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Board Certified: Personal Injury Trial Law • Civil Trial Law
Texas Board of Legal Specialization

Texas Law Alert

Fall 2013

Beware of Lead Poisoning

Lead is a highly toxic metal that can be found in many products and materials in our homes and businesses. The primary source of lead in the human environment is lead-based paint, but lead can also be found in the dust and soil where lead-based paints have peeled off or have been disturbed, as well as in some types of plumbing materials. Although Congress passed laws prohibiting the manufacture and use of lead-based paint in 1978, many buildings and homes built before this ban still contain significant amounts of lead-based paint.

Lead poisoning occurs when lead is absorbed by the body, primarily through breathing or swallowing airborne lead dust or lead paint chips. Children are particularly susceptible because they play on the floor or ground, and they are constantly putting their fingers or various objects into their mouths. Although lead poisoning occurs gradually, after repeated exposure young children will absorb about 50% of the lead that they ingest. Adults, because of physiological differences, will absorb only about 10%. Obviously, children are at

much greater risk from lead poisoning than are adults.

If left untreated, lead poisoning has serious effects on the human body, depending on the length and level of exposure. Low levels of lead poisoning can cause developmental, learning, and behavioral problems, which are especially troublesome for children. High lev-

els of lead poisoning can cause brain damage, mental retardation, anemia, liver and kidney damage, and hearing loss. The most severe cases of lead poisoning can result in brain swelling, convulsions, coma, and even death.

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Symptoms of Lead Poisoning

Common symptoms of lead poisoning in children are decreased appetite, stomach aches, sleeplessness, learning problems, constipation, vomiting, diarrhea, tiredness, lowered I.Q., and anemia.

Common symptoms of lead poisoning in adults are fatigue, depression, heart failure, abdominal pain, gout, kidney failure, high-blood pressure, wrist or foot weakness, reproductive problems, and anemia.

If you live or work in a home or building constructed prior to 1978 or if you feel you may have been exposed to lead, you should have a simple blood test performed by a medical doctor. If it turns out that you have been exposed to lead, the main treatment for lead poisoning is to stop the exposure, but there are also medications available that will lower the lead levels in the blood.

Hazardous Household Chemicals

Although most of us would think twice before moving in downwind from a chemical plant, many do not think twice about dangerous chemicals willingly brought into our homes. Almost any



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household chemical can be dangerous if swallowed or spilled. Potentially dangerous chemicals include such common items as ammonia, bleach, drain cleaner, furniture polish, oven cleaner, paint, turpentine, and common garden pesticides.

Although household chemicals are usually safe if used properly, they can cause injury or even death if care is not taken when using them. Keep these tips in mind:

- NEVER sniff or taste household chemicals. Keep them away from your skin and your eyes.
- Insure that all household chemicals are kept away from children and pets, preferably in a locked cabinet.
- Do not store household chemicals in a non-approved container. Chemicals can react with the materials of a new container in unpredictable ways.
- Use household chemicals in a well-ventilated area to prevent a build-up of fumes.
- Periodically dispose of bottles of household chemicals that you do not use anymore or which are almost empty. Make sure to do so in an environmentally safe manner.

If someone in your house is exposed to a household chemical, flush the affected area with water and get the victim to a hospital. If the chemical is swallowed, read the label to determine whether or not to induce vomit-

ing. Call poison control and get the victim to a hospital immediately.

If you or someone you know has been injured by a household chemical, especially if that person was using the chemical properly, contact us. We would be happy to discuss the matter with you.

Thanks for the Referrals

Despite this modern age of marketing and advertising, the best source of our new business is word of mouth. We are grateful that many of our clients and friends feel confident in recommending our firm.

Unfortunately, when people need a good lawyer, they often do not know where to turn. If you or someone you know has been injured and needs legal help, call us.

Protect Yourself with PIP

Most drivers know that Texas law requires them to carry insurance to protect other drivers in the event of an accident. However, many drivers are not aware of other kinds of auto insurance available to protect them, including personal injury protection insurance.

Personal injury protection (PIP) insurance is designed to protect you in case of an accident. Unlike other kinds of auto insurance, PIP does not consider who is at fault in the accident. It pays covered claims no matter who caused the accident.

So what does PIP cover? PIP covers all medical bills for treatment of injuries suffered in an accident. If you miss work because of your injuries, PIP also covers 80% of your lost income. PIP also will

pay for household help or a medical care giver if your injuries prevent you from working around your house.

In Texas, your insurance company is required to offer you a minimum of \$2,500 in PIP insurance when you purchase your automobile policy. You have the option to purchase more. You may reject PIP coverage entirely, although if you do so the rejection must be in writing.

Auto accidents are always unexpected, and it can be difficult to make ends meet when faced with large medical bills or a sudden loss of income. PIP can help you bridge that gap. If you have more questions about PIP and what it covers, contact your insurance agent.

