

# MONSEES MILLER & DEFEO

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#### 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.

## NO-FAULT INSURANCE UPDATE

# The fault with a New England Journal of Medicine report



### Setting the record straight

Research can prove anything you want. And research reported in an April 2000 *New England Journal of Medicine* article demonstrates it.

The article—"Effect of Eliminating Compensation for Pain and Suffering on the Outcome of Insurance Claims for Whiplash Injury," by Dr. David Cassidy—claims that **eliminating health insurance benefits makes people well**, and promotes No-Fault Auto Insurance.

### The article

*The New England Journal of Medicine's* research article says two things:

- After Canada's Saskatchewan Province auto injury compensation system was changed from tort, or traditional insurance, to no-fault in 1995, the incidence and severity of whiplash injury decreased.
- As a result, "the elimination of compensation for pain and suffering is associated with a decreased incidence and improved prognosis of whiplash injury."

### What's wrong with the study?

- Calling its findings "counterintuitive," responsible scientists rebuked the study. Dr. Emma Bartfay, Ph.D., one of Cassidy's former colleagues, filed a lawsuit asserting that he ordered her to produce statistical results that would prove that whiplash victims recovered faster under the province's new no-fault system.
- Saskatchewan Government Insurance (SGI), which had a financial interest in the outcome, funded the study. Dr. Ken Yong-Hing, the study's former director, accused SGI of interference that would cast doubt on the study's objectivity, validity, and conclusions.

- Dr. Bartfay complained that "the data that had been collected were not sufficient to handle the proposed hypothesized relationship." After she refused to follow instructions to produce results and graphs to support certain conclusions, Bartfay was harassed, verbally abused, and intimidated. She eventually resigned.

- The study was biased. Dr. Michael Freeman, a forensic trauma epidemiologist and Assistant Professor at the Oregon Health Sciences University School of Medicine, said, "All of [the study's authors'] conclusions are completely invalidated by their methods."

- The study fails to prove its claims. It attributes a decrease in whiplash claim incidence and severity to the elimination of pain and suffering compensation. But it never talks about many other variables that directly affect patients' injuries.

- **The study didn't measure how long it takes for a claimant to fully recover, but only how long it took the insurer to make a final payment**, assuming that patients always recover from whiplash injuries at the end of treatment. Dr. Freeman published findings that show that 32 percent of those with whiplash injuries continue to have chronic symptoms.

### How does this affect you?

*The New England Journal of Medicine* article is another strategy that insurance companies, corporations, and medical institutions use to prevent juries from making fair decisions on their misconduct and to lobby for corporate welfare in the guise of legal "reform." They want to insulate themselves from responsibility and costs associated with injuries they may cause to you, your family, or friends.

*Serving you and your family in times of need.*

## LEGAL LEXICON

Many clients find the legal terms we use, and those that they hear on TV shows or in movies, puzzling. From time to time, we'll offer some easy-to-understand definitions to help clear things up.

### Crime

Behavior or conduct prohibited by public law and which has an explicit punishment—such as fines or imprisonment—specified by public law.

### Misdemeanor

A less serious crime that may carry less severe punishment, such as a lesser fine and imprisonment for a year.

### Felony

Varying by state, a more serious crime which entails a sentence of larger fines and imprisonment for more than one year.

## BUYING A USED CAR

People in the market for a used car, mini-van, sports utility vehicle, or truck often learn that doing a little research can help them find the good used vehicle that they want.

### HOMEWORK

- Talk to a friend. It may sound pretty basic, but referrals from relatives, friends, neighbors, and others about cars, models, and dealers is a good place to start.
- Read about cars at a library, bookstore, or online, and read various consumer guides, car magazines, or newspaper articles for more guidance.
- Talk to your insurance agent, who may suggest cars with better safety, longevity, and maintenance records.

### MORE DIGGING

- Many cars are one-owner trade-ins from local residents. Ask to talk to previous owners.
- Insist on a dealer safety and performance inspection.
- Be sure the car is reconditioned to high safety and performance standards.
- Have the vehicle inspected by a mechanic you trust.
- Ask for multi-year/mileage warranties and extended warranties.

