



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

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**PERSONAL INJURY**

- Too hurt to travel?  
We'll come to your home or hospital.
- Free consultation
- No recovery, no fee.  
(Client remains responsible for expenses.)
- Hablamos Español

**Employment law**

**Overtime pay**

Some employers wrongfully deny their employees overtime pay, according to the Fair Labor Standards Act (FLSA).

True managers are exempt from FLSA overtime regulations, but employers sometimes try to get around the rules requiring them to pay employees overtime for work in excess of 40 hours per week.

Employees may merit overtime pay when employers require them to:

- Answer phones, stuff envelopes, or perform other normal work operations while on a lunch or other break.
- Set up equipment, change into official uniforms, or make other preparations prior to punching in to work.
- Clean up or break down a work site or station, change out of uniforms, or perform other end-of-workday operations prior to checking out.
- Accept compensatory time in lieu of salary.
- Accept a title but fail to be granted management responsibilities to do a job.

Employees who have overtime-pay questions should obtain legal counsel.



**Lawsuit caps...Who's really hurt?**

Limits on noneconomic damages discriminate against our nation's seniors. If retirees are injured or killed by medical negligence, they have no lost wages to be reimbursed by economic damages. The only compensation a jury can provide for injury itself—as opposed to reimbursement for out-of-pocket medical expenses—is noneconomic damages for death, permanent life-altering injury, pain, suffering, or loss of companionship.

**A surgeon's error**

Supporters of medical malpractice caps consider any case resulting in an award of greater than \$250,000 to be a "frivolous" lawsuit. This arbitrary limit would apply to a 60-year-old retired New York harbor barge captain and Vietnam War veteran. After being diagnosed with a bleeding tumor in his left lung, this retiree's surgeon mistakenly removed his healthy right lung. Because of this negligent error, the patient suffered a reduced quality of life. He survived for only three years, permanently connected to an oxygen tank, before his tumor killed him.



*Personal attention for your personal injury.*

## Patients' rights in hospitals

Going to a hospital for an emergency or a prescribed surgery or treatment can make anyone anxious. On top of that, many individuals and their families fail to understand what their rights are as patients.

Since most hospitals and care-providing centers prepare documents that specify their patients' rights, everyone can request a copy. Many institutions' patients' rights statements comply with the requirements of the Joint Commission on Accreditation of Healthcare Organizations.

### The rights patients should be entitled to include:

- Respectful care
- Notification of next of kin upon admission
- Privacy
- Personal safety
- Confidentiality of treatment
- Understand the full extent of medical conditions
- Comprehend the ramifications of all prescribed treatments
- Participate in decisions about treatment
- Request or refuse service or treatment, according to law
- Formulate advance directives for care
- Review and contest billing
- File a grievance about service or treatment
- Receive service and care without regard to gender, economic status, educational background, race, color, religion, ancestry, national origin, sexual orientation, marital status, or the source of payment for care.



*Patients believing their patient rights have been transgressed should contact legal counsel.*

## Auto accidents and injuries *Colossus®? What's that?*

Colossus software, developed by Computer Sciences Corporation, is used by several dozen national insurance companies to predict settlement values of accident and other injury claims.

Although marketers claim Colossus ensures fairness by considering many input factors, such as medical treatment, pain, and impairment level, critics express alarm. Their concerns include the software's lack of flexibility of input factors, such as pain and suffering and loss of consortium, reduced input from claims adjusters, and proprietary software secrecy.

Detractors, who perceive Colossus as a means of lowering claims values of the injured, were even more concerned when executives at a large insurance company boasted that Colossus had reduced claims payouts across the board by 20 percent.

Drivers involved in accidents who are concerned with settlement fairness can take several steps:

- Obtain the counsel of an attorney familiar with accident litigation.
- Determine whether Colossus software is being used by insurers in the settlement.
- Insist that adjusters include factors and information supportive to your claims and case, which Colossus may not value highly.

© Computer Sciences Corporation



## Police response time

No national average or standard exists for police response times for Priority 1 calls for assistance.

Priority 1 means the caller faces a life-threatening danger, such as an armed robbery, assault, or shooting in progress.

Many cities and municipalities decline to release average police response-time data, even if it is collected. Some cities do. In 2004, Washington, D.C.'s metro police took an average of 8 minutes, 25 seconds to respond to Priority 1 calls. Boston's police took 8 minutes. San Francisco's officers arrived in 10 minutes.

### Late responses

After a man was assaulted by a neighbor wielding an ax, he went to a police station to report the incident. A desk sergeant told the victim to return home and await a patrol car. Thirty minutes later, while waiting for police in his driveway, the victim's angry neighbor arrived and killed the man by repeatedly running him over. The victim's estate sued the police department for failing to protect him in a timely manner. A jury agreed and awarded the murdered man's estate significant damages.

# ASBESTOS

## Protect your family at home

Asbestos may be found in older homes in attics, pipe and furnace insulation, shingles, wallboard, textured paints, and floor tiles. Exposure to silently spreading asbestos dust can cause serious harm to the lungs, colon, and other organs. Even brief exposure can lead to irreversible asbestos diseases, including cancers.

