



CARAVONA & CZACK

Your Attorneys at Law

"Dedicated to providing uncompromising high-quality legal service"

SPRING 2004

Brought to you by
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PRACTICE AREAS

- Personal injury
- Wrongful death
- Medical malpractice
- Auto and truck accidents
- Workers' Compensation
- Nursing home negligence
- Motorcycle accidents
- Railroad and boat accidents
- Premises liability

HURT ON THE JOB?

For well over 30 years, our attorneys have been providing quality legal representation in a variety of areas. Occasionally, clients may not be aware of the diversity of our practice. In addition to our emphasis on consumer-related personal injury and medical malpractice claims, we also protect the rights of injured workers.



If you have ever been injured while on the job, you may be entitled to benefits that you may not be aware of. Please feel free to call your attorney at **Caravona & Czack** to discuss your work-related accident. Our Workers' Compensation department is headed by attorney **Ronald J. Canda**, who has been certified by the State of Ohio as a Workers' Compensation Specialist, a title not held by all attorneys practicing in this area.

Workers' Compensation can often be a complicated and confusing area of law. In this edition of our newsletter, we try to highlight some issues that often arise in the Workers' Compensation arena. As with any legal matter, however, you should always consult with an attorney. We look forward to assisting you. Feel free to call us or contact us through our Web site located at www.caravona-czack.com.

WORKPLACE ACCIDENTS

Factories, offices, construction sites, retail establishments, and other places of work are fraught with potentially dangerous situations that can lead to accidents and injuries. When injured, workers have recourse. Here is how several workers were able to deal with different incidents.

Slip and fall

A contract plumber injured his back when he slipped and fell after stepping on a piece of masonry. His attorney earned a settlement for him after demonstrating that the general contractor failed to comply with state laws requiring the worksite to be free of debris.

Hit by truck

A worker was totally disabled when a cement truck lurched backward and threw him to the ground, seriously injuring his back. His attorney won the case by proving the truck's driver was negligent in backing without signaling.

Fatal fall

A worker who fell nearly 30 feet at a construction site died of his injuries. His family's attorney won a settlement after demonstrating that the construction firm he worked for failed to provide safety barriers as required by state law.





HORMONE THERAPY

Troubling research findings

Recent troubling findings question the effectiveness of hormone-replacement therapy. Early on, manufacturers' marketing campaigns convinced doctors and their female patients that menopause was a medical disorder that could be successfully treated with prescription medications that had virtually no side effects.

Now, evidence suggests medications—particularly combination hormone-replacement therapy—not only can cause cancer, heart attacks, and other serious side effects, but also may be much less effective at treating menopausal symptoms than previously believed.

Although dozens of firms manufacture medications for estrogen-replacement therapy (ERT), generally used by women who enter menopause following surgical removal of the uterus, Wyeth Laboratories' Premarin® is the most widely prescribed. For combination hormone-replacement therapy (HRT), prescribed for women who enter menopause naturally through aging, the most commonly prescribed medication is Wyeth Laboratories' Prempro®.

Here is a brief chronology of hormone therapy's history.

1959—A *Journal of the American Medical Association* (JAMA) article reports a 25-year study showing that estrogen protects bones and relieves menopausal symptoms.

1962—Brooklyn gynecologist Robert Wilson's best-seller, *Feminine Forever*, recommends estrogen as the "cure" for "the tragedy of menopause."

1975—Thirty million prescriptions of Premarin are being filled annually.

1976—The *New England Journal of Medicine* (NEJM) reports a link between estrogen therapy and breast cancer.

1980—Pharmaceutical manufacturers market ERT and HRT from a new angle, claiming they prevent bone loss.

1985—Drug makers promote the first of several studies which say that hormone replacement therapies prevent heart disease and bone loss without risk of cancer, strokes, or blood clots.

2000—The Women's Health Initiative, part of the National Institutes of Health, reports that women taking Prempro experience a small increase in heart attacks, strokes, and blood clots.

2001—JAMA reports that a 20-year National Cancer Institute study found that long-term ERT use significantly increased the risk of ovarian cancer.

2002—Another JAMA article reports that Prempro may stem Alzheimer's disease.

2002—The National Institute of Environmental Health Sciences, of the United States Department of Health, places estrogen on the government's roster of known human carcinogens.

The most recent studies present additional worrying findings.

May 2003—NEJM reports a new study which shows that hormone-replacement therapies failed to improve sleep, vitality, and sexual satisfaction or reduce depression.

May 2003—A JAMA article says that hormone therapy nearly doubles the risk of Alzheimer's disease.

June 2003—JAMA reports that even short-term use of HRT increases the risk of breast cancer and makes the disease more difficult to detect.

Throughout 2003, class actions have sought damages for injury and death among women who took Prempro, alleging its manufacturer failed to use due care in designing and manufacturing it to

reduce health risks, failed to conduct sufficient clinical testing and monitoring to determine safety, and failed to provide proper warnings to users about potential side effects.

The HRT situation continues to vary from month to month. For more information, please consult your attorney.

If you slip and fall

Slips and falls can be funny in slapstick comedies when stunt specialists, protected with padding and knowing how to fall properly, take on-screen tumbles.

But in real life, slips and falls are a leading cause of serious injury. Even the smallest trip-up can result in a great deal of damage to ankles, legs, arms, hands, the back, or the head.

What causes falls? Among the many contributing factors are ice and snow, slippery materials on floors, stairs with faulty handrails, uneven concrete or slate sidewalks, improperly secured carpets or mats, and objects placed unsafely in people's paths.

