

Report From Counsel

Winter 2013/2014

Beware of Lead Poisoning

Lead is a highly toxic metal that can be found in many products and materials in our homes and businesses. The primary source of lead in the human environment is lead-based paint, but lead can also be found in the dust and soil where lead-based paints have peeled off or have been disturbed, as well as in some types of plumbing materials. Although Congress passed laws prohibiting the manufacture and use of lead-based paint in 1978, many buildings and homes built before this ban still contain significant amounts of lead-based paint.

Lead poisoning occurs when lead is absorbed by the body, primarily through breathing or swallowing airborne lead dust or lead paint chips. Children are particularly susceptible because they play on the floor or ground, and they are constantly putting their fingers or various objects into their mouths. Although lead poisoning occurs gradually, after repeated exposure young children will absorb about 50% of the lead that they ingest. Adults, because of physiological differences, will absorb only about 10%. Obviously, children are at

much greater risk from lead poisoning than are adults.

If left untreated, lead poisoning has serious effects on the human body, depending on the length and level of exposure. Low levels of lead poisoning can cause developmental, learning, and behavioral problems, which are especially troublesome for children. High lev-

els of lead poisoning can cause brain damage, mental retardation, anemia, liver and kidney damage, and hearing loss. The most severe cases of lead poisoning can result in brain swelling, convulsions, coma, and even death.

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Symptoms of Lead Poisoning

Common symptoms of lead poisoning in children are decreased appetite, stomachaches, sleeplessness, learning problems, constipation, vomiting, diarrhea, tiredness, lowered IQ, and anemia.

Common symptoms of lead poisoning in adults are fatigue, depression, heart failure, abdominal pain, gout, kidney failure, high-blood pressure, wrist or foot weakness, reproductive problems, and anemia.

If you live or work in a home or building constructed prior to 1978 or if you feel you may have been exposed to lead, you should have a simple blood test performed by a medical doctor. If it turns out that you have been exposed to lead, the main treatment for lead poisoning is to stop the exposure, but there are also medications available that will lower the lead levels in the blood.

Protect Your Plastic

As new technologies change the way we pay for things, criminals are managing to keep pace as they devise ways to separate you from your money. Doing what you can to protect yourself is one part understanding the technology and at least equal portions of vigilance and common sense. Still, we can all benefit from some reminders.

“Phishing” refers to out-of-the-blue e-mails, text messages, or phone calls from superficially legitimate sources, often couched in urgent tones, asking for your credit card or debit card information. The thieves then set up counterfeit cards and run up charges on your accounts. Don’t take the bait. You might think that these appeals are too brazen to work, but obviously they work often enough to be a tool in the con artists’ toolbox. Follow this rule: Never give out your payment card information in response to an unsolicited communication, no matter its apparent source.

Be careful and attentive when using payment cards at ATMs, shops, and gas stations, and not just because of suspicious-looking characters. The bad guys sometimes steal account information by attaching their own devices over legitimate card readers. Beware of plastic sleeves inside the slot where you swipe a card. Another sign of potential trouble arises when the person you are paying swipes your card on two different devices. One of those swipes may be taking your account information for later fraudulent use.

Don’t stick your account statements in the pile of bills to be paid without scanning them closely for discrepancies or suspicious items, such as unauthorized withdrawals. Today you can usually do this on-

line, or even on a mobile phone. Even small bogus transactions are worth reporting to your bank, as thieves sometimes hope to escape the consumer’s notice with many small transactions.

Recently, thieves allegedly racked up over \$25 million in charges, all in small individual amounts, from hundreds of thousands of cardholders. Let your financial institution know right away if a statement or bill is unusually late. That can signify theft of your information that may be used to commit fraud.

Periodically review your credit reports from the three major credit bureaus. If an unfamiliar card or transaction shows up, you may already be a victim of identity theft. You get one free report from each

of the credit bureaus in a year, so, to maximize your monitoring, get one free report from one of the bureaus every four months.

If you fall prey to the thieves, the federal Truth in Lending Act puts a \$50 cap on the consumer’s liability for unauthorized charges on a credit card. However, for lost or stolen debit cards and ATM cards, or unauthorized transactions in your checking or savings accounts, the \$50 cap is imposed by law *only* if you notify the institution within two business days. Wait longer than that, and the ceiling rises to \$500, or even more in some cases. The policies of individual institutions may further limit losses beyond those imposed by statute, so it is a good idea to ask your card issuer about any such limits it uses.

Insurance Company Secrets

When dealing with insurance companies, it is important to understand a few of their secrets so that you can get the settlement you deserve:

- Insurers make money in part by denying you benefits. They may try to discourage you from seeking medical treatment (especially from chiropractors), or they may tell you that rental car coverage is limited to a set number of days. In most cases, this is not true, and, if you are not at fault, you are entitled to have all of your reasonable damages and expenses covered.

