

SCHULER & HALVORSON
 A PROFESSIONAL ASSOCIATION
 ATTORNEYS AT LAW

SUMMER 2001



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 Civil Trial Attorneys

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**Handling Cases Involving
 Serious Injury**

- Automobile Accident
- Aviation Accidents
- Insurance Litigation
- Medical Malpractice
- Nursing Home/HMO Abuse
- Personal Injury & Wrongful Death
- Products Liability
- Toxic/Mass Tort Litigation

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**MULTI-MILLION DOLLAR
 SETTLEMENT GIVES HOPE
 FOR THE FUTURE**

Doctors failed to recognize that a young man had bleeding in his brain following what appeared to be a simple accident. By the time a skilled neurosurgeon was called in to perform an operation to alleviate the building pressure in the brain, the young man had already suffered tremendous irreversible and permanent problems. As a result of the medical negligence of the doctors who first treated the young man, he was facing a future that would require around-the-clock supervision and medical care for the rest of his life.

Despite the severity of the young man's injuries, the insurance companies for the health-care providers fought this case until just before the start of the trial. The insurance companies claimed the doctors did not misdiagnose the young man's condition, but if they did, the delay in treatment did not affect the ultimate outcome. In other words, the insurance companies argued that the initial accident was the cause of all the problems, not the alleged malpractice. Finally, the insurance companies wanted to dispute the amount of money the young man needed to compensate him for his lifetime of losses and damages.

Attorney *Steven W. Halvorson*, with the help of experts across the country, was able to obtain a multi-million dollar settlement for the young man. While details of the settlement cannot be revealed, the young man received sufficient monies to allow him the care and treatment he will need for the rest of his life. Obviously, no amount of money can replace one's health and ability to lead an independent life. However, with the settlement, the young man will be able to live with his family and obtain the necessary supportive care so that his future will bring with it the hope of having a better quality of life.

We believe no one deserves to have insult added to injury.



Safe pesticide use

Pesticides are an important control for our homes, landscaping, and workplaces. Safely handling and storing treatment products is important, since they can poison people and the environment. To reduce the risks associated with pesticides, everyone can take the following steps:

- Do your homework and purchase only what you need. Read labels carefully for application and storage instructions. Use only the amount specified, and under prescribed conditions.
- Wear protective clothing and masks.
- Store pesticides where children or pets cannot reach them.
- Hire professionals for serious pest problems.
- Become familiar with several key phone numbers. Remember 911 for emergency assistance, and post the numbers for the local Poison Control Center and your physician near the phone. Follow their instructions quickly and precisely.

Pesticide exposure on the job



Pesticide treatment of our workplaces is common and most times is done safely and with care. There are instances when pesticide treatment can be hazardous. While installing heating and air-conditioning ductwork in a home renovation, an employee was unknowingly exposed to a powerful insect fumigant, which initially produced flu-like headache, vomiting, and dizziness symptoms. Within weeks, he suffered slurred speech, memory lapses, and was eventually diagnosed with permanent brain damage. When the worker and his wife sued the general and extermination contractors for failing to use proper fumigation procedures, including failing to test for a fumigant following pesticide treatment, a jury awarded compensatory damages.



LEGAL LEXICON

Many clients find the legal terms used in court puzzling. **This is especially true for *Latin* legal terminology.** From time to time, we'll offer some easy-to-understand definitions to help clear things up. These will help you understand our trial system better.

• *Amicus curiae*

This means “friend of the court” and refers to a person or organization not directly involved in a case from which the court accepts legal information or opinions.

• *Certiorari*

When a court issues an order to examine records or decisions made by another court to look for irregularities, it has granted *certiorari*. Today it is used almost exclusively in connection with the U.S. Supreme Court's acceptance of cases for review.

• *Ex parte*

Meaning “by or for one party,” the phrase refers to uncommon legal circumstances where only one party—usually not the adversary—appears before a judge. Some *ex parte* communications with a judge are deemed unethical.

• *Quid pro quo*

This translates to “something for something” and usually refers to contracts in which receiving something of value is exchanged for giving something of value.

