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



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WE GET Questions...

Q: I've been in an accident and I've received a letter from my own health insurance company demanding that I pay the medical bills back if I get a recovery in my accident case. Is that legal?

A: In most cases today, insurance policies contain "subrogation" or "reimbursement" provisions that do allow them to force you to repay them if you recover damages in a lawsuit. While Georgia law generally prohibits such a clause, if your insurance is through your employer, a federal law known as ERISA generally preempts Georgia law. So, yes, you may have to repay. In other words, your health "insurance" acts more like a loan, not true insurance.

Auto accidents

Who's really at fault?

While driver errors cause many vehicle accidents, other accidents occur because of factors outside any driver's control.

Drivers who believe they have been injured because of others' carelessness or negligence should seek counsel from an experienced auto-accident attorney.

Here is a case in point. An 18-year-old driver swerved to avoid a head-on collision with a truck that careened into his lane. He steered to the shoulder, which was six inches below the road. His car spun around and collided with a guardrail, which sliced through his car's left side and nearly severed his left leg and arm, and fractured his right leg. He underwent 34 expensive surgeries and extensive rehabilitation. His accident attorney sued the county, alleging the road's shoulder and guardrail were dangerous and failed to meet state

highway standards. A jury recommended a multimillion-dollar award to cover past and future medical costs and pain and suffering.



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REFERRALS

We want you to think of us as your law firm.

If you have legal matters that need attention, please let us know. If we cannot handle the matter, we will refer you to a competent firm that can.

Please feel free to refer us to your family, friends, and neighbors for their legal needs. We welcome the opportunity to help.

**CALL US. YOU'RE
GOING TO
FEEL A WHOLE
LOT BETTER
ABOUT THINGS.**



Medical ID THEFT

Safeguard yourself against this fast-growing crime.

In 2008, more than a quarter million Americans were victims of medical identity theft, a fast-growing crime. They discover theft when they receive large, unpaid bills for out-of-state emergency-room visits or air-ambulance charters in foreign places.

A victim is hurt when an unscrupulous wrongdoer steals their Social Security number and health insurance information, such as member identification and group policy numbers.

The perpetrator sells this information to someone who needs medical treatment or who works with a clinic or health-care supplier that colludes in fraudulent billing.

Unlike ordinary identity theft, few safeguards exist to detect fraud. Unlike credit-card theft, the victim's liability may not be capped at \$50.



To protect your records:

- Secure your health insurance cards.
- Examine claims statements closely.
- Scrutinize "Explanation of Benefits" reports.
- Ask for an annual benefits summary from your health insurer.
- Check your credit reports.
- If you are a victim, file a police report.
- Consult an attorney.

Roof-crush vehicle ACCIDENTS

To minimize injuries in a collision or rollover, automakers have a legal duty to design and construct car, truck, and SUV roofs that provide structural protection to drivers and passengers. Sadly, that's not always the case.

Partial quadriplegia

A 16-year-old was a belted front-seat passenger in a 1998 Ford Explorer rollover accident. She suffered a spinal fracture and head injury that caused partial quadriplegia, memory loss, and impaired ability to organize and process thoughts. She has limited use of her arms, uses a wheelchair, and requires assistance with daily living activities. Injury to her lungs paralyzed torso muscles, so she trained herself to breathe using her diaphragm. Her past medical expenses totaled about \$1 million, and future life-care costs are estimated at \$20 million. Her attorney sued, alleging the Explorer's roof was not crashworthy and could not withstand the impact of a foreseeable rollover collision. The parties agreed to a confidential structured settlement before her suit was filed.





When jury duty is an economic burden

CREDIT REPORTS *and auto insurance*

Our firm believes that every citizen should serve as a trial juror to safeguard everyone's liberty, rights, and property. Most jurors on criminal or civil cases find their experiences rewarding and agree to serve again.

Believe it or not, your credit score can affect your auto insurance rates. What's a credit score? It's a risk rating calculated from credit reports using special mathematical formulas. Lower scores result from paying bills late, having few or no credit references, or poor credit-card practices.

Even fiscally responsible consumers suffer premium increases of more than 100 percent when insurers credit-score them.

For 34 years, Mattie Grainger from South Carolina insured her autos with Allstate. She had a perfect driving record, few insurance claims, and enjoyed safe-driver discounts. Yet Allstate raised her premiums, telling her she didn't qualify for a lower rate because of a low credit score. Grainger's credit score was low because she simply didn't need extensive credit.

Many argue that applying credit-scoring in preparing insurance quotes or policy premiums is inherently unfair. We do, too.

