

MONSEES MILLER & DEFEO

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SUMMER 2000

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Web site:
www.mmdlawyers.com

Kansas City Office
9229 Ward Parkway #107
Kansas City, MO 64114
816-361-5550
800-444-7552
FAX: 816-361-5577

Springfield Office
1201 East Walnut
Springfield, MO 65806
417-866-8688
800-333-7552
FAX: 417-866-8687

CLAIMS/CASES

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

We love referrals!

Please refer us to a relative or friend who has been injured. Our goal is to help victims get fair and just compensation. We appreciate the trust you've placed in us.



Summertime at MM&D

In August, **Monsees, Miller & DeFeo** will celebrate its fifth year of practice. We have grown, our offices have expanded, and our ability to meet the needs of our clients in a variety of legal fields has never been greater. Since the last issue, our attorneys have successfully resolved cases for clients damaged from dangerous construction equipment, firearms, vehicles, nursing homes, and vehicular collisions, to mention a few.

This summer, attorneys at Monsees, Miller & DeFeo will attend legal conferences all over the United States to enhance our knowledge and our ability to assist clients. We keep abreast of the latest developments and exchange information and ideas with attorneys to serve clients' needs nationwide. Daniel DeFeo will attend the conference of the Attorney Information Exchange Group, an organization dedicated to improving the safety of consumer products, particularly dangerous automobiles.

Congratulations to **David Mayer!** He has been accepted into the Million Dollar Advocates' Forum, a testament to his success in achieving million-dollar results for his clients.



Children get the experience of a lifetime at summer camp.

They'll exercise, grow, learn, socialize—and write home, asking for spending money and goody packages.

In choosing a camp, parents can find facilities specializing in sports, outdoor adventure, or weight loss. Learning camps offer topics such as foreign languages, computers, math, science, and SAT preparation.

Spiritually-minded families have religious camps, and special-needs children attend camps for the handicapped or diabetic. Many feature community service and volunteering experiences.

As a child thinks about a camp and its programs, parents consider cost, size, location, and qualities, such as staff training, nutrition, and safety—especially in emergencies.

Child safety

Many camps offer camper insurance policies and have good emergency protocols. Others ask parents to sign liability waivers. Be sure to check with us before signing away any rights. A state trial court, for instance, held that a waiver of liability form signed by a minor and a parent would not prevent the minor from recovering damages for injuries sustained at a softball camp.

Serving you and your family in times of need.

SAFE DRIVING TIPS

Everyone can drive more safely and confidently, in all driving conditions, by reviewing some basics:

Your car

- Keep it in tiptop shape. Have tires, wipers, lights, and battery checked.
- Clean windows and lights.
- Be visible. Turn on headlights at dusk and in rainy or low-visibility conditions.
- Insist everyone wear seat belts.
- Tune your radio to local weather updates.

Your driving

- Stay calm and alert at all times.
- Concentrate and drive defensively.
- Go slower, especially under adverse weather and other poor-visibility conditions. You can see only as far as your headlights' beams in the dark.

- Accelerate and brake more slowly in bad weather, and always signal before turning or changing lanes.
- Maintain a safe distance from cars in front of you. Braking distances increase dramatically as slippery

conditions increase.

- Get used to your car's anti-lock braking system.
- Refrain from braking in skids. Instead, remove your foot from the gas and steer your car to safety.



Accidents happen

No matter how safely you drive, you can be the victim of other drivers' errors. When a driver was killed by an 11-pound rock flung from the wheels of a truck, his wife and estate sued the construction company which owned the vehicle. Their lawyer negotiated a structured settlement for the wife and estate based on the company's negligence in failing to inspect for objects stuck in wheels and not teaching drivers to stop and dislodge potential missiles.

Prescription for error

Busy pharmacies fill 300 to 500 prescriptions daily, with pharmacists spending a minute or two per prescription. Each one filled has three parts: a Drug Utilization Review (DUR), pill counting, and patient counseling. The federal government and many states mandate DURs to improve care quality, reduce injury risk, and optimize medications' effects.

What are DURs? For every new prescription, pharmacists must obtain, record, and update a "patient profile." This includes patient ID; prescription and over-the-counter medications; allergies, illnesses, and disabilities; and cross-medication reactions. DURs also consider drug duplication; overuse or underuse; medication/disease contra-indications; incorrect dosages or duration of medications; and much more. Pharmacies use computer programs to compare new medications with patient profiles to identify potential problems.

Many pharmacies hire technicians. Pharmacists complete five-year degree programs, but technicians only need high-school degrees. Although many states have eased regulations to permit technicians to count and pour medications and apply labels "under a pharmacist's supervision," they may not perform DURs.

Litigation reveals that pharmacies may take shortcuts to maintain sales volume. Some corporate pharmacies train

technicians to generate labels and fill prescriptions by *bypassing computer DUR alerts with override codes*. Other companies let technicians phone doctors' offices. They usually speak with clerks or nurses, and neither pharmacist nor prescribing physician is involved in a DUR.

To protect your family

- 1. If you cannot read your doctor's handwriting, it is possible that your pharmacist cannot read it either.** Ask your doctor to rewrite it legibly.
- 2. Ask the pharmacist to perform a DUR.** Understand cross-reactions, medication duplication, contra-indications, and other information which will help protect you from harm.
- 3. Inspect the medication.** If the pills look different from what you expect—or if you find some tablets that look different—don't take any.
- 4. Read the label carefully.** Ensure that the prescription is yours. Find your name, your doctor's name, and dosage instructions. Check the manufacturer's name, drug designation, number of milligrams per tablet, and total supply.
If anything seems wrong, talk to your pharmacist or contact your doctor immediately. If you think you're a victim of wrongdoing, contact us.

