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SPRING 2007

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Next time you're driving beside a large truck on the highway, consider some of the following statistics...

We all know that large trucks cause a lot of serious accidents across the country. We see it on the nightly news, and we read about it almost daily in the newspapers. Ironically, the truck drivers never seem to get injured, while entire families are injured, maimed, or killed in horrible accidents. In fact, statistics show that 98 percent of deaths occur to occupants of the car. My wife won't even let me drive next to or close to those large trucks if we can avoid it. But you know what it's like. Most times it is unavoidable. Trucks are everywhere, and statistics show that it's only going to get worse.

Consider these statistics from the National Highway Traffic Safety Administration (NHTSA): 442,000 large trucks were involved in crashes in the United States in 2005, resulting in 5,212 fatalities and 114,000 injuries. Furthermore, trucking industry safety statistics indicate that road traffic injuries are expected to be the third-leading cause of death and disability worldwide. This dangerous prediction is due in large part to the fact that as the number of vehicles on the roads increases each day, the number of fatalities increases proportionately.

Here are some more interesting facts regarding the cause of truck accidents:

- Road traffic accidents have become the leading cause of death by injury and the tenth-leading cause of all deaths globally.
- More than one-half of all road traffic deaths globally occur among people ages 15-44—typically the most productive earning years for most workers.
- The U.S. Department of Transportation's Federal Motor Carrier Safety Administration found that truckers were responsible for 44 percent of accidents as a result of driving behavior.
- The probability that a truck accident will result in death or serious injury increases with each extra ton of weight over 80,000 lbs.

A truck with that weight traveling at 60 mph is equal in force to a car traveling at 300 mph.

Despite the number of truck accident cases, the federal government has passed very few trucking laws. However, there are consumer movements afoot to change that. Road Safe America, started by the parents of a man killed after a visit home for Thanksgiving, has been working to limit trucking accidents by focusing on:

- Educating truck drivers and the public through printed materials and media campaigns about the risks associated with trucks and passenger vehicles sharing the highways.
- Enforcing speed-limit laws by supporting law-enforcement safety initiatives that prevent trucking accidents.
- Lobbying policy makers and elected officials to develop laws that will help prevent injury and loss of life on America's highways due to truck accidents.

Current suggestions to increase trucking safety that have been considered by the NHTSA include the following:

- Making underride guards conspicuous on large trucks and trailers so drivers can see them at night.
- Shortening stopping distances and improving braking on large trucks by identifying performance requirements for air-brake systems.
- Increasing foundation brake capacity and improving tractor-trailer brake compatibility.
- Upgrading the truck tire standard and requiring a tire-pressure-monitoring system on commercial vehicles with gross weights of more than 10,000 lbs.
- Instituting a drowsy-driver-sensing system to alert drivers.

These changes are expected only to be "considered" by 2008. In the meantime, therefore, as they used to say on *Hill Street Blues*—"Be careful out there."

We take your family's safety and security personally.

Pennsylvania Supreme Court recognizes sexual harassment as a work injury for first time

In a significant decision by the Pennsylvania Supreme Court this year (2007), the Court recognized for the first time that an injury suffered from sexual harassment is a work injury.

In a lower-court decision in 2004, the Commonwealth Court, which handles workers' compensation appeals, suggested that claims arising from sexual harassment were not compensable. The Supreme Court disagreed.

In *Cypress Emerald Resources v. Hopton*, a coal miner with preexisting emotional problems caused by military service in Vietnam was harassed on three separate occasions when his male supervisor sexually accosted Mr. Hopton verbally, in extremely graphic and vulgar ways. These events caused Mr. Hopton significant added mental stress, causing him to stop working. The workers' compensation judge awarded benefits, but the decision was eventually reversed by the Commonwealth Court.

The judge was impressed that the harassment was unusual for the workplace and, based on testimony confirmed by coworkers, that the talk was extreme. The injured worker's doctor also testified that the supervisor's behavior amounted to a course of conduct which was meant to cause severe emotional harm.

The Supreme Court ruled that such behavior was abnormal, a legal requirement that must be proved to win a claim for mental stress, even for a job in the mines. In addition, the Court said that Mr. Hopton's preexisting problems did not prevent him from obtaining benefits, since his injury was aggravated, reactivated, or accelerated by the abnormal working conditions.

The Court emphasized that each of these types of cases needs to be looked at on a case-by-case basis to determine if a valid claim exists.

If you or anyone you know believes he or she has suffered this type of work injury, please contact us.



Recent Pennsylvania Supreme Court decision makes it **EXTREMELY IMPORTANT** that you read the fine print in your **AUTO INSURANCE POLICY**

Until the Pennsylvania Supreme Court issues a decision in the case of *IFP v. Koken*, all auto insurance carriers were required by the Insurance Commission to have a provision in their policies that in cases involving claims against motorists who were either uninsured or underinsured (they didn't carry enough insurance to cover your injuries), the cases had to be tried before a selected group of arbitrators, usually attorneys picked by each side. However, the Supreme Court has now decided that the Commission cannot force insurance carriers to do that. Therefore, **you should find out for sure whether your current auto insurance policy has a provision on this issue.** Depending on your policy, these cases may continue to be arbitrated before a panel of lawyers or tried before a judge and jury in the Court of Common Pleas.

