BALINT'S BULLETIN
CLIENT LAW UPDATE

Issue 71 July 2013

Brenna Holscher Maternity Leave

Brenna Holscher will be going on maternity leave beginning August 1, 2013, and will return in December. Her caseload is being managed internally, and she will be available throughout her maternity leave for her clients by telephone and email. Brenna will also be scheduling client meetings as needed and attending any necessary court appearances. If you have any questions about her maternity leave and how it will affect your individual case, please call her at the office: 206-728-7799 ext. 109 or email her at bholscher@balintlaw.com.

Insurance Recommendations

It has been a number of years since I made recommendations to clients and friends about how much car insurance they should have. Washington State requires that you have liability insurance of $25,000 minimum. This minimum has not been raised since 1980. It is way out of date. A trip to any hospital emergency room is going to cost in the neighborhood of $2,000. Any kind of minimal surgery or admission to a hospital is likely to very quickly reach the $25,000 limit. If that's all the coverage when you hurt somebody, you risk losing everything if you are sued.

Here is **advice #1**: I recommend, if you can afford it, that you purchase at least $300,000 of liability coverage (coverage for you if you hurt someone and get sued). Then, once you have that in place, most insurance companies have available to you what is called an "Umbrella" policy. For a lot of us, the Umbrella policy would cost around $450 a year extra. This would provide additional coverage up to $1 million for persons we might hurt or that might get hurt in our homes. By adding about another $150 annually to that Umbrella policy it can include UIM protection up to the same $1 million limit. Not all of us can afford all this extra coverage but if you can afford this, it is well worth it.

Advice #2: Never, and I mean NEVER, waive Personal Injury Protection (PIP) coverage. By law your insurance company is required to provide a minimum of $10,000 PIP coverage to cover your own medical bills and those of any passengers in your car (even if you were not the cause of the injuries) or pedestrians or bicyclists that you may injure. This coverage is essential even if you have medical insurance. Under PIP there are no deductibles or co-pays. If possible I would recommend that you carry $35,000 of PIP. The small extra premium is more than worth it.

Advice #3: Never, and I mean NEVER, waive your Underinsured Motorist (UIM) coverage. By law the insurance companies are required to provide you with UIM coverage up to the limit of your liability coverage. UIM is coverage for all other drivers who may hurt you, regardless of circumstances. A huge percentage of drivers on the Washington State roads either have no liability insurance or the state minimum of $25,000. Even if they carried a slightly higher limit of $50,000 in today's medical disability market this is almost equivalent to nothing.

Advice #4: Compare prices! Television ads for all of the auto insurance companies recommend that you compare prices. It is fascinating to me to notice that Allstate Insurance, the worst of the worst, has stopped using price as a comparison because everyone knows they are usually the most expensive. Despite their ads, their coverage is no greater than their competitors. The insurance companies know when they make these ads that most people will not in fact compare pricing but I recommend that you do so.

Advice#5: It is far better to have an independent insurance agent who can advise you on all your insurance needs. If you do not have an independent agent, I can provide you with some suggestions.

Affordable Care Act (ACA)

Full Obamacare is nearly here! In general terms the main points are as follows. Some parts of the law are already in effect but the main revisions are effective as of January 1, 2014. Under the new rules, coverage is nearly universal in the sense that nearly everyone will be required to have insurance or they will have to pay penalties to the

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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.

federal government along with their taxes. Because it is known that some people cannot afford these premiums, for low income people there will be tax credits available. In essence, under low income circumstances, the government will be paying the premiums or parts of them. The State of Washington is supposed to have a medical insurance exchange program on its website beginning on October 1. This will enable price comparisons across the country. The approved plans should be found at "Healthplanfinder" on the internet. You must use one of the approved plans in order to be eligible for the tax credit I mentioned. No one can be rejected, even if you have a pre-existing condition. Premiums will not be based on health status and they cannot increase your premiums if you get sick or injured. All of the qualified plans must have what they are calling the "10 essential health benefits." They include:

- Ambulatory patient services
- Emergency services
- Hospitalization
- Maternity/newborn services
- Mental health and substance abuse treatment
- Prescription drugs
- Rehabilitative services and devices
- Laboratory services
- Preventive and wellness services, including chronic disease management
- Pediatric services, including dental and vision coverage

Pricing can be based on age. If you have an existing health insurance program, it must meet the minimum requirements of the law including the 10 essential services above. Employers of 50 or more workers must provide a health insurance program, but since this part of the law has now been deferred to 2015 the effective implementation of the rest of the law may be somewhat chaotic.

Suicide in the U.S.