- Insurance companies track every claim you make. When dealing with an insurance company, assume that it knows the history of every claim you have ever made, even if a claim was with a different company.
- The adjustor is not your friend. Despite his protests, he is not there to help you—he is there to reduce the insurance company’s payment as much as possible. You are also not required to give an adjustor a recorded statement or a medical authorization. If you feel you are not being treated fairly, it may be time to get an attorney involved.

Case by Case



Phoning It In

During the cold and flu season, many doctors are so busy that they diagnose illnesses and give advice to patients over the phone. However, a doctor who gives medical advice without seeing the patient may be liable for malpractice if he or she guesses wrong.

A 60-year-old woman developed a cough and fever. She saw her doctor, who prescribed flu medications but did not take x-rays and did not prescribe any antibiotics. When the patient worsened a few days later, she called her doctor to see what she should do.

Her doctor was not at work when she called, but she spoke with another physician. This second doctor told her over the phone to increase the dosage of cough syrup, but he never saw the patient in person. The patient's condition continued to worsen. Eventually, she was taken to the hospital emergency room and died of pneumonia the next day.

A jury found that the doctor who practiced "medicine by phone" was negligent, and that his negligence caused the death of the patient. After deliberations, the jury awarded the patient's husband and surviving son nearly \$1.7 million.

Rainy Day Blues

Water and tile floors are a bad combination, as a certain discount department store chain will tell you. It was successfully sued by a shopper who slipped and fell on the store's tile floor one rainy afternoon, injuring herself.

The evidence showed that it had been raining most of the day and that the store manager knew the floor around the store's entrance was wet. Despite this, the manager did not have store employees mop up the water, and the store did not have any mats for shoppers to wipe their feet.

Also, the store did not put up any signs warning that the floor was slippery, so the injured shopper didn't know she had to look out until it was too late.

Based on this evidence, the jury returned a verdict in favor of the injured shopper, finding that the store's failure to dry the floor was negligent.

Thanks for the Referrals

Despite this modern age of marketing and advertising, the best source of our new business is word of mouth. We are grateful that many of our clients and friends feel confident in recommending our firm.

Unfortunately, when people need a good lawyer, they often do not know where to turn. If you or someone you know has been injured and needs legal help, call us.

Tick, Tock

We have all heard that "haste makes waste," but this may not be true when you have been injured. Whether your injury was caused by an animal attack, a car accident, or a defective product, you should contact our firm as soon as possible. One reason for this is that your injury starts the ticking of a legal clock, known as the "statute of limitations."

A statute of limitations is nothing more than a legal rule that limits how long you may wait before bringing a claim against another person. If you do not make your claim before the statute of limitations passes, the law may prevent you from ever doing so.

Statutes of limitations are followed strictly by our courts. If you are even a single day late, your claim may be dismissed—"close enough" does not help with the statute of limitations.

So how long is the statute of limitations for an injury claim? The general answer is that it depends on the facts of the case and the way in which you were injured. **CALL US AS SOON AS POSSIBLE AFTER AN ACCIDENT OR INJURY** so that we can evaluate your case. We'll make sure that the statute of limitations' clock doesn't run out on you.

Aggressive Driving

As roads become more congested and people's lives become more hectic, aggressive driving and the dangers associated with it increase. Aggressive driving is the combination of unsafe and unlawful driving actions that show a disregard for safety. An aggressive driver is one who operates his or her vehicle in a selfish, bold, or pushy manner, without regard for the rights or safety of others.

Aggressive driving is often triggered by trivial disputes and includes such things as refusing to allow a motorist to pass, obscene gestures, horn-blowing, tailgating, and failure to obey traffic laws. Aggressive driving is different from "road rage." Road rage usually involves a driver breaking a criminal law, such as by shooting a gun at another driver who cut him off.

However, aggressive driving can be just as dangerous, to both the aggressive driver and those with whom he shares the road.

Don't be an aggressive driver. Allow yourself extra travel time to arrive at your destination so you do not have to hurry, and remain calm in traffic. The best way to avoid being the target of an aggressive driver is to practice basic traffic courtesy. Think the best of other drivers and assume that if they make a mistake, it is not personal. Avoid conflict if possible (even if you are in the right) and carefully consider the possible consequences before you react.

Call 911 to report unsafe or aggressive drivers. The risks and consequences of aggressive driving are great, and you should take care to be neither a perpetrator nor a victim.

Lead Poisoning

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If you are unsure or just need peace of mind, have your home checked for lead by a qualified inspector. When renovating older homes or attempting to remove lead-based paint, hire a trained, experienced contractor who will take necessary precautions and properly clean up the area. Keep children away from areas that you suspect may be contaminated by lead, keep dust down by cleaning with lead-specific products, and wash your hands frequently.

If you suspect that a loved one has suffered a lead-related injury, please call us so we can help you determine your legal rights. Depending on your circumstances, you may have a case against a manufacturer, contractor, landlord, or seller, and you may be entitled to recover money for your injuries.

Actual resolution of legal issues depends upon many factors, including variations of facts and state laws. This newsletter is not intended to provide legal advice on specific subjects, but rather to provide insight into legal developments and issues. The reader should always consult with legal counsel before taking action on matters covered by this newsletter.