According to the Environmental Protection Agency, home owners suspecting asbestos may be present in their homes can take several precautions. **Leave** asbestos material appearing in good condition alone.

**Check** suspected material regularly without touching it. Inspect for signs of wear, tears, abrasions, water or other damage, or flaking that can release asbestos fibers.

**Discard** suspect household materials.

Check with local health, environmental, or other appropriate officials to find out proper handling procedures, and dispose of damaged or worn asbestos gloves, stove-top pads, or ironing-board covers.

**Obtain** professional removal assistance if asbestos material seems highly damaged or if home maintenance or improvements may disturb it.



## FOR YOUR SAFETY Recalled product roundup

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

- ✓ **Atico International USA, Inc.**, asked consumers to return 480,000 Surf Club™ Arm Bands. Seams can tear, causing the inflatable child flotation device to deflate, exposing young children to drowning.
- ✓ **World Wide Cycle Supply Inc.** has voluntarily recalled 25,000 Harley-Davidson 16-inch BMX bicycles with front-wheel fork welds that can separate and cause rider injuries.
- ✓ **American Greetings Corp.** called back 120,000 Sesame Street Toy Sunglasses with lenses that can separate from frames and choke young children.
- ✓ **Target Stores** recalled 494,000 Back Trails Jr. Toddler, Youth and Child Bicycle Helmets, which fail to meet U.S. Consumer Product Safety Commission standards and can cause head injuries to bicycle riders.
- ✓ **Lamplight Farms, Inc.**, wants 963,000 Tiki® bamboo torches and about 18,000 replacement fuel canisters returned. The painted surfaces can absorb fuel, ignite, and burn users and their property.

## What you mean to us

Those who use our legal services mean everything to us. That's why our promise to you is to always do our best every time you need to call on us for assistance.

We hope that the quality of our service pleases you. Behind the scenes, we are always working hard to make sure that each client receives the benefits of our hard work.

### Client focus

We have a genuine interest in every client's satisfaction, and we also have a very strong work ethic. We train all our employees to bring integrity and honesty to all we do to be sure clients always feel that they receive our best efforts. We empower all our employees to make decisions that foster client satisfaction and loyalty.

### Professionalism

If you have questions about service, consultation, billing, or anything else, we will give you straight answers. If we don't know an answer, we'll find out and get back to you right away.

*You mean everything to us.*

**RETURN SERVICE REQUESTED**

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## **Home-owner's insurance**

### ***Peace of mind***

To obtain mortgages and protect their families, home owners purchase insurance to safeguard their homes' structure and personal belongings. Insurance also provides personal liability protection for accidental injuries and payment of living expenses if a fire or other insured disaster forces a family to temporarily live elsewhere.

### ***Bad-faith claims***

When insurers refuse to pay on claims, home owners have recourse in the justice system. A garage's swing-out automatic door seriously injured a condominium owner's neighbor. When the condo association's blanket-policy insurer dug in its heels, refusing to pay \$60,000 for the neighbor's medical bills, the injured woman sued. A jury found that the insurer took a callous approach to the injury. Jurors ordered the insurance company not only to pay the \$60,000 in medical and rehabilitation costs, but also awarded the condo owner multiple times that in damages for the insurance company's bad faith in failing to live up to its own policy's terms.

## **Data security breaches**

In February 2005, ChoicePoint, a data-gathering firm, disclosed that personal and financial data on 145,000 individuals had been stolen from its databases and could be used by wrongdoers planning identity theft.

Since then, dozens of additional data security breaches at banks, discount stores, universities, government offices, and other data-compilation centers have been announced. Now, millions of depositors, alumni, telephone service subscribers, and many other consumers may have been exposed to wrongdoers' criminal intentions to defraud and steal from them.

Attorneys general in several states initiated probes to determine if ChoicePoint and other data compilers broke consumer-information regulations. Congressional committees have required industry executives to testify. Class-action and individual lawsuits have been filed.

Anyone suspecting that his or her credit information has been compromised by data breaches or who wishes to learn more about this issue should contact our firm.

## **Medical malpractice and repeat-offender doctors**



In July 1998, Ricardo Romero of Humble, Texas, entered a hospital for routine back surgery. While his wife, Dolores, waited nearby, Ricardo nearly bled to death on the operating table. His heart stopped, leaving him with irreparable brain damage. Dolores must care for his every need.

After filing a lawsuit, Dolores learned that her husband's doctor had been named in numerous malpractice suits. He had left sponges in patients during surgery and allegedly abused drugs.

Nonetheless, hospital administrators and physicians permitted this surgeon to continue to practice.

Five percent of physicians are responsible for 50 percent of all of our nation's malpractice cases. Fifty-four percent of American hospitals have never reported a physician disciplinary action to the National Practitioner Database.

Patients suspecting that they have been victimized by medical malpractice should obtain legal counsel.