### GOING FURTHER

Doing your homework is no guarantee of success in obtaining the right used car. A state appeals court ruled that the estate of a woman killed in an auto accident could sue a used car dealership for her wrongful death. The estate's attorney demonstrated to the court that the driver died as a result of sales personnel knowingly misrepresenting the model year of the car, leading her to assume it was air-bag equipped and safe to drive.

## FOR YOUR SAFETY Recalled product roundup

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

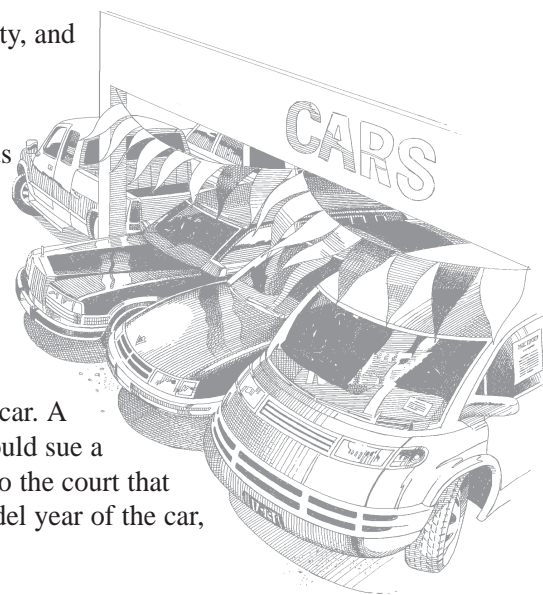
✓ **International Business Machines Corporation** recalled 220,000 AC adapters used with some IBM notebook computers. Adapters can overheat, posing a fire hazard.

✓ **Filter Tech Inc.** recalled 335,000 bottles of Aqua Mist windshield-washer fluid. The bottles do not have child-resistant caps required by federal law and contain toxic methyl alcohol, which may cause blindness or death if swallowed.

✓ **Jack Rabbit Creations, Inc.**, recalled 9,000 hand-painted, wooden "Stacking King" toys from which a round peg may dislodge and choke young children.

✓ **Weed Wizard Acquisition Corp.** recalled 2.7 million Weed Wizard trimmer heads and 857,000 trimmer replacement chain sets. The metal chain's end may detach at high velocity and seriously injure users or bystanders.

✓ **Baby Trend, Inc.**, recalled 1,500 "Road Runner" jogging strollers, identified as "Baby Trend" on the aluminum frame, with model number 9592T. Strollers lack seat-securing frame straps, and child occupants could lunge forward and slip out.



# Social Security and Medicare changes for 2000

Maximum monthly Social Security benefit for worker retiring at age 65 in January 2000	\$1,433
Average monthly Social Security benefits	
All workers	\$804
Couple, both receiving benefits	\$1,348
Widow/Widower	\$775
Standard federal monthly Social Security Income payments	
Individual	\$512
Couple	\$769
Maximum allowable assets for Social Security Income	
Individual	\$2,000
Couple	\$3,000
2000 cost-of-living adjustment	2.40%
Tax rate for employees	7.65%
Social Security	6.20%
Medicare	1.45%
Tax rate for self-employed	15.30%
Maximum taxable payroll earnings	
Social Security	\$76,200
Medicare	\$17,000
Retirement earnings—test exemption and annual amounts	
Under age 65	\$10,080
Age 65–69	\$17,000

Medicare Part B monthly premium	\$45.50
Medicare Part B deductible	\$100.00
Medicare Part A deductible—hospital stay	
1st 60 days	\$776
Copay for days 61–90	\$194/day
Copay for lifetime reserve	\$388/day
Copay for skilled nursing facility days, 21–100	\$388/day

Source: Social Security Administration and Department of Health and Human Services



## FUNERAL PLANNING

When a family loses a loved one, members must make decisions about the funeral under great emotional stress. Funerals are important family events that most people don't experience often. However, funerals are among the largest purchases that most consumers make.

Today, many individuals and families are planning funerals ahead—as a normal and natural part of executing a will and planning an estate. Planning can reduce stress and control costs. Traditional funerals that might cost \$7,000 can double in price when unique flowers, transportation, caskets, and other options are added to the service.

