BALINT'S BULLETIN
CLIENT LAW UPDATE

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Meet Our Staff

(Top row from left to right) Glory Hall, receptionist/office manager. Don Horowitz, of counsel/retired judge. David J. Balint, attorney at law. Brenna Holscher, attorney at law. Linda Julian, bookkeeper.

(Bottom row from left to right) Kirsten 'Kish' Underwood, paralegal. Candace C. Chuck, legal intern. Trisha C. Tuttle, records specialist. For more information, check out our website balintlaw.com.

Voting Rights

Our country is in the midst of another election season. It seems like this "season" is perpetual nowadays. Nevertheless, the national and local elections culminating this November are as important as any of them have been in several years. Politicians have always been pretty good at manipulating elections. Most all of the congressional districts throughout the country have been engineered to favor one party or the other. Sometimes the shape of these districts is so bizarre that the courts have seen through the sham and have taken control of redistricting. Another manipulation has been to pass legislation designed to restrict groups of people perceived by those enacting such legislation to favor a particular party. For example, in some states, restrictions are placed on hours of voting to make it harder for working people to vote. Another tactic has been to pass laws permanently prohibiting persons convicted of a felony from voting. I don't know what happened to the concept that once a person has done their time they have paid their debt to society. I have seen statistics that show that ex-con voting laws prevent nearly 4 1/2 million otherwise eligible voters from voting. Not permitting persons who have finished their sentences to vote promotes further alienation from society in addition to the stigma that makes it difficult for these people to find employment. In many countries the right to vote is so important that they bring ballot boxes into the prisons. It is interesting that many states passed these laws following the Civil War and were expressly racially motivated. To a large extent, I think this is still the motivation. We should be ashamed of ourselves. I am proud of the fact that the law in the state of Washington is that a convicted felon's voting rights are automatically restored once the prison sentence has been completed. All they have to do is re-register to vote. This applies to any person regardless of which state the conviction occurred.

Legal Malpractice

Over the course of the last 41 years of my practice, I have handled several cases against lawyers whose negligent handling of civil cases has resulted in financial harm to their clients. Some of these cases involve clear-cut mistakes by the lawyers such as failing to file a lawsuit within the statute of limitations. Others are more complicated such as mistakes made in writing wills. Often lawyers' mistakes are a simple matter of not paying attention. Sometimes the actions of the lawyer that I have sued were downright dishonest. In some cases the lawyers have used client funds in their trust account for their own purposes. I believe that most lawyers are proud of the fact that they are lawyers, follow the rules, and do a good job for their clients. I also believe that the vast majority of actionable legal malpractice never gets reported or considered. If lawyers don't follow the rules, even if their actions do not result in monetary loss to clients, they can be disciplined by the Washington State Bar Association acting at the behest of our State Supreme Court. As an initial matter, any grievance filed against the lawyer is filed first with the Washington State Bar Association. It often comes by a telephone call complaining about a lawyer's conduct. The Bar Association requests the submission of a written complaint before any investigation is undertaken. In 2015 there were just over telephonic 31,000 complaints made to the Bar Association. To put

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This newsletter reports on news and developments in the law. It is offered as a service to our clients and readers and is not a substitute for legal advice.

all of this in context, there were 31,000 active licensed attorneys in 2015. Initial complaints are screened by trained employees at the Bar Association. If it looks serious enough, the Bar Association opens a grievance file. In 2015 only about 2,000 files were opened. After a brief investigation into each, about half of those were closed. The most serious discipline that can be imposed on a lawyer is disbarment. In 2015, 19 lawyers were either disbarred or resigned rather than fight the disciplinary action. The next most serious punishment that can be imposed is for a lawyer to be suspended. If a lawyer is suspended he or she must cease practicing law immediately and notify all clients of the suspension. The suspension can be for months or for years but the effects on a lawyer's business or reputation is significant. There were 27 suspensions in 2015. The next two levels of discipline are reprimand and admonitions. These are serious measures, but the lawyer can continue practicing. To summarize, of 31,000 initial complaints, 46 lawyers received serious discipline.

