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Medical-injury caps

Lawmakers who want to cap medical malpractice compensation say too many patients are suing over trivialities. Each of the sufferers in the following cases would receive only \$250,000 if medical malpractice reformers have their way. While most proposals would allow for reimbursement of out-of-pocket expenses, such as medical bills and lost wages, they would limit compensation for permanent, life-altering injuries.

Shortly after oral surgery at a hospital, a 17-year-old patient died when nurses negligently removed a breathing tube too soon, failed to monitor her distress, and mishandled her revival. A jury awarded damages.

A mother suffered a hypertensive stroke, cognitive problems, and right-side paralysis after being prematurely discharged from a hospital, despite doctors' knowledge of her high blood pressure and headache symptoms. The parties settled.

Although a five-year-old child was admitted to a hospital for an ear infection, radiologists failed to diagnose and report a sinus-cavity blood clot before he suffered permanent vision loss from swelling and optic nerve damage. A court awarded damages.

Only juries can assess fair compensation for patients' medical payments, lifelong suffering, loss of earning power, consortium with loved ones, and particularly their deaths.

Limitaciones sobre lesiones médicas

Las personas que crean las leyes quieren limitar la compensación a la mala práctica médica. Dicen que demasiados pacientes están demandando sobre cosas superficiales. Cada victima en los siguientes casos debería recibir solo \$250,000 si los reformadores de la mala práctica médica ganan. Mientras la mayoría de las propuestas permitiría un reembolso para gastos como: cuentas medicas y pérdidas de salario, ellas limitarían compensación por lesiones que causen un cambio permanente en la vida del paciente.

Poco después de una cirugía oral en un hospital, un joven paciente de 17 años se murió cuando las enfermeras removieron negligentemente un tubo de respiración muy pronto. No revisaron su monitor para verificar sus reacciones las cuales fueron angustiosas y no procedieron correctamente en su resucitación. El jurado decidió que si hubo daños.

Una madre sufrió un ataque de corazón hipertenso, problemas congénitos, y parálisis del lado derecho después de que le habían dado de alta prematuramente del hospital, a pesar del conocimiento del doctor de su alta presión y síntomas de dolor de cabeza. Las dos partes llegaron a un acuerdo.

Aunque un niño de cinco años fue ingresado al hospital debido a una infección del oído, los radiólogos fallaron en diagnosticar e informar de un coágulo de sangre en la cavidad nasal antes que el niño sufriera una pérdida de visión permanente causado por la inflamación y el daño del nervio óptico. Una corte decidió que hubo daños.

Solo un jurado puede evaluar justas compensaciones para los pagos médicos de pacientes, sufrimiento de toda la vida, incapacidad para generar su salario, tiempo ausente con sus seres queridos, y particularmente sus muertes.

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Medical bills and bankruptcy

A study appearing in Harvard University's *Health Affairs* has linked bankruptcy and medical bills.

Researchers who conducted in-depth surveys of nearly 2,000 individuals who filed for personal bankruptcy in 2001 found that roughly one in two filed for bankruptcy because of medical bills resulting from illness or injury.

Nearly half of respondents reported that their medical expenses forced them to file for bankruptcy, even though 75 percent had health-care coverage. Filers averaged nearly \$12,000 in out-of-pocket medical costs for co-payments and deductibles after they became ill. Many also lost their jobs due to their illnesses.

Bankruptcy legislation

In 2001, nearly 1.5 million Americans filed for bankruptcy. In 2005, Congress passed legislation that makes it more difficult for individuals to declare bankruptcy. At the same time, however, our nation is facing escalating medical costs, increasing numbers of Americans who are paying more for health coverages at work, and more who are also losing health coverages.

Class actions

The "Class Action Fairness Act of 2005," signed into law in early 2005, is unfair to consumers and workers. It will take most class actions out of state courts and force them into the already overcrowded and overburdened federal court system.

This class-action bill, weighed down with special-interest benefits, will make it much more difficult for those who have been harmed by corporate and other wrongdoers to obtain compensation.

Personal trust class action

The following personal trust class-action case settled in 2004 illustrates the potential value of class-action lawsuits litigated in state courts.