FOR YOUR SAFETY

Recalled product roundup

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

The U.S. Consumer Product Safety Commission (CPSC) cautions that many thrift stores sell hazardous products that have been recalled, banned, or do not meet current safety standards. Last year, the CPSC visited 301 randomly selected thrift stores nationwide and found that 69 percent sold at least one hazardous product. The top three products found were children's jackets and sweatshirts with drawstrings that presented a strangulation hazard, hair dryers that do not protect against electrocution, and cribs that do not meet current safety standards.

- Gateway Inc., a computer marketer, has recalled one million foam, black-and-white rubber toy cows because small foam rubber pieces can tear away and choke children.
- Perfecto Manufacturing, Inc., aquarium SHOlights has sharp edges that can cut wiring insulation and cause fire, shocks, or electrocution.
- Montgomery Ward, Inc., North West Blue boys' hooded jackets and sweatshirts with drawstrings at the neck that can strangle children.

LEGAL LEXICON

Clients find legal terms we use puzzling. From time to time, we'll offer some easy-to-understand definitions to help clear things up.

Deposition

At a deposition hearing, one party gets to question another, or a witness, about a case. The person deposed answers questions under oath, and a court reporter makes a transcript record of what is said. Attorneys can represent clients at depositions, and many depositions are videotaped. Lawyers use depositions in court trials to refresh witnesses' memories, prove or disprove statements, or cast doubt on a person's truthfulness.

Compensatory damages

Juries can award economic and non-economic damages to

compensate an individual who was wronged and incurred losses. Economic damages include lost wages, medical, and funeral expenses. Non-economic (sometimes trivialized as "pain and suffering") damages include gross disfigurement, loss of limbs, blindness, fertility loss, loss of a loved one, and diminished life expectancy. Compensatory or actual damages are sometimes known as *general damages*.

Punitive damages

Juries may award punitive damages against a wrongdoer as punishment for highly egregious misconduct, such as being aware that a product or behavior will cause injury or death. Punitive damages are also a deterrent to future misbehavior that might cause harm.

Small business liability

More than 23 million small businesses operate in the U.S. A majority are well-run and produce useful and safe products and services.

However, lobbyists are currently pressing Congress to pass *H.R. 2366*, the "Small Business Liability Reform Act." This legislation will prevent children and other injured consumers from recovering full costs from injuries caused by those rare businesses which engage in extremely harmful behavior by manufacturing dangerous products or services. This bill proposes placing a \$250,000 punitive damages liability limit on small businesses which employ 25 people or fewer. It also limits the legal rights of consumers injured by such companies.

A frightening example

National Marketing imported cigarette lighters from China. Although the Consumer Product Safety Commission (CPSC) had well-known lighter standards that required child-resistant features, National Marketing actually paid its six employees to remove these child-safety features before selling them to retailers. In July 1999, after closing his business, the company's owner pled guilty to one felony count of lying to CPSC investigators to conceal his sale of non-child-resistant lighters. He faces a maximum sentence of five years imprisonment and/or a fine of \$250,000.

His and his company's liability should not be limited by the small number of workers he employed. He should be fully accountable for recklessly endangering our children's health.

What can you do?

We can all help by promoting and buying from our concerned and ethical small businesses that want to grow by marketing products and services that are both effective and safe. Everyone should get informed and take a stand on products and companies which engage in improper behavior. Finally, we can tell our elected officials that our current liability system is working and that punitive awards can deter businesses from selling dangerous products to consumers. We can urge our U.S. Senators and Representatives not to pass *H.R. 2366*, the "Small Business Liability Reform Act."



Contingency fees?

Under contingency fees arrangements, attorneys handle claims in exchange for a percentage of the recovery clients receive. This gives a person with a legitimate claim against a person or business—but who doesn't have a lot of money—an affordable way to pay for legal services. State rules vary, but such fees are usually not permitted in divorce, child custody, or criminal cases.

Contingent fees—which are paid only if the case is won—are an uncertainty for attorneys. If the recovery is small or the client loses the case, attorneys receive little or nothing for their work.

Contingency fees are negotiable, with attorneys generally receiving between 20 and 40 percent of the recovery. However, we can tailor payment to fit many clients' situations by combining contingent, flat, or hourly fees. That way, clients pay smaller-than-standard hourly fees and a smaller percentage fee. We can also employ sliding scale contingency fees keyed to the size of the recovery and the time it takes to obtain it.

Don't let temporary financial concerns discourage you from seeking the services of a qualified attorney.

THRILL RIDES

How to keep your family safer

Everyone—especially children—loves amusement parks and thrill rides. But they can be dangerous.

In 1999, six people died on amusement park rides, and about 9,000 more were injured on them. With rides being designed to be faster and more exciting, injuries are increasing.

Don't let your family take chances.

- Get a park ride safety brochure, if available.

- Comply with age or height restrictions.
- Chaperone youngsters.
- Don't get on if you're afraid.
- Buckle all safety harnesses and restraints.
- Keep hands inside, and hold on.
- Don't wear loose-fitting clothing, especially baggy sleeves.
- Avoid alcoholic beverages.
- Know where first aid or EMT service is.

A roller-coaster incident

A child received severe scalp injuries when her hair caught in a roller-coaster car's motor. When her parents sued, their lawyer obtained a settlement after demonstrating that operators failed to inspect the car and discover a dangerous space between the child's seat and the motor's cover.

