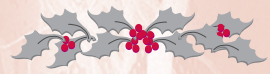


SCHULER & HALVORSON
 A PROFESSIONAL ASSOCIATION
 ATTORNEYS AT LAW

WINTER 2002/03



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**Handling Cases Involving
 Serious Injury**

- Automobile Accidents
- Aviation Accidents
- Insurance Litigation
- Medical Malpractice
- Nursing Home/HMO Abuse
- Personal Injury & Wrongful Death
- Products Liability
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**JURY AWARDS NEARLY
 \$20,000,000 VERDICT
 FOR YOUNG WOMAN**

Attorney **Steven W. Halvorson** represented Jane Doe on her claim for injuries following a car/truck collision that occurred in September 1999 in Palm Beach County, Florida. After a seven-day trial, the jury awarded \$19,965,171.61 for medical expenses, loss of earnings, and for her pain, suffering, mental anguish, disability, and loss of capacity for the enjoyment of life in the past and for the future. Ms. Jane Doe was only 18 years of age at the time of the tragic accident. Unfortunately, Jane Doe suffered a very significant head injury that will make her dependent on others to take care of her over her life expectancy of nearly 60 years.

The major issue involved in the claim was that of fault. The defendant in this case was a trucking company. The defendant truck driver claimed he was driving at or below the speed limit as he approached the intersection where the accident occurred. It was alleged that Jane Doe made a sudden U-turn in front of him. The truck driver testified that Jane Doe's car came out of "nowhere," and as a result, he was not able to brake his truck or avoid the impact with the side of Jane's car. The truck driver also claimed there was a van in a left-hand turn lane that blocked his view of Jane Doe's car. Unfortunately, Jane had no recollection of what happened in the accident and, at first blush, it appeared she may have been completely at fault in causing the accident.

The key to the case was the testimony of an eyewitness. While the eyewitness also stated that Jane Doe's car came out of "nowhere," she also provided testimony contradicting the truck driver's statement that there was a van in the left turn lane blocking his view of the intersection. Also, the witness revealed that the truck had moved over two lanes as it entered the intersection. This testimony helped establish that the truck driver may have had an opportunity to avoid the collision. While the eyewitness did not believe the truck was traveling in excess of the speed limit, the physical evidence seemed to indicate otherwise. An accident reconstruction expert was hired, and it was determined that the truck may have been going about 10 m.p.h. over the speed limit.

The trucking firm had hired its own accident reconstruction expert the day after the accident. The defense expert, of course, testified that the truck driver did nothing wrong.

The jury found the truck driver 40 percent at fault and Jane Doe 60 percent at fault. From day one, the trucking company took the position that Jane Doe was 100 percent at fault. If there had not been an eyewitness, there probably would not have been a recovery for Jane.



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

CHILD DAY CARE

For dual-income career couples who have children, day care is fundamental. In choosing a care provider, parents cross a threshold into a new world of experiences and relationships with their child. Entrance into child day care also requires understanding the serious responsibilities that both parents and day-care providers share regarding the health and welfare of a child.

Here are some guides for parents in selecting and monitoring day-care operations.

- Ask to see the facility's license.
- Spot-check the facility for sanitation and safety.
- Inquire about management and staff qualifications and experience.
- Read all the background information you receive.
- In order to see how things work, visit the center several times before enrolling your child.
- Get and stay involved in your child's care.
- Ask your child frequently for comments on his or her experiences.
- Later, make unannounced visits to see your child.
- If you have any concerns, talk to the facility's director.



BE VIGILANT

No matter how carefully a family previews and monitors a day-care facility, problems can always arise. After a six-month-old suffered permanent brain damage, cerebral palsy, and blindness, his mother sued the day-care operator and owner, alleging assault and battery. A jury awarded damages after finding both the owner and operator responsible for the child, who was a victim of shaken baby syndrome.



Attorney-client privilege

Q: *What does attorney-client privilege mean?*

A: Without the client's permission, an attorney may not disclose confidential information that a client has communicated to him or her.

Q: *Is every communication covered by privilege?*

A: No. Attorney-client privilege protects only that spoken or written information conveyed to an attorney hired by the client, and which is communicated when the client is seeking the attorney's legal counsel on a matter. Counsel unrelated to a legal matter is not privileged.