When several banks merged, the purchasing bank notified beneficiaries that there had been personal trust overcharges and that fees would be reduced. Nearly 6,500 plaintiffs brought a class action alleging that for nearly 20 years the banks had overcharged fees for managing personal trusts and were now failing to properly compensate trust beneficiaries.

Beneficiaries' attorneys argued that the defendants...

- should have paid compound, not simple, interest to beneficiaries.
- owed beneficiaries compensation for lost use of trust funds.
- owed plaintiffs profits from overcharged fees.
- were liable for punitive damages.

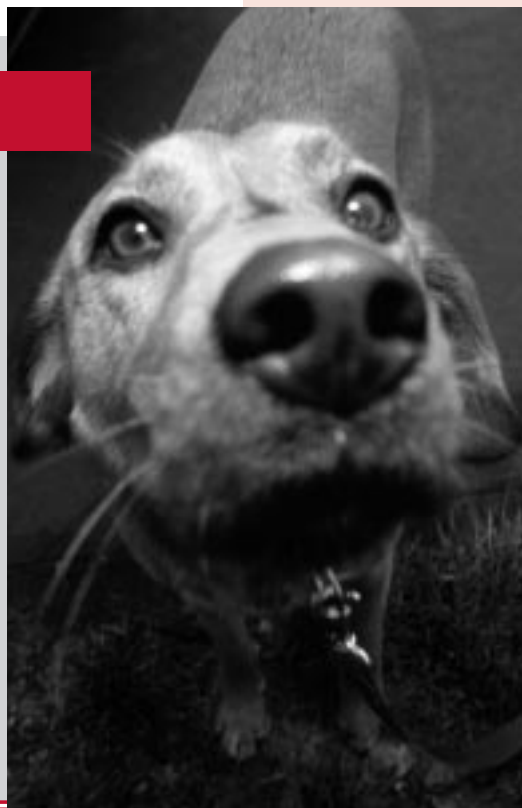
The banking defendants settled for damages of \$35 million. On appeal, the defendants also settled for profits banks made on overcharged fees for \$33 million.

DOG BITES

According to dogbitelaw.com, America is experiencing an epidemic. In a ten-year period, dog ownership grew by two percent, but bites increased by 33 percent. Insurers paid \$345 million in claims in 2003. Financial losses due to dog bites exceed \$1 billion annually.

Americans love their pets, and most dogs are safe. However, dogs still bite five million people annually, with 800,000 bites requiring medical attention. Far too many bite victims who need medical care are children, who are frequently bitten on the face.

On average, 15–20 people die from dog bites every year.



Dogs that bite

Some insurers are refusing to cover homes with certain pet breeds. Insurance data show that dogs most likely to bite are Akitas, Alaskan malamutes, chows, Doberman pinschers, German shepherds, Great Danes, huskies, pit bulls, St. Bernards, and rottweilers.

A \$20,000 dog bite

A woman who was visiting a friend's apartment was bitten on her calf by the landlord's dog, which broke its chain to attack her. The wound became infected and required skin-graft surgery, which left permanent scars. Medical expenses exceeded \$20,000. The woman sued and the parties settled after jury selection.

AUTO ACCIDENT



Q After being in an auto accident, a driver is sometimes contacted by the other driver's insurer. Here is what most auto insurance agents recommend:

Q: *Should a driver give a statement to the other person's insurance company?*

A: No. Unless their agent or attorney agrees, a driver should say nothing.

Q: *How could making a statement hurt?*

A: Most people are friendly and want to answer questions honestly and fully. That could hurt a driver's case if he or she makes remarks that somehow increase their own

liability or reduce the other driver's responsibility. Insurance company representatives are trained to elicit these kinds of statements.

Q: *So how should drivers respond if agents pressure them?*

A: Drivers should tell representatives that they have attorneys and that all further contact should be directed to insurance agents or attorneys.

Q: *Is there anything else drivers should do?*

A: Yes. As soon as they're done with this kind of call, drivers should write a short record covering the conversation, noting date, time, topics, and whatever else seems important. Stay in touch with insurance agents and attorneys.



