

New York Injury Times

A MONTHLY NEWSLETTER PUBLISHED BY THE LAW OFFICE OF GERALD M. OGINSKI, LLC

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Gerry Oginski, Trial Lawyer

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In This October Edition, We Look At

WHAT A LAWYER DOES FOR AN INJURED CLIENT

He helps navigate the murky waters that can trap an unknowing victim into muck and mire.

When a person slips and falls, causing injury, your lawyer needs to find out why you slipped. Was there a defect on the property that should have been corrected? Was it simply that you didn't see where you were walking? Was the staircase not up to code so as to make it dangerous? These are the questions your lawyer will need to examine.

Products causing injury

This is known as product liability. Let's say you opened a bottle of soda and the cap exploded off the bottle and into your eye causing permanent damage. Is the bottling company to blame? Possibly.



How about a miter saw that is supposed to have a guard to protect your fingers as you slide the wood into the

cutting blade? What about a car that permits you to move the gear into reverse without first putting your foot on the brake? (This is called a gear interlock to prevent kids from playing with the gear lever. It's happened where they slip the gears into reverse and the car starts to move causing injury).

Evaluation of a product that is commonly used or bought can be very technical. Many times we need to hire engineers to evaluate a product to see whether it was designed properly and was properly placed into the marketplace.

Medical Malpractice



Malpractice is a departure from good and accepted medical care causing injury. As with anyone, doctors are held accountable for their actions, as we all are. In order to confirm evidence of wrongdoing we need to have medical experts review your records before being able to start a lawsuit for your injuries. Most cases that I see in my office do not meet the strict criteria for being able to start a case. Of those we accept, some will go to trial and others will be settled before trial.

Malpractice cases are one of the most hotly contested areas of law today. The defense attorneys we often encounter are extremely well educated and trained at defending these lawsuits.

Car accidents

We all know what terrible reputations lawyers get from all those tacky advertisements showing damaged cars and clients in wheelchairs holding up poster-sized checks with lots of zeros after some number.

But the fact is that there are accidents and very serious injuries that result from these horrible events. Lives are

shattered from a moment of carelessness. Just look around at how many people still talk on their cell phone while driving even though it's against the law!

Most people aren't interested in these informative newsletters because luckily, a tragedy hasn't befallen them. That's ok. We hope that it never does. The purpose of this month's newsletter is to give my readers an understanding of what we as lawyers do, and how we can help if the need ever arises. You'll find that I like to inform my readers about their options *before* they ever need a lawyer, and *before* they ever step foot into a lawyer's office. How many other lawyers do you know who do that?

In an accident case, I look to see how the accident happened. Where were you driving? What were the road conditions? Was your car in good mechanical condition? Was someone speeding? Did someone turn where they shouldn't have been turning? Was horseplay involved? (Think back to when a turkey was thrown from a moving car causing terrible damage to the woman driving behind them).



While going about our daily lives we shouldn't have to worry ourselves about getting injured. Common sense should dictate what good conduct is and what is not. Unfortunately, there are many people out there who are simply careless about how they do their daily activities. Haven't we all seen people reading the newspaper while stuck in traffic-and they're driving! How about applying makeup on the way to

work, and driving at the same time?

Imagine this scenario...a woman is late for work. She's in her car and traffic is crawling. She's putting on lipstick and looking in the rearview mirror to see if it's on correctly. At the same time her cell phone rings, and while answering it, she decides to light her cigarette. Unfortunately for her, the car lighter drops to her feet and now she's got her lipstick in one hand, the cell phone in the other, a cigarette dangling in her lips, and she's supposed to be paying attention to the road.

Can't you just hear the accident in your head, and visualize the crushing of metal, as her eyes are on the floor looking for the lighter? Believe me, there are plenty of cases like this one that have caused other people injury.

Imagine if people were never careless! There would be no accidents, no need for insurance, and there'd be no personal injury lawsuits. Unfortunately, we are not perfect and accidents do happen.

But how then do you determine whether the accident was something that couldn't be avoided or was the result of lack of attention? We must conduct a thorough and detailed investigation.

Remember, when an injured victim comes to us, they're telling us what happened to them from their point of view. We have to investigate and make sure that all other points of view (witnesses) can confirm what we've been told. When we do that, we build your case and can then support the facts that led to your injury.

Dog Bites

Did you know that certain types of dogs are more prone to bite someone than others?



Let's look at the pit bull for example. Just because a pit bull bites someone, as opposed to a tiny Chihuahua, does that mean the owner of the dog will be held responsible? The answer depends on many factors.

