



MONAHAN LAW PRACTICE, P.C.

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Updated weekly with important and valuable information.

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The NHTSA reported that 174 school-age children died in school transportation-related crashes from 2003 to 2012. Fifty-five were occupants of school transportation vehicles, and 119 were pedestrians.



School bus safety

With recent media reports showing bus drivers speeding through red lights and viral videos of impatient drivers illegally passing buses and nearly running over children, parents wonder about the safety of school transportation. With school back in session, here are a few things to keep in mind about school bus safety.

First, the good news: According to the National Highway Traffic Safety Administration (NHTSA), school buses are one of the safest forms of transportation in the United States. The agency says that approximately 450,000 public school buses travel about 4.3 billion miles to transport 23.5 million children to and from school and school-related activities every year. On average, there are six fatalities a year involving school transportation.

While that is a good statistic, no fatalities would be better. The majority of school bus-related fatalities happen when students are struck by the bus or other vehicle while waiting for, boarding, or getting off the bus. In many cases, unsafe school loading zones and distracted drivers are at fault.

If your child was injured in a school bus accident, please contact our office for a confidential consultation.

8 FACTS ABOUT MEDICAL MALPRACTICE

You may have heard a number of myths about doctors, medical malpractice, and the civil justice system.

HERE ARE THE FACTS:

FACT 1 *Medical negligence is a SERIOUS national problem:* Up to 195,000 patients die each year from preventable medical errors in hospitals.

FACT 2 *According to the American Medical Association, the number of doctors has INCREASED in every state over the last several years:* Some claim the number of physicians is decreasing due to malpractice liability insurance premiums. It's simply not the case.

FACT 3 *Malpractice claims are NOT driving up doctors' insurance premiums:* Premiums rise and fall with the state of the economy. Inflation and other insurance-industry forces drove up doctors' insurance premiums more than lawsuits. In fact, insurers raise rates even when their casualty payouts decrease.

FACT 4 *Malpractice claims do NOT drive health-care costs up:* Malpractice costs amount to less than

two percent of overall health-care spending and have remained so for years.

FACT 5 *Caps on claims awards do NOT lower doctors' malpractice insurance premiums:* Insurance premiums in states with caps are nearly ten percent higher than in states without caps.

FACT 6 *Insurance reform does NOT lower medical malpractice insurance rates:* Premiums in California rose 450 percent between the passage of a cap law in 1975 and meaningful insurance reform in 1988.

FACT 7 *High premiums are the direct RESULT of bad insurance-industry conduct:* A coalition of public-interest organizations found that malpractice premiums increase when investment values decrease.

FACT 8 *The insurance industry makes annual windfall PROFITS:* Insurers earned an estimated \$65 billion in 2007.

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You are what you post

Anyone going through a divorce or child custody case can safely assume that the other party will have access to the contents of their social media sites. Anything that is posted on Facebook, MySpace, Instagram, Twitter, LinkedIn, or any social media platform can easily turn into evidence.

Today, it is typical for family law attorneys to request information during discovery regarding the opposing party's online history. According to the American Academy of Matrimonial Lawyers, 81 percent of members surveyed said that they've seen an increased use of evidence from social media, primarily Facebook. Evidence can also come from e-mail accounts and the content on mobile devices, including text message history. Attorneys look for evidence that will showcase another's spending habits, state of mind, activities, location on a certain time or date, or to show a relationship between individuals.

Many assume that the content of accounts marked private are protected by some kind of law, but this isn't so. In fact, most courts agree that when it comes to social media, there should be no expectation of privacy. As long as the information is authentic and obtained legally—through the process of discovery, for example—it can be used.

Obviously, posting photos and comments about alcohol or drug use, excessive spending, or dates can be damaging, but seemingly innocent posts could also be taken out of context. One such example is posting a photo of a brand-new designer bag while claiming you don't have enough money to support your children. You may have bought the bag at a yard sale or consignment shop for next to nothing, but that isn't the story the photo tells. Taking a break from social media and asking others to not post photos or comments about you is the safest bet if you are involved in a family law case.



If you are arrested

Being arrested is frightening and distressing. Here are several ways to help protect your legal rights under the law:

- Be polite to law-enforcement officers. Do not resist. Never disrespect them. That can only worsen your case.
- Ask for legal counsel each time you speak with different law-enforcement officers.
- Make no oral statements, no matter how much pressure anyone puts on you, until your lawyer approves.
- Never sign typed statements or documents until your lawyer reviews and approves them.
- Call your attorney as soon as you can. Many legal defenses succeed because a defendant notified his or her lawyer right away. Lawyers' experience with arrests and ability to investigate criminal cases quickly and thoroughly are important to maintaining one's rights and seeking fair legal outcomes.



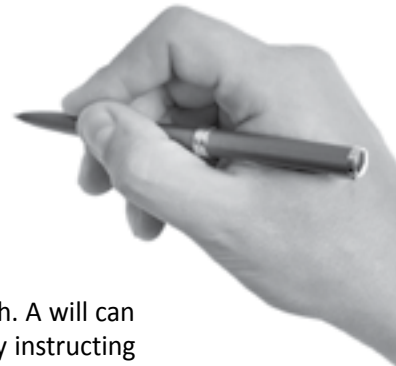
Everyone needs a will

Wills are not only for the rich. A will can protect everyone's interests by instructing survivors and the courts how a decedent wants property distributed.

Even middle-income earners may have property worth much more than they think. Investments made 10 years ago or property purchased 30 years ago may have significantly increased in value.

Here is an estate situation in which an average person could have insured that her property had been distributed to the inheritor she promised it to. A male companion took care of his domestic partner who was in failing health for ten years before she passed away. The deceased owned her home and had a small savings account, but she had never made a will. Although she promised her companion her property, her estate went either to family members or to the state, leaving the loyal and hardworking companion out in the cold with nowhere to live and little money to support himself.

