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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.

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MEDICAL MALPRACTICE

What editorials are saying

Magazine headlines and television soundbites are attention-grabbers, but neither provides the understanding and insights of a well-reasoned and -written newspaper editorial.

Here is what an editorial in *The Saint Louis Post-Dispatch*, a highly respected newspaper, told readers about medical malpractice on October 11, 2002.

"Last year, fewer malpractice claims were filed against Missouri doctors than in 2000. That was about half as many as the number filed in 1987. Economic damages in malpractice cases dropped by eight percent from 2000 to 2001. Pain-and-suffering awards, which Missouri caps at \$540,000, averaged only about \$84,000. Yet, malpractice insurance premiums are going through the roof here and around the country. The culprit, doctors and insurance companies say, is frivolous lawsuits. The only cure, they say, is for patients to give up some of their rights. Time for a second opinion. If the number of lawsuits alone were causing premiums to increase, surely declines in the number of claims filed and damages paid would cause the cost of malpractice insurance to fall. But that hasn't happened. The insurance companies' solution to skyrocketing premiums—capping pain-and-suffering awards—may help their bottom lines, but it's unlikely to result in lower premiums for doctors....Nobody wants to encourage frivolous lawsuits. But capping damages for pain and suffering wouldn't accomplish that. Such damages are not even considered unless patients prove they were victims of malpractice. Nor are patients successfully suing over trivialities. Three-quarters of physician malpractice cases settled in Missouri last year involved death or permanent disability....There's plenty of opportunity to improve malpractice law...but it's crucial not to lose sight of the reason malpractice law exists in the first place: to help compensate people seriously injured by the negligence of doctors or hospitals. It would be unfair to com-

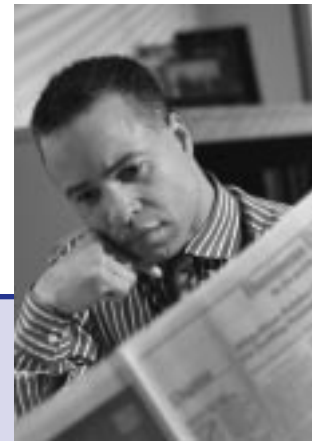
compound patients' suffering to relieve insurance companies' pain."

What if it were you?

Until Congress reforms the insurance laws, doctors' livelihoods and patients' lives will continue to be threatened by corporate interests that put profits over people.

Contact your U.S. Senators and Representative (202-224-3121) and tell them you oppose the insurance industry's effort to take away the legal rights of the most seriously injured victims of medical malpractice—people like 46-year-old Wisconsin mother of three, Linda McDougal, who had a double mastectomy and then was told she had never had breast cancer and that two doctors and a technician had mixed up her test results with another woman's.

You can identify and e-mail your members of Congress at:
<http://atla.org/ActivistCenter/Tier3/ActionNetwork.aspx>.



Serving you and your family in times of need.



Contingency fees Helpful and valuable

Contingency fees offer personal injury clients a valuable advantage. They enable anyone who suffers an injury to bring a lawsuit without having the money up-front to pay an attorney. With contingency fees, attorneys agree to accept a portion of the recovery and agree that if the client does not win and there is no recovery, there will be no fee.

Why does the contingent-fee system serve clients and work so well? Contingency fees...

- give everyone—regardless of race, color, religion, national origin, gender, marital status, age, or other factors—an equal chance to have their day in court, no matter what their financial resources may be. Individuals with limited assets can sue the richest, most powerful corporations, which often have unlimited money for legal defense fees.
- promote efficiency and discourage frivolous lawsuits by motivating lawyers to make sure that the cases they accept have legitimacy and merit.
- are fair, since there is no cost to the client unless he or she wins.
- discourage wrongdoers from continuing inappropriate behaviors.

Value-added CLIENT SERVICE

At our law firm, client service isn't just a catch phrase that merely gets lip service. We strive to provide "value-added" service to each client. That means a level of *individual attention* and *personal service* clients appreciate.

- We know that prompt, reliable, and professional legal service is what our clients want—and what we must deliver.
- Our goal is to efficiently respond to client requests. We strive to answer all questions and inquiries promptly, and follow through on what we say we will do.
- We do our utmost to maintain the same sense of urgency that our clients feel about their issues and cases, and to stay in frequent communication.
- To every extent possible, we try to make the legal experience as personal and pleasant as we can.
- When we find them, we correct client-service deficiencies right away. We want to hear what you like about us and what we can improve.

What caused this accident?

Automobile accidents in which drivers or passengers are seriously injured or killed are always terrible. When there is doubt about the cause of an accident, which may be hidden by vehicle damage, an experienced trial attorney can research and investigate the real cause of harm. Here are two actual accident cases.

Safety-check failure

Three disabled residents returning from a picnic outing were killed when ejected from their van, which overturned in a crash. A jury awarded compensatory damages and punitive damages to the decedents' survivors when investigation revealed liability on the part of the group home. Research showed that the group home was negligent in hiring the driver, who had extensive criminal and traffic-violation records. He also failed to conduct a safety check on the van, which had a flat tire, prior to departure because he was driving under the influence of alcohol and illegal drugs.

Negligent hiring

After a driver who was struck from behind by an 18-wheel truck suffered brain damage, examination revealed that the truck driver's employer and a professional driving organization had failed to conduct criminal-background checks, which would have revealed the driver's two previous accidents and felon status. The injured driver and his wife received a negligence settlement from the trucking company following the first day of trial.



LEGAL DICTIONARY

Many clients find legal terms puzzling. From time to time, we offer some easy-to-understand definitions to help clear things up. This time, we'll look at legal words that begin with the prefix *mal*, meaning "bad."

