



DLG News

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IN THIS ISSUE

\$362,500 Jury Verdict
Page 2

April 22nd is Earth Day
Page 2

Welcome Kaci Springstead
Page 3

Seattle University School of Law Invites Davis to Speak
Page 3

Ask the Attorney: Dog Attacks
Page 3

Facts & Figures on Back-over Accidents
Page 4

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WE APPRECIATE
YOUR REFERRALS

Secrets Kept From Juries: What They Never Know During Trial

Most people are very surprised to learn about certain facts and procedures that occur in our legal system, and that are very common in personal injury claims.

A JURY will never know if the defendant has INSURANCE and if so, how much. The attorneys and judge are prohibited from even mentioning whether a party is insured, and if they do, a mistrial will typically occur.

Practically speaking, if a case is filed in court, or if a trial does occur, the defendant will always have INSURANCE (unless the defendant is so wealthy to be self-insured). A plaintiff's lawyer will not devote 100 or more hours to pursue a claim unless there is a guaranteed source of recovery (i.e., an insurance policy to pay a verdict). If you find yourself on a jury in a civil case, rest assured the defendant will have the means to pay any verdict that is handed down.

The defendant's insurance company hires the lawyer, decides when to settle, and pretty much makes all of the decisions when a case is in litigation. Most of the time a defendant has little, if any, say about how the case is defended or if a settlement should occur. Decisions about whether to settle, if by how much, are always made by the INSURANCE CARRIER.

Filing a lawsuit does not mean your case will be heard by a jury. Most personal injury attorneys would rather have a JUDGE decide the case instead of a jury. This is because too many jurors are highly SUSPICIOUS and SKEPTICAL of injured plaintiffs, and often refuse to give money for legitimate injuries based on a variety of reasons. To have your case resolved by a jury, you must file a specific document with the court and pay a \$250 JURY FEE. If the plaintiff or defendant fails to file a JURY DEMAND, then the judge will hear and decide the case (unless the case settles).

In more than 90-95% of personal injury lawsuits, it is the DEFENDANT (or more precisely the defendant's INSURANCE COMPANY) that requests a jury! Why is this true? Because juries will typically award less money (and sometimes no money) in personal injury cases than the judge will award.

Insurance companies are fully aware of the statistics that show a jury will typically award much LESS MONEY to an injured plaintiff than an experienced

judge, especially in certain types of claims, like medical malpractice, soft tissue injuries, and other cases which may be difficult to prove.

In most MEDICAL MALPRACTICE lawsuits (at least 90-95% of cases), it is the doctor's defense attorney that files the Jury Demand and pays the required jury fee of \$250! Yep, doctors complain of "runaway jury awards," yet the DOCTORS' ATTORNEYS routinely ask that the cases against them be heard by a jury!

Most plaintiff's attorneys will try to resolve smaller injury claims (less than \$50,000) through settlement negotiations or by court-ordered arbitration. A program known as MANDATORY ARBITRATION allows the court to appoint a retired judge or experienced attorney (someone who is approved by the court) to decide the case in an expedient and cost effective manner, as an alternative to going to trial in court.

You can APPEAL an ARBITRATION AWARD by requesting that the case be tried in court. However, if the party who appeals the award fails to do better at trial, that party will have to pay the non-appealing party's attorney fees and costs.

In more than 90-95% of personal injury claims that go to arbitration and are appealed, it is the DEFENDANT or the defendant's INSURANCE COMPANY who appeal the award! Most plaintiff attorneys will rarely appeal an arbitration award because it creates a significant risk that the individual client may have to pay for the defendant's insurance defense costs.

If an arbitration award is appealed and goes to trial, the jury will never be told that the case was first resolved by arbitration. And of course, the jury will never be told the amount of the arbitrator's award. The jury is then left with the impression that the plaintiff and his/her attorney has forced them to come to court to decide a small case that should have been SETTLED. Often times the jury will resent a plaintiff in a small case, believing that the plaintiff is "litigation crazy" and then award the plaintiff a very small percentage of what would be considered a fair verdict (or sometimes nothing at all as payback for filing a lawsuit in such a small case). ■

For more articles, reports, studies, videos, news, and commentary on these and other legal matters...

