



COFSKY & ZEIDMAN, LLC

A t t o r n e y s A t L a w

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Trial Lawyers Care

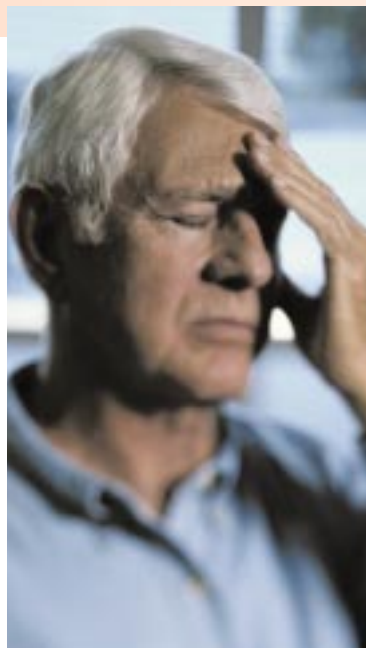
America's generous response to the September 11 terrorist attacks was an outpouring of spiritual, economic, and physical concern. Millions offered prayers, money, food, and even their blood.

America's trial lawyers did their part, too. The Association of Trial Lawyers of America (ATLA), of which we are a member, and its state trial lawyers association affiliates...

- ★ Asked for a civil lawsuit moratorium, putting relief for affected families first.
- ★ Petitioned Congressional legislators to give top priority to helping the 6,000 families harmed by the terrorism to receive needed care.
- ★ Supported Congress's September 11th Victim Compensation Fund bill, which helps injured victims and families of deceased victims recover full economic damages, and damages for real suffering.
- ★ Launched Trial Lawyers Care, a program that offers free legal services from ATLA trial lawyers to the victims and families who choose to make claims from the fund.

We commend everyone in our local community for the generous outpouring of support and affection for those who were harmed on September 11.

God bless America.



Minimal impact auto accident cases

To improve bottom lines, auto insurers routinely deny accident injury claims. They often argue that "if a car isn't structurally damaged, how could drivers or passengers, protected by seat belts and airbags, claim serious harm?"

However, studies show that even minor fender-benders can result in serious medical problems. We all know that, but people involved in minor-impact accidents sometimes need help in convincing insurance companies to be responsive and fair.

Trial lawyers know insurers' tactics, but they also understand the seriousness of slow-speed accident injuries. They are experienced in evaluating injuries and obtaining fair recompense for those who suffer such injuries.

An attorney may ask physicians, who are experts at identifying and treating serious and traumatic bodily harm, to testify. Personal injury lawyers, aware of their clients' valid claims, know how to explain them to juries, as well as communicate the need for fair compensation. They know best how to secure and present eyewitness testimony and physical evidence to support their plaintiffs' cases. Attorneys can also help evaluate settlement offers.

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WORKERS' COMPENSATION

Workers' Compensation acts are state-regulated insurance programs that help workers who are injured on the job or suffer diseases related to their occupations. Benefits customarily include weekly compensation to disabled workers; fair hospital, surgical, and medical expenses; and payment of death and burial expenses. Getting a worker back on the job is the goal of most programs.

On occasion, employers and their workers' compensation insurance company disagree on employees' injury claims. When that happens, it's usually best to try to answer questions and resolve disputed issues informally. If that fails, workers have the right to seek legal assistance and to seek resolution proceedings, which may include reviews, appeals, and even arbitration. Because Workers' Compensation is expensive for employers, they naturally monitor claims carefully. Employees often may need an attorney's assistance to obtain fair treatment after a work-related injury.

An employer terminates benefits

A utility company employee was hurt on the job and received workers' compensation benefits following surgery to repair a shoulder injury. After a year and a half, his employer determined the employee had reached his maximum medical benefits and terminated them. The employer simultaneously notified the employee's *private* disability insurance carrier that the claim was settled, but also added that it suspected the employee was working elsewhere. The private carrier terminated the contract; the employee ran out of money and declared bankruptcy. The employee sued the utility, alleging bad faith in refusing to pay benefits due on a legitimate workers' compensation claim and for intentionally inflicting emotional distress. A jury agreed, and awarded the employee both compensatory and punitive damages.

SUSPICIOUS MAIL

It's always a good idea to remember these key United States Postal Service suggestions about suspicious letters and packages.

WHAT MAIL SHOULD YOU SUSPECT?

- Unexpected mail from unknown sources.
- Pieces addressed to names not at the address.
- Mail with no return address.
- Addresses handwritten in block lettering.
- Lumpy or lopsided mail.
- Heavily taped packaging.
- Anything marked "Personal" or "Confidential."
- Mail with too much postage.



WHAT SHOULD YOU DO WITH SUSPICIOUS MAIL?

- Avoid handling it.
- Never shake, bump, or smell it.
- Wash hands after touching.
- Notify law enforcement.

What is *loss of consortium*?