If the dog has never had any prior vicious tendencies and has never bitten anyone before, how then can his owner be responsible for this biting episode? One could argue that all pit bulls in general, are inherently violent. Not a bad argument to make, but not a totally accurate one either. What if you learned that before biting, the dog was tormented and teased repeatedly by a guest? Would that change things? Sure it would.

N.Y. Law Takes Bigger Bite Out of Owners of Dogs That Cause Injury

New York Gov. George E. Pataki has signed into law legislation that increases the civil liability for the owners of dogs that cause serious personal injury. The law also provides an incentive to help victims of these attacks receive restitution.

This new law will crack down on irresponsible and negligent dog owners by increasing the penalties associated with dog attacks and helping victims obtain restitution."

Under the new law, the maximum penalty for dog attacks that cause serious physical injury will increase from \$800 to \$1,500. The maximum fine for a dog attack in which the dog has been previously determined to be dangerous will increase from \$1,000 to \$3,000.

Comment: These penalties and fines are unrelated to any personal injury award a person might be entitled to.

The law also will allow for reductions in penalties and fines in situations where the owner of the dog has made restitution to the victim as compensation for medical expenses, lost earnings or other damages resulting from the animal's attack.

Injustice, humiliation and psychological injuries

We can all tell when an injustice happens-

Someone is pulled over because the color of his skin is different from those living in the neighborhood.

Someone is denied entry to a club because their religious beliefs are different than those who run the club.

Someone is denied service at a restaurant because of the way they dress or the accent of their voice. How about a woman who was denied a partnership because she was pregnant? What about the indignity of a high school football player who was sexually abused while away



at football training camp with his high school team?

Despite all of our advances today, there is still bigotry, prejudice and hatred in this country. If you're a victim of injustice or humiliation what can you do about it? There are certain types of lawsuits that allow victims of injustice to seek justice. They're sometimes called discrimination lawsuits, or violation of civil rights lawsuits. The pain inflicted by injustice can be devastating and have long-term social and psychological effects.

Your lawyer will ask about your history, both medical and psychological. You will probably be asked to have specific psychological testing and counseling to confirm and identify some of the problems you are currently experiencing.

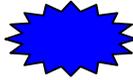
I know that some people believe that if an injury can't be seen that means it's less meaningful than a horrible disfiguring injury. That's not always true.

I'll bet there's something in everyone's childhood where they can remember a parent or an older child saying something bad about you. Looking back all those years, you still vividly remember the hurt you experienced that day. That's injustice. There's no 'physical' injury, but the emotional scar is ever-present.

So, "What does a lawyer do?"

A lawyer is someone to guide you; to help you through your trouble; to explain the law to you and how the law applies to your facts. A lawyer should be advising you of your legal options and what you can do to correct the injustices that have

happened to you. That's what a good lawyer does.



GERRY'S BOOK CONTINUED



The weekend came and Jacob and Chelsea hooked up at Hillary and Bill's house in Chappaqua, New York. When entering the five-acre property, the secret service cleared him in by announcing his code name. "The kookoo bird has arrived," he heard one agent say into his wrist microphone.

Once inside, he saw Hillary sitting in the kitchen reading the New York Times. "Hello Senator," said Jacob. Hillary looked up and smiled. "Hello young man. How's Morgan Stanley treating you?" "Just fine. Why just yesterday I had a little chat with John Schwartzeneger. He finds me fascinating. He thinks I'm going to take over his job soon." "Knowing you, you probably will," remarked Hillary.

New York Times Headline:

BUSH WINS BY A CHAD!

Florida voters determine the next president!

"Uh Mrs. Clinton?" said Jacob

"Yes, Jacob?"

"I wanted to know if you'll be running for President in 2008?" asked Jacob.

"Why do you ask?" she questioned.

"Because I was online and someone sent me this very funny animation with you singing

wearing a black vinyl skirt and tight top and declaring to anybody who'd listen that you're going to run for President in 2008," replied Jacob.

"Hmm. Interesting. Could you show me the clip?" she asked.

"Sure, come into the study and take a look," remarked Jacob. Sure enough, he punched up the website, and within seconds there were peals of laughter floating through the Clinton home. It was so funny that Mrs. Clinton decided to put out a press release praising the artistic qualities and efforts of the producers of this animated clip. She also deftly avoided answering the question that Jacob had originally asked her.

Chelsea picked up the Times and while thumbing through the business section came across an article that mentioned Jacob. "It would appear that Morgan Stanley is doing incredibly well this year, far surpassing other brokerage firms." It continued... "CEO and President John Schwwarzenegger gave credit to many in his company, but singled out a newcomer to the securities division- Jacob Morgan, a recent college graduate. Mr. Morgan has done exceptionally well for our clients and we're honored to have him working for us."

