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SPRING 2003

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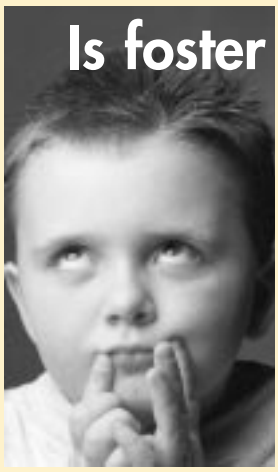

Is foster parenting right for everyone?

Foster children have been removed from their homes for a variety of serious reasons, including neglect and abuse. Foster parents are key members of teams of legal, medical, social, educational, and other compassionate supporters who provide care and nurturance for children in loving, temporary homes.

Anyone interested in qualifying for foster parenthood may have to undergo records checks and fingerprinting, take parenting courses, be in good health, have adequate financial resources, and have room in a residence that meets state safety licensing requirements.

Prospective candidates must also search their souls to see if foster parenting is right for themselves and their families. They must understand that the role's requirements include welcoming, loving, and encouraging a child. These ideals are balanced by the need to develop understanding, patience, acceptance, and a positive attitude in the face of potentially challenging child-rearing circumstances.

Guardianship

A Delaware court granted foster parents guardianship for a very young child for whom they had provided lifelong care when it was determined reunification with his biological father would threaten the child's welfare.

Stealth mandatory arbitration

Consumers are often bound to mandatory arbitration agreements they don't recall signing. Many companies reduce their risk of litigation by stealthily placing fine-print mandatory arbitration clauses into customer contracts or communications. Mandatory arbitration clauses can entrap banking, credit card, or health insurance consumers, as well as many others. Businesses shrewdly and secretly include them in product packaging or even in documents filed only with regulatory authorities.

Mandatory arbitration provisions circumvent people's rights to seek remedies through the civil justice system, leaving them unprotected against wrongdoing and providing little recourse in disagreements. Consumers rarely understand that simply by buying a product or using a credit card, they're consenting to forfeit their right to trial by jury, use vendors' biased arbitrators, or even pay for arbitration.

A home buyer's warranty

When their builder pointed to "take it or leave it" mandatory arbitration terms in their buyer's warranty, Nevada home owners sued to get serious moisture problems repaired. The State Supreme Court found the contract's mandatory arbitration clause unenforceable since it contained "oppressive terms" that gave the builder unfair rights to set all conditions and denied buyers a chance to agree to the terms.

TERRORISM...
...and its remedies

Americans have been the victims of domestic terror for the past several years.

1993—6 died in the first terror attack on the World Trade Center.

1995—167 people died from a massive truck-bomb explosion at the Alfred P. Murrah Federal Building in Oklahoma City.

1995-6—24 servicemen were killed in attacks in Saudi Arabia.

1998—228 people were killed in attacks on two east African U.S. embassies.

2000—17 U.S. sailors perished in an attack on the *U.S.S. Cole* in Yemen.

2001—A combined 3,042 people were killed at the World Trade Center, the Pentagon, and on an airliner.

Trial lawyers respond

Following the 9/11 tragedy, members of the Association of Trial Lawyers of America volunteered to provide free legal services to any family wishing to pursue justice through its Trial Lawyers Care program, a fund established by humanitarian legislation.

A recent award in a pending case

As our nation continues to address the issues of international and domestic terrorism, American victims of terrorism are obtaining satisfaction through the American justice system. In 1985, hijackers from the Iran-sponsored Hamas and Hezbollah terrorist organizations beat, tortured, and held six U.S. Navy divers hostage in Beirut for 17 days. Hijackers murdered one diver.

The servicemen and their families sued the Islamic Republic of Iran for damages based on its support of the terrorists. In April 2002, a federal trial court awarded the plaintiffs $300 million in punitive damages and $7.8 million in compensatory damages against Iran and its Ministry of Information and Security.

Our goal
An effective lawyer-client relationship

In everything we do, for each client, we strive to achieve the kind of relationship that will be mutually beneficial. What are its hallmarks?

Courtesy—We should both expect to always be treated with the consideration of good manners between partners.

Faith in judgment—From working together, we must come to mutually value a client's understanding of issues in the case and a lawyer's legal experience necessary to resolve them.

Involvement—To succeed, we must agree to cooperate to become full stakeholders in the legal processes and outcomes.

Respect—We both endeavor to do our best to appreciate each other's experience and skills, even when information or news that is shared is not what either wants to hear.

Support—The client and the attorney have a joint responsibility to make every effort to further the successful completion of the case.

Trust—Our goal is to establish and maintain a common confidence in each other's knowledge, ways of thinking, and sense of urgency about the matters at hand.

FOR YOUR SAFETY
Recalled product roundup

Here are some recently recalled products you may have in your home or at work.

✔ **Black & Decker** recalled 140,000 cordless electric lawn mowers in which an electrical component can overheat and catch fire.

✔ **Lawn-Boy, Inc.,** called back 36,000 Lawn-Boy walk-behind mowers. Mower mulch plates for Lawn-Boy can crack or break if struck by high-speed objects and injure operators or others.

✔ **Motorola, Inc.,** Broadband Communications Sector recalled one million DCT2000 digital cable boxes installed in 2002. Power cord pins at the back of the box may break, causing electrical shock to consumers.

✔ **Invensys Building Systems** wants 560,000 Siebe actuators returned for testing and/or replacement. The actuators control fire and smoke dampers in heating, ventilation, and air conditioning systems. The actuator spring mechanism can jam, prevent dampers from closing, and permit smoke, fire, and fumes to spread through a building's ventilation system.