Contact our office for information on wills.





How settlement money is delivered

If you are at the beginning of legal proceedings for a personal injury, you are probably hoping, as many do, to settle quickly without a trial. In the meantime, as bills pile up, you are probably also wondering how and when you will get the money.

Here are the most common scenarios:



Lump-sum settlement

While it is nice to get your settlement all at once, there are serious tax implications, so speak with an attorney or tax adviser. A lump sum is often deposited into a trust to provide ongoing financial support.



Structured settlement

A structured settlement is paid regularly for a specified amount of time. It doesn't seem ideal, but it reduces the amount owed in taxes, and it does provide a dependable source of income. Structured settlements are placed into an annuity, and funds drawn are tax-free for as long as the fund is managed professionally.



Combined settlement

As the name suggests, a combined settlement pays a portion of the money up front, and the rest comes in the form of structured payments. The benefit is that a victim receives money up front to pay debts incurred since the injury, but it still has the reliability of a structured payment.



Presettlement funding

If bills are mounting and you are unable to work, you may find yourself in the position of needing money before settlement or trial. It is possible to get a cash advance on your case. The loans don't come due until a case has settled, or an amount has been awarded, and if you lose the case, the payment is waived altogether. Because interest is paid on the amount advanced, taking the least amount needed is advisable.

There's an app to get a ride... *but what if there is an accident?*



Until recently, if you needed a ride somewhere but weren't on a public transportation route, and couldn't convince a friend or relative to drive you, you called a cab. Rideshare apps that connect users in need of rides with those willing to provide rides have become a competitively priced alternate source of transportation. There is no doubt that apps like Uber and Lyft are a great way to get a ride, but what if you are in an accident?

The good news is that if you are a rider, you should be covered in the case of an accident. If you've considered making some extra money by becoming a driver for a rideshare service, you may want to reconsider or at least wait until better regulations come into play and insurance gaps are covered.

Rideshare drivers have personal insurance, but once the vehicle is being used for commercial use—picking up a passenger, driving the passenger, driving the vehicle back to where it started—private insurance no longer provides coverage. Instead, rideshare companies provide \$1 million excess liability policies to cover damages if an accident is their driver's fault. Typically, that million-dollar coverage is only good when a passenger is in the car and only covers damage and injuries to passengers, and other parties and their property. The driver is responsible for damage to his or her vehicle if in an accident that is their own fault. Plus, there is a gray area when drivers are driving to a rider and then returning to wherever they started from.

After an Uber driver struck and killed a 6-year-old San Francisco girl while he was between rides but available for service, Uber began extending its insurance policy to cover this gap.



Tractor-trailer tire blowouts

Chances are good that you've been driving on the highway and noticed large hunks of tire tread on the side of the road left by a truck. Those huge pieces of metal and rubber aren't just left there; they tend to fly off of trucks as a result of unexpected tire blowouts. The blowout and the debris can have serious—sometimes fatal—consequences.

That tractor-trailer tire blowouts happen so often in the trucking industry is disturbing. If a driver isn't able to maintain control of a truck, he or she is in danger, and so is everyone else on the road. Not to mention that flying debris can cause accidents as drivers try to swerve out of the way.

Truck drivers are responsible for checking the safety of the vehicle and the load, and this includes tire pressure

and wear, before each and every trip. A tire that is not inflated to the appropriate pressure, has wear on the tread, or damage to the sidewalls is in danger of blowing. If a tire appears to be roadworthy, a manufacturing defect could be to blame for a tire blowout, or the trucking company may have been using the wrong type or size tire for the rig.

If you or a loved one has been injured in an accident involving a tractor trailer, call our office today for a free consultation.



I am proud and excited to announce that we have our first grandchild, Nolan, born on June 16, 2015.

With all the new safety equipment available to parents that we didn't have 35 years ago, I am perplexed about car seats.

When is it safe to turn the car seat to a forward-facing position?

Six months, one year, two years.... The rules change quickly when it comes to child safety. It wasn't that long ago that the American Association of Pediatrics (AAP) advised that children remain in the rear-facing position for one year.

In March 2011, the AAP extended its recommendation to two years or until the child is no longer in the safe height and weight range for the seat. The Highway Traffic Safety Administration is similarly recommending that children remain rear facing until they reach the top height or weight limit allowed by the car seat's manufacturer.

HURT ON THE JOB?

Suffering an injury at work is not uncommon; after all, much of our time is spent on the job. For this reason, employers must pay into a workers' compensation fund. While navigating the process of filing a workers' comp claim can be frustrating, it usually ensures timely compensation for lost wages and medical expenses from on-the-job accidents. On the employer's end, it protects them from lawsuits.

But there is an exception. When an employer is clearly and knowingly responsible for placing an employee in a situation that causes substantial injury, a victim can file an intentional tort lawsuit. Cases like these are rare. Here are a couple of things that attorneys look for when determining if a case merits an intentional tort lawsuit.

SEVERITY OF INJURY

Injuries in employer intentional tort cases tend to be severe and long term.

EMPLOYER LIABILITY

An attorney will want to know if the employer and/or supervisor were aware of the condition that led to an injury. If the employer wasn't aware that there was a condition that could lead to injury, or did not act criminally, there

likely isn't a case. If OSHA is investigating potential safety violations at the workplace or job site, it could indicate the employer was at fault.

EMPLOYEE LIABILITY

Was the injured employee at fault or partially at fault? If it is determined that an employee was engaged in activity in which the outcome would likely result in injury, there is not likely a case.

If you've been injured on the job, contact our office to schedule a free consultation.



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