupid Lawsuits

At **BenGlassLaw**, we believe that judicial resources are precious. From time to time, we have exposed silly lawsuits brought both by businesses and by individuals.

In California, there is a guy going around suing baseball teams for promotions that discriminate based on gender. In fact, this guy has brought more than 40 lawsuits against sports teams and businesses for offering events such as discounts for moms on Mother's Day and low-priced drinks at bars on "Lady's Night."

Give me a break! If you don't like the offer, don't patronize the business. But don't take the fun out of it for others, and for goodness sake, please don't use the valuable resources of the already-too-busy court system for your own publicity stunts.

Want to know the worst part about the story? This guy's a lawyer. His name is Alfred Rava. He's in Cardiff-By-The-Sea, California, and his phone number is (858) 759-7000. Guys like this make legitimate claims harder.

## What Does It Cost to Have Your Doctor Testify At Trial?

In almost every lawsuit that goes to trial, your attorney will have to call at least one of your doctors to court to testify. The cost of bringing your doctor to trial is a cost that comes out of your share of the recovery. While doctors sometimes are paid very little by an insurance company for seeing you in an office visit, their fees for coming to trial can be really high. In some cases, the fees charged by the doctor for testifying can actually make it too expensive to take a small case to trial.

Here's the fee schedule of a local District of Columbia orthopedic (bone) doctor.

Court appearance in Washington, D.C.:	<b>\$5,000 for half day; \$10,000 for full day</b>
Court appearance in Virginia:	<b>\$7,000 for half day; \$14,000 for full day</b>
One hour of deposition:	<b>\$1,750</b>

And you thought lawyers charged a lot of money. Of course, before bringing them to trial, you have to meet with them to prepare them for the case. That's \$500 per hour!

## AUTO INSURANCE Are you fully covered?

Even responsible drivers who believe they have good auto insurance protection may come to learn that their coverages don't fully protect them in an accident.

**Uninsured motorist coverage** protects you when another driver who is at fault in an automobile collision has no insurance at all. It covers lost wages, medical costs, and other expenses associated with injuries.

**Underinsured motorist coverage** safeguards you if you are injured by a careless driver who has only minimal insurance. Since uninsured motorist coverage doesn't apply, the other driver's minimal liability policy may not cover all of your injuries. Your own policy may not cover injuries, either.

*Ben Glass has written **The Authoritative Guide to Buying Car Insurance in Virginia**. Call our office (703-591-9829) to get your free copy. (Offer open to Virginia residents only.)*



## And You Thought Federal Judges Were Stiff and Boring—

Here's an order from a real case where the lawyers were bickering over the location of a deposition. Some lawyers bicker a lot. This judge correctly treated them like the children they were acting like.

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

**AVISTA MANAGEMENT, INC.,  
d/b/a Avista Plex, Inc.,**

**Plaintiff,**

**-vs-**

**Case No. 6:05-cv-1430-Orl-31JGG  
(Consolidated)**

**WAUSAU UNDERWRITERS INSURANCE  
COMPANY,**

**Defendant.**

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### **ORDER**

This matter comes before the Court on Plaintiff's Motion to designate location of a Rule 30(b)(6) deposition (Doc. 105). Upon consideration of the Motion – the latest in a series of Gordian knots that the parties have been unable to untangle without enlisting the assistance of the federal courts – it is

**ORDERED** that said Motion is DENIED. Instead, the Court will fashion a new form of alternative dispute resolution, to wit: at 4:00 P.M. on Friday, June 30, 2006, counsel shall convene at a neutral site agreeable to both parties. If counsel cannot agree on a neutral site, they

*(continued on back)*

## Court order continued...

shall meet on the front steps of the Sam M. Gibbons U.S. Courthouse, 801 North Florida Ave., Tampa, Florida 33602. Each lawyer shall be entitled to be accompanied by one paralegal who shall act as an attendant and witness. At that time and location, counsel shall engage in one (1) game of "rock, paper, scissors." The winner of this engagement shall be entitled to select the location for the 30(b)(6) deposition to be held somewhere in Hillsborough County during the period July 11-12, 2006. If either party disputes the outcome of this engagement, an appeal may be filed and a hearing will be held at 8:30 A.M. on Friday, July 7, 2006 before the undersigned in Courtroom 3, George C. Young United States Courthouse and Federal Building, 80 North Hughey Avenue, Orlando, Florida 32801.

