



SchmidtKramer
INJURY LAWYERS

Talk to
a Lawyer.

SPRING 2009

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LUNCH AND LEARN PRESENTATION REGARDING MEDICARE SET-ASIDES



On March 24, 2009, Attorneys **Gerry Kramer, Tom Cook, and Joe Chapman** conducted a Lunch and Learn regarding Medicare Set-Asides for the Dauphin County Bar Association. The Bar Association was filled to capacity. The materials and presentation dealt with how Medicare views and treats settlements in workers' compensation and personal injury actions of Medicare recipients.

If you are a client and a Medicare recipient, it is important that your attorney is aware of your Medicare status. If your Medicare status changes during the course of your representation, you should notify your attorney.

Schmidt Kramer attorneys invited to host workshops

Attorneys **Gerry Kramer, Tom Cook, and Melissa Leininger** hosted a workshop for the Professional Coders of Central Pennsylvania on March 11, 2009. The topic was on how physicians get medical bills paid in automobile accident and workers' compensation cases. The 60 people who attended work for physicians and have to master the confusing and complicated rules and paperwork. Gerry and Tom explained the procedures and answered many questions. Melissa explained the different ways that interest on delayed payments of workers' compensation can be calculated. The courts have never decided whether interest should be simple or compound, which can make a big difference. The workshop went very well, and Gerry, Tom, and Melissa have been invited back to give an advanced workshop later this year.

That evening, Tom Cook conducted a workshop for 12 orthopedic surgeons in Lancaster, Pennsylvania, on what physicians need to know about the workers' compensation system. Tom explained how important it is for doctors to understand legal terms such as aggravation and recurrence, and why the opinions of physicians are so important in workers' compensation cases. There was a lot of good discussion, and many of the physicians said they had not heard much of this information before.

New Lawyer luncheon in Harrisburg

The New Lawyer Section organized an informal networking lunch on January 30 in Harrisburg, Pennsylvania. Thanks to **Melissa Leininger** of **Schmidt Kramer PC** and **Daryl Christopher** of **Angino & Rovner, PC**, for organizing the lunch and to their law firms for their sponsorship. The lunch was held in conjunction with PAAJ's quarterly meetings. Also attending the luncheon was State Representative **Mark Longietti** (D-Mercer County) and **Joe Chapman** of **Schmidt Kramer PC**.

ATTENTION, SCHMIDT KRAMER CLIENTS

If you would like to communicate with your attorney through e-mail as well as telephone calls, please call our office and provide your e-mail address to the receptionist. Or, the next time you speak with your attorney, please provide him or her with your e-mail address. Your e-mail address will then be updated in our database.

We take your family's safety and security personally.

Theme-park injuries

Parents and kids love the excitement of the rides, the food, and the noise of theme parks.

As parks add attractions to compete for thrills and uniqueness, visitors suffer 7,000 injuries every year. Inflatable-slide rides collapse and injure toddlers. Slow kiddie-ride cars derail and harm youngsters. High-acceleration roller coasters and free-fall drop towers subject adult riders to back and neck harm.

Injuries may come from a combination of inappropriate rider behavior, inadequate operator training, poor maintenance, ride malfunctions, and design defects.

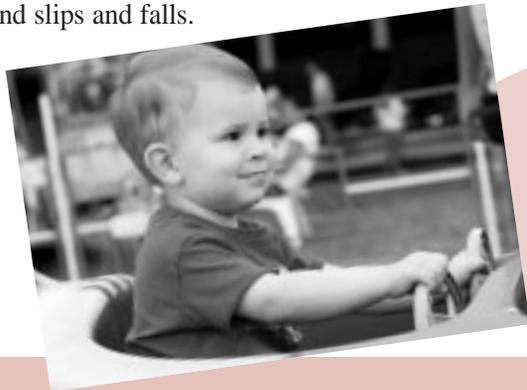
Park guests are also potentially subject to injuries resulting from personal assaults, negligent security, and slips and falls.