When victims suffer injuries, they can lose many important things. Seriously injured people may suffer financial difficulty from losing their ability to work or walk readily, or to get a good night's sleep. Those less seriously injured may forfeit a day-or-two's pay or may have to pay for accident reports out of their own pockets.

Often, it's not only the injured person who loses something. The rest of the injured person's family is deprived of vital noneconomic valuables, such as affection of a spouse, companionship or parental guidance of children, or the camaraderie of brothers and sisters.

Loss of consortium is a term that our legal system uses to recognize and compensate those who have suffered losses due to the negligence of others. For instance, parents sometimes sue doctors for loss of consortium with their baby if negligence was involved in the infant's death. Another example might be a wife suing an employer should her husband lose his ability to have sexual relations following an accident that can be attributable to a business's disregard for safety.



Auto breakdown?

If you run out of gas or your car breaks down on a highway, you can take several steps to make sure your wait for help is a safe one.

Preparation and prevention

- ✓ Take out a membership in a roadside assistance program. Many new cars come with them.
- ✓ Purchase a cell phone for emergencies.
- ✓ Keep your car in good operating condition.
- ✓ Carry safety triangles or flares.
- ✓ Keep the spare tire in good condition.
- ✓ Know your route and don't risk getting lost.

Breaking down

- ✓ Guide the car to as safe a location as possible, and as far off the road as you can.
- ✓ Raise the car's hood and place a handkerchief in the driver's window to signal a breakdown.
- ✓ If safety is a concern, stay in the car, lock the doors, and call for help.
- ✓ If people offer assistance, have them call law enforcement. Never accept a ride.
- ✓ Take cab fare and pay-phone change.

A fatal accident

Even though a driver pulled far onto a shoulder when he ran out of gas, he was killed when his van was struck by a tractor-trailer that wandered off the road. The deceased's wife and children filed suit and received a postverdict settlement after their attorney demonstrated that the truck driver had falsified his driving logs and was driving while fatigued.

Know your heart risk factors

How much do you know about heart disease? Pick the true or false next to each answer.

- True** **False** Being more than 30 pounds overweight puts you at greater risk for heart attack
- True** **False** One year after you quit smoking, your risk of a heart attack will be no greater than if you had never smoked.
- True** **False** Burning at least 2,300 calories per week through exercise can help prevent heart disease.
- True** **False** Eating a diet high in animal fat increases your risk of getting heart disease.
- True** **False** Having your family physician check your blood pressure periodically will help you keep it under control.

All answers are *true*. However, even if you take good care of your heart, you can still run into problems. When a patient suffered a fatal heart attack a week after having an EKG, his survivors sued for medical negligence. They won a verdict when their attorney proved that the doctor and the medical center failed to disclose that testing showed the patient had had cardiovascular problems and a mild heart attack.



You always need a witness

If a tree falls in a forest and there's no one there to hear it, does it make any sound? Do you remember this old conundrum?

When it comes to personal injuries, such as a slip and fall or an auto accident, it's always best if there is an observer to affirm that the event took place and to bear witness to its details.

If you're upset or in discomfort following an injury, the last thing you're probably interested in is finding someone who will say they saw or heard what happened. But think of this: Should you need to sue to receive compensation for medical bills and pain and suffering, a witness's testimony may be the most important single verification of the injury that you have going for you. When a case is before a jury, the other side's lawyer will look for witnesses to say the accident happened in a way that differs from your recollection. The opposing lawyer may look for details that may even suggest you were at fault for what happened. Talk about blaming the victim!

So here's what to do. Try your best to get the names, addresses, and telephone numbers of any witnesses to any accident in which you are involved.

You always need a witness.





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Don't phone and drive

University of Utah research shows that talking on a cell phone dramatically—and dangerously—reduces a driver's ability to concentrate. Add to this the danger of dialing, dropping, and fishing out a phone, and you have the potential for serious problems.



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The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

Water park safety

Water parks are great fun, especially when the weather's hot. However, fun-seekers need to take several serious safety precautions.

- Closely supervise youngsters at play at all times. Discourage roughhousing.
- Teach children to swim or make them wear approved life jackets.
- Be sure lifeguards are on duty and attentive.
- Understand and follow all park rules.
- Carefully evaluate the unique features of each water attraction. Don't go on any that are inappropriate.
- Pay particular attention to water slide safety, and be sure users start in the proper position.



A pelvic injury

When a man exited a "Bonsai" water slide, he received serious pelvic tendon-tear injuries, even though he obeyed park rules and lifeguard instructions. His attorney earned a monetary jury verdict after demonstrating that the waterpark ride failed to comply with industry exit-speed standards, that there had been numerous previous injuries, and that park employees never received waterslide-use safety training.

Our Martindale-Hubbell rating

Donald Cofsky has earned an AV rating in the *Martindale-Hubbell® Law Directory* for his legal capabilities and devotion to professional ethics. Since Martindale-Hubbell bases assessments on surveys of members of the bar and of judges, we take pride in our colleagues' recognizing and respecting the quality of his legal work.

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