



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

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Document preparation services

You've see them on television. Maybe you've read about them. Storefront or mail-order companies that advertise: Do it yourself divorce...File your own bankruptcy...Prepare your own will...Incorporate, you don't need an attorney... Save money!

I say perhaps penny-wise, but usually pound-foolish.

There are legal consequences that document preparation services cannot tell you about. They can sell you forms and that is all. Anything else and they're practicing law. And they are not allowed to practice law.

If you try to divorce without an attorney, you risk short-changing yourself on child support, custody and/or visitation. What about maintenance (which we used to call alimony)? Is your division of assets fair and equitable? Is your spouse just a little hasty in whipping out uncontested divorce forms for you to sign? Do you know everything you need to know? Does your spouse have a pension? Are you entitled to part of it? What about tax consequences? Yes, you could, technically, do an uncontested divorce without an attorney. But what you don't know can hurt you financially.

Do-it-yourself bankruptcy could be a bad idea. Have you listed (scheduled) all of your liabilities? If not, the debt may not be forgiven (discharged) by the bankruptcy. Have you listed all your assets? Many times, persons injured in accidents run out of money. Do you have a lawsuit for personal injury or medical malpractice, or even a claim for personal injury or medical malpractice? Failing to list a claim or pending lawsuit may kill it. As it is, control of your lawsuit (or claim) passes to the bankruptcy trustee. Maybe you'll eventually see some of the money recovered. Maybe not. Maybe the recovery will pay your creditors. Maybe not. But you must schedule any pending lawsuit and/or potential claim, be it a contract claim, personal injury claim, medical malpractice claim, or anything else. Do you want to trust this to a document preparation service or mail-order house that, by law, cannot give you legal advice?

You certainly don't want an incorrect provision in your will. You want your wishes carried out precisely—or else you wouldn't be preparing a will. After all, a will comes out of the file cabinet when you're dead and gone. It is exceedingly difficult to fix a will or correct an incorrect gift (bequest) postmortem. Do you need to provide for guardians for minor children? Did you wish to disinherit a relative? Did you do it correctly? What about trusts? And tax consequences? Taxes can eat away at your estate. What about jointly held property such as bank accounts? What about bank accounts held in trust for another person? The questions go on and on.

Forming your own corporation may be okay. Except, is a corporation the best form for your business? What about a limited liability company (LLC)? What about simply conducting business under an assumed name? Are you doing that already? What are the various consequences of each business form? How do the various business entities pay taxes? And so forth and so on.

Steer clear of document preparation services. Consult an attorney. Prevent problems from happening. Do-it-yourself lawyering ranks right up there with do-it-yourself brain surgery—it's a bad idea. Too many people mess up, and then they become lawyers' clients. And mistakes can be time-consuming and costly to correct. Or, in the case of a will, almost impossible to correct once you're gone.

Personal attention for your personal injury.

What's wrong with "tort reform"?

The real meaning of "tort reform": taking away the legal rights of American families

Some federal and state lawmakers want to pass "tort reform," or litigation-limiting, legislation to give insurance companies and corporations more power to overturn the rights that the average citizen has to seek redress for harm through our court system.

If elected officials legislate away our citizens' right to trial by a jury of their peers in a courtroom, the new power that big insurers and companies will acquire will affect us all.

Lawbreaker protection

By limiting victims' rights, "tort reform" protects negligent drivers, greedy corporate managers, and polluters by bypassing the effective, centuries-old approach of using citizen juries to hold wrongdoers accountable for the harm they cause to others.

Wrongdoer defense

"Tort reform" will provide a trump-card defense for pharmaceutical companies that market drugs which injure or kill people. It will give manufacturers

who sell unsafe products an automatic shield against liability. Reform will even give nursing homes that negligently cause our elderly to suffer a "free pass" from legal action.

Unprotected victims

The most insidious effects of "tort reform" are that our civil justice system will no longer protect those who have been seriously injured or killed by careless medical errors or defective products or drugs...and no one will have the right to hold wrongdoers accountable.