A derailed kiddie ride

At the 2008 Wisconsin State Fair, a kiddie ride malfunctioned, injuring a five-year-old girl. The accident happened when the girl's car derailed and crashed into a fence, leaving her with a bruised knee and injuries to her neck, back, and elbow. The girl was treated at a local hospital; her injuries were not serious.

If you have been injured at an amusement park, please contact legal counsel.



NEGLIGENCE

Under the law, negligence is inattention that causes a person harm.

Negligence can take two forms: *action*, such as a mason carelessly dropping a heavy brick off a scaffold; or *failure to act*, when a business owner disregards repairing a broken step on a stairway in a dimly lit corridor.

A crushed foot

As directed, an auto-repair patron moved his car to a numbered parking spot. As he left his car, a dealership employee driving another vehicle failed to see him and ran over his foot. His crushed foot developed into a complex injury, damaging the peroneal nerve and causing constant pain, color and temperature changes, and loss of hair on his foot.

A former highly paid stockbroker, the injured man attempted to work for more than a year, but medications and burning pain forced him to stop. His attorney then sued the dealership, alleging its employee negligently failed to keep a proper lookout. The parties reached a significant settlement prior to trial.



When insurers won't pay MEDICAL BILLS

According to the law, insurance companies have a good-faith responsibility to deal fairly with customers.

This means coverage providers and their agents must actively seek ways to pay all fair benefits promised to policyholders, not to disallow them.

Sometimes, when policyholders need them most, insurers redefine their obligations and services to avoid paying promised benefits. Common tactics include denying claims or dragging them out so long that insureds simply get tired of fighting and give up.



Her insurer said "No"

A 32-year-old doctoral student suffered career-ending brain injuries in a head-on collision with a negligent driver. When the other driver's insurance failed to cover all her medical expenses, she filed an underinsured-motorist claim with her own auto insurance plan, which entitled her to \$1.5 million in benefits. Her insurer refused to pay for several years, claiming she had no head injury. Her attorney sued the insurer and its agent, alleging bad faith, breach of contract, and violations of a state unfair trade practices statute. A jury awarded her significant compensatory and punitive damages, plus attorney fees and prejudgment interest.

FOR YOUR SAFETY

Recalled product roundup

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

- ✓ **TWIE, also known as Tradewinds International Enterprises, Inc.**, has recalled 152,000 “Sky Champion” Wireless Indoor Helicopters. Onboard rechargeable batteries can catch fire and burn consumers
- ✓ **Babies “R” Us, Burlington Coat Factory/Baby Depot, Meijer Distribution, Inc., Nebraska Furniture Mart, ShopKo, Target Stores, and Wal-Mart** have voluntarily recalled 600,000 Simplicity Brand Drop Side Cribs with sides that can detach and trap or suffocate infants.
- ✓ **Worldwise, Inc.**, has called back 223,000 SlyDog™ Retractable Dog Leashes that have metal collar clasps which can bend or break, causing the leash to recoil suddenly and forcefully, and harm users.
- ✓ **Wolf Appliance, Inc.**, has recalled 24,000 Wolf Appliance Gas Ranges. Delayed gas ignition in the 18-inch oven can cause a burst of flames when the range door is opened and burn users.
- ✓ **Razor USA, LLC**, asks buyers to return 103,000 Razor® PowerWing™ Three-Wheeled Scooters, which have sharp edges on foot-platform undersides that can cut children.
- ✓ **Giftco, Inc.**, recalled 36,000 Harry Potter Bookends. The paint contains excessive levels of lead, violating the federal lead-paint standard.

ID THEFT

The Federal Trade Commission’s (FTC) 2006 Identity Theft Survey Report showed that 8.3 million adults were victims of some form of identity theft in 2005.

According to the FTC’s Consumer Response Center, five common ways that wrongdoers steal unsuspecting victims’ legal, financial, and personal information are:



If you believe you have been a victim of fraud through ID theft, seek legal counsel.

