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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.

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## A successful 2003 at MMMPA

**M**onsees, Miller, Mayer, Presley & Amick is pleased to announce that it has expanded its Kansas City office and has sublet office space to the law firm of *Kenner & Kavanaugh, P.C.* Kenner & Kavanaugh specializes in medical malpractice. Nancy Kenner and Paul Kavanaugh share nearly 40 years of medical malpractice experience.

In 2003, **Monsees, Miller, Mayer, Presley & Amick** was pleased to conclude significant settlements for clients who had suffered major injuries from the following accidents: swimming pool/diving, forklift/construction site, carbon-monoxide poisoning/defective furnace venting, defective firearm, trucking/transportation, all-terrain vehicle rollover, and general aviation accidents. For more information about our previous experiences and expertise, please visit our Web site at [www.mmmpaLaw.com](http://www.mmmpaLaw.com).

## " UM" coverage Don't leave home without it

**S**ome bad drivers cannot, or refuse to, purchase auto insurance coverage. Estimates show that the national average of **uninsured** drivers on our roadways is as high as 15 percent. Getting into an accident with an uninsured driver can be a nightmare, since it is extremely difficult to recover damages from drivers at fault.

Accidents involving negligent **underinsured** drivers—those who carry minimum coverages—can be almost as devastating to the innocent driver whose car is wrecked and who faces thousands of dollars in medical bills.

### " UM"

Prudence leads the wise driver to purchase "UM"—uninsured and underinsured motorist—insurance on his or her own policy. These insurances will provide coverage against damages and injuries from accidents involving drivers who have no insurance or have inadequate insurance. Further, the smart driver will also be sure to purchase more than the minimum "UM" protection that their insurer may offer, since incremental costs may be minimal.

Review your auto insurance policy to be sure you have complete "UM" coverage. Call your insurance agent or our office with questions.



*Good people who happen to be good lawyers.*



# HORMONE THERAPY

## *Troubling research findings*

**R**ecent troubling findings question the effectiveness of hormone-replacement therapy. Early on, manufacturers' marketing campaigns convinced doctors and their female patients that menopause was a medical disorder that could be successfully treated with prescription medications that had virtually no side effects.

Now, evidence suggests medications—particularly combination hormone-replacement therapy—not only can cause cancer, heart attacks, and other serious side effects, but also may be much less effective at treating menopausal symptoms than previously believed.

Although dozens of firms manufacture medications for estrogen-replacement therapy (ERT), generally used by women who enter menopause following surgical removal of the uterus, Wyeth Laboratories' Premarin® is the most widely prescribed. For combination hormone-replacement therapy (HRT), prescribed for women who enter menopause naturally through aging, the most commonly prescribed medication is Wyeth Laboratories' Prempro®.

### Here is a brief chronology of hormone therapy's history.

1959—A *Journal of the American Medical Association* (JAMA) article reports a 25-year study showing that estrogen protects bones and relieves menopausal symptoms.

1962—Brooklyn gynecologist Robert Wilson's best-seller, *Feminine Forever*, recommends estrogen as the "cure" for "the tragedy of menopause."

1975—Thirty million prescriptions of Premarin are being filled annually.

1976—The *New England Journal of Medicine* (NEJM) reports a link between estrogen therapy and breast cancer.

1980—Pharmaceutical manufacturers market ERT and HRT from a new angle, claiming they prevent bone loss.

1985—Drug makers promote the first of several studies which say that hormone replacement therapies prevent heart disease and bone loss without risk of cancer, strokes, or blood clots.

2000—The Women's Health Initiative, part of the National Institutes of Health, reports that women taking Prempro experience a small increase in heart attacks, strokes, and blood clots.

2001—JAMA reports that a 20-year National Cancer Institute study found that long-term ERT use significantly increased the risk of ovarian cancer.

2002—Another JAMA article reports that Prempro may stem Alzheimer's disease.

2002—The National Institute of Environmental Health Sciences, of the United States Department of Health, places estrogen on the government's roster of known human carcinogens.

### The most recent studies present additional worrying findings.

May 2003—NEJM reports a new study which shows that hormone-replacement therapies failed to improve sleep, vitality, and sexual satisfaction or reduce depression.

May 2003—A JAMA article says that hormone therapy nearly doubles the risk of Alzheimer's disease.

June 2003—JAMA reports that even short-term use of HRT increases the risk of breast cancer and makes the disease more difficult to detect.

Throughout 2003, class actions have sought damages for injury and death among women who took Prempro, alleging its manufacturer failed to use due care in designing and manufacturing it to

reduce health risks, failed to conduct sufficient clinical testing and monitoring to determine safety, and failed to provide proper warnings to users about potential side effects.

The HRT situation continues to vary from month to month. For more information, please consult your attorney.

