



FALL 2006

Brought to you by

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S AILE & SAILE LLP

ATTORNEYS AT LAW

Because we care...

We hope you enjoyed the first edition of our newsletter (Spring 2006). Every day brings change to the legal world, and our goal is to protect our clients by keeping them abreast of important changes in the law and relevant legal developments.

As you may be aware, in addition to handling estates, much of **Michael L. Saile, Jr.**'s legal practice consists of personal injury law and protecting the rights of innocent accident victims.

We realize that most of our clients at this immediate time are not suffering from injuries caused by someone else's recklessness. There are many things you can do to protect yourself *before* an accident happens. Our goal is to protect our clients as best as possible from unexpected, tragic events.

Eagle Scout Michael L. Saile, Jr., believes that the Scout motto "Be Prepared" also applies to the legal world. To better protect our clients, we have created a brochure entitled "What to do in Case of an Accident" which we feel every driver should keep in the glove box of their car. This brochure can be obtained at our office, by mail, or at either of our Web sites: www.saillelaw.com or www.pa-nj-injurylawyer.com.

In an effort to keep our existing clients informed, **Saile & Saile LLP** has created a second Web site: www.pa-nj-injurylawyer.com. Please browse our new Web site at your leisure. We always welcome new clients, and thank you for your past referrals.

As an additional service to our clients, Michael L. Saile, Jr., is offering a complimentary, no-obligation auto insurance policy review. Mr. Saile will personally explain to you the terms and conditions of your insurance policy and make valuable recommendations to better protect you and your family.

Please mail us a photocopy of your automobile insurance Declarations Page that lists the amounts of coverage on your current policy. Once we have the Declarations Page, the auto insurance review can be conducted over the phone or in person at our office.



Premises liability

Home or apartment fires

Every day, roughly 800 residence fires occur in the nation, with most starting overnight, between 8:00 p.m. and 8:00 a.m. More than 6,500 Americans die in home and apartment fires annually, and over half are children and older persons.

Fire safety

Taking three precautionary steps can save lives:

1. Teach everyone about the dangers of smoke and flames in a home fire.
2. Plan and practice primary and alternate escape routes.
3. Identify a post-escape meeting place.

A negligent landlord

A renter was severely injured when he had no alternative to jumping from a window during an apartment fire. The plaintiff's attorney recovered damages by demonstrating that the landlord's negligence was responsible for the client's injuries. The landlord dead-bolted a fire exit to keep trespassers out and permitted other tenants to prop open internal fire doors to improve air circulation.

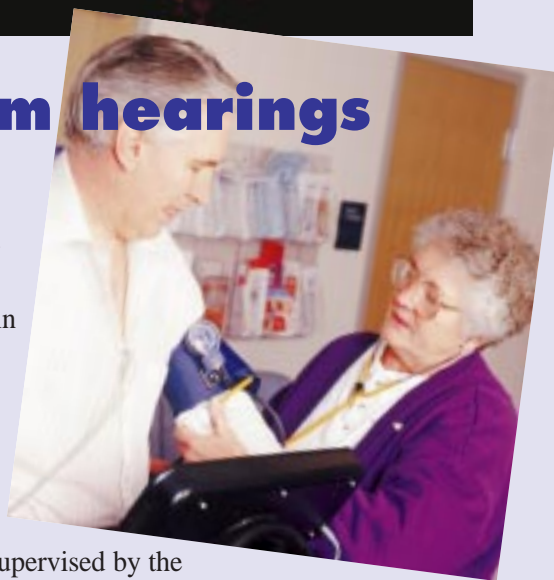
Medicare claim hearings

A July 2005 change in federal policy limits Medicare beneficiaries' access to claims-denials hearings, making it harder for older Americans to obtain justice. Forty-one million Americans participate in Medicare.

When Medicare denies claims for prescription medications, in-home care, nursing home medical services, or other benefits, claimants are now required to attend hearings conducted via video-conference or by telephone with judges supervised by the Department of Health and Human Services in only four cities—Cleveland, Ohio; Miami, Florida; Irvine, California; and Arlington, Virginia.

The recently enacted Medicare drug benefit is expected to create large numbers of claims. Previously, beneficiaries petitioning personal claims-denial hearings could travel to 1 of 140 Social Security offices located throughout the nation. Now, Medicare will conduct face-to-face hearings only under very special circumstances, and those demanding personal hearings forfeit the right to a 90-day decision.

Many legislators, patients' rights groups, and Medicare attorneys claim four offices were insufficient and worried that the change would result in sick or aging beneficiaries not obtaining just or positive decisions.



FOR YOUR SAFETY

Recalled product roundup

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

✓ **King of Fans, Inc.**, recalled 75,000 Maxi-Heat™ Dream Tower Heaters. Interior heater wiring can short-circuit and burn consumers.

✓ **Porter-Cable** has voluntarily called back 70,000 Porter-Cable 890 Series Routers with motor coil insulation that can be worn away by vibration and shock users.

✓ **Country Home Products, Inc.**, has asked buyers to return 15,700 2005 Model NEUTON® Cordless Electric Lawn Mowers. Even when the handlebar is released, the motor sometimes continues to run, causing the blade to spin, which can harm consumers.

✓ **Fisher-Price** has recalled 614,000 Fisher-Price® Laugh & Learn™ Musical Learning Chairs™. Children may become trapped between the chair seatback and side table, which poses a strangulation hazard.