✔ **Leifheit International USA, Inc.,** recalled 31,000 apple slicers/corers whose blades can separate and cut users' hands and fingers.

✔ **Fluke Corporation** has recalled 40,000 digital multimeters, which measure voltage, resistance, and current. Recalled units can take longer than normal to display AC voltages above 500 volts. Users who misinterpret the delayed reading for no voltage are at risk of thermal burns, shock, or electrocution.

Seniors and falls

One of the most common, and serious, problems facing retirement facility or nursing home residents is the risk of falls. Anyone who is responsible for a senior parent or elderly relative in a residence can collaborate with management and staff to reduce the potential for falls by their loved ones. They can…

- check to see that corridor and room lighting is sufficiently bright.
- periodically inspect and eliminate hazardous obstacles such as rugs, lamp cords, or other objects.
- schedule annual eye-health and vision-quality checkups.
- promote participation in exercise and other programs to maintain physical strength and improve balance.
- request that aides monitor residents after administering medications that may cause dizziness or confusion.
- encourage the elderly to use canes, walkers, or other mobility devices when needed.
- ask caregivers about the use of bed rails or restraints if unsteadiness or falling from bed occurs.

A resident's fall

After his mother suffered a fatal head injury after falling from her bed, a son won a jury verdict on her behalf in a lawsuit. He alleged that the nursing home failed to provide safe care and services because it did not use appropriate bed-safety restraints, even though the staff was aware of her known tendency to fall out of bed.

LEGAL LEXICON

Many clients find legal terms puzzling. From time to time, we'll offer some easy-to-understand definitions to help clear things up. This time, we'll address the meanings of several important legal terms related to employees and the workplace.

Affirmative action

State and federal regulations and policies intended to compensate members of minorities for unfair discriminatory practices that existed in the past.

At-will employment

Two parts: An employer's right to terminate workers without providing any reason; an employee's right to quit a job without explanation.

Disability benefits

Social Security Administration funds available to employees under age 65 who qualify under medical regulations describing an inability to work due to accident or injury.

ERISA

The Employee Retirement Income Security Act of 1974 is a federal law that requires employers to furnish employees with clear and comprehensive information about their pension rights. Court interpretation of ERISA has made HMOs and other managed-care insurers immune from lawsuits for injuries they cause by delaying or denying appropriate care. A federal Patients' Bill of Rights that would allow patients to hold HMOs accountable in court has been under consideration for several years.

Sexual harassment

Unwelcome sexual conduct on the job that makes workers feel that they are in an intimidating, hostile, or offensive workplace.

The ABCDs of skin moles

Everyone has moles—pigmented skin spots that usually pose no health threats. Physicians recommend examining moles twice yearly to monitor changes in appearance, which might indicate problems.

Medical experts recommend using the "ABCD" rule to determine if a mole needs a physician's attention. Evaluate each mole's…

ASYMMETRY Healthy moles are symmetrical. Both sides should look the same.
BORDER A mole's border should be round, not jagged or splotchy.
COLOR Normal moles are light to medium brown, not black.
DIAMETER Typically, healthy moles are smaller than the size of a pencil eraser and do not grow in size.

Some people are more prone to skin conditions than others. Individuals with more than 75 moles and skin that burns easily should pay particularly close attention to mole changes. If you have a mole that looks different than the last time you checked it, please ask your physician about it.

More than a mole

Even those who take great care of their skin can run into trouble. A 45-year-old patient was scrupulous about reporting skin disorders to his dermatologists. A year after a lesion appeared, doctors ordered a biopsy, which revealed it was not a hemangioma—a noncancerous vascular tumor—but a malignant melanoma. The patient sued and received a settlement, after alleging failure to diagnose in a timely manner, permitting the melanoma to metastasize to other organs.

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Adoption quiz

What do Diane Keaton, Paul Newman, and Willie Mays have in common?

They were all adoptive parents.

Adoption quiz

What do blond bombshell Marilyn Monroe and rock singer Debi Harry have in common?

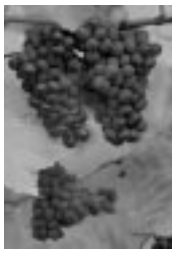
They were both adoptees.

Insurance denials

Although it is rare for businesses to make major claims against their commercial and casualty insurance policies, owners nonetheless understand the safety-net value of pure insurance protection.

Should large or even catastrophic losses occur, however, most businesses enjoy prompt review and fair payment from their insurers. The insurers' goal is to keep their commercial enterprise clients viable and successful.

When insurers refuse to pay fair commercial claims, business owners can obtain recourse through our justice system.



Sour grapes

A family co-owning a winery with a partner—who misrepresented the varieties of grapes grown—was sued for falsification. Their insurance agent assured them that if they provided proof that they had done nothing wrong, their insurance would cover losses and costs. Although they submitted documentation, their insurer denied coverage. They sued, alleging false promise and emotional distress. A jury granted them a significant award and punitive damages.

AN IRS AUDIT

It's best to be prepared in the unlikely event that the IRS decides to audit your business or personal tax returns. It's important to remember that IRS auditors are reasonable professionals who know that most returns are filed properly.

PREPARE

Stay in touch with your accounting and legal counsel. They can advise you on maintaining complete backup records for your personal and business data, as well as help you file tax returns accurately and on time. Counselors can also help you understand financial and legal activity, such as large investment losses or cash transactions, which may trigger audits.

THE AUDIT

Even though most audit targets are randomly selected, immediately tell your counselors you are being audited. They can help you prepare relevant records for review and help you respond to questions that may be asked. In fact, your accountant can handle the audit without you, take a purely businesslike strategy, and report results to you. Counselors can also apply for refunds, conduct appeals, seek private letter rulings, or counsel you on payments due.