Visit our web site at www.InjuryTrialLawyer.com

April's Safety Calendar

National Car Care Month

Alcohol Awareness Month

*National Work Zone Awareness Week
April 7-11th*

*National Tire Safety Week
April 20-26th*

*National Playground Safety Week
April 21-25th*

\$362,500 Jury Verdict—Insurance Company's Last Offer \$50,000

In 2004 Al Fletcher* was the victim of a 35 mph car crash when another driver ran a stop sign. Mr. Fletcher T-boned the other driver's car, lost control and then went off the road and collided into a tree. Both vehicles were declared a total loss.

Mr. Fletcher, age 46, ran and operated his own residential and commercial glass company. He was married with 3 children. He missed 3 months of work and claimed financial loss to his business. Mr. Fletcher endured neck and back injuries including disc protrusions at C4-5, C5-6, and C6-7, post concussive syndrome and a mild traumatic brain injury (MTBI). He had a range of other symptoms and conditions due to the accident. A neuropsychological evaluation confirmed ongoing cognitive, memory and concentration problems.

The other driver was insured by Encompass Insurance Company, a subsidiary of Allstate Insurance Company. Encompass dug deep into Mr. Fletcher's past medical history which revealed a prior whiplash injury from a car accident in 1999. A cervical MRI following that accident showed a bulging disc in his neck. Encompass' attorney argued that Mr. Fletcher's neck pain and symptoms were caused in large part by this previous accident. 3 months before

trial, Mr. Fletcher was injured again in another rear-end accident. Encompass was also allowed to argue at trial that this 2008 accident caused his neck injury to worsen.

Mr. Fletcher's past medical bills exceeded \$25,000. He also claimed past income loss of \$83,000. Despite these amounts, Encompass refused to pay out the at-fault driver's policy limits of \$50,000 when asked by Mr. Davis. Mr. Fletcher was then forced to incur substantial expense to prepare for trial. About one month before trial Encompass finally offered its \$50,000 policy. But by this time Mr. Fletcher had incurred additional litigation expense of several

thousands of dollars. The decision was made to reject the offer and try the case in court.

Trial lasted seven (7) days. The jury returned a unanimous verdict in the amount of \$362,500. Mr. Davis states he will ask Encompass to pay the entire verdict based on its failure to protect its insured's interests when it had an opportunity to settle for policy limits early on in the litigation. This is the fifth (5) such excess verdict recovered by Mr. Davis over the last few years. Insurance companies can, and do, violate their fiduciary obligation to protect their insured's interests by not settling the case for an amount at or within policy limits when given the opportunity to do so. ■

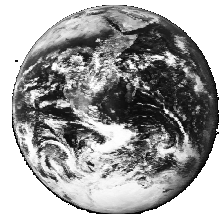


Photo: Chris Davis pauses to gather his thoughts before resuming his argument in summation.

April 22nd is Earth Day! What Can You Do?

Want to do more to reduce your carbon footprint? **Green Up is Seattle City Light's** voluntary green power program. By enrolling in Green Up, customers purchase green power for a portion of their electricity use and support wind power and other new renewable energy projects in the Northwest. Choosing green power reduces reliance on fossil fuels, improves air quality, and helps reduce the growth of climate-warming emissions.

Green Up customers make voluntary payments on their electricity bill to cover the slightly higher cost of producing and integrating renewable energy into the Northwest grid. Residential customers may purchase green power in increments of 25%, 50% or 100% of their electricity use for \$3, \$6 or \$12 per month. For complete information on the Green Up program, call **206.684.8822** or email **greenup@seattle.gov**.



Davis Law Group Welcomes Kaci Springstead

We would like to welcome **Kaci Springstead** to our staff. Kaci joins our team as a legal assistant/paralegal.

Kaci was born in Naples, Italy and spent the first 4 years of her childhood in Europe. She grew up in the central valley of California and is a graduate of West Hills College in California, and continued her education locally. She spent a few years in Germany and has now lived in the Seattle area for the past 15 years. She has a passion for the law and has more than 9 years of legal experi-

ence at some of the Puget Sound's finest law firms.