During hard economic times, however, many who are summoned to jury service may face severe fiscal insecurity. If you believe jury duty will harm you financially, you can ask a judge to excuse you from service. Here are some examples:

- You are unemployed and need to look for work.
- You were recently employed and cannot take time off now.
- You will miss a mortgage payment because of lost time at work.
- Your employer, who used to pay for jury-service days, can no longer afford to.

There's a proviso: When the economy recovers, you accept the call to serve as a juror.



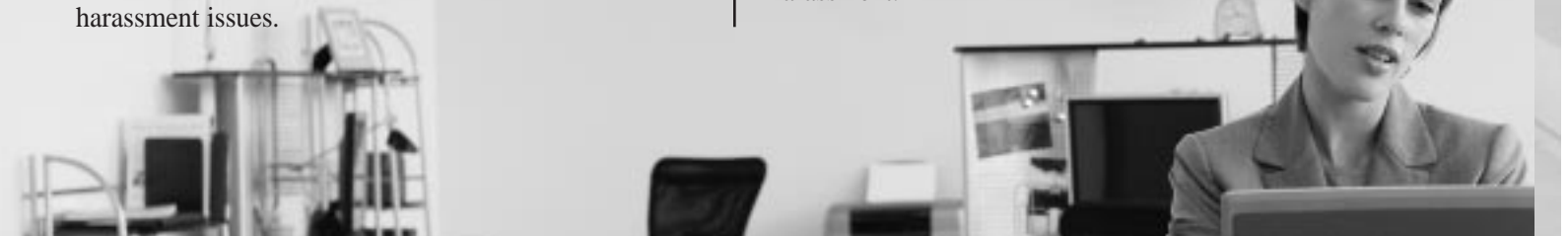
Sexual harassment at work...STILL ILLEGAL

Half of all sexual-harassment lawsuits are filed in companies with fewer than 200 employees. This illegal conduct usually occurs when someone with power and authority introduces an unwelcome sexual element, unrelated to an employee's work, into the relationship. Harassment may take the form of verbal comments, physical brushing or touching, e-mail abuse, a hostile work environment, retaliation, or even firing.

Please contact an attorney for assistance with sexual-harassment issues.

A case in point

A female overnight shipping-firm employee sued her employer, claiming that her male supervisor retaliated against her after she resisted his kissing her at an outside-office event. A jury awarded significant punitive damages when her attorney proved the supervisor gave her undesirable work schedules and late paychecks after the harassment.



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"I WANT TO RESCIND MY SETTLEMENT.."

We recently spoke to a gentleman who had settled his personal injury case six months ago. He had been injured in an accident in which the other party was clearly at fault. He was contacted early on by the other person's insurance company.

This man had incurred about \$20,000 in medical bills, most of which have been paid by his health insurance plan from his employer. The man told me that he did not want to pay an attorney a fee because his case was "simple" and he thought he could save the attorney fee. The insurance adjuster even said some things along these lines during discussions.

The insurance adjuster asked him how much his out-of-pocket medical expenses were, and he told them that they were pretty low, since his insurance company had paid the bills. The injury victim went onto the Internet and thought he found some "formula" for settling his case by himself. Looking at his out-of-pocket expenses and his lost wages, he settled his case for around \$30,000.

Now he wanted to rescind his settlement. Since he did not use an attorney, he was not aware that his employer's health insurance company might seek to be repaid for the medical bills that it paid. Yes, there it was, right in his insurance contract. Of course, the adjuster from the car insurance company did not mention this to him, nor did they have a duty to. The adjuster did not misrepresent anything, but didn't volunteer anything either. The victim had to repay his health insurance company nearly \$20,000, wiping out the great bulk of this settlement.

Unfortunately, there was nothing we could do for him. He had signed a "full and final release" acknowledging that he had not relied on the insurance adjuster for any legal advice!



TAILGATING AUTO ACCIDENTS

Tailgating, driving too closely behind another vehicle, may contribute to a third of all accidents.

Drivers may tailgate because they are driving while impaired, enraged, or hurrying.

A driver being followed by a tailgater should change lanes, make a turn, or get out of the tailgater's way.

Anyone injured in tailgating accidents should obtain legal counsel.

Tailgating leads to a death

A nurse assistant, who slowed to pass a disabled vehicle blocking the road, died a half hour after being violently struck from behind by a speeding tractor-trailer. Her husband sued the driver of the tractor-trailer and his employer, alleging the tractor-trailer driver followed too closely. The parties settled after a jury trial awarded significant compensatory and punitive damages.