



The Road to Justice Starts Here...

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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. Each case is different and you are invited to discuss your legal question with Mr. Glass at no initial cost.

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MEDICAL MALPRACTICE

What editorials are saying

Magazine headlines and television soundbites are attention-grabbers, but neither provides the understanding and insights of a well-reasoned and -written newspaper editorial.

Here is what an editorial in The Saint Louis Post-Dispatch, a highly respected newspaper, told readers about medical malpractice on October 11, 2002.

“Last year, fewer malpractice claims were filed against Missouri doctors than in 2000. That was about half as many as the number filed in 1987. Economic damages in malpractice cases dropped by eight percent from 2000 to 2001. Pain-and-suffering awards, which Missouri caps at \$540,000, averaged only about \$84,000. Yet, malpractice insurance premiums are going through the roof here and around the country. The culprit, doctors and insurance companies say, is frivolous lawsuits. The only cure, they say, is for patients to give up some of their rights. Time for a second opinion. If the number of lawsuits alone were causing premiums to increase, surely declines in the number of claims filed and damages paid would cause the cost of malpractice insurance to fall. But that hasn’t happened. The insurance companies’ solution to skyrocketing premiums—capping pain-and-suffering awards—may help their bottom lines, but it’s unlikely to result in lower premiums for doctors....Nobody wants to encourage frivolous lawsuits. But capping damages for pain and suffering wouldn’t accomplish that. Such damages are not even considered unless patients prove they were victims of malpractice. Nor are patients successfully suing over trivialities. Three-quarters of physician malpractice cases settled in Missouri last year involved death or permanent disability....There’s plenty of opportunity to improve malpractice law...but it’s crucial not to lose sight of the reason malpractice law exists in the first place: to help compensate people seriously injured by the negligence of doctors or hospitals. It would be unfair to compound patients’ suffering to relieve insurance companies’ pain.”



What if it were you?

Until Congress reforms the insurance laws, doctors’ livelihoods and patients’ lives will continue to be threatened by corporate interests that put profits over people.

Contact your U.S. Senators and Representative (202-224-3121) and tell them you oppose the insurance industry’s effort to take away the legal rights of the most seriously injured victims of medical malpractice—people like 46-year-old Wisconsin mother of three, Linda McDougal, who had a double mastectomy and then was told she had never had breast cancer and that two doctors and a technician had mixed up her test results with another woman’s.

You can identify and e-mail your members of Congress at:
http://atla.org/ActivistCenter/Tier3/ActionNetwork.aspx.



Contingency fees Helpful and valuable

Contingency fees offer personal injury clients a valuable advantage. They enable anyone who suffers an injury to bring a lawsuit without having the money up-front to pay an attorney. With contingency fees, attorneys agree to accept a portion of the recovery and agree that if the client does not win and there is no recovery, there will be no fee.

Why does the contingent-fee system serve clients and work so well? Contingency fees...

- give everyone—regardless of race, color, religion, national origin, gender, marital status, age, or other factors—an equal chance to have their day in court, no matter what their financial resources may be. Individuals with limited assets can sue the richest, most powerful corporations, which often have unlimited money for legal defense fees.
- promote efficiency and discourage frivolous lawsuits by motivating lawyers to make sure that the cases they accept have legitimacy and merit.
- are fair, since there is no cost to the client unless he or she wins.
- discourage wrongdoers from continuing inappropriate behaviors.

Value-added CLIENT SERVICE

At our law firm, client service isn't just a catch phrase that merely gets lip service. We strive to provide "value-added" service to each client. That means a level of *individual attention* and *personal service* clients appreciate.

- We know that prompt, reliable, and professional legal service is what our clients want—and what we must deliver.
- Our goal is to efficiently respond to client requests. We strive to answer all questions and inquiries promptly, and follow through on what we say we will do.
- We do our utmost to maintain the same sense of urgency that our clients feel about their issues and cases, and to stay in frequent communication.
- To every extent possible, we try to make the legal experience as personal and pleasant as we can.
- When we find them, we correct client-service deficiencies right away. We want to hear what you like about us and what we can improve.

What caused this accident?

Automobile accidents in which drivers or passengers are seriously injured or killed are always terrible. When there is doubt about the cause of an accident, which may be hidden by vehicle damage, an experienced trial attorney can research and investigate the real cause of harm. Here are two actual accident cases.

Safety-check failure

Three disabled residents returning from a picnic outing were killed when ejected from their van, which overturned in a crash. A jury awarded compensatory damages and punitive damages to the decedents' survivors when investigation revealed liability on the part of the group home. Research showed that the group home was negligent in hiring the driver, who had extensive criminal and traffic-violation records. He also failed to conduct a safety check on the van, which had a flat tire, prior to departure because he was driving under the influence of alcohol and illegal drugs.

Negligent hiring

After a driver who was struck from behind by an 18-wheel truck suffered brain damage, examination revealed that the truck driver's employer and a professional driving organization had failed to conduct criminal-background checks, which would have revealed the driver's two previous accidents and felon status. The injured driver and his wife received a negligence settlement from the trucking company following the first day of trial.



Frivolous lawsuit legends Just plain bunk

If you haven't received a Stella Awards e-mail...you will. They're outrageous...and almost always made up. Here's a famous, but phony, example.