"Wow," said Chelsea.

"Aw shuks maam, it's nuthin'" said Jacob with a wink.

Just then Bill walked in. "What's all that screeching I heard before hun?" he asked Hillary. "Here, Bubba. Take a look at this animation online." Bill started laughing hysterically. He couldn't stop. "Play it again, again. It's great!" he said.

"Umm Bill?" said Jacob hesitatingly. "Yes, Jacob?"

"I think you should see your doctor, today." Said Jacob.

"Why?" asked Bill with total seriousness.

"Because I don't like the way you look- just a feeling, that's all," answered Jacob.

Both Hillary and Chelsea looked at Jacob for a more definite explanation. None was forthcoming. "Bill, you go call your cardiologist now. Go into town and get seen now!" demanded the Senator. "No way pooky poo. I'm going for a run now and then I'm heading to my office for a while. I feel great. Nothing to worry about," remarked the former President.

Bill stood up, and looked directly into Jacob's eyes. "Are you sure I don't have anything to worry about son?"

"All I know is that I think you should see your doctor now. I don't know why. Would you please do it? Not for me, but for Chelsea and your poky poo, um, I mean Hillary," answered Jacob.

"Nah, I'm going running, want to come?" he asked.

"No thanks," was the reply he got from the gang.

One hour later, Hillary got a call from the secret service that they were rushing Bill to Manhattan because he was complaining of chest pain while running. "Put him on the phone," demanded Hillary. "Yes dear?" said Bill weakly. "What the hell have you done now Bubba?" inquired Hillary. "Nothing to worry about pooky poo. Just a little discomfort, I'm going to get checked now. I'll check in with you later. Don't wait up for me," said Bill.

Hillary called Chelsea on her cell phone. Chelsea looked at caller

ID. It read "Senator Mama San-pick up the phone." She answered it. "Your dad's being rushed to Mt. Rushmore emergency room in the City with chest pain while running. Can you two meet him there and keep him company?" asked Hillary. "Sure thing mom, we're on the way," said Chelsea. Chelsea turned off her phone, and looked accusingly at Jacob. "What?" "What was that about?" he wanted to know.

"That was my mother. Dad's had chest pain while running and he's being taken to the emergency room at Rushmore in the City. We're turning around and going to keep him company," said Chelsea. "Oh," said Jacob. He was about to open his mouth and say something about his comment to Bill, but thought better of it. A moment later Chelsea looked at him again, with a knowing look that she knew what he was thinking, and appreciated that he didn't say something like, 'I told you so', or 'Why doesn't anybody listen to me?' or 'Haven't I proven myself to be accurate every single time?'

Thirty minutes later, Jacob and Chelsea entered the emergency of Mt. Rushmore emergency room. It was packed. They were going to head over to the reception desk when they spotted secret agents 1 and 2 standing in front of the doorway marked 'Trauma'. "Well, where is he?" Chelsea asked. "In there, maam," said secret agent #1, pointing to the Trauma unit. "Can we go in?" asked Jacob. "Yes sir. Both of you are cleared to enter," replied the SS man.

They walked in and Bill was sitting on a stretcher with his shirt off. He had wires attached to his chest that were being read on an EKG machine by Dr. Goodee Twoshoes, the Chief of the emergency room. "Well Mr. President, your EKG looks as if you've had an anterior wall myocardial infarction. You've got

some ischemia and angina..." he started to say. "STOP!" yelled Bill. "What the hell are you talking about? Talk English please," said the former President.

"Sorry. You had a heart attack. You have chest pain now because the flow of blood around your heart is being restricted. I need to do a few important tests before your cardiologists determine how best to treat you. You need a coronary angiogram, which will tell me how much blood is flowing in your cardiac arteries. I may also want a cardiac echocardiogram- that is, an ultrasound of your heart to see how the valves are doing. We'll talk again after those tests are done. I'm calling your cardiologist Dr. Mitral P. Valve, who is on the way here as we speak. I've given you some pain killers to ease the chest pain. Let the nurse know if you need anything else," answered Dr. Twoshoes. Again, Chelsea looked to Jacob. The President looked at Jacob and said "Don't say a word!"

"OK, I won't...but you should have gone to your doctor when I told you to. Maybe that would have prevented you from having the heart attack, maybe... well, never mind, let's figure out how we're going to get you back to full speed," said Jacob.



Is this a Sax Player or Woman?

