

MONSEES MILLER MAYER PRESLEY & AMICK

A PROFESSIONAL CORPORATION • TRIAL ATTORNEYS

SPECIAL EDITION

WINTER 2008

Brought to you by
Monsees, Miller, Mayer,
Presley & Amick
A Professional Corporation

Web site:

www.mmpaLaw.com

Kansas City Office

4717 Grand Avenue, Suite 820
Kansas City, MO 64112-2258
816-361-5550
800-444-7552
FAX: 816-361-5577

Springfield Office

1021 East Walnut
Springfield, MO 65806-2301
417-866-8688
800-333-7552
FAX: 417-866-8687

CLAIMS/CASES

- Automobile Accidents
- Dangerous Products
- Medical Malpractice
- Nursing Home Negligence
- Industrial Accidents
- Construction Accidents
- Recreational Accidents
- Explosions, Electrocutation
- Insurance Claims
- ...and many others.

Referrals

We want you to think of us as your law firm. If you have legal matters that need attention, please let us know. If we cannot handle the matter, we will refer you to a competent firm that can.

Please feel free to refer us to your family, friends, and neighbors for their legal needs. We welcome the opportunity to help.

Personal injury DAMAGES

Our firm helps those harmed by others' negligence recover losses from auto accidents, dangerous medications, medical malpractice, on-the-job injuries, unsafe products, workers' compensation claims, and other situations.

When a victim is injured by another's negligence, a jury or judge can award several kinds of damages and costs:

Compensatory damages

Following harm, those empowered can recommend two kinds of monetary recompense to make a person or property "whole" again.

Actual damages awards cover economic loss for which receipts can be produced. These may include expenses for medical and hospital care, salary or wages lost from missing work, nursing or household support needed for recuperation, rental cars, and repairs to damaged property.

General damages relate to noneconomic harms. A judge or jury may award these damages for injuries that are harder to calculate or estimate, such as values for pain and suffering, disfigurement, loss of sexual or companion consortium, anticipated medical expenses and recovery costs, future lost wages, and potential employment opportunities.

Punitive damages

In addition to prescribing actual or general compensatory damages, a jury may also award punitive damages to rebuke a defendant for behavior that is highly negligent or even intentional. Jurors add punitive damages to prevent others from repeating harmful behavior.

Nominal damages

These are small monetary awards a judge or jury may occasionally grant to acknowledge that although a plaintiff had been injured, evidence proving it was weak.

Court costs

Plaintiffs can sometimes recover costs to acquire trial transcripts, file cases, obtain depositions, pay process servers, and other court actions.

Attorney's fees

Plaintiffs do not usually recover these costs.



Good people who happen to be good lawyers.

PLAYGROUND SAFETY

Kids love playgrounds where they can climb, slide, swing, and have fun. But U.S.

Consumer Product Safety Commission data show that more than 200,000 playground accidents occur annually, with many requiring emergency room treatment for injured children. More frightening is that an estimated 15 children die each year from playground accidents—with 70 percent on home playground

equipment and the rest at public-use facilities.

The National Program for Playground Safety suggests precautions parents can take to make sure their children are as safe as possible at home and at public playgrounds:

- An adult should supervise all play and assist in emergencies.
- Encourage children to play on equipment designed for their ages.
- Safety-inspect ground surfaces for hardness or hazards such as broken glass or other sharp objects.
- Monitor ladders, steps, platforms, handrails, ropes, barriers, and swings, slides, seesaws, and merry-go-rounds for condition, looking for sharp edges, loose connections, missing parts, and other dangers.
- Report and repair all hazards.

Injured children

Despite all precautions, child injuries may occur—but parents have legal remedies. A three-year-old in a Headstart program suffered head, neck, and brain damage from a fall off a jungle gym. The child's parents received a structured settlement after their attorney demonstrated that the preschool operators were negligent for failing to provide adequate adult supervision of children at play.

Carbon monoxide DANGERS

Odorless, colorless, and tasteless—carbon monoxide (CO) can float through your home without your sensing it. This deadly gas replaces oxygen in your blood, damaging body tissue and killing cells.

Carbon monoxide poisoning results in confusion, headaches, vomiting, and nausea. Serious cases may cause seizures and even death. Telltale signs of carbon monoxide poisoning are bright red lips and skin.

You can protect your family from CO in your home:

- ⌘ Install inexpensive CO detector-alarms, available at hardware and department stores.
- ⌘ Get all fuel-burning venting systems, chimney flues, and gas appliances inspected annually.
- ⌘ Make sure all gas appliances have adequate ventilation.
- ⌘ Never use an oven or gas range to heat your home.
- ⌘ Don't run any cars in your garage unless the outside doors are open and doors connecting to your home are closed.

If you suspect CO gas in your home, evacuate everyone immediately. Then phone your local emergency assistance number from another location so that fire, police, and emergency technicians can help.

IF YOU RENT...

Here's a case that shows why renters should install CO-detector alarms, too.

When apartment residents complained of CO exposure from a gas water heater, management immediately notified the installation/service company to make repairs. Three weeks later, but before the company's technicians came to inspect, the complex was evacuated because of CO. Two renters were found unconscious in their bedroom, directly over the gas heater. The husband suffered disabling brain and heart damage, and the wife also suffered severe injuries.

The couple sued the apartment's management, their service firm, and the gas utility for negligently installing and servicing the heater. Parties settled claims before trial, with the defendants admitting their culpability in failing to provide a safe rental premises.