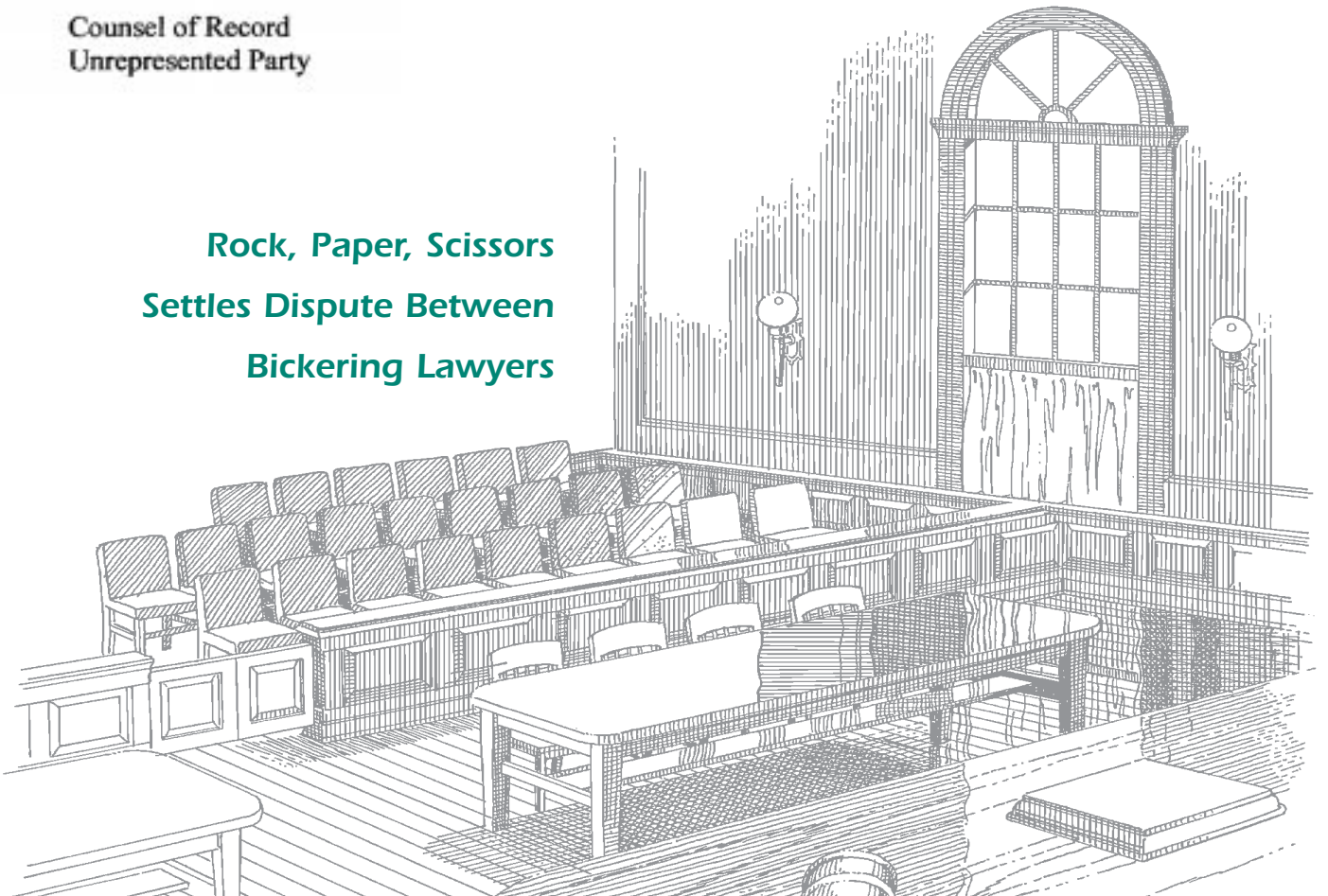
**DONE and ORDERED** in Chambers, Orlando, Florida on June 6, 2006.

Copies furnished to:

Counsel of Record  
Unrepresented Party

  
**GREGORY A. PRESNELL**  
**UNITED STATES DISTRICT JUDGE**

**Rock, Paper, Scissors  
Settles Dispute Between  
Bickering Lawyers**



## By The Numbers

**6%** Average percentage of a self-employed physician's total expenses that went to malpractice premiums in 1970.

**11%** Percentage devoted to such payments in 1986.

**7%** Percentage that went to malpractice premiums in 2000.

Source: "Malpractice Premiums and Physician's Income: Perceptions of a Crisis Conflict with Empirical Evidence." May/June edition of *Health Affairs*.