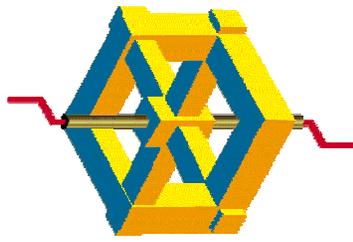
Outside in the parking lot, Hillary was running from the mass of Paparazzi that found out that Bill was just admitted to the hospital. Her agents were doing their best to block and tackle, while Hillary went long. Someone tried to trip her, but her agent stepped on that person's knee, causing it to buckle and fracture in four places. The scream was drowned out by the news helicopter that was trying to land in the hospital parking lot. The NYPD put up barricades and now the Senator felt like she was walking down the aisle at a fashion show. All the photographers were asking her to stop for a photo and to answer what designer made her shoes and pocketbook. All of the patients waiting to be seen rushed outside to see what all the commotion was.

By the time Hillary entered the emergency room it was pretty quiet. She was taken directly to Bill where he was getting ready to have a catheter inserted from his groin into his still-beating heart. When she walked into the room she saw Bill, then Chelsea and Jacob. She turned to say something to Jacob, but Bill spoke first.

"Don't say it. I told you...don't say a word." They all looked at Jacob.

"OK, so I told you so. What do you want from me? Let Twoshoes and the Valve man get started on Bill and see what magic they can do," said Jacob.

After Bill was taken into the procedure room, Hillary approached Jacob and said "You are really a remarkable person. I'm glad you've entered our lives. Thank you." She leaned over and pecked him on the cheek. Jacob flushed. Chelsea then leaned over and pecked him on the other cheek, and said "I agree."



stare at this for a few seconds and see if you can figure out how it works.

It turned out that Bill's arteries were badly clogged. He was scheduled to have heart bypass surgery the next day by the nationally known cardiovascular surgeon from Sweden, Dr. Jak B. Nimble. The surgery was uneventful. Bill's bypass surgery was successful and the entire nation was cheering for him by nightfall. The fact that Jacob had predicted an ominous event shortly before it occurred never made it past the first family's lips.



Each day when I open my mail in the office I am inundated by catalogs for holiday greeting cards. Not just one, but literally four or five each day. I routinely place them in the garbage. Why?

Because it is my firm belief that people you care about and think of often should be greeted and thanked more than once per year. The same holds true for those 'Hallmark' holidays like Mother's day and Father's day. Why is it that moms and dads are only honored on one day each year? Shouldn't *every day be Mother's and Father's day?* Doesn't the Bible say we should honor our mother and father?

So why then do people get so excited about holiday cards? Is a client really that much more excited to see 100 holiday cards lined on our walls during the holiday season, as opposed to seeing only a few?

Do our friends and colleagues really need our pre-printed card; where if we're lucky, someone will take the time to write a personal note in their own handwriting to say "Hi," or "Have a Great Holiday?"

Sure it's nice to get a card or a note from a friend or an acquaintance once in a while. But canned holiday cards? Please. I know there are some people, my wife included, who think it would be terrible not to send out holiday cards.

But do we really need another calendar with my plumbing company's name on it? Do we really need a picture of a winter holiday scene with the words "Compliments of _____(fill in the blank)."

My feeling, in case anybody's interested- and that's ok if you're not- is that you should honor and thank those you care about on a *regular* basis. Not just once a year. Pick up the phone and say "Hi, how are you doing?" Send a hand-written note asking about their family. Give someone an update about what's going on. That's more important than what most of us get with these cards.

Don't get me wrong...I like getting holiday and New Year's cards just like everyone else. But really, once a year?

I know some attorneys who make it a mission to send a holiday card out to every single client and person they've encountered during the entire

year and in year's past. Their feeling is "By sending the card out, they'll think of me if they ever need me."

What do you think? Does a holiday card keep your lawyer, baker, landscaper, dog walker, or mortgage broker in your mind? I don't think so.

What I think impresses people more is when you provide important information to your friends and clients; information that is useful to them to help them solve their problems, both big and small. As my wife reminds me all the time, it's the little things in life that matters.

So, I hope you will accept my newsletter in lieu of a holiday card, with my very best wishes for a happy and healthy New Year, (and if you'd like to call and say "Hi," that would be wonderful too!)



I hope this little diversion about holiday cards has kept you entertained, and I want to introduce you to my new

GUEST COLUMN

This month's guest column is written by Larry Keller, an expert in the field of **Disability Insurance**. I have asked Larry to write this month's column to *inform* our readers about what Disability Insurance is, and why we need it.