Q: *What about cell phones or e-mail communication?*

A: Care must be taken with their use, since third parties may eavesdrop even on supposedly secure or encrypted communications.

Q: *Who "owns" the privilege?*

A: Only the client, who breaks it by inadvertently communicating the information to a third party.

Q: *Must an attorney's employees honor the privilege?*

A: Yes, other members of the firm—attorneys, legal assistants, paralegals, and clerical staff—honor attorney-client privilege.

Q: *How long does privilege exist?*

A: Only a client's authorization or a court's ruling can break it.

LEGAL LEXICON

Many clients find the legal terms used in court puzzling. From time to time, we'll offer some easy-to-understand definitions to help clear things up. This time, you'll learn the meanings of several important terms used in courts to help you better understand our trial and jury system.

Testimony

Statements of fact about a case that a witness declares are true while under oath or affirmation.

Direct examination

Preliminary questions that lawyers ask witnesses who have been called by their client and who support the issue and welcome any questions. Lawyers use direct examination to establish the basics of a case.

Cross-examination

Probing inquiries by the opposing attorney about the testimony of direct examination witnesses in order to weaken or counter the testimony and other side's case.

Redirect examination

Questions asked of witnesses about testimony and matters brought up during cross-examination to validate key points or contest misimpressions.

HEART HEALTH

Cardiac pacemakers

In implant use since the 1950s, pacemakers regulate heart rhythm disturbances and help millions of people lead normal and productive lives. Pacemakers work by directing minute electrical impulses to aid the heart's muscles in relaxing and contracting normally.

Technological advancements have improved pacemakers' electronic circuitry and have reduced their size and weight. Battery life has also been extended greatly.

In the past, pacemaker implants were done only in hospital operating rooms under general anesthesia. Today, the procedure, while still a major medical undertaking, is often performed in electrophysiology laboratories under local anesthesia.

Pacemaker recipients return to normal life within days of the procedure, but must obtain periodic cardiac assessments. Physicians can monitor pacemaker function by telephone transmission.

Ongoing cardiac care

A key element of pacemaker implant care is follow-up medical attention. Following a patient's artery bypass, valve replacement, and pacemaker implant therapies, a hospital staffer improperly removed the pacemaker's wire leads. The patient's attorney filed suit and won a settlement from the hospital by demonstrating that a nurse's negligent removal of pacemaker wires tore the patient's heart tissue, caused dangerous complications, and led to additional surgeries.



FOR YOUR SAFETY

Recalled product roundup

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

- ✓ **PM International Ltd.** has recalled 22,000 international two-prong adapter plugs, which can separate upon removal and pose an electric shock hazard to users.
- ✓ **Whirlpool Corporation** recalled 17,000 combination washer and gas dryer units, whose dryers can overheat and catch fire.
- ✓ **Candle-lite** called back 80,000 Martha Stewart Everyday® Brand ceramic potpourri simmering pots. Candle flames can flare from ventilation holes and burn consumers.
- ✓ **Graco Children's Products, Inc.**, has asked consumers to return 152,000 toy tracks attached to children's activity centers. The track can break and then cut, pinch, and choke young children.

Recalls are rising

It's more important than ever to try to stay up-to-date on product recalls, which are increasing. In 2001, Food and Drug Administration recalls jumped by 24 percent (up to more than 4,000), and the Consumer Product Safety Commission (CPSC), which has jurisdiction over more than 15,000 varieties of consumer products, had more recalls in 2001 than in any year since 1990. At the same time, however, consumers are not always heeding recall messages. The CPSC says that returns on some recalls have been below 20 percent.

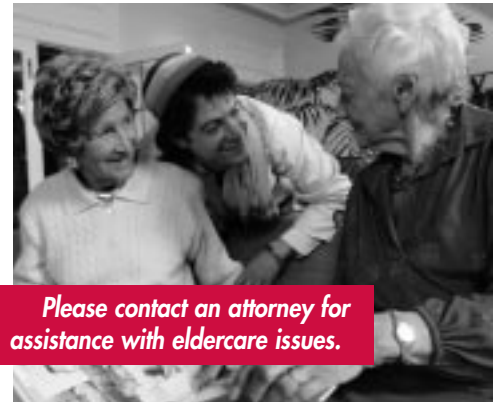
ELDERCARE

Assisted-living residences

One of the privileges of family life is helping a beloved elder family member find an assisted-living residence to meet their daily living, health-care, nutritional, social, and spiritual needs. Seniors' residences vary in both offerings and qualifications, so it's important for a family to review several residences before making a selection.