Anyone who has a slip-and-fall accident and experiences injury should try to do several things. First, get immediate medical assistance. Second, ask for the names, addresses, and phone numbers of witnesses who saw the fall. Third, try to save any evidence related to the fall, such as a squashed piece of fruit and the shoes worn at the time. Fourth, contact legal counsel.

Carpet hides drain

A woman underwent arthroscopic knee surgery and missed several months of work after tripping and falling in a railway tunnel. Her attorney achieved a settlement for her with the owners of the railway station tunnel after demonstrating that they had negligently created a dangerous condition by installing carpeting that obscured the grate of a drain depression from her view.





AUTO ACCIDENTS

Seven slip-ups

Time and experience have shown that drivers can make seven mistakes that forfeit rights and limit opportunities for fair restitution in auto accidents.

- 1. Failing to call the police.** Without an official police accident record, it is, unfortunately, one driver's word against the other's about what happened. All claims bear equal weight.
- 2. Consenting to working out auto-damage repairs and medical-injury care with a trusting handshake.** People change their minds and tell different stories.
- 3. Declining an immediate checkup and ongoing medical assistance.** A neck that starts hurting a week after the collision is harder to justify. Also, insurance companies often counter that delayed pain may come from an existing condition or an earlier or subsequent occurrence.
- 4. Failing to collect or exchange information with other drivers, passengers, or eyewitnesses.** The document trail of evidence and statements can make or break a claim.
- 5. Forgetting to notify your insurance company.** You paid the insurance premiums, but by forgetting to call, you may incur out-of-pocket costs that the insurer should cover.
- 6. Saying "It was my fault."** Be fair to yourself. This accident may really not have been your responsibility.
- 7. Not consulting an attorney.** It's often said, "He who defends himself is foolish." Omitting legal representation cedes your rights to the other driver's insurance company.

Workplace injuries

Workers' compensation not always enough

For a worker severely injured on the job, workers' compensation is often a key source of financial support during recovery and rehabilitation. A workers' compensation program is a state-operated and -guaranteed insurance plan that covers medical bills and replaces lost wages for employees.

But many workers' compensation programs limit benefits for seriously injured employees. Most replace, at maximum, only two-thirds of salary, exclude fringe benefits, and may be capped for cost-of-living adjustments. Workers' compensation also usually offers no or little compensation for pain and suffering.

Seriously injured workers face other restrictions as well. Workers' compensation benefits may be cut or ended if the worker is judged to still be able to earn money. Employers may also require a worker to take additional medical and vocational examinations to assess the extent of disability and lost earning power.

Other protections

Injured workers, confronted by restrictions imposed by workers' compensation plans, can seek legal counsel, which can sometimes identify other sources of financial compensation and recovery equal to the cost of the employee's injuries. In some cases, investigating the accident scene and talking to witnesses can lead to third-party claims for compensation.



INJURY SOURCES

Product liability—Manufacturers of machinery, equipment, or safety gear may be held liable for failing to exercise all possible care in the products they market.

Inadequate warning or instructions—Some products have built-in hazards that cannot be eliminated from design since they would inhibit cost-effective operation. Warnings must be included for such products.

Contractor negligence—Outside vendors engaged to install equipment, design workstations, provide lighting, or support work processes may contribute to injuries.

Premises liability—Dangerous conditions at the worksite or elsewhere, such as a poorly designed loading dock or inadequate safety considerations, may also cause or contribute to an injury.

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Workers' Compensation

Q: What is Workers' Compensation?

A: State-based laws to handle injury claims from workers hurt on the job. Employees do not have to prove employer negligence to obtain benefits.

Q: Can an injured worker get Workers' Compensation and Social Security Disability benefits simultaneously?

A: Yes. An injured worker can receive simultaneous benefits from his or her state's Workers' Compensation and Federal Social Security programs. Benefits may be limited to a percentage of an employee's Social Security Average Current Earnings.

Q: Can an employee's spouse obtain benefits for loss of service in a Workers' Compensation claim?

A: Generally, no. Only a worker can collect benefits for his or her own injury. However, if a worker is killed on the job, Workers' Compensation benefits will be available to the worker's surviving spouse and dependent children.

Q: Can an employee injured on the way to work or at lunchtime file a Workers' Compensation claim?

A: Ordinarily, no. Employees injured during lunch are usually ineligible for benefits, since the regulations indicate they are not in an active relationship with the employer when off the job.

Construction injuries

Many enlightened construction firms are improving safety conditions for their employees. Programs prompted by the Occupational Safety and Health Administration (OSHA) and state agencies encourage appointment of Safety and Training Officers, preparation of written safety plans, and issuance of hazard communications. Procedures also include employee training using safety manuals, videos, and interactive materials. This translates to safer work sites, better safety equipment for workers, and effective accident injury monitoring and reporting.

But other employers are less concerned and headlines like this continue to appear.

OSHA Cites Florida Construction Company For Exposing Workers To Potential Fatal Falls. Proposes Penalties Of \$456,000.

An ironworker's settlement

After a wind gust blew a construction worker off a bridge, causing back and hip fractures and other injuries, he sued the contractor for negligence in failing to provide a safe workplace and safety equipment that would have prevented his fall. The parties settled prior to trial, and the worker is now a safety director.

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You can now visit **Caravona & Czack** online! To better serve the needs of our clients, we have now established an integrated Web site where you can learn more about our practice—including firm history and philosophy—check out our attorney profiles, and read about some of our more recent accomplishments on behalf of our clients.

Visit us at www.caravona-czack.com. You can e-mail any of the attorneys or staff members. We believe this is another way we can assist our clients and keep you up-to-date on recent changes in the law that may affect your case. See you on the net!



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