Over the years I and many of my friends and clients have been affected by someone close to us killing himself or herself. One of the costs of the American troop involvement in Iraq and Pakistan has been the suicide of soldiers on duty and of those veterans who return home with disabilities, post-traumatic stress disorders, and unemployment. One of the horrible costs to our country of the recent and continuing disastrous mismanagement of our economy by our national government is hopelessness and suicide. Some people, who cannot cope with their inability to earn income, their inability to keep marriages and families together, and their perceived loss of dignity, escape into alcohol and drugs. Others commit suicide. We do not hear statistics very often about this collateral damage. It caught my attention when the Center for Disease Control and Prevention finally published its statistics for 2010. In that year there were nearly 35,000 deaths from motor vehicle crashes. But there were 38,000 suicides! The vast majority of those suicides were by guns sitting around people's homes. It is believed that the actual suicide rates are much higher because it is difficult to know when death by overdose of prescription medicine is purposeful or accidental. My first medical malpractice trial was against a psychiatrist who kept absolutely no track of the number of medications he was prescribing to his patient, the father of a dear friend of mine. Despite several overdoses on the prescriptions the doctor kept on prescribing even more. The ninth time his patient didn't make it. Unfortunately, very little is being done to address this widespread problem.

Immigration Fact Checking

The national debate over immigration policy is complicated. Everyone in the United States, except Native Americans, emigrated from other countries. It is interesting and somewhat amusing to me that once each wave of immigrants became settled in this country, they resented, tried to marginalize and demonize each successive wave of immigration. Some of the same people in our country who are criticizing the "entitlement mentality" are critics of immigration because they feel that 'real Americans' will suffer. This is just another way of saying that they are 'entitled' to superiority. The debate over immigration policy is often clouded by feelings of entitlement and other extreme emotions. The debate is healthy except when fabricated facts are used. What we frequently hear is that the immigrants, legal and undocumented, are "takers." They utilize our schools, our hospitals, our roads, and take our jobs. Each of these claims is subject to fact checking. The one claim that has no justification is that in regard to Medicare and Social Security, immigrants as a group are takers. A study conducted by the Harvard Business School recently concluded that immigrants contributed $15 billon more to Medicare then they received in benefits during the period 2002-2009. During that same timeframe the American-born population had a deficit of $28 billion. Likewise with Social Security--the Social Security Administration estimated that undocumented aliens contributed $12 billon more than they took in 2010. One of the reasons is that immigrants' median is age 27 compared to native-born Americans whose median age is 42. Obviously 27 year olds are more likely to be contributing to Medicare. Of course, this statistic might change once immigrants "age in" as that term was applied to me last November

when I turned 65. In regard to Social Security, the equation might rapidly change should undocumented aliens be granted legal status. One of the reasons they now contribute more than they benefit may be that they do not make claims because they are afraid of calling attention to themselves and because some use forged social security cards. A legitimate debate can be held with accurate facts without resorting to unsupported allegations simply meant to demonize.

Impaired Driving

A significant percentage of the automobile personal injury and death cases we handle involve crashes caused by impaired driving. Notice that I did not use the word "drunk" or the word "intoxicated." Those words have connotations of a falling-down, completely smashed individual. Currently in our state the legal blood alcohol limit is .08%. This is the equivalent of about 4 drinks. The National Transportation Safety Board, after extensive studies, recommends that all states adopt a .05% limit. Why? Because above .05 most drivers are driving "impaired." This means slowed reaction times, narrowed fields of vision, ease of distraction, and flawed decision making. Impaired driving was involved in about 1/3rd of the fatalities here in the United States. This translates into more than 10,000 innocent people killed and countless others injured and disabled by impaired drivers. Impaired driving affects younger drivers even more than older drivers. There are several reasons for this, not the least of which is less driving experience. The under 26-year-olds are the largest age group causing auto fatalities and serious injuries in the United States. 21% of those younger drivers who caused collisions had alcohol in their systems. People think they can "handle it" but statistics show otherwise. There is resistance to lowering the legal blood alcohol limit from all sorts of groups interested in pushing alcohol consumption. Do we really want to have a policy that protects the alcohol industry?