Seven slip-ups

Time and experience have shown that drivers can make seven mistakes that forfeit rights and limit opportunities for fair restitution in auto accidents:

- 1. Failing to call the police.** Without an official police accident record, it is, unfortunately, one driver's word against the other's about what happened. All claims bear equal weight.
- 2. Consenting to working out auto-damage repairs and medical-injury care with a trusting handshake.** People change their minds and tell different stories.
- 3. Declining an immediate checkup and ongoing medical assistance.** A neck that starts hurting a week after the collision is harder to justify. Also, insurance companies often counter that delayed pain may come from an existing condition or an earlier or subsequent occurrence.
- 4. Failing to collect or exchange information with other drivers, passengers, or eyewitnesses.** The document trail of evidence and statements can make or break a claim.
- 5. Forgetting to notify your insurance company.** You paid the insurance premiums, but by forgetting to call, you may incur out-of-pocket costs that the insurer should cover.
- 6. Saying "It was my fault."** Be fair to yourself. This accident may really not have been your responsibility.
- 7. Not consulting an attorney.** It's often said, "He who defends himself is foolish." Omitting legal representation cedes your rights to the other driver's insurance company.

DOG BITES

Dogs bite 4.5 million people, send 334,000 to emergency rooms, and kill 17 Americans each year. One insurer reported 14,000 dog bite claims and \$80 million in liability claims in a recent year. Unfortunately, children receive six of ten dog bites.

If you or a family member is bitten by a dog:

- Get medical attention.
 - Report the incident to law enforcement and animal control.
 - Contact us immediately.
- Any dog, no matter how well-trained and friendly, can bite, and its owners should be liable. Here are steps we may take to help our clients receive fair compensation from animal-bite incidents:
- Check for license, collar, inoculations, and the like.
 - Interview veterinarians.
 - Review law-enforcement and animal-control reports.
 - Talk to witnesses, neighbors, and mail carriers.



A serious attack

After a 100-pound dog attacked a jogger, she underwent spinal and facial surgery and pain-management treatment. Her attorney sued the dog's owner, alleging he knew his dog was vicious and he violated municipal animal-control ordinances. A jury awarded the woman compensatory damages and prejudgment interest.

On-the-job injury

Additional compensation

Workers hurt while at their jobs have **two** potential sources of compensation for the physical injury suffered.

First, there is workers' compensation, a state- and employer-funded benefits program that usually compensates injured workers for medical bills, lost wages, and rehabilitation. Workers' compensation is helpful, but it covers only the basics.

Second, injured workers also have the right to seek monetary damages caused by negligent third parties who may have been responsible for the injury. One third party might be a manufacturer whose defectively designed equipment lacked a guard to protect fingers from being crushed. Another third party could be a negligent driver who caused injuries to an employee driving on the job.

Workers generally have the right to seek redress from third parties who contribute to their injuries, compensation that may be unavailable from workers' compensation programs. This might cover current compensation for pain and suffering, scarring and disfigurement, loss of earning capacity, as well as anticipated needs, such as future medical bills and future lost wages.

Anyone injured on the job should seek legal counsel.



Workers' compensation is a blessing, but it covers only the basics.

RETURN SERVICE REQUESTED

Our Martindale-Hubbell rating

Monsees, Miller, Mayer, Presley & Amick has earned an AV rating, the highest possible, in the *Martindale-Hubbell® Law Directory* for our 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 our legal work.

Copyright © 1996-98 Reed Elsevier Inc.

© Copyright 2008. Newsletters, Ink. Corp. All rights reserved. Printed in the U.S.A. www.newslettersink.com

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.

AUTO Q & A ACCIDENT

After being in an auto accident, a driver is sometimes contacted by the other driver's insurer. Here is what most auto insurance agents recommend:

Q: Should a driver give a statement to the other person's insurance company?

A: No. Unless their agent or attorney agrees, a driver should say nothing.

Q: How could making a statement hurt?

A: Most people are friendly and want to answer questions honestly and fully. That could hurt a driver's case if he or she makes remarks that somehow increase their own liability or reduce the other driver's responsibility.

Q: So how should drivers respond if agents pressure them?

A: Drivers should tell representatives that all further contact should be directed to their insurance agents or attorneys.

Q: What else can drivers do?

A: As soon as they're done with this kind of call, drivers should write a short record covering the conversation, noting date, time, topics, and whatever else seems important. Stay in touch with insurance agents and attorneys.

Slips and falls

Managers of shopping malls, airports, and other public places take steps to prevent falls by patrons. They maintain lighting over common areas, install handrails on stairs, and keep floors dry and free of obstacles.

As visitors, we should also take care to not trip and fall. Most of us watch where we're stepping; avoid wet spots, loose carpets, and other hazards; and walk around obstacles.

A fall can occur in the blink of an eye. If you or a loved one falls in a public place, act right away to protect your rights.

A slip on cola syrup

A woman at a concert slipped on cola syrup and fell to the floor in a theater lobby, seriously injuring her knee. She had arthroscopic and knee replacement surgeries, resulting in loss of significant wages, inability to play sports, and postponing her college degree. Her lawyer sued theater owners and concessionaires for failing to keep a clean floor and won a fair settlement.

Keep our children safe

Parents have followed tragic school events in the media and wondered what advice they could give to their children to help keep them safer while at school. Here are some suggestions:

- Respect everyone else, no matter how different they seem. Embrace differences in race, religion, economic status, and ethnic background.
- Tell the truth, all the time. But try not to hurt other people's feelings.
- Stay aware of what's going on around you. Have the courage to tell a teacher or a parent if you see people doing things you don't think are right.
- Be a good person. Do unto others as you would have them do unto you. But do good *first* by volunteering to help others.
- Stand by your principles, but don't let them lead you into conflicts with people. Agree to disagree on things.

Most important, take every opportunity to talk to your children to set the examples for honesty, caring, and compassion.