The Medical Malpractice 'Crisis'

Is there a medical malpractice plague or crisis in the United States? If you listen to the Republicans running for office at the national and state levels, then you already know the answer. Medical malpractice lawsuits are caused by greedy lawyers filing frivolous lawsuits and driving up the cost of medical care. This fear mongering can work only if the public remains ignorant. The reality is that the insurance companies for medical providers are making more profits than ever before. By frightening doctors, hospitals and the general population, and lobbying hard to restrict access to courts by injured persons, they have pulled off one of the greatest con jobs ever. After reviewing available information, a recent New York Times article concluded with a startling statistics that 1% of all doctors accounted for 32% of all paid malpractice claims. The article went on to give another shocking claim which should be read and understood by all of my doctor friends: 94% of doctors have no claims at all. I have done several medical negligence cases. The insurance companies know that in many jurisdictions, including Washington, jurors get confused and really don't want to believe that their doctor could make a mistake. This results in over 90% of the trials being won by the medical providers. Of course, the clear and most obvious cases get settled and so do not go to court. Settlements are relatively rare where the harm is substantial. I just concluded a malpractice suit that presented with obvious malpractice. A surgeon doing intestinal repairs on my client got lazy and used a metallic tack to hold some tissue temporarily in place. He put the tack right into my client's heart. Even so, the insurance company dumped huge amounts of money and time into defending what was essentially an indefensible case just to drive up the expenses. I would say that--in my experience--the expense of malpractice litigation is mostly driven not by the lawyers for injured persons but by the insurance companies sending a message to all potential lawyers for injured patients that there will be few and far between "easy" cases. Plaintiffs' lawyers have no incentive to make lawsuits expensive because, for the most part, all of us who represent injured persons know that our clients generally cannot afford to pay for lawsuit expenses, and all fees are on a contingency basis. So, when you hear politician talking about frivolous medical malpractice lawsuits, please remember that all they are doing is insulting your intelligence.

It's Crazy Not to Have PIP Insurance

Please, *please* pay attention to this article. Many clients have walked into my office seeking my help in a personal injury car crash case. One of the first questions I asked them, and one of the most important documents I need, is a copy of their automobile insurance policy. I look at the three most important coverages: the liability, the personal injury protection (PIP), and the underinsured motorist (UIM). Because these coverages are so important, Washington passed a law many years ago requiring that all insurance companies offer all three coverages. It is the law that all drivers have at least $25,000 of liability limits in case we hurt someone. If a driver hurts someone and the damages (including medical bills, income loss and pain-and-suffering) exceeds $25,000 then the injured person can get a judgment and can execute on available assets including real estate, personal property, bank accounts, and wages. Therefore I urge all of my clients to have a lot more liability insurance, at least $100,000 if not $300,000. Umbrella coverage is relatively inexpensive and should be bought if possible. Because so many drivers on our roads do not have any liability insurance at all, or just have the $25,000 minimum, I recommend that all my clients purchase UIM limits in the same amount as their liability limits, i.e., $100,000 or $300,000. This can be thought of simply as buying coverage above what the wrongdoer has in case you get hurt in a crash. What this article is about is PIP coverage. The law requires insurance companies to offer a minimum of $10,000 personal injury protection limits. Many people mistakenly think that since they have good health insurance they don't need to buy PIP insurance or their insurance agent convinces them to waive this protection. However, PIP insurance is a no deductible, no co-pay coverage up to the limits. The cost varies but is probably less than $200 for two cars. Think about getting hurt and going to the hospital when your insurance has a $2,000 annual deductible and a 20% co-pay. One visit to the hospital and the PIP insurance has paid for itself. I urge every friend and client to have at least $10,000 of PIP

coverage but better yet to increase the limit to $35,000. The increased cost for more than tripling your PIP coverage is probably less than $100 per year. PIP coverage also covers some lost income in addition to medical bills. I have had clients think they were so smart in saving themselves a few bucks by waiving PIP insurance. Crazy. *Crazy.*

Distracted Walking

Getting hit by a car. Tripping and falling. Falling on stairs. Bumping into people and objects. Injuries and death. My grandchildren do not talk in terms of "cellphones" or "iPads", but rather they are generically referred to as "devices." Use of devices while driving has become almost as serious a problem as drinking and driving. But I noticed another prevalent use of devices---distracted walking. Walking down the streets of downtown Seattle, it seems that everyone has their nose looking down at a device and/or plugging their ears with some listening device. This distracted walking has caused emergency room visits for injuries in growing numbers. The National Safety Council says that there has been almost a tenfold increase in walking injuries over the last 15 years as cell phone and other device use has increased. People texting while walking have trouble walking a straight line and bump and other pedestrians. And what the heck is Pokeman Go? Some walk out into the street not noticing that the light was changed. They don't see a curb either going up or down and trip. Although I carry my cell phone everywhere I seldom if ever make a call and when I receive one I stop to talk. I never plug my ears except with my hearing aids so that I can hear traffic and other sounds around me. I urge all of my friends and clients to be a lot more careful with their device use while walking. As I have grown older I am increasingly aware that there is no such thing as multitasking.

