



The Law Office of **JASON R. SCHULTZ, P.C.**

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Brought to you by
Jason R. Schultz, P.C.
Attorney At Law

P.O. Box 2270
Peachtree City, GA 30269
404-474-0804
Toll-free: 866-455-4709
FAX: 770-692-3326
email:
Jason@JasonSchultzPC.com
Web site:
www.JasonSchultzPC.com

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What are "pain and suffering" damages?

Some people refer to noneconomic damages as "pain and suffering" damages or damages for "emotional distress."

That's not really correct. Noneconomic damages compensate those harmed for many things that are not easily measured in terms of money, including physical injuries such as the loss of a limb, scars and disfigurement, and blindness, as well as nonphysical injuries such as fright and shock, loss of enjoyment of life, and loss of society and companionship of a loved one.

Many trial lawyers believe that referring to noneconomic-damage verdicts simply as compensation for "pain and suffering" or "emotional injury" trivializes the real harms noneconomic-damage verdicts are meant to compensate.

These real injuries are often as important or more important to the injured person as the losses that can be directly converted into dollars.

Also known as quality-of-life damages, "pain and suffering" compensation covers the most severely injured patients, such as people who are paralyzed and can't use the bathroom without assistance, or a brain-damaged child who will never attend school, get married, or work.



MMI? What's that?

You were the victim of an auto, slip-and-fall, or other accident.

You're recovering. The pain has diminished, muscle flexibility is back, and you want to return to work. The responsible party's insurer makes a tempting offer, so you think about settling your injury claim.

That may be a mistake. Maximum Medical Improvement (MMI) is a recovery stage each injured person reaches during healing. For some, MMI means full recovery. For others, MMI plateaus at incomplete mending, meaning that no additional medical treatment or rehabilitation will restore normalcy.

An experienced personal injury attorney will recommend resolving an injury claim only after a victim's injuries and MMI are fully documented and when all past and future medical expenses, lost wages and future earnings, and other recovery needs have been calculated.

An attorney who understands an injured party's MMI can put him or her in the best legal position to obtain fair and comprehensive results from a claim.

Legal news from your safety and security lawyer.

BIG-BOX STORE ACCIDENTS

Although data are hard to obtain, lawsuits in the early 2000s indicated that more than 2,200 customers were being injured annually by falling heavy merchandise at just one chain of big-box home centers.

Several states have passed shopper-safety regulations for retailers who high-stack heavy merchandise, such as clothes washers and microwave ovens. These include adding safety stops to shelves, setting up netting or other protective devices, or establishing barricaded safety zones to keep customers out of areas where forklifts move heavy products from upper shelves to the floor.

A 19-POUND BOX

A shopper at a home center was struck on the head and knocked flat by a falling 19-pound box as employees stocked upper shelves. When his attorney demonstrated that the plaintiff's negligent store injury resulted in severe pain and corrective discectomy surgery, a jury awarded a significant sum.

NURSING HOME VIOLATIONS

In 2007, nine in ten U.S. nursing homes were cited for violating at least one federal health and safety law in each of the past three years, according to a U.S. Department of Health and Human Services report. The nation's 15,000 facilities are home to about 1.5 million elderly residents.

The most common citations were for infected bedsores, drug errors, resident malnutrition, and outright patient abuse or neglect. More than 15 percent of violations resulted in "actual harm or immediate jeopardy" to residents.

Inspectors authenticated 39 percent of the more than 37,000 complaints about nursing home conditions. Two in ten confirmed complaints involved patient neglect or abuse.

States varied widely in deficiency rates. Seventy-six percent of Rhode

Island nursing homes received complaints. One hundred percent of homes in Alaska, Idaho, Wyoming, and the District of Columbia received complaints.

Responsible adults who suspect that nursing home care is insufficient or has resulted in an injury should get medical care for the loved one, notify residence management of concerns, and seek legal counsel. Attorneys familiar with nursing homes can help elderly loved ones receive better care or determine the bases of injuries and hold the responsible parties accountable.



DEBUNKING CIVIL JUSTICE MYTHS

Insurance, oil, and drug companies spend millions creating and publicizing myths about how lawsuits are out of control and responsible for many of America's ills. The facts tell a different story.

MYTH:

Schools are canceling recess because they fear playground litigation. **Wrong:** *School districts across the nation consistently blame elimination of recess on time needed to meet increased testing and teaching requirements.*

MYTH:

People have stopped volunteering to help Little League, Boy and Girl Scouts, and other nonprofits because of lawsuits. **Wrong again:** *Congress passed the Volunteer Protection Act of 1997 to give immunity to nonprofit volunteers in the course of their charity work.*

MYTH:

Everyone's insurance rates are skyrocketing because of lawsuits. **Incorrect:** *Your insurance premiums may be going up, but it has nothing to do with lawsuits. In 2007, insurers reported \$61.9 billion near-record profits. They still argued to restrict awards and damages to victims even though personal injury cases resolved in U.S. courts fell by 79 percent between 1985 and 2003.*

MYTH:

Trial attorneys charge outrageous hourly fees and leave victims with practically nothing if they win cases. **Not so:** *Lawyers who represent injured clients who cannot afford legal fees provide representation on a contingency-fee basis. If there is no monetary recovery, clients owe nothing for legal services. If the plaintiff wins, attorneys charge a percentage of the money damages that are recovered.*

AFTER-SCHOOL CHILD PICKUP

For student security and safety, many schools establish after-school pickup guidelines.