• *Res ipsa loquitur*

Literally meaning “the thing speaks for itself,” the phrase points to incidents where it is presumed that negligence caused injury, since harm could not have occurred without someone being negligent.

Negligent auto repairs

When we take an auto in for repairs, we expect the shop to do a good job. That's because we believe that they train their technicians well. We also expect technicians to receive manufacturer-based training and have the manuals, advisories, and updates for the autos the dealership sells and repairs. We trust the shop to use the best tools, computer diagnostic equipment, and parts to complete warranty and other repairs fast and up to specifications. We presume the shop will stand behind the work it does one hundred percent.

The wrong brake pads

When a driver was killed and his wife severely injured in a crash, the wife and her son sued the parts manufacturer and the tire company that installed new brake pads on the auto several days before the accident. The defendants initially claimed that the driver caused the accident by speeding, but settled when the wife's attorney demonstrated that the automotive parts exchange had negligently furnished the tire company with the wrong brake pads, which the tire firm's technicians installed.

BIG TRUCK SAFETY

According to its 1998 annual report, U.S. Department of Transportation records show that more than 5,300 people died on America's roads in crashes involving large trucks. When cars and big trucks collide, automobile drivers and passengers suffer 98 percent of fatalities.

Trucks are big, up to 60 feet long and weighing up to 120,000 lbs., so they can't maneuver or stop as quickly as cars, making them very dangerous. Further, truck drivers face incredible pressure to make long-distance deliveries as fast as they can. As a result, driver fatigue and lack of sleep contribute significantly to crashes and driver deaths. A study showed that nearly three out of five drivers violated rules regarding how many hours they could drive each day, with many drivers falsifying mileage log books to conceal their time on the road.

When you drive on highways, here are several ways to protect yourself and your passengers.

■ Wear seat belts and drive the speed limit.

■ Avoid truckers' blind spots. Don't tailgate or drive on a truck's right side. If you can't see the driver in the truck's rear-view mirror, the trucker can't see you.

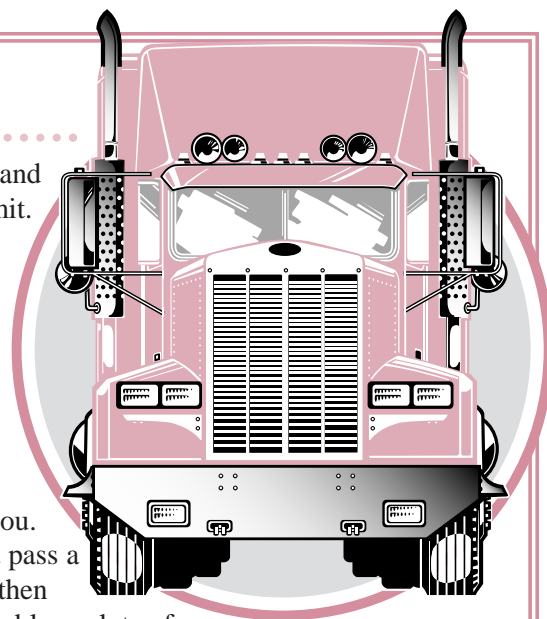
■ When you must pass a truck, signal first, then drive on the left and leave lots of room before getting back into your lane.

■ Keep your distance from trucks, and pull over when trucks merge on to highways in front of you.

■ Be alert to trucks that pull off to register at weigh stations or get into truck lanes on hills.

■ If you drive slowly on multi-lane highways, stick to the right lane and use flashers so that trucks can pass you in other lanes.

■ Slow down when visibility or weather conditions require it.



FOR YOUR SAFETY

Recalled product roundup

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

✓ **Binding Corp.** has recalled 3,000 paper shredders. Owners could lift the paper shredder lid, which lacks a protective shield, while it is running and suffer cuts or amputations of finger tips from spinning blades.

✓ **Small Beginnings, Inc.**, has recalled 16,000 baby pacifiers that failed U.S. Consumer Product Safety Commission testing standards and can choke infants.

