

# Injury Law Alert

Summer 2011

## Whiplash Can Be a Debilitating Injury



Most of us have heard of whiplash, and it brings to mind pictures of a person wearing a large padded collar to hold his neck in place. But what is the truth about whiplash?

### What Is It?

In fact, whiplash is no joke and can be a very serious injury. As its name suggests, whiplash is an injury to the neck caused when the head is thrown backward, forward, or side-to-side by a sudden and unexpected impact. Such an impact can also cause a neck sprain, which is an injury attributable to the fact that the ligaments in the neck are overstretched due to the strong jolt.

Although whiplash can occur whenever a person's head or neck is violently whipped around, such as while playing sports or in a fall, the most common cause of whiplash is a car accident. Whiplash is often the only injury that a person in a car accident suffers because if the person is properly belted in, his or her head and neck are the only

parts of the body that will move very much, but they will move violently.

### Symptoms

Like many injuries, the effects of whiplash can vary from mild to severe. At its mildest, whiplash will cause short-term stiffness or soreness. More serious cases can make

it impossible to turn one's neck or perhaps affect one's ability to walk. At its worst, whiplash can cause long-term debility due to severe headaches, muscle spasms, pain, and paresthesia, which is a numbness or tingling in the extremities. The treatment of whiplash will vary

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## After an Auto Accident

- STAY CALM.
- Move yourself and your passengers out of harm's way. Call the police.
- Assist anyone who is injured. Call for an ambulance if necessary.
- Get the name, address, phone number, and license number of the other driver(s) and car(s). Exchange insurance information. DO NOT discuss the accident (except with the police), but DO make notes of anything the other driver(s) says about the accident.
- Get the names, addresses, and phone numbers of any witnesses.
- Get photographs of your vehicle, contact your insurance company, and write down everything you remember about the collision ASAP.
- Contact our firm to discuss your legal options.

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# Lawsuits: Separating Fact from Fiction

Between 1985 and 2003, the number of lawsuits for personal injuries and medical malpractice tried in the federal courts dropped by 79%, and, in the largest state courts, the number dropped almost 32% between 1992 and 2001. Despite these statistics, it seems as if you hear nothing but complaints about the greed of clients and lawyers, and how an explosion in lawsuits is ruining the country. It is time to separate truth from fiction.

## Fiction

The number of lawsuits is skyrocketing.

## Fact

As stated above, the number of lawsuits (of nearly every kind and in nearly every jurisdiction) is plummeting. Mandatory arbitration and laws hostile to plaintiffs account for most of this drop.

## Fiction

The costs of lawsuits are driving companies and doctors out of business.

## Fact

Malpractice costs are less than 2% of the total cost of health care, and on their list of worries small business owners rate as number 65 concerns over the cost of lawsuits, according to a recent survey.

## Fiction

Lawsuits are driving up your insurance rates.

## Fact

Insurance company profits are driving up your insurance rates. Insurers make record profits, even as the number of suits plummets, yet your rates do not go down.

## Fiction

The costs of lawsuits are a “tax” on all Americans.

## Fact

The “studies” that support this statement are funded by big oil, drug, tobacco, and insurance companies, the very entities that benefit from a reduction in lawsuits. There is no factual or scientific basis for this claim, or even a reasonable explanation of how making a wrongdoer pay for his wrongs qualifies as a “tax” on anyone.

## Conclusion

People complaining about lawsuits do so because they have a financial or political interest in the issue. Insurance companies do not make money by paying claims. Large corporations want the harm they cause to go uncompensated. Politicians find it easier to blame the victim than to address the underlying problems. The only people harmed by the reduction in lawsuits are those victimized by intentional or negligent acts who are being denied any recourse.

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# Selecting a Multivitamin

Multivitamins are big business, with the amount sold increasing by \$1 billion between 2003 and 2008. The number of choices available is also increasing—for children, seniors, and women. But how can you choose the right one for you?

The good news is that almost any multivitamin you pick will contain the vitamins and minerals advertised and will be free of harmful levels of contaminants. According to a recent test done by *Consumer Reports*, all but one vitamin of the 21 vitamins that were tested met the claims made on the label. Store brands (which are often far less expensive) did as well in the test as name brands.

In choosing a vitamin, experts have some commonsense recommendations. Avoid pills with megadoses of a particular vitamin—100% of your recommended daily allowance is enough, and huge

doses can do more harm than good.

To ensure that you have chosen the vitamin mix best for you, take a vitamin intended for your age and gender. You should ignore claims about the benefits of ingredients other than vitamins—such claims are usually not backed up by any scientific evidence.

Do you really need to take a multivitamin? Despite their popularity, there is little evidence that multivitamins actually improve the health of most people. Studies have failed to show that taking a vitamin pill daily reduces the chance that you will get ill or contract a disease, or that it increases your chances of living longer. However, some people should take multivitamins, including pregnant women, people on limited diets, or those who have a condition (such as diabetes) that can interfere with the absorption of nutrients.