There are many procedural and tactical advantages to having your uninsured or underinsured motorist claim heard by a panel of lawyers, one of whom you and your attorney pick. It is another matter to have the case tried before a jury. So far, several carriers have announced plans to revise their policies, eliminating arbitration altogether. They include Liberty Mutual, Harleysville, Nationwide, and Erie. Two carriers, Allstate and Travelers, have indicated they expect to continue with arbitration if the insurance carrier and insured agree.

Look for this article in next month's issue:

Injured at work because of the negligence of someone else or because of a defective product? Find out all about third-party liability that can compensate for injuries beyond lost wages and medical bills.

Other significant new workers' compensation developments

Workers' compensation benefits available when injured walking to work

The Pennsylvania Commonwealth Court awarded workers' compensation benefits to a worker who was killed while walking to work but before he actually "clocked in." This worker was killed by a drunken driver while walking on the sidewalk along the employer's premises. The employer denied benefits, stating that the employee was not "in the course and scope of his employment" before he clocked into work. However, the judge and the Commonwealth Court concluded that during "the reasonable time" of 15–30 minutes prior to starting work would be considered to be advancing the employer's business, and therefore, compensable for the fatally injured worker and his family.

Worker who falls down steps at home office found to have suffered a work-related injury

In a case of first impression in Pennsylvania, the Commonwealth Court held that when workers laboring at home offices are injured, they are entitled to workers' compensation benefits. In a case involving a Verizon worker who was working at home with the employer's permission, even though the worker took a personal "comfort break," he was still considered to have suffered an injury arising in the course of his employment.

Hearing-loss benefits awarded based on employer's calculation of percentage of loss

The Commonwealth Court agreed with a workers' compensation judge who awarded hearing-loss benefits based on the employer physician's opinion that the worker had suffered a 34.7 percent loss, even though that doctor did not believe it was work-related. The Court found that the judge was free to find that the claimant had proven through his own physician that the loss was work-related, and at the same time, find that the defendant's doctor was more believable with respect to the percentage of loss. The claimant's doctor thought that he had only lost 20.3 percent of his hearing, which would have entitled him to fewer benefits.

Workers who have been exposed to occupational noise that has resulted in hearing loss should contact their physicians and call our office to review the possibility of a claim.

Pennsylvania's Children's Health Insurance Plan, or CHIP, may provide needed health insurance for your child

CHIP offers health insurance coverage to kids ranging in age from birth through 18 so long as they are U.S. citizens or lawful aliens. In a recent study, however, 6 million out of 9 million eligible children in the United States do not take advantage of this important program. Don't assume that CHIP isn't for you. Many people do, and it's a mistake. If you're not sure, contact CHIP by calling 1-800-986-KIDS (5437), or visit the Web site at www.CHIPCoversPAKids.com.

There are many reasons kids might not have health insurance—maybe their parents lost a job, maybe their parents don't have health insurance at work, or maybe it just costs too much. Whatever the reason, CHIP may be able to help. CHIP works with private health insurance companies to make sure children get their immunizations, doctor's visits, prescriptions, vision exams, dental checkups, emergency care, maternity care, mental-health benefits, up to 90 days hospitalization per year, durable medical equipment, substance-abuse treatment, partial hospitalization for mental-health services, rehabilitation therapies, home health care, and more. For most families, all of this comes at no cost. You can get the same health insurance care as everyone else, so no one needs to know you have CHIP. Contact the state at the above number or Web site today to find out more about your children's eligibility.

Legislative ALERT!

Pennsylvania lawmakers are again trying to limit Pennsylvania citizens' rights to collect **fair and just compensation** for injuries caused by the negligence of others by allowing the General Assembly to set caps on noneconomic damages in all civil actions. These damages are for those injuries suffered, in addition to lost wages and medical bills, as a result of someone else's fault. Those injuries may include pain and suffering, loss of life's pleasures, scarring, and disfigurement. Contact your local state legislator to let him or her know that as a Pennsylvania resident, you oppose such laws. For information on how to contact your legislator, contact us at **Monahan Law Office, P.C., toll-free, at 1-866-307-3888.**





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Or, simply call us at
1-866-307-3888 and speak with
Kathy Boyer, my assistant, and give
her your information.

**This month's
contest**



We're proud of our newsletters, and we want
as many readers as possible. Each month, our
mailing list continues to grow, with more and more people
asking for THE BEST LEGAL NEWSLETTER IN
PENNSYLVANIA. We made offers before to our readers
and many others who respond to our ads in various
publications throughout the state of Pennsylvania, and
we're pleased with the response. However, everybody knows at least
50 people in their sphere of influence, whether it's neighbors, friends,
relatives, or coworkers. **We are offering a free gift to the first 20 people**
who give us just 15 names of individuals to whom we can send our
newsletter. They'll be glad you did because of all the valuable information
we give them. **Our gift is
a sturdy laptop and
business conference
bag—absolutely free.**

**We'd like to
thank you
with a gift
for sharing
our newsletter!**

**But that's
not all!**

For anyone who
sends us those names
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their name in a contest
to win four tickets to
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