Basic funeral costs families can anticipate may include:

- Fees for the funeral director and staff fees for coordinating planning, obtaining permits and certificates, preparing notices, holding the remains, embalming, arranging viewings, and coordinating arrangements with houses of worship, cemeteries, and crematories. Families can also have the funeral director handle flowers and other considerations.
- Caskets are usually the most expensive single item. They range from basic to high-end models, and can vary in price dramatically. Consumers do not have to purchase caskets from funeral homes.
- Cremation costs, which usually include an unfinished casket and remains vessel, are usually modest.
- Burial vaults and grave liners, which can also be purchased

from third-party firms.

- Cemetery sites, which can be expensive in some places, should include perpetual care.
- Catering for a reception for family and friends following services.

Most funeral providers offer discrete and fairly priced services for their clients. However, since problems can arise, the Federal Trade Commission enforces The Funeral Rule, which protects consumers from unfair practices. It requires funeral directors to provide customers with complete information about their services and goods, including written prices. Although many funeral establishments offer packaged programs, consumers can refuse items and replace them with things they prefer.

### PREPAID PLANS

Millions of Americans are signing contracts to pay for their funerals in advance. The practice is governed by individual states and has been subject to alleged abuses by a small element within the funeral industry. The U.S. Senate's Special Committee on Aging is investigating supposed unscrupulous practices in the funeral business and the failure of state and federal agencies to protect consumers. One case in point is that of an elderly stroke victim who was pressured into buying a \$132,000 funeral.



## Coping with **CHRONIC PAIN**

No one should suffer constant pain. In many cases, treatments such as medication, various therapies, and attitude training can offer relief.

Medication is usually essential. Physicians can prescribe the type and dosage of relief on an individual basis. Physical therapy can help relax muscles and relieve tension. Occupational therapy shows patients how to perform tasks within the confines of pain.

Family therapy encourages everyone to cope with lifestyle changes brought on by a loved one's pain. And relaxation techniques can do a lot to help improve a person's attitude.

Treatment plans might not alleviate all chronic pain, but they can improve a patient's quality of life.

### **Fibromyalgia**

After a ferry-boat worker carrying heavy materials was injured in an accident, he sued his employer for an oft-disputed chronic pain syndrome called fibromyalgia. His attorney presented evidence which convinced a jury to render a verdict which recognized the condition and offered relief to the plaintiff.

## Construction injuries

Many enlightened construction firms are improving safety conditions for their employees. Programs prompted by the Occupational Safety and Health Administration (OSHA) and state agencies encourage appointment of Safety and Training Officers, preparation of written safety plans, and issuance of hazard communications. Procedures also include employee training using safety manuals, videos, and interactive materials. This translates to safer work sites, better safety equipment for workers, and effective accident injury monitoring and reporting.

But other employers are less concerned and headlines like this continue to appear.

**OSHA Cites Florida Construction Company For Exposing Workers To Potential Fatal Falls. Proposes Penalties Of \$456,000.**

### **An ironworker's settlement**

After a wind gust blew a construction worker off a bridge, causing back and hip fractures and other injuries, he sued the contractor for negligence in failing to provide a safe workplace and safety equipment that would have prevented his fall. The parties settled prior to trial, and the worker is now a safety director.

## Auto accident repairs *Genuine vs. Imitation parts*

When you purchase auto insurance, you expect the insurer to restore your car to pre-accident condition after an accident. To save money, insurance companies may specify—and repair shops may use—aftermarket replacement, rather than original-equipment manufacturer (OEM), parts.

What's the difference? Although it's controversial, many believe OEM parts are better. They're made and fit better. They may help a car run properly and more safely. Less prone to rust or corrosion, they help hold resale value.

If you're in an accident, you can insist on OEM parts, but you may have to pay for the cost difference. Ask your insurance agent for information.

### ***A controversial verdict***

In a 1999 class-action suit, a jury awarded \$456 million to 4.5 million current and former policyholders for State Farm's breach of contract in using inferior replacement parts after accidents. The trial judge awarded an additional \$130 million in compensatory and \$600 million in punitive damages, for a total damages award of \$1.2 billion. State Farm is appealing.