Mr. Grazinski bought a brand-new 32-foot motor home. Driving home on a superhighway, he set the cruise control for 70 mph and went to the kitchen to make some instant coffee. The land cruiser left the highway, crashed, and rolled over many times. Grazinski sued the vehicle manufacturer, claiming his owner's manual didn't give warning not to do what he did, and was awarded \$1.75 million and a new motor home by a jury. It's totally untrue.

There are dozens of other phony lawsuits buzzing around the Internet. Go to www.atlanet.org/ and look for "Consumer & Media Resources," then "Factsheets & Resources," or go to www.snopes.com, which debunks tortured tort myths, such as the microwaved poodle, the run-over hubcap thief, and the man who suffered mental anguish due to his garage door.

By the way, these awards are mockingly named for Stella Liebeck, the woman who actually was terribly burned by a cup of McDonald's coffee. However, the circumstances and actual outcome of her case were exaggerated to make people think badly about our legal system.



Asbestos update

Even though manufacturers knew the deadly dangers of asbestos products 70 years ago, they concealed health hazards from workers and the public. In the 1970s, asbestos use became limited but was not totally banned, because the asbestos industry successfully lobbied against the prohibition of its use. But corporations continue to wage legal and public relations battles to avoid accepting responsibility. Here are some recent developments.

Asbestos industry seeks protection

The asbestos industry and its allies are spending millions of dollars trying to win a bailout from the U.S. Congress. They want to deny most victims of asbestos poisoning the right to even go to court. The industry claims these victims, who are sick but not yet dying, are "unimpaired" and should lose their legal rights.

Unreasonable danger

A 66-year-old construction plumber who was exposed to asbestos between 1950 and 1970 is now suffering pleural malignant mesothelioma and undergoing chemotherapy. His lawyers negotiated a post-verdict settlement following a jury award by demonstrating that the asbestos products with which he came into contact were unreasonably dangerous, and that product manufacturers and distributors failed to warn of their danger.

If you suspect that you or a loved one has been injured by asbestos, contact an attorney right away. The law limits the time anyone has to act. An attorney may be able to help not only with Workers' Compensation and actions against responsible parties, but also with compensation for medical care, lost wages, and pain and suffering.



Five deadly sins that can wreck your injury claim

Free 20-page report available before talking to the insurance company

At last, useful information is available to personal injury claimants BEFORE calling a lawyer or dealing with an insurance company. This special 20-page report, written by a trial attorney with 20 years' experience fighting the insurance companies, will arm you with the information you need from the very beginning of the claim. **Ben Glass** says that he is "sick and tired of insurance companies taking advantage of people before they are armed with this valuable information."

In this report, you will learn...

- why settling your case quickly is not always in your best interest.
- what "no fee if no recovery" really means.
- what "service" provided by some lawyers can be the "kiss of death" to your claim.
- how your past can come back to haunt your claim and what you can do to avoid this disaster.
- how the type of doctor you see may impact your claim.
- ten specific steps you can take to find the best attorney in your area for your case.
- when you may be better off not hiring an attorney for your claim.
- why the type of health insurance you have may impact how much money you get to keep from your accident case. (**Hint:** You and your lawyer must understand "ERISA.")
- how to "read" lawyer advertising.
- five ways (the five deadly sins) to ruin your valid accident claim.
- what it means when lawyers advertise "Highest Attorney Rating," Board Certified Specialist," and "Listed in *Best Lawyers in America*."

SPECIAL BONUS

Learn what type of insurance every driver should have, but most insurance agents never completely explain.

You can obtain a copy of this free, no-obligation report by calling **1-800-561-1670, ext. 230** (24-hour recorded message).

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WRONGFUL DEATH
LEGAL MALPRACTICE
TAX MALPRACTICE

Representing Individuals Against Insurance Companies, Corporations, and the Government

What we have been doing

Since our last issue, in addition to handling his own cases, Mr. Glass has...

- attended the annual convention of the Virginia Trial Lawyers Association, where he delivered a lecture on protecting the client's settlement money from the government and health-insurance plans.
- moderated a national seminar for the Association of Trial Lawyers of America on long-term disability claims.
- spoken to the Fairfax Bar Association Labor Law Section on Litigation Disability Claims under ERISA.
- published an article in the *Journal of the Virginia Trial Lawyers Association*.
- taught trial law at the Virginia College of Trial Advocacy in Williamsburg, Virginia.

Whiplash injury

Whiplash, a common and potentially serious soft-tissue injury resulting from auto accidents, occurs when the head is snapped violently backward and then forward. It can injure intervertebral discs and joints, as well as nerves, ligaments, and muscles. Although insurance companies often trivialize such injuries, they can be serious and painful.

According to the National Highway Traffic Safety Administration, more than 800,000 American drivers and passengers suffer whiplash annually, with total associated medical and lost work-time costs amounting to \$5.2 billion.

To reduce whiplash-injury potential, adjust car headrests per owner's manual guides, practice defensive motoring, and avoid speeding or unsafe drivers. Properly restrain all children.

Physicians use x-rays and physical examinations to diagnose whiplash, which may be treated with medications as well as with surgical or physical therapies. Whiplash injuries may take weeks to appear.

Anyone who is involved in an auto accident and suspects whiplash injury should consult a physician and an attorney.

We are expanding

We will be doubling our office space in July and adding a new lawyer to the team. In August, we will add an additional administrative assistant/paralegal. This expansion is due in large part to your many kind referrals and to an enormous increase in the number of long-term disability insurance claims.