Malefactor

This is any person who is found guilty or convicted of committing a crime.

Malfeasance

Improperly performing an action that one has no legal right to do, which is wrong beyond basic negligence.

Malice

Intentionally injuring another in some way.

Medical malpractice

Poorly or unskillfully providing medical treatment that harms or injures the health or welfare of another by failing to meet standards of care commonly accepted among medical professionals.

FOR YOUR SAFETY

Recalled product roundup

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

- ✓ **Oceanic USA** is recalling about 24,700 Oceanic CDX first-stage scuba-diving regulators, which can leak air when bumped or shaken hard and injure or drown divers.
- ✓ **Pace Products, Inc.**, recalled 145,000 children's soap-making kits in which microwave oven-heated soap may overheat, leak from a tray mold, and burn children.
- ✓ **Makita U.S.A., Inc.**, of La Mirada, California, recalled 180,000 circular saws whose lower blade guard can jam and injure users.
- ✓ **Montrose Wholesale Candies & Sundries, Inc.**, has called back 247,000 disposable cigarette lighters that lack child-resistant mechanisms, which are required by federal law, and can cause burns to children.
- ✓ **Brooklyn Lollipop Imports & Exports, Inc.**, called back 22,000 electric fans. Their undersized wiring, unpolarized power plugs, and improperly sized grills may overheat and shock or electrocute consumers.

CPSC chair speaks out

Harold "Hal" Stratton, new chairman of the Consumer Product Safety Commission, has promised to be an activist in encouraging manufacturers to recall and correct defective products as quickly as they can.

Asbestos update

Even though manufacturers knew the deadly dangers of asbestos products 70 years ago, they concealed health hazards from workers and the public. In the 1970s, asbestos use became limited but was not totally banned, because the asbestos industry successfully lobbied against the prohibition of its use. But corporations continue to wage legal and public relations battles to avoid accepting responsibility. Here are some recent developments.

Asbestos industry seeks protection

The asbestos industry and its allies are spending millions of dollars trying to win a bailout from the U.S. Congress. They want to deny most victims of asbestos poisoning the right to even go to court. The industry claims these victims, who are sick but not yet dying, are "unimpaired" and should lose their legal rights.

Unreasonable danger

A 66-year-old construction plumber who was exposed to asbestos between 1950 and 1970 is now suffering pleural malignant mesothelioma and undergoing chemotherapy. His lawyers negotiated a postverdict settlement following a jury award by demonstrating that the asbestos products with which he came into contact were unreasonably dangerous, and that product manufacturers and distributors failed to warn of their danger.

If you suspect that you or a loved one has been injured by asbestos, contact an attorney right away. The law limits the time anyone has to act. An attorney may be able to help not only with Workers' Compensation and actions against responsible parties, but also with compensation for medical care, lost wages, and pain and suffering.



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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.

Your rights are in danger

The article on the front page regarding medical malpractice is only one example of how the insurance industry is lobbying your legislators and defrauding the American public about lawsuits and the rights of consumers. Serious infringements of the rights of injured persons to collect damages for injuries inflicted by negligent doctors, motorists, product manufacturers, and the like are at issue before your state legislators and the United States Congress. Only citizens can prevent these injustices. Write or call your respective Representatives and Senators.

One tactic employed by the insurance industry to generate public support for “tort reform,” are the so-called “Stella Awards” that many receive by e-mail. These examples of frivolous lawsuits have become urban legend and are completely phony. The “Stella Awards” are mockingly named for Stella Liebeck who, in contrast to myth, was actually terribly burned by McDonald’s coffee.

You can help. On behalf of our current and future clients, **Monsees, Miller, Mayer, Presley & Amick** has testified before the Missouri legislature to educate lawmakers about the truth. You can educate yourself about so-called “frivolous lawsuits” by visiting www.atlanet.org (look for “Consumer and Media Resources”) or by visiting www.snopes.com.

Whiplash injury

Whiplash, a common and potentially serious soft-tissue injury resulting from auto accidents, occurs when the head is snapped violently backward and then forward. It can injure intervertebral discs and joints, as well as nerves, ligaments, and muscles. Although insurance companies often trivialize such injuries, they can be serious and painful.

According to the National Highway Traffic Safety Administration, more than 800,000 American drivers and passengers suffer whiplash annually, with total associated medical and lost work-time costs amounting to \$5.2 billion.

To reduce whiplash-injury potential, adjust car headrests per owner’s manual guides, practice defensive motoring, and avoid speeding or unsafe drivers. Properly restrain all children.

Physicians use x-rays and physical examinations to diagnose whiplash, which may be treated with medications as well as with surgical or physical therapies. Whiplash injuries may take weeks to appear.

Anyone who is involved in an auto accident and suspects whiplash injury should consult a physician and an attorney.

How to select an attorney

Many who need a personal injury attorney’s services look in the *Yellow Pages*, contact bar associations, or ask relatives and friends for referrals.

Those are very good places to start; however, selecting the right attorney means going a little deeper. We always suggest that people interview several attorneys to identify important qualities.

Trust—*Can you place your confidence in them?*

Comfort—*Do you feel at ease with this attorney?*

Sensitivity—*Is this attorney caring and dedicated to helping injured people?*

Assertiveness—*Will the attorney represent you and your case with vigor?*

General questions

Is your practice limited to several key fields?

What’s your experience in my kind of case?

What professional organizations do you belong to?

Do you carry liability insurance?

Specific case questions

What will my case cost?

Who will work on my case?

When do we have to start action?

How long will the case take to settle?