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## Whiplash

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with the severity of the symptoms, ranging from rest to chiropractic care to physical therapy.

The whiplash symptoms may worsen hours or even days after the accident. Doctors speculate that this delay occurs because the adrenaline released under the stress of the collision masks the pain until the adrenaline begins to wear off.

### See a Doctor Immediately

Because the onset of whiplash symptoms can be delayed, it is important to see a doctor as soon as possible after a collision. This is vital because it allows a professional to examine you and, if necessary, to begin treatment. The examination will also document the symptoms that you feel are related to the collision. A delay between the collision and treatment will allow the insurance company for the other driver to argue that you don't actually have whiplash or that it was caused by something other than the accident.

Treatment by a doctor is necessary not only to provide the proper care for your injuries, but also because it will make it easier for you to prove the connection between your neck pain and the accident. In order to recover for an injury, you have to prove that the injury was either caused or made worse by the collision, and such proof requires a doctor's diagnosis. A good doctor will document your symptoms, the treatment necessary to treat the whiplash, and the likely cause, making it easier for you or your lawyer to "connect the dots" and prove that the car accident caused the whiplash.

If you have suffered whiplash in

an accident that is not your fault, you may be entitled to compensation for your injuries. This compensation can include the cost of the medical care necessary to treat the whiplash, lost wages suffered because you were unable to work due to your injuries, and compensation for your pain and suffering.

Obviously, the amount you can recover will vary depending on the severity of your injuries and the length of time that you are debilitated by the whiplash. It is important to remember that the possible delay in the appearance of whiplash symptoms means that you should resist the temptation to take

the first offer that the other driver's insurance company makes—an offer that seems generous at first may turn out to be far less than the cost of the medical care you will incur.

### Contact Us

What do you do if you suspect you have suffered a serious case of whiplash? The first step is to seek medical help, then contact our firm. We can help you evaluate the facts and determine whether you have a claim, and then make the claim within the limited time allowed. With our guidance, you will receive all of the compensation that you deserve.

## Case by Case

### "Pill Mill" Liable for Patient's Death

"Pill mills" are medical clinics that prescribe powerful drugs for medical problems such as pain management, often without any legitimate medical need. A recent verdict in a case involving a pill mill demonstrates that juries are willing to hold such clinics accountable for the harm they cause.

The case involved a man who went to a pill mill to get medicine for his recurring back pain. He had never been there before and only went because the pain was so bad that he could not drive to his usual doctor 40 miles away. He was prescribed three powerful painkillers, a mix usually given only to drug addicts.

The patient's preexisting conditions made this combination especially dangerous. The plaintiffs' expert testified that the drug combination was "a death sentence." The patient died from the effects of these pills three days later.

The patient's family sued the clinic, its director, and its owners. The jury returned a verdict of \$2.7 million for actual damages and \$8 million in punitive damages. The verdict was likely based on evidence showing that the doctor in charge of the clinic had never been there, that he gave the staff pre-signed prescription forms, and that the defendants destroyed the clinic's records after the patient's death.

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# Bed Rails Present a Hazard to the Elderly

The federal government recently banned drop-side cribs for infants after numerous reports surfaced of children being injured or killed when tangled in the side rails. Children are not the only ones at risk; many of the elderly are injured or killed by the side rails on their beds.

Numerous elderly hospital and nursing home patients need beds that have side rails in order to prevent them from falling out of bed and injuring themselves. However, the bed-rail systems used on many beds are themselves dangerous. The FDA has recorded nearly 500 deaths associated with bed rails over the past 25 years, and some experts consider this number to be far too low because the problem is underreported.

Bed-rail systems present a number of different kinds of risks. In

some cases, the person in the bed can become trapped underneath the rail or between the rail and the bed frame or mattress. In other cases, medical equipment or restraints being used on the patient can become entangled in the bed rails.

Finally, although they are designed to prevent falls, sometimes a patient will climb over the bed rail and fall out of the bed. When this occurs, the bed rail makes the fall much worse because the patient falls from a greater height.

The government has taken no meaningful action to address this problem. The standards governing bed rails are voluntary. The government has never forced the recall of any bed-rail system, and its agencies merely encourage hospitals and nursing homes to reduce the use of bed rails, if possible.

Where the government has

failed, private citizens have succeeded, filing and winning suits over defective bed rails and other kinds of restraints. These successes have encouraged better designs and less frequent use of bed rails in the first place.

## Thank You

*Thank you for trusting our firm with your legal needs. If you or someone you know has been injured due to somebody else's carelessness, please call us. We want to help.*

*Actual resolution of legal issues depends upon many factors, including variations of facts and state laws. This newsletter is not intended to provide legal advice on specific subjects, but rather to provide insight into legal developments and issues. The reader should always consult with legal counsel before taking action on matters covered by this newsletter.*