Cinturones de seguridad salvan vidas

Nadie planea tener un accidente de automóvil. Pero todo el mundo puede hacer planes de manejar más prudentemente y ponerse el cinturón de seguridad.



Los siguientes estadísticos nos enseñan de cómo los cinturones de seguridad pueden salvar vidas:

- Cada año los cinturones de seguridad salvan las vidas de casi 10,000 conductores y pasajeros.
- Solo siete de cada diez ocupantes de accidentes de auto se ponen el cinturón de seguridad.
- Varones jóvenes entre 16 a 25 años de edad son del grupo menos probable ponerse el cinturón de seguridad y tienen más probabilidades estar involucrados en accidentes que amenazan la vida.
- Los gastos médicos del hospital de víctimas de accidentes automovilísticos que no han usado el cinturón de seguridad son 50 por ciento más alto que los gastos de víctimas que se ponen el cinturón de seguridad.
- Si el 90 por ciento de pasajeros se pondrían sus cinturones de seguridad, para el año 2005, la nación vería el número de niños víctimas de accidentes reducido al 25 por ciento.

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Referrals

Thanks to all of you who have recommended our firm to your relatives, friends, and neighbors. We appreciate your vote of confidence and pledge to care for these "VIPs" as well as we care for you.

Recomendaciones

Damos las gracias a todos ustedes que han recomendado nuestro Bufete de Abogados a sus familiares, amigos y vecinos. Apreciamos el tener su voto de confianza y estamos comprometidos a cuidar sus seres queridos así como cuidamos de usted mismo.

SEAT BELTS SAVE LIVES

No one ever plans on having an automobile accident. But everyone can plan to drive more safely and buckle seat belts.

Here are some statistics on how seat belts can save lives:

- Seat belts save nearly 10,000 drivers' and passengers' lives annually.
- Only seven in ten auto occupants in accidents are buckled up.
- Young males—age 16 to 25—are the least likely to buckle up and are the most likely to be involved in life-endangering accidents.
- Hospital costs for unbelted auto-crash victims are 50 percent higher than for those who buckle up.
- If 90 percent of passengers use their seat belts by 2005, the nation will likely see a 25 percent reduction in child fatalities in accidents.



PLEASE DRIVE SAFELY.

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CPSC fines manufacturer

In February 2005, the U.S. Consumer Product Safety Commission (CPSC) provisionally imposed a record \$4 million penalty against Graco Children's Products, Inc., of Exton, Pennsylvania.

CPSC officials levied the fine because Graco executives intentionally withheld information from the government that more than 12 million of its products posed dangers to young children nationwide. Between 1991 and 2002, Graco knew that its popular children's high chairs, strollers, swings, and beds had serious defects—hundreds of injuries had been reported—but it failed to act.

"CPSC is at the forefront of protecting children from products that can cause serious injuries," stated CPSC Chairman Hal Stratton. "Today's announcement demonstrates our commitment to protecting American families by holding companies accountable for keeping safety information from us."

In the settlement, Graco agreed to recall 1.2 million toddler beds that could entrap infants' arms, legs, and feet.

Medical malpractice

Texas study contradicts "litigation explosion"

Although politicians and the American Medical Association warn that the nation is in the midst of a "litigation explosion," yet another study has shown there's little evidence to make such a claim.

Researchers from Columbia University, the University of Illinois, and the University of Texas—including two doctors—who studied 15 years of Texas claims data, reported "remarkable stability" in medical malpractice lawsuits and payouts.

University researchers concluded that Texas physicians' large insurance premium increases did not come from medical malpractice claims, but instead from dynamics operating within the insurance industry itself. Another research center, the National Bureau of Economic Research, has independently suggested that these factors might include insurance companies' investment practices, competitive behavior, and the cycle of their underwriting.

The Texas researchers also reported that:

- Large claims (over \$25,000) remained constant between 1991 and 2002.
- The number of small claims actually dropped sharply.
- Payouts and jury awards per claim remained constant or dropped.
- The rate of claims per 100 Texas physicians dropped from 6.4 (1990–92) to 4.6 (2000–02).



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