## If you slip and fall

**S**lips and falls can be funny in slapstick comedies when stunt specialists, protected with padding and knowing how to fall properly, take on-screen tumbles.

But in real life, slips and falls are a leading cause of serious injury. Even the smallest trip-up can result in a great deal of damage to ankles, legs, arms, hands, the back, or the head.

What causes falls? Among the many contributing factors are ice and snow, slippery materials on floors, stairs with faulty handrails, uneven concrete or slate sidewalks, improperly secured carpets or mats, and objects placed unsafely in people's paths.

Anyone who has a slip-and-fall accident and experiences injury should try to do several things. First, get immediate medical assistance. Second, ask for the names, addresses, and phone numbers of witnesses who saw the fall. Third, try to save any evidence related to the fall, such as a squashed piece of fruit and the shoes worn at the time. Fourth, contact legal counsel.

### *Carpet hides drain*

A woman underwent arthroscopic knee surgery and missed several months of work after tripping and falling in a railway tunnel. Her attorney achieved a settlement for her with the owners of the railway station tunnel after demonstrating that they had negligently created a dangerous condition by installing carpeting that obscured the grate of a drain depression from her view.





## AUTO ACCIDENTS

### *Seven slip-ups*

**T**ime 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.

## Workplace injuries

### *Workers' compensation not always enough*

**F**or a worker severely injured on the job, workers' compensation is often a key source of financial support during recovery and rehabilitation. A workers' compensation program is a state-operated and -guaranteed insurance plan that covers medical bills and replaces lost wages for employees.

But many workers' compensation programs limit benefits for seriously injured employees. Most replace, at maximum, only two-thirds of salary, exclude fringe benefits, and may be capped for cost-of-living adjustments. Workers' compensation also usually offers no or little compensation for pain and suffering.

Seriously injured workers face other restrictions as well. Workers' compensation benefits may be cut or ended if the worker is judged to still be able to earn money. Employers may also require a worker to take additional medical and vocational examinations to assess the extent of disability and lost earning power.

### *Other protections*

Injured workers, confronted by restrictions imposed by workers' compensation plans, can seek legal counsel, which can sometimes identify other sources of financial compensation and recovery equal to the cost of the employee's injuries. In some cases, investigating the accident scene and talking to witnesses can lead to third-party claims for compensation.



### INJURY SOURCES

**Product liability**—Manufacturers of machinery, equipment, or safety gear may be held liable for failing to exercise all possible care in the products they market.

**Inadequate warning or instructions**—Some products have built-in hazards that cannot be eliminated from design since they would inhibit cost-effective operation. Warnings must be included for such products.

**Contractor negligence**—Outside vendors engaged to install equipment, design workstations, provide lighting, or support work processes may contribute to injuries.

**Premises liability**—Dangerous conditions at the worksite or elsewhere, such as a poorly designed loading dock or inadequate safety considerations, may also cause or contribute to an injury.



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## CHILD DAY CARE

When selecting a day-care center, parents can learn much by asking specific questions and inspecting documentation covering licensure, staff qualifications, and policies. They can also review procedures for emergencies, first aid, and fire drills.

Parents can also learn more by the “feel” they get by walking around and watching caregivers and children interact. They can see if staff members enjoy being with youngsters, if they treat them fairly, and if children feel happy and safe.

### Here are several general safety and security considerations for parents...

- ✓ Are fire regulations met?
- ✓ Do steps have safety treads and handrails?
- ✓ Is lighting adequate?
- ✓ Are outdoor play areas fenced and clean?
- ✓ Is someone always watching the children?
- ✓ Are playrooms warm or cool enough?
- ✓ Are child drop-off and pick-up secure?

## BE CAUTIOUS

No matter how carefully parents inspect a day-care facility, problems can always arise. After a toddler drowned in a pool located at a day-care facility, his father sued the owner, alleging negligent supervision. His lawyer demonstrated that the child died because he had been placed in an unauthorized and unlocked play area adjacent to the pool.



## Ephedra dangers

Since the early 1990s, the Food and Drug Administration (FDA) has issued numerous consumer warnings about the dangers of products containing ephedra. And on December 31, 2003, the FDA announced plans to ban the sale of all ephedrine-based products.

These products include diet supplements, appetite suppressants, energy-builders, and muscle enhancers. Ephedrine is an amphetamine-like compound that, according to the FDA, has dangerous side effects which may have caused hundreds of illnesses and as many as 50 deaths.

Although marketers of ephedrine-based products make safety claims that they are “herbal” or “natural,” the FDA’s statement says that reactions range from mild nervousness, dizziness, tremor, and headache to severe chest pain, myocardial infarction, hepatitis, strokes, seizures, psychosis, and even death.

Companies marketing ephedrine-based products have been sued for false and misleading advertising that fails to note potential health risks associated with taking them. Anyone who may have experienced medical difficulties related to these products should contact an attorney.