When juries speak, corporate America listens. That's why...defectively designed cribs no longer strangle infants; flammable children's pajamas have been taken off the market; once-harmful medical devices have been redesigned; auto fuel systems have been strengthened; cancer-causing asbestos no longer poisons homes, schools, and workplaces; and farm machinery has safety guards.

Red-light runners

In 2002, drivers who ran red lights were responsible for 207,000 crashes, 178,000 injuries, and 921 fatalities in the United States. Red-light runners are irresponsible and dangerous drivers who put us all at risk.

The National Campaign to Stop Red Light Running believes that this problem is epidemic, particularly in urban areas.

Here are a couple of injury cases that show the extent of potential injuries and compensation from red-light runners.

A taxi driver

A cab ran a red light, striking a motorcyclist. The rider suffered multiple rib fractures, lung contusions, a fractured femur, a dislocated shoulder, chronic pain, numbness, stiffness, and scarring. The parties settled for medical expenses and an additional award for loss of consortium.

Trucker

An oil truck sped through a red light and collided with a car. A passenger suffered a subarachnoid hemorrhage, multiple fractures requiring jaw surgery, a tracheotomy, and memory loss, as well as loss of employment. The parties agreed to a major settlement.

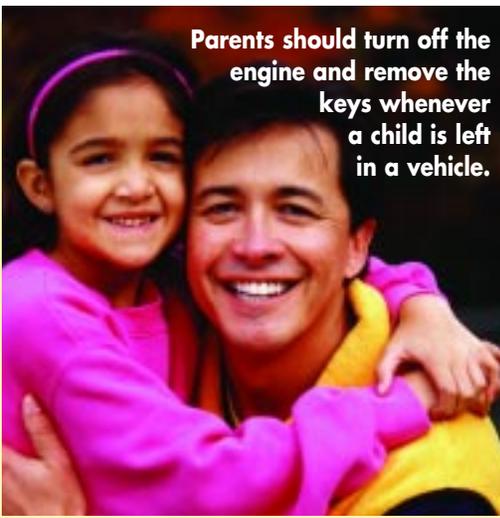
A civil justice system MYTH

➤ MYTH

Jurors are not rational. Because they don't understand the subtleties of law, they get swept away by the emotional pleas of lawyers and their clients. As a result, juries give lawsuit plaintiffs huge punitive damages awards on a regular basis.

➤ FACT

You, your friends, neighbors, and coworkers are America's juries. And you are not irrational. Contrary to common belief, juries rarely award punitive damages. Only 3 of every 100 juries hearing personal injury cases ever award punitive damages. Furthermore, when juries grant punitive damages, the amounts jurors award tend to be small. In fact, the U.S. Department of Justice reports a decreasing trend in payout amounts for personal injury cases. Between 1992 and 2001, the median payment for personal injury cases dropped 56 percent, to \$28,000.



Parents should turn off the engine and remove the keys whenever a child is left in a vehicle.

Car power-window safety

Some auto power-window controllers can harm or kill children.

For the sake of safety, parents should check whether a child can place a foot, knee, elbow, or hand on any power-window controller and unknowingly raise a window. The windows may injure or choke a child leaning out the window. According to www.vehicleinjuries.com, seven children died from electric car windows in 2004.

New National Highway Traffic Safety Administration regulations requiring safer window switches in all new cars should help, but won't go fully into effect until 2008. New switches must be pulled up to raise the window. The problem is that even many newer cars have nonrecessed, door-mounted toggle or rocker controllers that can close the window when a child presses down on them.

For safety, parents should turn off the engine and remove the keys whenever a child is left in a vehicle.

Window entrapment

The federal government and child-advocacy groups pressured manufacturers into designing safer power-window switches, but not before tragedies occurred and the courts intervened. A child became entrapped in a car window that had a toggle-type switch and suffered brain damage from oxygen deprivation. After his guardian sued the car manufacturer for defective switch design, the parties settled to cover the child's medical expenses, life-care costs, and loss of future earnings.