Protecting Your Most

Valuable Asset

Your ability to work and earn future earnings represents your most valuable asset. It allows you to repay your debt, accumulate wealth and develop a lifestyle for you and your family. Consider these devastating statistics on the incidence of disability: "Approximately 30% of all people 35 to 65 will suffer a disability for at least 90 days, and about one in seven can expect to become disabled for five years or more." In fact, during your working years, it is more likely you will face a disability than die. For a man, age 35, the odds are nearly 2 to 1; for a woman, age 35, almost 3 to 1.

Disability income insurance provides you with the protection you need, to help you and you're your family preserve your standard of living.

"How Do I Buy Disability Insurance?"

Disability insurance can be bought individually or from a group. Group insurance is usually provided by an employer or bought individually from a sponsoring association.

Although initially low in cost, group policies do have drawbacks. They can be canceled by the insurance company and, rates increase as you get older. In addition, group contracts often contain language that limits what a disability is.

"How Much Disability Coverage Can I Get?"

Most insurance companies will give you disability insurance coverage equal to about 60 percent of what you earn. Keep in mind that many professionals can obtain more than that.

These special limits permit them to buy more benefits than their current earnings would normally allow because of their future earnings potential.

"How Much Does Disability Insurance Cost?"

Your cost is determined by your age, whether you are a man or woman, how much you want your monthly benefits to be, if you add items to your policy, and the type of occupation the insurance company assigns to your type of work.

The younger you are when you buy the policy, the lower the cost of the insurance. *Therefore, you should purchase a policy as early in your career as possible to lock in lower premium rates.*

"What Are The Top Five Things To Look For In A Disability Policy?"

1. 'Non-Cancelable and Guaranteed Renewable' options are key

Having the option to renew and continue your policy is *the key* to disability insurance. If you purchase a policy with these options you remain in control of your financial security. The insurance company cannot cancel, increase your premiums, change any provisions or add restrictions to the policy -- even if the company no longer offers similar policies in the future.

2. 'Having an "Own-Occupation" Clause in your policy'

If you have this in your policy, and you become unable to do the type of work you did before, you would still get your disability benefits, even if you are working in a different job, potentially earning a higher income. For example, if you are a surgeon and you could no longer operate, your benefits would still

continue even if you continued to practice medicine in a different specialty.

3. Including a 'Residual Disability Rider'

Some disabilities, such as back pain or a mild heart attack might allow you to continue working in your profession, but at reduced effectiveness or on a part-time basis. If this were the case, you would not be eligible for total disability benefits as you are still working in your profession. However, with this option, you would collect benefits in proportion to how much income you lost.

4. Cost of Living Adjustment (COLA)

A COLA rider is designed to help your benefits keep pace with inflation after your disability has lasted for 12 months. This adjustment can be a flat percentage or tied to the Consumer Price Index. Ideally you want a COLA that is adjusted each year on a compound interest basis with no "cap" on the monthly benefit.

5. Future Purchase Option

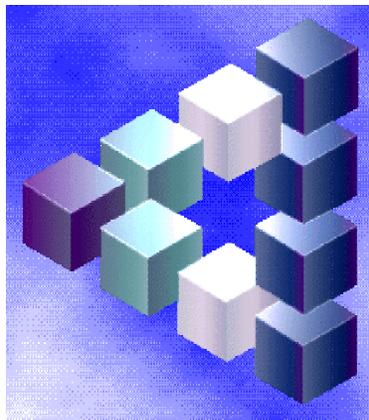
This rider is a **must** for young professionals. It provides you with the ability to increase your disability coverage, regardless of your future health, as your income rises.

Summary

Purchasing high quality disability insurance coverage is not easy. It is important to take the time to completely understand the policy that you

are considering. The best approach is to employ a professional who specializes in disability insurance. Then you both can decide which company's policy best meets your needs.

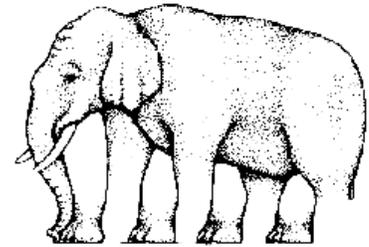
Lawrence B. Keller, CLU, ChFC, RHU is a specialist in disability insurance planning for business owners and professionals. He can be reached for questions or comments at (516) 677-6211 or by email to lkeller@difordoctors.com.



Can You Stack These Blocks?



Read this. Then read it again. Then count how many times you see the word "The."



Just how many legs does this elephant have?

Thanks to www.justriddlesandmore.com for these optical illusions.

News Flash!

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