New Privacy Law

In the last few weeks, sales of George Orwell's "1984" have been selling briskly. It is not hard to understand why. It has been revealed that virtually all of our phone calls, emails, text messages, and social media accounts are being recorded and scrutinized by the federal government. Very few in Congress, neither Democrats nor Republicans, no one, seems overly concerned about the disappearing space for privacy. Voice recognition software is becoming so increasingly sophisticated that a computer at the National Security Agency (NSA) could pick out individual voices from the billions of calls happening daily. Then we learn that every envelope of mail that we send through the US Post Office is electronically photographed and permanently stored. Billions of pieces of mail! Then we read of the arrests and incarceration of several young people who used threatening language toward our President on their Twitter accounts. Each one was visited promptly by the FBI and several are now in jail even though they have neither connection to terrorism nor any provable intent to harm anyone. Most smart phones with a GPS feature literally track everywhere you are going and can be retrieved by hackers or law enforcement, often without any judicial oversight. Even without GPS, your every movement can be tracked as long as your phone has power. As we graphically learned from the Boston Marathon bombing, video cameras are everywhere and can literally track your every movement outdoors, at least in major cities. Face recognition software is developing rapidly so that computers can use all these video feeds to find any of us at any time, now or where we have been in the past. Google already has geographic recognition. Take a digital photo of practically anything or any place on earth and Google can probably tell you what and where it is. Government hackers in China and the U.S. can literally and do seemingly frequently get into anyone's computer they want and read everything that is there. The government is busy accumulating as much DNA from as many people as possible whether convicted of a crime, accused of a crime, applying for jobs and so on. I read where sophisticated scientists can now take supposedly anonymous DNA and track it to any individual on earth. George Orwell was prematurely scared by using the year 1984 -- but Big Brother is certainly here in 2013.

In Washington, at least, a small step towards privacy was enacted into law in May. The legislature dealt with a growing trend across the country. Employers were demanding that current and prospective employees disclose usernames and passwords to all their social media accounts as a condition to employment. Is nothing secret? The new law forbids any employer asking for access information to employee social media. Only a few other states have enacted this protection. The law does not apply to any employee using company computers or social media accounts paid for by the employer. The law also provides for relief that can be obtained in the courts. This is a tiny step toward protecting privacy, but I fear it is like standing on the seashore at low tide demanding that the water not rise. Privacy is already drowning in the ocean of the digitital age and our own indifference.

Pithy Wisdom

How do we know when we cross

over from childhood to adulthood? When "you are getting so big" is no longer a compliment! My thanks to a friend for this addition to my store of knowledge.

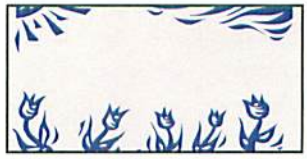
Texting Miscommunication

My thanks to my primary humor source, Jackie Goldstein:
A wife, being the romantic sort, sent her husband a text message:
"If you are sleeping, send me your dreams.
If you are laughing, send me your smile.
If you are eating, send me a bite.
If you are drinking, send me a sip.
If you are crying, send me your tears.
I love you!"
The husband, replied,
"Am on toilet. Please advise."

Is Getting Old Funny???

Now that I have received my Medicare card I am more sensitive to aging jokes. My friend, Maureen O'Hara, sent me the following. I do not know if I should laugh or cry.

1. I started out with nothing, and I still have most of it.
2. My wild oats have turned into prunes and all-bran.
3. I finally got my head together, and now my body is falling apart.
4. Funny, I don't remember being absent-minded.
5. Funny, I don't remember being absent-minded.
6. If all is not lost, where is it?
7. It's a lot easier to get older than it is to get wiser.
8. Some days, you're the dog; some days you're the hydrant.
9. Kids in the back seat cause accidents.
10. Accidents in the back seat causes kids.
11. It's hard to make a comeback when you haven't been anywhere.
12. The world only beats a path to your door when you're in a bathroom.
13. If God wanted me to touch my toes, he'd have put them on my knees.
14. When I'm finally holding all the cards, everyone wants to play chess.
15. It's not hard to meet expenses … they're everywhere.
16. These days, I spend a lot of time thinking about the hereafter: I go somewhere to get something, and then wonder what I'm hereafter.
17. Funny, I don't remember being absent-minded.



18. Quotes of the Month

Burma Shave Advice:

No matter the price, no matter how new, the best safety device in the car is you.

The one who drives, when he's been drinking, depends on you, to do his thinking.

—Burma Shave

Enjoy Your Summer!

CONTACT INFORMATION
Call us at 206-728-7799
or fax us at 206-728-2729
dbalint@balintlaw.com
bholscher@balintlaw.com
dhorowitz@balintlaw.com
David's Cell/Message: 206-947-7988
Website: www.balintlaw.com

BALINT & ASSOCIATES, P.L.L.C.
ATTORNEYS AT LAW
2033 SIXTH AVENUE, SUITE 800
SEATTLE, WA 98121-2565

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