FOR YOUR SAFETY Recalled product roundup

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

- ✓ **Philips PC Peripherals** has recalled 15,000 Hewlett-Packard (HP) L2035 Flat Panel Monitors. Incorrectly installed back-panel ground clips can electrically shock users.
- ✓ **Wal-Mart Stores, Inc.**, has asked buyers to return 600,000 **GE Oval and Double Dish Slow Cookers**, which have handles on bases that may break, spill hot food, and burn consumers.
- ✓ **Royal Appliance** has recalled 20,000 Dirt Devil® Sweeper Vac™ vacuum cleaners. The vacuum's rotors can lock and overheat, causing smoke and fire hazards.
- ✓ **Swing-N-Slide® Corp.** asked consumers to return 72,000 extra-duty and heavy-duty swing seats with defective seat-attachment grommets, which can break and injure users.
- ✓ **American Suzuki Motor Corp.** recalled 27,000 2004-2005 Eiger and Vinson ATVs. Incorrectly mounted fuel tanks can leak and burn riders.

Flu vaccine shortage and so-called "frivolous" lawsuits



This past fall and winter, some advocates of limiting Americans' legal rights blamed "frivolous"

lawsuits for the flu vaccine shortage the nation experienced.

The blame was a fabrication—just plain false. Here's why.

There have been very few lawsuits against flu vaccine manufacturers. A comprehensive search from 1980 to the present found only seven reported cases based on flu vaccine injuries.

Flu vaccine manufacturing is very risky *not because of lawsuits, but because of economic risk*. Very few pharmaceutical manufacturers remain in the business because...

- competing is expensive. Demand varies since new vaccines must be developed annually to deal with changing virus strains.
- flu vaccine technology is time-consuming, labor-intensive, and expensive, requiring investment of hundreds of millions of dollars.
- there is little incentive to compete. No single U.S. government agency is responsible for ensuring an adequate vaccine supply. The production, sale, and distribution of flu vaccines are handled almost entirely by pharmaceutical companies.
- quality-control expenses and safety regulations are a big deterrent.

And, now that there is a surplus of flu vaccine, no one is *crediting* the civil justice system.

RETURN SERVICE REQUESTED

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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.

Tire safety

We all trust our families' safety and security to our autos' tires. To operate a car safely, a driver can take several tire-safety measures:

1. Inflate tires to the pressure recommended by the manufacturer, including the spare tire.
2. Avoid overloading the vehicle or making it top-heavy.
3. Drive safely and maintain adequate braking distances.
4. Have tires safety-checked during maintenance visits for balance, alignment, and rotation.



Tire shop negligence

When auto repair shops are negligent, juries can fairly address the injuries of those harmed. When four individuals died in a rollover truck crash after one of the tires failed—a tire that a technician allegedly never inspected, but advised did not need replacement—a wife, children, and estate sued. The plaintiffs agreed to a postverdict settlement with a major tire retailer after a jury awarded compensation as well as significant punitive damages.

Very few lawsuits

A 1990 Harvard University study showed that only one out of eight patients in New York state who had a valid medical malpractice claim actually ever filed a lawsuit.

Buying a home Inspections

Q: Why should a buyer have an inspection?

A: A professional firm can assess a property's strengths and weaknesses in two to three hours. Inspectors look closely at the soundness of a home's foundation, structural elements, and roof. They also will evaluate the electrical, plumbing, heating, air conditioning, and other mechanical systems.

Q: What does the firm report?

A: Select an inspection firm that will provide buyers with a thorough, well-organized, and detailed written report. Also, ask for clear descriptions of problems, why they occurred, and what repairs need to be made to correct them.

Q: What if there's a problem an inspector fails to discover?

A: An attorney can help. When their home became uninhabitable because previous owners had built a false basement wall to conceal a crumbling foundation, the buyers engaged an attorney. A jury verdict awarded the buyers compensatory damages to repair the foundation, and punitive damages for fraud.