



Law Offices of **GARY E. ROSENBERG, P.C.**

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109-05 72nd Road  
Forest Hills, NY 11375

**718-520-8787**

26 Court Street, Suite 404  
Brooklyn, NY 11242

e-mail:

[staff@garyrosenberg-law.com](mailto:staff@garyrosenberg-law.com)

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# Proud PAPA



*Haley and Renee Rosenberg*

I am pleased to share that my daughter, **Haley Rosenberg**, was just accepted into the Frank Sinatra School of the Arts, a N.Y.C. public high school in Long Island City, Queens. In addition to good grades, Frank Sinatra requires an audition of its students, and Haley was accepted for her abilities in fine arts and drawing. Haley will begin her freshman year in September 2007, where she will join big sister **Renee**, who will be starting her junior year as part of Sinatra's dance program.

The high school also has programs in drama and both instrumental and vocal music. It was founded in 2001 through the efforts of world-famous singer Tony Bennett to honor his friend, Mr. Sinatra.

Frank Sinatra is a "diamond in the rough" of N.Y.C.'s school system, with a total enrollment of between 500 and 600 students. Its small class size guarantees personal attention. Truancy and student suspensions are below the average for N.Y.C. schools, as is the frequency of "involved in police department incidents." The graduation rate is way higher than the city average, and I've never seen a metal detector there, anywhere.

In September 2008, the school will move to a new building that is being constructed in Astoria, Queens. It will be near the American Museum of the Moving Image and Kaufman Astoria Studios. In the new building, students will be allowed to study film. The only possible downside is that student enrollment may go up to as high as 1,000 in the school. Heck, when I attended public high school in Queens (way back before electricity was invented), my graduating class alone numbered almost 1,000.

I never wrote a fan letter to Ol' Blue Eyes, singer Frank Sinatra, but you most definitely hold in your hands my fan letter to his namesake high school.

## Protecting the rights... ...of those who serve in our military

When a mortgage company wrongly foreclosed on the home of a military family living in Phoenix, Arizona, our civil justice system was their last resort to obtain compensation.

Gerald Thitchener, a National Guard jet-fighter technician who served in Desert Storm, was reactivated to serve a one-year tour in Las Vegas, Nevada. He had his mortgage temporarily forwarded to his new duty assignment and paid monthly.

A nationally known mortgage company, Countrywide, confused Thitchener with another customer and foreclosed on his Phoenix mortgage despite the protestations of a real estate agent. When the soldier returned to an empty and padlocked Arizona home, he learned that Countrywide had foreclosed on his mortgage and disposed of his family's possessions, including his Desert Storm medals and his wife's wedding gown.

Rather than admit error and offer compensation to its victim, Countrywide went to trial when Thitchener sued. A jury returned a verdict for the soldier's family and awarded compensation and damages.

**PLEASE CALL US IF YOU HAVE ANY LEGAL QUESTIONS OR PROBLEMS.**

## Workers' compensation When insurers refuse to pay

Workers' compensation regulations are state-based insurance programs that effectively cover claims by workers injured on the job or who suffer work-related diseases or illnesses. Insurers regularly handle claims with understanding and efficiency.

On occasion, an insurer may deny claims benefits, as the following case illustrates. Workers should consult an attorney experienced in workers' compensation law for counsel.



### Fall from a ladder

When a retail store employee fell from a ladder and severely injured her back, her physician recommended surgery. When she filed a workers' compensation claim, the insurer denied her petitions and an independent Industrial Commission's confirming orders for several years.

The employee's attorney sued the insurer, demonstrating it had not acted in good faith. A jury held for the plaintiff, stipulating a significant award, and held the insurer liable for lifetime medical care and disability benefits for the underlying injury under the state's Workers' Compensation Act.



## Drunk-driver accident victims

U.S. transportation authorities claim that motor vehicle accidents involving alcohol kill one victim every 30 minutes. Alcohol-related accidents also seriously injure other victims every two minutes. Annually, more than a million Americans and their families suffer at the hands of drivers who are impaired by alcohol.

