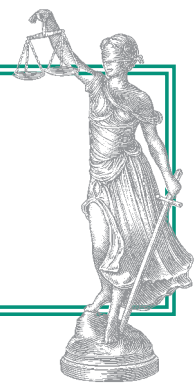




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WINTER 2008



*Richard D. Schuler



*Steven W. Halvorson



Jason D. Weisser

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Investigators:

- Joseph A. Johnston
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- Hank Van Wieringen

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The Barristers Building

1615 Forum Place, Suite 4D, West Palm Beach, FL 33401

Telephone: 561-689-8180 • Toll-Free: 800-689-8180 • Facsimile: 561-684-9683

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**CLIENTS BENEFIT WHEN
INSURANCE COMPANIES DO
WHAT THEY DO BEST**

By Steven W. Halvorson

What is it that insurance companies do best? Insurance companies like to practice the three “D”s: deny, delay, defend. On personal injury claims, insurance companies will deny a settlement by proclaiming their insured was not at fault, or someone else was at fault, or that our client could not have been injured as a result of the accident. If fault is clear and injuries obvious, insurance companies will try to delay paying a claim for as long as possible. One common ploy is to allege that they did not receive the records we sent them. They will wait 20–30 days and then send a request for the same or more information. We keep exact duplicates of what we send them, so we know the insurance company is simply trying to delay resolving a claim. Finally, insurance companies will vigorously defend claims once we file lawsuits to further delay resolving matters.

The law in Florida is that insurance companies must attempt to settle a claim, when under all the circumstances it could and should have done so had it acted fairly and honestly toward its insured.

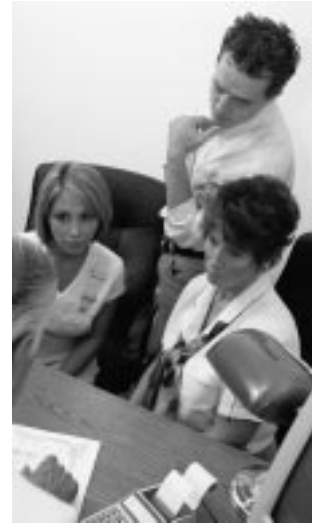
What this means is that the insurance company must protect the interests of its insureds and settle claims when it has a reasonable opportunity to do so.

Fortunately for our clients, insurance companies would rather adhere to the 3 “D”s than settle a claim in a reasonable and timely manner. We will provide insurance companies with enough information and provide them with a window of opportunity to settle a claim, but oftentimes the insurance carrier will practice one or more of the 3 “D”s and not settle. By failing to settle, the insurance company can be found to have acted in “bad faith,” which allows us to recover more than the policy limits. If the insurance company pays the policy limits in a timely fashion, that may be all we can recover for a client. But if the policy limits are not timely paid, we fight for our clients to try and recover the full value of their claims.

In the last year or so, we have convinced various insurance companies to pay over their policy limits in multiple cases. Some examples are as follows:

- \$1,500,000 on \$20,000 in coverage
- over \$1,250,000 on a \$10,000 policy—settlement 75 times policy limits
- \$750,000 on a \$100,000 policy
- \$400,000 on \$20,000 in coverage
- \$190,000 on a \$25,000 policy
- \$100,000 on a \$10,000 policy
- nearly \$100,000 on a \$10,000 policy
- \$45,000 on a \$25,000 policy

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

LEGAL DICTIONARY

Many clients find legal terms mystifying. From time to time, we provide easy-to-understand definitions to help clear things up. This time, you'll learn the meanings of several important terms used at court to help you better understand legal concepts.

Expert witness

Someone with special skills or expertise who can give accurate testimony at a trial, even though he or she did not see the event in question.

Jury

Citizens who listen to evidence and swear to pronounce a verdict on matters of fact.

Peremptory challenge

Prosecution and defense attorneys can eliminate a limited number of juror candidates without providing a reason. Judges oversee peremptory challenges to prevent keeping members of a certain race or sex off the jury.

Sequester

To insulate juries from improper influences or pressures during deliberations, judges may place jurors in secure locations.

Voir dire

Interviewing jurors to be sure they understand the basics of a case and will tell the truth. From the French "to tell the truth."

Defamation

An individual suffers the harm of defamation when someone makes an untrue remark about them that assails their reputation or good name, or opens them to public derision, hate, or censure.

Damaging false statements that appear in print or broadcast media are called libel. Spoken defamation is slander.

Defamatory comments may refer to the subject's business practices, health, honesty, morals, sexual life, and more.

First Amendment rights make defamation cases difficult to prove. Those believing they have been harmed by defamation should contact an attorney experienced in libel and slander.

Employer defamation



A jury awarded significant damages to a sales engineer who sued when a former employer defamed him by communicating false information. The jury came to its decision after

learning the previous employer, pretending he represented a debt-collection agency, sent false accusatory letters warning the plaintiff's current boss that the employee had sued a number of previous employers.

FOR YOUR SAFETY

Recalled product roundup

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

✓ **Mega Brands America, Inc. (formerly Rose Art Industries, Inc.)** has voluntarily recalled 4 million Magnetix Magnetic Building Sets. Children who swallow tiny, powerful magnets detached from plastic building pieces can suffer serious perforations and blockages if several magnets or metal pieces attach to each other in a child's intestines.

✓ **The Holmes Group** has recalled 300,000 Holmes® Oil-Filled Electric Heaters with poor electrical connections that can overheat and burn users.

✓ **Lamson & Sessions** asks buyers to return 100,000 Carlon® Drop-In Floor Boxes that are incorrectly wired and can shock or electrocute consumers.