Case by Case

Phoning It In

During the cold and flu season, many doctors are so busy that they diagnose illnesses and give advice to patients over the phone. However, a doctor who gives medical advice without seeing the patient may be liable for malpractice if he or she guesses wrong.

A 60-year-old Texas resident developed a cough and fever. She saw her doctor, who prescribed flu medications but did not take x-rays and did not prescribe any antibiotics. When the patient worsened a few days later, she called her doctor to see what she should do.

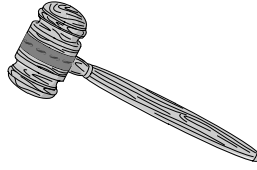
Her doctor was not at work when she called, but she spoke with another physician. This second doctor told her over the phone to increase the dosage of cough syrup, but he never saw the patient in person. The patient's condition continued to worsen. Eventually, she was taken to the hospital emergency room and died of pneumonia the next day.

A jury found that the doctor who practiced "medicine by phone" was negligent, and that his negligence caused the death of the patient. After deliberations, the jury awarded the patient's husband and surviving son nearly \$1.7 million.

Rainy Day Blues

Water and tile floors are a bad combination, as a certain discount department store chain will tell you. It was successfully sued by a shopper who slipped and fell on the store's tile floor one rainy afternoon, injuring herself.

The evidence showed that it had been raining most of the day and that the store manager knew the floor around the store's entrance was wet. Despite this, the manager



did not have store employees mop up the water, and the store did not have any mats for shoppers to wipe their feet. Also, the store did not put up any signs warning that the floor was slippery, so the injured shopper didn't know she had to look out

until it was too late.

Based on this evidence, the jury returned a verdict in favor of the injured shopper, finding that the store's failure to dry the floor was negligent. Despite this, the trial judge took the jury's award away from the shopper, who then appealed to a higher court. This court restored the jury's verdict, finding that there was enough evidence that the store was at fault.

Statutes of Limitation

We have all heard that "haste makes waste," but this may not be true when you have been injured. Whether your injury was caused by a car accident, a slip and fall, or a products liability claim, you should contact our firm as soon as possible. One reason for this is that your injury starts the ticking of a legal clock, known as the "statute of limitations."

A statute of limitations is nothing more than a legal rule that limits how long you may wait before bringing a claim against another person. If you do not make your claim before the statute of limitations passes, the law may prevent you from ever doing so.

Statutes of limitation are followed strictly by Texas courts. If you are even a single day late, your claim may be dismissed—"close enough" does not count. In a recent Texas case, an injured woman had her claim kicked out of court, simply because she brought her claim a few days after the statute of limitations had expired.

In Texas, the statute of limitations for an injury claim is generally two years from the date you were injured. However, the time may be more or less than that, depending on the facts of the case and the way in which you were injured.

To avoid any problems, call us as soon as possible after an accident or injury so that we can evaluate your case. We'll make sure that the statute of limitation's clock doesn't run out on you.

A Picture Is Worth . . .

If you are injured in an accident, photograph or video your injuries as soon as possible. A graphic picture can be very helpful when talking to an insurance adjuster or a jury.

Aggressive Driving

As roads become more congested and people's lives become more hectic, aggressive driving and the dangers associated with it increase. Aggressive driving is the combination of unsafe and unlawful driving actions that show a disregard for safety. An aggressive driver is one who operates his or her vehicle in a selfish, bold, or pushy manner, without regard for the rights or safety of others.

Aggressive driving is often triggered by trivial disputes and includes such things as refusing to allow a motorist to pass, obscene gestures, horn blowing, tailgating, and failure to obey traffic laws. Aggressive driving is different than "road rage." Road rage usually involves a driver breaking a criminal law, such as by shooting a gun at another driver who cut him off. However, aggressive driving can

be just as dangerous, to both the aggressive driver and those with whom he shares the road.

You can protect yourself from aggressive drivers by allowing yourself extra travel time to arrive at your destination so you do not have to hurry, by avoiding stress, and by remaining calm in traffic. The best way to avoid being the target of an aggressive driver is to practice basic traffic courtesy.

Assume the best of other drivers, and trust that if they make a mistake it is not personal. Avoid conflict if possible (even if you are in the right) and carefully consider the possible consequences before you react. Finally, call 911 to report unsafe or aggressive drivers. The risks and consequences of aggressive driving are great, and you should take care to be neither a perpetrator nor a victim.

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If you are unsure or just need peace of mind, have your home checked for lead by a qualified inspector. When renovating older homes or attempting to remove lead-based paint, hire a trained, experienced contractor who will take necessary precautions and properly clean up the area. Keep children away from areas that you suspect may be contaminated by lead, keep dust down by cleaning with products designed for lead removal, and wash your hands frequently.

Finally, if you suspect that a loved one has suffered a lead-related injury, please call us so we can help you determine your legal rights. Depending on your circumstances, you may have a case against a manufacturer, contractor, landlord, or seller, and you may be entitled to recover money for your injuries.

Actual resolution of legal issues depends upon many factors, including variations of facts and Texas law. 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.