Anyone injured in an alcohol-related auto accident should seek the counsel of an experienced attorney to obtain compensation for medical treatment, lost income, emotional distress, and other damages.

### Third-party responsibility

In addition to seeking recompense from negligent drivers and their insurance providers, personal injury attorneys may also uncover liability of third parties, such as restaurants and other establishments that serve or sell alcohol.

A drunk driver ran a stop sign, collided with another vehicle, and killed its driver. When the victim's wife and estate sued for wrongful death and emotional distress, the plaintiff's attorney also made a claim against a nightclub that served the drunk driver alcohol immediately before the accident. The parties settled before trial.

## Pharmaceutical marketing


U.S. drug manufacturers spend 2.5 times more money on marketing drugs to consumers and doctors than they invest in pharmaceutical research.

To make windfall profits on prescription drug sales, pharmaceutical companies spend billions influencing physicians and other health-care providers to prescribe and utilize their medications.

In one case, former Medtronic employees blew the whistle on the company's marketing generosity, which included giving doctors financial kickbacks. Their case settled in federal court in August 2006 for \$40 million.

In other lesser instances, medical-school professors claim that drug representatives often provide many doctors' offices free lunches, some costing as much as \$250, to buy access for sales.

Access costs American consumers millions and adds billions to drug companies' marketing annually. In 2004, Merck alone spent \$7 billion in marketing, compared with \$4.01 billion in research. Public Citizen, a consumer advocacy group, reported that in 2005, the pharmaceutical industry committed more than \$60 billion to marketing efforts.



Pharmaceutical  
**MARKETING**  
Dollars



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# FOR YOUR SAFETY

## Recalled product roundup

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

- ✓ **Target Stores** is voluntarily recalling 185,000 Firestreet Scooters. The handlebars, wheels, and brakes can break and detach, causing rider injuries.
- ✓ **Acuity Specialty Products Group, Inc.**, asks consumers to return 6,800 five-gallon pails of “Zep Industrial Purple Cleaner & Degreaser” and “Zep Heavy-Duty Floor Stripper” cleaning products, which can crack, leak corrosive products, and harm users.
- ✓ **Atico International USA, Inc.**, has recalled 209,000 folding picnic tables with legs that can unexpectedly buckle, break, fold, or collapse, injuring users.
- ✓ **Fun Express, Inc.**, has called back 340,000 bendable toys given away at libraries. The toys are decorated with paint containing excessive levels of lead, which is banned under federal law. Lead is toxic and, when ingested by children, can cause adverse health effects.
- ✓ **Black & Decker** has requested buyers to return 160,000 cordless electric mowers. An electrical component in the lawn mower can overheat, catch fire, and burn users.

# Legal dictionary

Many clients find legal terms mystifying. From time to time, we’ll provide easy-to-understand definitions to help clear things up. This time, you’ll learn the meanings of several important terms used in courts to help you better understand our legal responsibility concepts.



## Liability

A person’s, group’s, or business entity’s legal responsibility for an injury or loss for which they are responsible.

## Negligence

The failure to exercise the kind of sufficient care that a reasonably prudent and careful person would use under specific circumstances. If an injury results from another’s negligence, that person or entity may be liable to pay damages for any injury they caused.

## Statute of limitations

An arbitrary time limit—in years—that cuts off a plaintiff’s ability to file an injury case after a certain period of time from the date of the injury, even if the injury is not detected until much later.

## Statute of repose

Another arbitrary time limit—in years—that terminates a corporation’s responsibility for marketing faulty or dangerous products.

# Damages limitations

Can lawsuit damages caps harm those injured? Damages-cap legislation restricts amounts a jury can award for injuries, no matter what case facts may be. Some state legislatures have enacted caps in civil cases, while others have not. Some caps apply to specific kinds of cases, such as medical malpractice. Other caps limit only noneconomic damages, and some limit punitive damages.