✓ **Sears** warns consumers to remove the "Craftsman" logo labels from the outside of the upper blade guards of 308,000 Craftsman Circular Saws. This label can detach, expose the saw's blade, and injure operators.

✓ **Oeuf LLC** recalled 1,400 Infant Bouncer Seats with tubular metal frames that can break and cause infants to fall from the seat.



Premises **LIABILITY**

Property owners are legally responsible for maintaining their buildings' entrances, common areas, stairways, escalators, and elevators in reasonably safe condition so that visitors will not suffer injuries. Owners must also keep buildings' surrounding walks and parking lots in reasonably good care as well.

Anyone injured in an unsafe building or its surroundings may deserve compensation for harm done to them.

An elevator accident

A building visitor riding in an elevator was injured when the elevator's handrail came loose and caused the man to fall to the floor. His attorney sued after the man required lumbar fusion surgery and suffered continuing chronic back pain. A petty officer in the military, the victim was medically discharged from the U.S. Navy and can now perform only light work. The parties settled prior to trial.



Made in China



American consumers are alarmed about the growing list of defective and dangerous products being imported from China. More than 60 percent of all U.S. products recalled were made in China, with the number of recalled Chinese products doubling in the past five years.

In late summer 2007, Mattel's Fisher-Price unit, in cooperation with the U.S. Consumer Product Safety Commission (CPSC), recalled millions of children's toys because toxic lead-contaminated paint had been applied by Chinese suppliers on about 80 different toys, including Dora the Explorer®, Elmo®, and other Sesame Street® character toys.

Previous Chinese products presenting dangers to U.S. and international consumers were vehicle tires, contaminated pet food components, medication ingredients, farm-raised seafood, and many others.

Anyone who has suffered serious harm from imported products should contact an attorney experienced in products liability.

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Jury duty and blogs

Every American can cast two votes to participate in our democracy. We encourage everyone to do both.

The first is casting ballots on Election Day for candidates, laws, government spending, and public questions. The second is equally important—voting as a juror. Jurors safeguard everyone's legal rights and protect us all.

Recently, some jurors have run afoul of Internet "blogs." Short for "Web log," a blog is a user-generated Web site where participants enter journal-style comments on topics anyone can read. In a recent New Hampshire case, a jury foreperson wrote a blog entry—four days prior to his being named to a jury in a sexual-assault case—stating that he would have to "listen to the local riffraff try and convince me of their innocence," among other comments. Learning of the

blog, the defendant's attorney entered it into evidence to show juror bias after the jury reached a guilty verdict. The judge refused to throw the case out.

Legal experts are debating jury duty, blogs, free speech, and related legal issues. It is probably best to avoid blogging while on jury duty.

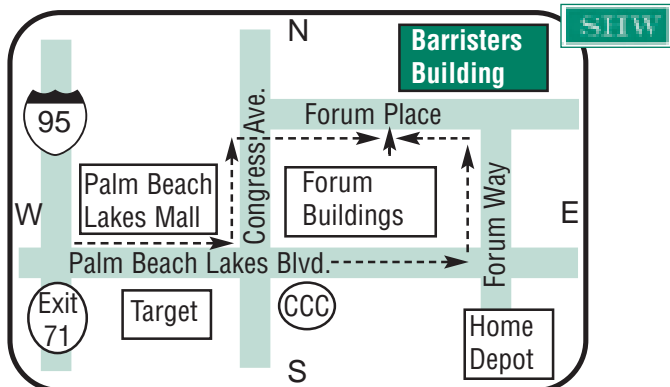


SCHULER, HALVORSON & WEISSER, P.A.
1615 Forum Place, Suite 4D
West Palm Beach, FL 33401

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Take medications SAFELY

Before taking a prescription or over-the-counter drug, following some simple guidelines should help your medication work efficiently and safely:

- ✓ Ask your doctor to inform you about the medication.
- ✓ Get all prescriptions filled at one pharmacy you trust.
- ✓ Read the medication information flyer.
- ✓ Read the drug label carefully.
- ✓ Take the medication as directed.
- ✓ If you have reactions or side effects, call your doctor.

Misfilled prescription

Even when patients comply with medication instructions, they can still experience problems. A patient suffered kidney failure requiring multiple transplants after following a pharmacist's instructions to take five times the amount of a medication prescribed by her doctor. She sued, alleging the pharmacy misread instructions and transferred the incorrect prescription to a second pharmacy, which also filled it.



Sleep-aid problem

Ambien[®], a sedative-hypnotic medication, is often prescribed to treat insomnia. Doctors wrote 26.5 million prescriptions in 2005, making it the most popular prescription sleep aid in America.

Marketed as safe and effective when used properly, Ambien has been linked to surprising episodes of users discovering that they ate meals or drove cars while asleep.

Four users who injured themselves have filed a 2006 class action alleging that although research linked Ambien to sleepwalking behaviors, its manufacturer neither monitored nor investigated reports and failed to test the product for them.

Seeking compensatory and punitive damages, plaintiffs claim that marketers were aware of risks but failed to warn class members, the public, government agencies, and the medical community. They also charge that the manufacturer published false and misleading information about the drug's safety and potential adverse side effects.

Those suspecting they may have been harmed by Ambien use should obtain legal counsel.

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CLIENTS BENEFIT WHEN INSURANCE COMPANIES DO WHAT THEY DO BEST

(continued from front page)

If the insurance companies on the above cases had timely paid the policy limits, the total settlements would have been about \$200,000. Instead, we were able to recover more than \$4.3 million for our clients.

Clients often get frustrated when insurance companies deny, delay, and defend claims. But with our experience and tenacity, we have been able to use the three "D"s against the insurance companies and to our clients' financial benefit.