The entire Glass family got together recently to celebrate the 50th wedding anniversary of their parents, Ben and Pat Glass. Seven children and 21 grandchildren gathered at Our Lady of Good Counsel Catholic Church, in Vienna, Virginia, to celebrate Mass, and then they "invaded" Maggiano's "Little Italy Restaurant."

## Homeowner's insurance

Do you know *how* good your homeowner's insurance coverage will be if you suffer partial damage or a total loss of your home from a fire or other catastrophe?

Unless a homeowner has specifically requested otherwise, most insurance policies cover property damage and replacement for "cash value." That means insurance covers a home's contents for its *actual worth*. To arrive at this amount, an insurer will customarily deduct property depreciation from total value. As a result, payment may be considerably less than it will actually cost to repair or replace the lost or damaged property.

That's why every homeowner should consider a "replacement-cost" insurance policy. With replacement-cost coverage, an insurer will compensate a homeowner for what it actually costs to repair or replace property at current prices—without deducting depreciation. Replacement-cost policies may cost more, but are usually worth the investment following a tragic loss.

Talk to your insurance agent since carriers offer differing coverages, deductibles, and limitations. It's also always a good idea for homeowners to inventory or videotape personal property.



**Every homeowner should consider a "replacement-cost" insurance policy.**

## PILATES exercise and injuries

Millions of Americans of all ages have avidly taken up Pilates, a resistance-training form of exercise. Instructors at thousands of health clubs, fitness centers, spas, and gyms train people in sessions dedicated to toning muscle through slow but rigorous movements on mats and specialized equipment.

Because of Pilates' growth, some facilities hire instructors who do not have sufficiently rigorous training and experience supervising exercises on mat and machine workouts. Some exercisers have been injured.

### Safe Pilates exercise

- Ask your physician about exercise.
- Attend sessions at a fitness center you trust.
- Verify the instructor's qualifications and certification.
- Attend small, individualized instruction classes.
- Progress at a safe pace.
- Stop if you feel discomfort or are injured.

LAW OFFICES  
BENJAMIN W. GLASS, III & ASSOCIATES, P.C.  
SUITE 22-B  
3915 OLD LEE HIGHWAY  
FAIRFAX, VA 22030

BenGlassLaw.com

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***Rock, Paper, Scissors? Some Lawyers Act Like Children. (See Inside.)***

## We Get Email

Here's an interesting email we received from **[www.BenGlassLaw.com](http://www.BenGlassLaw.com)**:

I was rear-ended in a car accident seven weeks ago. I had whiplash symptoms. My doctor gave me some pain meds and said I would be fine. After four weeks, I felt fine and signed the insurance company medical release form and accepted their offer of \$1,000. Now my neck is hurting again, and I have to go back to the doctor. I had no idea whiplash effects could last longer or reappear. I feel so stupid for signing the release form. Have I ended all of my rights to attain further payment for these current issues? Is there anything you can do for me at this point?

### BEN'S RESPONSE

Unfortunately, if you signed a valid release in exchange for the \$1,000 payment, then you have given up your right to claim additional damages. We would be happy to review the form for you. A release, however, generally states that you are taking the risk that your condition will get worse over time and that you may incur future medical bills. A release also generally states that you understand what you are signing and recognize that this ends the claim.

## Ben's Teaching Point

We are often asked whether the typical insurance company offer of "we'll give you \$1,000" for your inconvenience is a "good deal."

**Here's the answer:** It might be a good deal, but you really need to understand what you are signing. After all, it might only have been a "bump" and the one emergency room visit you had might be the only care you will need. You certainly don't need a lawyer to settle that case! Too many people, however, don't realize what they might be entitled to, and some feel pressured to sign the release. Time is generally on your side. In Virginia, you generally have two years in which to file a lawsuit. The best thing you can do is read *The Five Deadly Sins That Can Wreck Your Virginia Accident Case* (available at [www.TheAccidentBook.com](http://www.TheAccidentBook.com)) and *The Truth About Lawyer Advertising* (now available at Amazon.com). Then, consult with an attorney BEFORE you sign the form. The best lawyer in the world won't be able to "reverse" a proper release that you have ALREADY signed.

If you have any questions about an automobile accident claim, call us at **703-591-9829**.