In states that cap damages, a jury’s or judge’s award is automatically reduced to the amount of the cap—even though the

jury or judge may believe the plaintiff should be awarded more than the cap as compensation, or even if the circumstances of the case show that a negligent or malicious defendant should be punished with a significant punitive-damages award. There is generally no way to raise a damages award beyond the cap once it is written into law.

Here is an example of how a cap of \$250,000 on noneconomic damages may be incredibly unfair to some victims.

Who is harmed	The victim’s injuries or losses	The amount the jury originally believed should be awarded	The amount the victim is awarded based on the legislature’s cap
VICTIM A	After being hit by a drunk driver, the victim’s car caught fire. Her husband (a passenger) was killed, she was burned and left disfigured, and lost the use of her right arm. She was a homemaker and can no longer work.	\$1.2 million noneconomic damages	\$250,000 noneconomic damages
VICTIM B	After being hit by a drunk driver, this victim suffered two broken legs, had to have surgery to repair them, and was forced to wear a full body cast for two months.	\$250,000 noneconomic damages	\$250,000 noneconomic damages

**VICTIM A, who suffered worse injuries than VICTIM B, nonetheless takes home the same compensation for her losses as VICTIM B. Even though the jury thought VICTIM A deserved far more compensation, the jury’s judgment was overruled by a cap put in place by the legislature long before VICTIM A’s case ever arose.**

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## Referrals

Our practice continues to grow through referrals from our clients and friends. If you know someone who has been seriously injured or is buying or selling a house, co-op, condo, or commercial building, we hope you will recommend us.

Thank you.

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The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.



## Gary says:

### New York's law regarding seat/shoulder belts and car seats

#### Who must wear safety restraints?

- All front-seat occupants, regardless of age. The driver is responsible for all front-seat passengers under age 16.
- All rear-seat passengers under age 16.
- All children under 4 years old must be restrained in federally approved child-safety seats.
- Children under 4 years old but weighing more than 40 pounds may be restrained in a booster seat with a lap/shoulder belt.
- Children ages 4, 5, and 6 must be properly restrained in an appropriate child-restraint system, one that meets the child's height and weight recommendations according to the child-restraint manufacturer.

#### More

Never tuck the shoulder belt under the arm or behind the back. Both of these common practices are dangerous and illegal. Use seat belts for older children only when they are large enough for the belt to fit correctly. Usually, this will be about 8 years old and about 80 pounds. To tell if a child is big enough to use just the vehicle lap and shoulder belt, ask the following questions. If the answer is "no" to any of these questions, a belt-positioning booster seat is needed for the best crash protection:

1. Can he sit all the way back against the auto seat?
2. Do his knees bend comfortably at the edge of the auto seat?
3. Does the shoulder belt cross his shoulder between his neck and arm?
4. Is the lap belt positioned low and touching his thighs?
5. Will he stay seated like this for the whole trip?

Child restraints older than 10 years should not be used. Any child seat, regardless of age, that has been in a severe crash should be replaced.

#### Finally

A recent study by the American Academy of Pediatrics indicates that when drivers do buckle up, 87 percent of children riding with them are also restrained. However, when drivers are unbuckled, only 24 percent of children riding with them are restrained. The best way to protect our children is for adults to buckle up, too.



## Slips and falls

When someone slips, falls, and is injured because of a property owner's negligence, an attorney familiar with premises-liability accidents can help a victim obtain compensation for medical bills, lost wages, pain and suffering, and other damages.

An experienced personal injury lawyer can assess an incident, communicate with property owners, negotiate with insurers, locate experts to testify on a plaintiff's behalf, if necessary, and present the case at trial.

### A shampooed carpet

When a woman stepped from a freshly shampooed carpet onto a marble floor at an office, she slipped and fell. She suffered severe disk protrusions and back injuries, requiring surgery involving a spinal-cord-stimulator implant. When her attorney sued for failure to warn of danger, the parties settled for a substantial amount.