- 1 Dumpster diving**—rummaging through trash containers for bills or other personal papers.
- 2 Skimming**—stealing credit/debit card numbers using special electronic storage devices while processing actual transactions.
- 3 Phishing**—imitating real financial institutions or companies by sending fraudulent e-mails or pop-ups to computers.
- 4 Changing addresses**—using postal forms to divert mail to unlawful addresses.
- 5 Theft**—stealing purses, wallets, and mail—even employee records.

AS WE SEE IT

Some politicians or media commentators complain one-sidedly about our civil justice system and trial attorneys. Often, they phrase the issues as they appear in the left-hand box of the chart below.

We have had the benefit of helping people who have been harmed by others’ carelessness, such as people injured by drunk and reckless drivers, negligent property owners, or by the actions of uncaring corporations.

We think the way we view our civil justice system and trial attorneys is more accurately stated in the right-hand box.



HOW SOME PEOPLE SEE IT.

- Insurance companies vs. trial lawyers
- Pharmaceutical manufacturers vs. trial lawyers
- Car makers vs. trial lawyers
- Doctors vs. trial lawyers
- Nursing homes vs. trial lawyers
- Manufacturers vs. trial lawyers
- Railroads vs. trial lawyers
- Corporations vs. trial lawyers
- Small businesses vs. trial lawyers

HOW WE SEE IT.

- HMOs vs. patients needing care
- Drug makers vs. patients requiring safe medications
- Car makers vs. driver and passenger safety
- Physicians vs. health insurers
- Nursing homes vs. elderly residents and their families
- Manufacturers vs. injured consumers
- Railroads vs. drivers injured at crossings
- Unsafe products vs. harmed consumers
- Small businesses vs. injured employees

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The information included in this newsletter is not intended as a substitute for professional legal advice. For your specific situation, please consult the appropriate legal professional.

STAFF CORNER

The following birthdays have been celebrated at Schmidt Kramer: **Melissa Miller** on January 1, **Tom Cook** on January 22, **Dawnn Trostle** on January 31, **Chuck Schmidt** on February 15, **Scott Cooper** on March 20, and **Terry Hyman** on April 15. HAPPY BIRTHDAY, EVERYONE!

Sad news —

The father of **Chuck Schmidt** passed away on February 19, 2009. He was 89. **Mr. Schmidt, Sr.**, was a World War II combat pilot who flew 50 missions in the Mediterranean theater. He was also the founder of the Progress Grill, a local family restaurant.



Front row, second from left—Charles Schmidt, Sr.

Scott Cooper speaks at conference for Pennsylvania State Trial Judges

On February 20, 2009, Partner **Scott Cooper** of Schmidt Kramer PC was an invited speaker on auto issues at the Conference for Pennsylvania State Trial Judges in Pittsburgh, Pennsylvania.

ANNUAL UCP GOLF TOURNAMENT

Schmidt Kramer's sponsorship of the 23rd Annual UCP Golf Tournament carries on for 2009. The golf tournament will be held at the Carlisle Country Club on Monday, August 10, 2009.

The staff of Schmidt Kramer is excited to again volunteer their time for the day to raise money for United Cerebral Palsy of Central Pennsylvania. The firm is looking forward to another record-breaking year!

SUPPORTING CANCER RESEARCH

Schmidt Kramer and staff members again supported the American Cancer Society by participating in Daffodil Days. This year's Daffodil Days campaign took place from March 16 to March 30. The daffodil is the first flower of spring and is a symbol of hope.

Funds raised by Daffodil Days over the past 34 years have helped the mission of preventing cancer, saving lives, and diminishing suffering from the disease through research, education, advocacy, and patient services. Gift of Hope donations also allow the Society to anonymously deliver bouquets of daffodils to cancer patients. The hope of a cancer-free future truly does bloom through everybody's efforts.

QUESTION of the month

Q:

Can I sue for both workers' compensation benefits and for injuries I sustain as a result of a car accident?

A:

Yes. Depending upon the facts of the accident, you may be entitled to sue for both types of cases even if your injuries are sustained in one car accident. Many people think that you can only recover for one thing or the other, and this is not correct in most cases. Feel free to call or e-mail us and we will be able to answer any questions you have about a case in which you are injured in a car accident while working.