✓ **Simplicity Inc.** requests consumers to return 104,000 Aspen 3 in 1 Cribs, sold under the Graco Trademark. Support screws can loosen, allowing mattresses to fall, posing a suffocation hazard to young children.

✓ **LTD Commodities and its subsidiary, The Lakeside Collection**, have voluntarily recalled 34,600 Pilates Balls. Exercisers using the ball can be hurt by plastic clips or grommets that may loosen from rubber tubing on nylon webbing.



Auto accidents

What is "proper lookout?"

In auto accident cases, drivers may be found negligent for failing to keep "proper lookout."

A driver is obliged by law to constantly monitor all the circumstances of driving in order to prevent a car accident. Conditions include paying attention to the roadway, traffic signals and controls, and other drivers.

To keep a proper lookout, drivers also should avoid common distractions. Studies show that the most common driver diversions are accidents, slowdowns, or other events outside the driver's vehicle; changing radio stations or CDs; talking with passengers; adjusting heating or cooling controls; eating or drinking; talking on a car or cell phone; and smoking.

Younger drivers are more prone to music-related distractions. Adults have their attention diverted by passengers. Seniors attend to objects or events happening outside the vehicle.

Drive safely. Keep a proper lookout.



You can beat City Hall

Police officers and qualified immunity

The long-standing legal doctrine of qualified immunity protects police officers and public officials from unreasonable allegations or false accusations that might hamper their ability to enforce the law or perform governmental business.

Most citizens understand that police put their lives at risk during dangerous situations and believe officers deserve some tolerance for their behavior—as long as the officers obey the law and uphold citizens' civil rights.

When police overstep bounds

When police violate the law while performing their duties, our civil justice system provides citizens a way to protect their rights. An appellate court ruled that a defendant law-enforcement officer who conducted clearly unconstitutional strip searches on two suspects arrested for drunk driving, and also made racist and threatening comments, did not have qualified immunity from prosecution. The court permitted the plaintiffs to sue to recover damages.

Consumer credit-card disputes

Collusion lawsuit challenges mandatory arbitration

Credit- and charge-card marketers take away consumers' rights to dispute unauthorized use, erroneous merchant billing, and extra fees by requiring cardholders to accept mandatory arbitration clauses in disagreements.

A 2005 lawsuit filed against these marketers alleges that they met in secret numerous times between 1998 and 2003 to establish strategies for industrywide imposition of mandatory arbitration clauses for settling customer disagreements. The plaintiffs claim that the clauses "deprive cardholders of effective recourse for illegal anticonsumer and anticompetitive activity, secure an unfair advantage for defendants in the dispute-resolution process, and immunize defendants from collective action by consumers."

Defendants

American Express
Bank of America
Capital One
Chase, Bank One
Citibank/Diners Club
Discover, Household
First USA
J.P. Morgan Chase
MBNA
Wells Fargo

Plaintiffs want the clauses, which also ban class actions and let companies skirt consumer protection and antitrust laws meant to prevent corporate misconduct, declared void.

Mandatory arbitration

Credit-card mandatory arbitration puts consumers at serious disadvantage because they...

- force unknowing waivers of constitutional rights.
- do not give cardholders an opportunity to opt out of arbitration.
- screen cases from public scrutiny.
- compel cardholders to agree to biased, company-selected arbitrators.
- fast-track cases card issuers can win quickly.
- prevent legal discovery of important information about a company's disputed actions.
- limit remedies available to wronged purchasers.
- may require consumers to pay arbitration costs.



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.



Saile & Saile LLP case update

NJ insurance companies dead wrong about auto insurance rate hikes

In 2004 and 2005, **Michael L. Saile, Jr.**, appealed a ruling by a New Jersey Superior Court judge all the way to the Supreme Court of New Jersey. The Superior Court judge threw an injured victim's case out of court because the judge did not feel that the plaintiff's injuries were serious enough to overcome the New Jersey limited-tort restriction.

In *Serrano v. Serrano*, the Supreme Court agreed with **Michael L. Saile, Jr.**'s argument and ruled that accident victims no longer have to prove a serious and permanent injury in order to recover in New Jersey. This case sparked a backlash from insurance companies. New Jersey auto insurers warned that a New Jersey Supreme Court ruling making it easier for accident victims to recover would send premiums for drivers zooming out of sight.

Actually—and without any publicity—insurance companies have been lowering their rates. The high court's decision benefiting innocent accident victims has not triggered a surge of lawsuits—as the insurance companies had warned. The number of lawsuits actually has fallen slightly.

The Supreme Court's ruling could effectively kill any plans insurers had to convince Trenton lawmakers to overturn last year's high court rulings.

—Highlighted in the August 22 edition of *New Jersey Lawyer*

*If for any reason you wish to stop receiving future newsletters,
please inform us by telephone, letter, or e-mail.*

Our *Martindale-Hubbell* rating

Michael J. Saile has earned an AV rating in the *Martindale-Hubbell® Law Directory* for his legal capabilities and devotion to professional ethics. This is the highest rating attainable for attorneys by the *Martindale-Hubbell Law Directory*. Since *Martindale-Hubbell* bases assessments on surveys of members of the bar and of judges, Mr. Saile takes pride in his colleagues' recognizing and respecting the quality of his legal work.

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