



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

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Law Offices of
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TOUGH, HONEST, SMART

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ATTORNEY ADVERTISING

Employee of the Month
Marra Lucas

Third in seniority in my band of "merry persons," Marra has been with me for almost eight years. She sits at the front desk and acts as receptionist. She is also my new-file-opener-upper, and is usually the main contact new clients have with my firm. She sends letters to insurance companies and negligent people, warning them that if they don't pay, we're gonna get 'em. Marra also handles my firm's court calendar, making sure that we cover our in-court appearances, for conferences, depositions, trials, hearings, and such, although this is a job she's starting to share with Aisha, whom we will feature in a future newsletter.

Marra lives in Queens and has two children in elementary school. She has a marvelous smile and always seems to be in a good mood. I wish I could tell you why she's the life of our office year-end holiday lunches at Portofino restaurant, but I'm sworn to secrecy. And, oh yeah, we pronounce her first name "Maura."



Frivolous lawsuits

By Gary E. Rosenberg

When I go to dinner parties, nonprofit organization meetings, or am on the golf course, folks always ask me why trial lawyers file frivolous medical malpractice lawsuits. "Don't insurance companies raise our rates when they have to pay for those suits?" they ask.

Here's my answer. Frivolous-lawsuit claims are overblown. They're circulated by powerful corporate interests that want to escape accountability for the dangerous products they market to the public. Government agencies that track civil suits report declining numbers.

The real problem is the insurance industry gouging physicians. Annual statements of the 15 largest companies handling malpractice insurance show that premium collections increased by 120 percent between 2000 and 2004, while claims rose by only 5.7 percent.

The rate of premium increase was 21 times greater than the rate of increase in claims payments during the same period. None of that has anything to do with lawsuits and everything to do with the insurance industry stuffing its pockets at the expense of the American public.

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

LEGAL DICTIONARY

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

Expert witness

Someone with special skills or expertise who can give accurate testimony at a trial, even though he or she did not see the event in question.

Jury

Citizens who listen to evidence and swear to pronounce a verdict on matters of fact.

Peremptory challenge

Prosecution and defense attorneys can eliminate a limited number of juror candidates without providing a reason. Judges oversee peremptory challenges to prevent keeping members of a certain race or sex off the jury.

Sequester

To insulate juries from improper influences or pressures during deliberations, judges may place jurors in secure locations.

Voir dire

Interviewing jurors to be sure they understand the basics of a case and will tell the truth. From the French "to tell the truth."

Defamation

An individual suffers the harm of defamation when someone makes an untrue remark about them that assails their reputation or good name, or opens them to public derision, hate, or censure.

Damaging false statements that appear in print or broadcast media are called libel. Spoken defamation is slander.

Defamatory comments may refer to the subject's business practices, health, honesty, morals, sexual life, and more.

First Amendment rights make defamation cases difficult to prove. Those believing they have been harmed by defamation should contact an attorney experienced in libel and slander.

Employer defamation



A jury awarded significant damages to a sales engineer who sued when a former employer defamed him by communicating false information. The jury came to its decision after

learning the previous employer, pretending he represented a debt-collection agency, sent false accusatory letters warning the plaintiff's current boss that the employee had sued a number of previous employers.

FOR YOUR SAFETY

Recalled product roundup

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

✓ **Mega Brands America, Inc. (formerly Rose Art Industries, Inc.)** has voluntarily recalled 4 million Magnetix Magnetic Building Sets. Children who swallow tiny, powerful magnets detached from plastic building pieces can suffer serious perforations and blockages if several magnets or metal pieces attach to each other in a child's intestines.

✓ **The Holmes Group** has recalled 300,000 Holmes® Oil-Filled Electric Heaters with poor electrical connections that can overheat and burn users.

✓ **Lamson & Sessions** asks buyers to return 100,000 Carlon® Drop-In Floor Boxes that are incorrectly wired and can shock or electrocute consumers.

✓ **Sears** warns consumers to remove the "Craftsman" logo labels from the outside of the upper blade guards of 308,000 Craftsman Circular Saws. This label can detach, expose the saw's blade, and injure operators.

✓ **Oeuf LLC** recalled 1,400 Infant Bouncer Seats with tubular metal frames that can break and cause infants to fall from the seat.



Premises **LIABILITY**

Property owners are legally responsible for maintaining their buildings' entrances, common areas, stairways, escalators, and elevators in reasonably safe condition so that visitors will not suffer injuries. Owners must also keep buildings' surrounding walks and parking lots in reasonably good care as well.