Jury Duty Scam

Everyone summoned to jury duty should try to respond. The large number of people who do not respond causes a severe distortion in our system of justice. If the only people who respond are employees of large corporations or people for whom it is not a great inconvenience to serve on a jury, then the concept of a "jury of our peers" is undermined. In a technical sense, it is the law that one must respond to the summons for jury duty. The summons itself has some language threatening consequences even though those consequences are never implemented. The vast majority of people ignore the summons. There is a scam built around the fact that some people feel a bit guilty ignoring a call for jury duty. The scam has been recorded locally as well. It works this way. A caller tells a person that they are calling from the sheriff's department about the fact that the person has failed to appear at jury duty and has been fined. It doesn't matter whether the court has really sent a jury notice. The threat is made that if the fine is not paid an arrest warrant will be issued. The caller offers to allow the fine to be paid by credit card or cash card at which time the pin number is requested. Some people have been bilked out of thousands of dollars. Often the victims are the elderly who are not as tech savvy as younger people. Know that a sheriff will never call threatening arrest for failure to appear for jury duty.

Large Denomination Cash

In the last Bulletin I wrote about the frequent illicit use of the American $100 bill and the other large bills issued by other countries. Use of cash is virtually untraceable explaining the use of large denomination bills by drug cartels, criminals, embezzlers, tax evaders and bribe takers. In today's increasingly electronic world very few of us need to carry around large denominations. One reader raised a good objection: there are certain types of businesses, like buying used cars, which would be harmed if the large bills were not available. But the overall value of abolishing these bills was recently recognized by the European Union's European Central Bank (ECB). In late April the ECB discontinued the issuance of 500-Euro bank notes (about $600).

Why Trial Lawyers Matter Senator Harry Reid (D-NV)

Nobody likes trial lawyers until they need one. Then, we become weapons. Business people sometimes joke with each other, saying "My lawyer can beat your lawyer." It might be funny but it's no joke. In the general public's view, we are the weapons of the ruling class. Weapons with which to devastate anyone - or anything - blocking the path to domination. But nothing could be further from the truth.

Weapons we may be, but weapons with highly effective safeties; the safety mechanisms of the bar, the cannons of ethics, and above all, our own sense of justice and honor. Weapons indeed, not assault weapons, but rather a sword and shield – a shield to defend the meek, the poor, the powerless, the victimized. These are not empty words.

You know, nobody likes trial lawyers. Nobody who addicts children to tobacco; nobody who puts lead in paint; nobody who pumps mercury into groundwater; nobody who sells improperly tested pharmaceuticals.

Nobody likes trial lawyers. Nobody

who ignores worker safety in factories; nobody who manufacturers a faulty airbag knowing it's dangerous; nobody who puts asbestos into the environment.

Nobody likes trial lawyers. Nobody who pollutes the earth and skies; nobody who produces contaminated food; nobody who pedals lethal baby cribs or toys; nobody who negligently operates offshore oil wells.

Nobody likes trial lawyers…until they need one.

The average person has never needed a trial lawyer, and, for the most part, they don't know what we do. The Chamber of Commerce paints us as a group that impedes personal freedom, fabricates problems that don't exist, and enriches the undeserving. Other people see us as tools for corporate interests, and believe we're used to manipulate the system in their favor. Nothing could be further from the truth. In fact, just the opposite is true. We are champions, used to defend the meek, the poor, the powerless, the victimized. We do battle with those who would, otherwise, oppress with impunity. These are not empty words. I loved trial lawyer work as a lawyer. I had over a hundred trials, and the greatest compliment I ever received was when someone said my work was "lawyerlike".

Nobody likes trial lawyers until they need one. Nobody likes trial lawyers until they are the ones who have been injured, hurt, taken advantage of, or threatened by those in power. We are protectors of the downtrodden. We are protectors of those not knowing what to do. We are protectors of those that are afraid.

We are everyday men and women who work hard, play by the rules, and who often take tremendous chances, investing years of our lives in pursuit of justice for a client scorned and ignored by the rich and powerful. We are people who believe in the equal justice promised by our Constitution, in the rules of law envisioned by our Declaration of Independence, and in its core promise that everyone is indeed, created equal with rights to life and liberty, which cannot be ignored or taken away.

Nobody likes trial lawyers – but they damn well should. And not just when they need one.

Free Legal Research

What a deal! All the published opinions of the Washington State Supreme Court dating back to territorial days and all decisions of our three Courts of Appeal, are now available to all for free at: https://www.lexisnexis.com/clients/wareports/ The site is fully searchable and powered by LexisNexis.

Driving Trivia

There are about 100 million drivers over age 50 in our country. This is about 45 percent of all licensed drivers. Those over 85 continue to be the nation's fastest-growing group.

A Quote on the Politics of Extremism

Things fall apart; the centre cannot hold;
Mere anarchy is loosed upon the world,
The blood-dimmed tide is loosed, and everywhere
The ceremony of innocence is drowned;
The best lack all conviction, while the worst
Are full of passionate intensity."
— W.B. Yeats, The Collected Poems of W.B. Yeats

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