✓ **Lifetime Hoan Corp.** recalled 132,000 fondue sets to replace alcohol burners that can produce high flames beyond the pot, or tip over and burn diners.

✓ **Kent International, Inc., and Kash 'N Gold, Ltd.**, recalled nearly 100,000 Kent Kickin' Mini-Scooters lightweight scooters. Handles can loosen from the steering column when securing clamps are not tight and injure riders.

✓ **Cosco, Inc.**, has called back about one million Options 5 High Chairs, whose seats can separate from the frame in the reclining position and cause head, face, and bodily injuries to infants.

✓ **American Honda Motor Company, Inc.**, recalled 22,000 off-road motorcycles. Two handlebar bolts can break, causing the rider to lose control and become injured.

Your rights in truck accidents

CASE 1: After a driver was severely injured in a crash with a cement truck, her lawyer sued the driver's employer for negligence. The cement company settled when the attorney demonstrated that the company's high-pressure delivery policies provided an incentive for its drivers to drive aggressively to maximize their compensation.

CASE 2: A husband sued a trucking company after his wife died in a fiery accident involving one of their vehicles. The firm settled when his lawyer proved that the truck's driver had violated federal motor carrier safety regulations by driving more than 18 hours without eight consecutive hours off at the time of the accident.

CASE 3: Several passengers were severely injured when their car collided with a truck that had jack-knifed while trying to back up to a missed exit. The plaintiff's lawyer sued on their behalf, alleging trainee-driver negligence for improperly backing up, failing to adequately train a new driver, and not having a policy that required the truck's owner, who was in the cab, to stay awake and supervise his trainee-driver.

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Did you know?

• **Richard D. Schuler** was recently elected president of the Palm Beach County Trial Lawyers Association for 2001.

• **Craig M. Goldenfarb** and his lovely wife, Colleen, became proud parents of a daughter, Danielle Helena, in March.

• Our firm was founded in 1978 by Richard D. Schuler. **Judy Spano**, Mr. Schuler's legal assistant, recently retired from the firm after 19 years. You are missed here, Judy.

• **Ann Bishop** is now in her 14th year as legal assistant to **Steven W. Halvorson**.

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. We welcome the opportunity to help.

1-800-689-8180

Jet ski safety

Water sports enthusiasts love jet skis. They are powerful, fast, exciting, and fun to ride. But they are also controversial, which is why they aren't permitted in many national parks. Environmentalists claim they cause noise, water, and air pollution and harm wildlife. Safety experts note that riders and other swimmers and boaters are at risk of serious injury from jet ski use. About half of all boating injuries are related to jet skis.

When you and your family ride, consider these safety guidelines.

- Wear U.S. Coast Guard-approved personal life jackets.
- Parents or guardians ride with anyone under age 12.
- Wear cutoff switch devices and carry safety equipment.
- Learn and obey boating rules and regulations.
- Drive defensively and practice water craft courtesies.
- Dock during bad weather.
- Never take unnecessary risks.
- Never consume alcohol when boating.
- Never drive in darkness.
- Know what to do in an accident.

Auto insurance settlements

Drivers pay a lot for auto insurance and should expect fair treatment from insurers. To receive as fair a settlement as possible after an accident:

- Notify your insurance agent immediately.
- Make detailed notes on everything about the accident.
- Identify information or settlement deadlines and meet them.
- Never sign releases until you are satisfied.
- Document all accident or settlement communications.
- Maintain frequent contact with your agent.
- Consult an attorney if you feel you aren't being treated fairly.

Bad faith

Insurance consumers can turn to our courts and juries when insurers won't pay fair claims. A driver was killed in an accident in which several other drivers were racing. The estate brought a wrongful death action against one of the drivers, whose insurance company refused to settle. When the estate sued, a jury awarded the estate a monetary verdict, plus interest and legal costs, noting that the insurer acted in bad faith by denying the claim without properly investigating it.

If you would like to receive additional information, please contact us and ask for a copy of our brochure entitled, "*What automobile insurance do I need?*"