Kaci is responsible for helping our clients by obtaining and maintaining each client's treatment status information, answers client questions, and manages all of records and costs. She also assists by scheduling office appointments, depositions, etc.

As our firm grows Kaci will take on more and more paralegal responsibilities as well. We are very happy to have Kaci on our team. Welcome Kaci!! ■



Kaci Springstead

Seattle University Law School Asks Davis To Speak

Davis Law Group founder Chris Davis was a featured speaker at **Seattle University School of Law's** annual *Choices Career Exploration Conference* which was held on April 11th.

Davis, along with several other prominent attorneys, was a speaker and panelist at the "**Legal Scholarship & Writing**" seminar.

The session was designed to help law students understand how to advance their careers through good writing.

Davis was invited to discuss his book "**The Ten Biggest Mistakes That Can Wreck Your Washington Accident Case.**" which has helped hundreds of accident victims in Washington State.

You can see video excerpts of the seminar on our website at www.InjuryTrialLawyer.com. ■

Davis answering questions at Seattle Univ. School of Law



Ask The Attorney

If you have a question for our **Ask The Attorney** newsletter feature just send it to info@injurytriallawyer and put "Ask The Attorney" in the subject line.

Or if you need to speak with a qualified personal injury attorney you can call: **206-727-4000** to schedule a **FREE consultation**.

Question: My child was attacked by our neighbor's unchained dog. The injuries were significant and may require plastic surgery in the future. Our medical bills are already more than \$10,000. What can we do?

AnsWER: Nearly 4.7 million people are bitten by dogs each year. These dog bites range from minor injuries to serious dog mauling, resulting in bodily injury and even death. Approximately 100 children are bitten by dogs every. One third of all injury claims against homeowner liability policies are related to dog attacks..

If the dog was not provoked, the law permits dog bite victims to recover financial compensation for their injuries. Generally, the person attacked must be on public property or on private property with the owner's consent. Many homeowner insurance policies will cover this type of loss. The damages suffered by a dog bite can be substantial, and may involve a question about future treatment needs.

Over the past few years, more and more insurance companies have attempted to discontinue or reject insurance coverage for families with the following aggressive dog breeds: Rottweilers, American Staffordshire Terriers, and German Shepherds. A personal injury attorney who has experience recovering compensation for dog bite victims can often increase your chances of a successful recovery. ■



The Ten Biggest Mistakes That Can Wreck Your Washington Accident Case by Christopher M. Davis

It's FREE as a public service to injured WA citizens! Get your copy today by visiting www.WashingtonAccidentBook.com

Facts & Figures: Back-Over Accidents & Kids

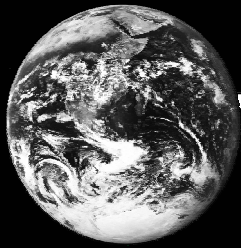
According to research by Kids and Cars – an organization devoted to preventing (non-traffic) motor-vehicle-related deaths and injuries to children – 49% of the non-traffic, non-crash fatalities involving children under 15 from 2001–2005 were caused by vehicles that were backing up.

The Centers for Disease Control (CDC) reports that from 2001–2003, an estimated 7,475 children under the age of 15 were treated for automobile back-over incidents.

The US National Highway Traffic Safety Administration found that back-up collisions most often “occur in residential driveways and parking lots; involve sport utility vehicles (SUVs) or small trucks; occur when a parent, relative or someone known to the family is driving; particularly affect children less than five years old.” Typically the driver of the car backing up and hitting an object, a person, or another car is usually considered to be at fault. ■



Look Inside
This Issue



- ▶ **Secrets Kept From Juries: What They Never Know During Trial** Page 1
- ▶ **\$362,500 Jury Verdict** Page 2
- ▶ **April 22nd is Earth Day—What Can You Do?** Page 2
- ▶ **Davis Law Group Welcomes Kaci Springstead** Page 3
- ▶ **Seattle University Law School Asks Davis To Speak** Page 3
- ▶ **Ask The Attorney: Dog Bites** Page 3



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Accident Victims
and Insurance
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[The Ten Biggest Mistakes That Can Wreck Your Washington Accident Case.](#)

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