Administrators ask parents and guardians to specify names and vehicles of those who have permission to pick up a child, such as parents, car pools, relatives, baby-sitters, or neighbors.

Some schools require physical descriptions, photo IDs, and signed notes when pickup plans change. Others require signed instructions for special after-school tutoring, detention, athletics, clubs, and even emergencies.

Unsafe pickup zone

When their six-year-old died after being accidentally run over by a parent who was backing up a minivan into a parking space, the parents sued the school. Their attorney contended that the school's parking area was not well planned and that authorities had received notices about pickup chaos when school let out. A jury granted a significant award.

Workplace injuries

On-the-job injuries can occur at any workplace, from white-collar offices to blue-collar industries.

Negligent parties can range from managers who assign dangerous duties to untrained workers, to third parties that market equipment that is poorly designed or lacks finger-protecting guards.

A personal injury attorney can investigate causes of worker injuries and help hold those responsible for harm to account.

Common occupational-workplace injuries an attorney can handle include:

- **Burn injuries** from fires, chemicals, and electricity.
- **Diseases** resulting from chemical exposure, such as asbestos or benzene.
- **Existing employee health conditions** aggravated by employment activities.
- **Injuries** from trips and falls, amputations, broken limbs, or cuts.
- **Mental disease** resulting from work-induced stress.
- **Repetitive-movement injuries**, such as carpal tunnel syndrome.
- **Third-party liability**—injuries, such as a fall from a poorly designed ladder, for which a third party is responsible.

For legal assistance with workplace injuries, please seek legal counsel.



Recreational boating accidents

In 2007, nearly 700 Americans died and just over 5,000 were injured in pleasure-boating accidents in motorcraft, sailboats, houseboats, and inflatables.

Accidents were caused by intoxicated, inexperienced, or reckless drivers; defective steering, engines, or other mechanisms; and failure of boaters or owners to maintain watercraft or obey boating regulations.

If you or a loved one has suffered severe injury from others' negligence in a boating accident, an experienced attorney can help hold responsible parties accountable.

Impaired driver

An intoxicated speedboat driver crashed into the stern of a cabin cruiser, immediately killing its owners. The victims' family sued and reached settlement with the out-of-control, speeding boat driver after he pleaded guilty to two counts of manslaughter due to intoxication.



JASON R. SCHULTZ, P.C.
Attorney At Law
P.O. Box 2270
Peachtree City, GA 30269

The Law Office of
JASON R. SCHULTZ, P.C.

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A troubled economy affects jury trials

Our firm has long advocated for our civil justice system and jury trials. Throughout history, trials have kept Americans safe with a fair chance to receive justice when they are injured by the negligence of others—even when it means taking on the most powerful corporations.

We are hearing troubling reports.

Because of our economic downturn, courts in more than 20 states have reduced judicial operating budgets and postponed civil and criminal jury trials to save building maintenance, juror per diems, personnel salaries, and other civil justice expenses.

Justice is being delayed or disrupted in state courtrooms across the country.

New Hampshire stopped all civil and criminal jury trials in early 2009 to save \$73,000 in jurors' per diems.

California and Florida cut judicial branch budgets by millions, and judges in many other states have complained about personnel layoffs, reduced courtroom security, and case backlogs.

Justice delayed is justice denied.

Catastrophic-injury victims

Our firm often helps victims from all walks of life who have suffered catastrophic injuries.

One thing all these clients have in common is that they have been harmed by another's carelessness. They have been injured by drunk or reckless drivers, negligent property owners, or the actions of uncaring corporations.

None of our clients ever wanted to be harmed. They never intended to bring a claim.

They came to us because they needed someone to stand up for them and make sure they were treated fairly by insurance companies and others.

Our firm works hard to secure our clients' futures. In the short term, that means getting their medical bills paid and their lost wages replaced. At the end of the day, it is our job to secure full and fair compensation for their injuries.

Our firm is known for more than the settlements we obtain for our clients. We're also known for the people we assist and the lives that we help put back together.

Advance cash settlements

Think twice before accepting "cash now," up-front payments while a lawsuit is pending.

Television commercials offer advance payment for personal injury verdicts, annuities, fixed-income financial instruments, life-insurance policies, and even lottery winnings.

Unfortunately, many deals marketers offer are actually structured loans from lenders who may charge high compound-interest rates. In some cases, transactions double repayments due in less than a year. In fact, some offers pay only 25 to 50 cents on every dollar settlers are asked to "invest."

If someone takes a \$50,000 "cash advance" loan against the recovery an attorney earns for a personal injury, the 10-percent monthly interest they will pay can compound up to 100 percent in a year. That may mean a \$50,000 loan costing up to \$100,000 if the case settles without an appeal. As time passes, compounded monthly interest can cost three or more times the amount plaintiffs are "advanced."

Please ask your accountant or consult an attorney before agreeing to any "cash now" offer.