Here are some screening guides:

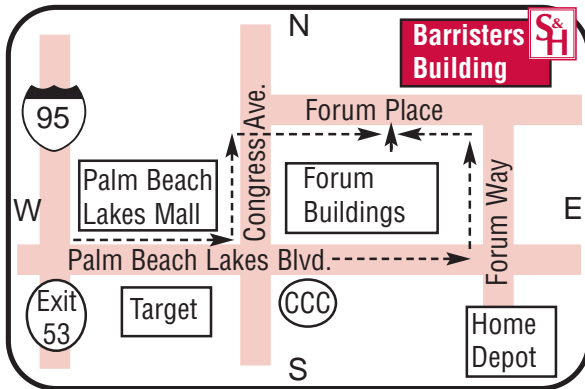
- Ask for records of licensure, quality assurance planning, association memberships, inspection certificates, and continuing education for staff.
- Investigate resident needs assessments and a progress plan.
- Identify facility assistance available to memory-impaired or disabled residents.
- Inquire about physician and hospital availability.
- Obtain a listing of all services and activities, from medication assistance and laundry to social activities and group outings.
- Be sure to understand all costs and fees.



Please contact an attorney for assistance with eldercare issues.

When care fails

Assisted-living centers that conduct health-care testing have a particularly important responsibility to residents. After an 84-year-old was placed on a cardiac medication, he underwent testing to evaluate results. Although the test lab faxed notice of abnormal value readings to residence medical staff, they took three days to notify the resident's physician. When the resident became ill and died, his family brought a medical negligence suit against the testing lab and the assisted-living facility. A jury awarded significant damages as a "clear statement" that the resident's life had value despite his advanced age.



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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.

Asbestos update



Manufacturers knew asbestos products were hazardous to employees and consumers as early as 1930. However, they concealed health dangers from workers and the public. Exposure to asbestos dust can cause mesothelioma (a deadly cancer of the lining of the lungs) cancers of the lung and colon, and other illnesses. The federal government limited asbestos use in the 1970s.

Millions of Americans have been poisoned, but corporations won't take responsibility for treatment of their employees. Manufacturers continue to wage legal and public relations battles to avoid accepting blame for wrongdoing.

The asbestos industry and other companies have been seeking congressional protection from those they have hurt.

If you are concerned

If you suspect you or a loved one has been injured by asbestos, see your physician and contact an attorney right away. The law limits the time sufferers have to act.

Childbirth injuries

Parents want their child's birth to be a beautiful experience. They also hope and pray that their new infant will enjoy a normal and natural childhood.

However, in some cases, birth-trauma injuries shatter parents' dreams and children's lives. Some cerebral palsy and birth-trauma injuries to infants may be preventable through appropriate and timely medical intervention or nursing care.

Cerebral palsy

A jury awarded a Wisconsin couple a medical malpractice verdict when their attorney demonstrated that their physician mishandled their son's birth, causing him to develop cerebral palsy. The verdict will help the family pay for physical, occupational, vocational, and other necessary therapies their son will require for the rest of his life.



Had this couple's son been born several months later, subsequently enacted state caps on "noneconomic" awards for pain, suffering, and other damages in medical malpractice suits would have reduced the jury's verdict to less than half.

Lawsuit



Q: *How can I tell if I have a legitimate claim for a lawsuit?*

A: The best way to see if you have a viable legal claim is to consult an attorney.

Q: *Why is that?*

A: A lawyer knows the law and is thus in a better position to evaluate the details of your situation to make a professional determination of the claim.

Q: *What will it cost for a lawsuit?*

A: It all depends, though a common approach is a contingent fee contract. This is when an attorney represents a client and bases compensation on a percentage of the amount recovered in the suit, plus costs. The client faces no out-of-pocket expenses. You pay the lawyer only if he or she wins your case.

Q: *Are there other financial arrangements?*

A: Yes. Depending on the issues in the case, some clients prefer to pay for services on an hourly basis, a retainer basis, or a combination of the two.