Anyone injured in an unsafe building or its surroundings may deserve compensation for harm done to them.

An elevator accident

A building visitor riding in an elevator was injured when the elevator's handrail came loose and caused the man to fall to the floor. His attorney sued after the man required lumbar fusion surgery and suffered continuing chronic back pain. A petty officer in the military, the victim was medically discharged from the U.S. Navy and can now perform only light work. The parties settled prior to trial.



Made in China



American consumers are alarmed about the growing list of defective and dangerous products being imported from China. More than 60 percent of all U.S. products recalled were made in China, with the number of recalled Chinese products doubling in the past five years.

In late summer 2007, Mattel's Fisher-Price unit, in cooperation with the U.S. Consumer Product Safety Commission (CPSC), recalled millions of children's toys because toxic lead-contaminated paint had been applied by Chinese suppliers on about 80 different toys, including Dora the Explorer®, Elmo®, and other Sesame Street® character toys.

Previous Chinese products presenting dangers to U.S. and international consumers were vehicle tires, contaminated pet food components, medication ingredients, farm-raised seafood, and many others.

Anyone who has suffered serious harm from imported products should contact an attorney experienced in products liability.

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Jury duty and blogs

Every American can cast two votes to participate in our democracy. We encourage everyone to do both.

The first is casting ballots on Election Day for candidates, laws, government spending, and public questions. The second is equally important—voting as a juror. Jurors safeguard everyone's legal rights and protect us all.

Recently, some jurors have run afoul of Internet "blogs." Short for "Web log," a blog is a user-generated Web site where participants enter journal-style comments on topics anyone can read. In a recent New Hampshire case, a jury foreperson wrote a blog entry—four days prior to his being named to a jury in a sexual-assault case—stating that he would have to "listen to the local riffraff try and convince me of their innocence," among other comments. Learning of the

blog, the defendant's attorney entered it into evidence to show juror bias after the jury reached a guilty verdict. The judge refused to throw the case out.

Legal experts are debating jury duty, blogs, free speech, and related legal issues. It is probably best to avoid blogging while on jury duty.



RETURN SERVICE REQUESTED

Hybrid cars ENDANGER the blind

Silent-idling and running hybrid cars pose a potential danger to the blind and their guide dogs since, as pedestrians, they rely on traffic sounds to safely cross streets.

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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:

What? Your mama never taught you how to cross the street?

Time for another one of my pet peeves: people crossing the street, looking both ways before they step into the street, then only looking forward as they are crossing. Dear readers, your head swivels on your neck. For heaven's sake, swivel your head and **glance at oncoming traffic as you are walking**. Don't walk forward with laser-beam-like focus, looking only at the opposite curb or, worse yet, at the ground. It's little consolation that you, as a pedestrian, have the right of way if a car doesn't see you and runs you down. Be careful out there.

Cruise control and sudden acceleration

Every year, drivers complain that their cars' cruise-control features suddenly accelerate their vehicles. In most cases, drivers quickly regain control.

Investigation has found that unexpected acceleration may be due to driver error, sticky throttles, or defective cruise-control mechanisms.

In the 1980s, Audi autos were reported to suddenly accelerate. More recently, the National Highway Traffic Safety Administration has investigated some Toyota and Lexus models.

Drivers suffering injury from runaway acceleration should obtain legal counsel.

Defective cruise control

An SUV accelerated and crashed while the cruise control was engaged, killing its driver and causing a passenger to suffer spinal injuries and quadriplegia. When the driver's husband sued the manufacturer, alleging a defective cruise control, a jury awarded damages for the driver's estate.

Commercial law

The media report on dishonest executives who abuse their responsibilities by circumventing accounting, legal, and ethical practices to enrich themselves at the expense of others.

Greedy executives

However, cases of greedy executives are not restricted to huge corporations. A jury found directors and executives at a small communications products company guilty of a conspiracy to overpay themselves for management and leadership. When their company failed and was placed into receivership, new owners sued for breach of fiduciary duties of due care, loyalty, and waste of corporate assets. The original owners had allegedly misappropriated more than \$10 million by taking unauthorized percentages of net sales, establishing illegal "intercompany receivables," and creating fraudulent leasing trusts.

Americans followed the extraordinary trials of executives at troubled corporations such as Enron, WorldCom, and Tyco, cases which demonstrated that our civil justice system offers recourse to corporate greed.