



THE LAW OFFICES OF
CHAIKIN & SHERMAN, P.C.

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HAPPY HOLIDAYS

A message from Senior Partner Donald J. Chaikin

As the holiday season approaches and another year draws to a close, it gives me great pleasure to look back on 40 years of practicing law. I am proud to have helped over 25,000 clients who were injured by the negligence of others. I am even prouder that at 70 years old, I, along with everyone at Chaikin & Sherman, continue to fight the good fight to bring peace and justice to so many, not just during the holiday season, but all year round.

I would like to take this opportunity to wish all of our clients a joyful holiday season, and wish you all health, happiness, and prosperity throughout the upcoming year. I would also like to thank all of our clients for not only placing their trust in us by bringing us their own cases, but also for their constant referrals of family and friends. It is this confidence and loyalty that has made Chaikin & Sherman what it is today.

Moxley v. D.C. set for trial—tragedy of D.C.’s failures will soon come to light

Partners **Ira Sherman** and **Joseph Cammarata** have represented families of approximately 15 deceased wards of the District of Columbia who were developmentally disabled and living in group homes run by corporations under contract with the District of Columbia. Their tragic deaths, among others, were highlighted in a Pulitzer Prize-winning series of articles in *The Washington Post*, written by Ms. Kathryn Boo and published in December 1999. William Moxley’s life, care, and treatment were discussed in that series.

Mr. Moxley’s case stands out among those victims of the District of Columbia’s neglect because the District of Columbia was repeatedly notified by a consultant for the United States Department of Justice, Civil Rights Division, that Mr. Moxley was “in immediate risk of harm” approximately six months before he passed away. Along with being notified by the United States Department of Justice of Mr. Moxley’s precarious condition and the need for him to receive special attention, approximately 60 days before his death, on October 18, 1999, the District of Columbia was advised by the owner of the group home that Mr. Moxley desperately needed to be transferred to a facility that could care for him. The District of Columbia was also informed that Mr. Moxley was in pain. Nevertheless, the District of Columbia allowed Mr. Moxley to remain in the group home.

On November 4, 1999, approximately 40 days before he died, the District of Columbia agreed, in writing, to remove Mr. Moxley from that group home and place him in the proper facility. The District of Columbia never fulfilled its regulatory obligation to protect and preserve Mr. Moxley’s life and never fulfilled its written agreement to move Mr. Moxley into a facility that could care for his needs and his disabilities. Although the District of Columbia received repeated notices from the Civil Rights Division of the United States Department of Justice, the group home, and Mr. Moxley’s doctors—and had itself agreed to remove Mr. Moxley from the home—it failed to do so, and Mr. Moxley died on December 14, 1999. The case is currently scheduled for trial on March 15, 2004, at which time we expect that all of the circumstances surrounding the life and death of Mr. Moxley will come to light.

We take your family’s safety and security personally.

America's nursing CRISIS

The nation has too few nurses. Hospitals are actively recruiting overseas and offering substantial employment bonuses to those nurses who come to work for them.

Because of this nursing-care shortage, many health-care professionals fear that the quality of care is suffering. According to *USA Today*, 32 percent of Americans fear for their safety in U.S. hospitals because too few nurses are assigned to care for too many patients in general and specialty units.

Some hospitals are closing critical-care beds because there are not enough nurses to provide attention, and many parents fear babies and children are at risk at understaffed health centers. Some nurses who are admitted to hospitals for their own health-care needs actually hire their own private nurses so that they receive medications, therapies, and other attention correctly and at the right time.

One nursing incident

After a child suffered brain damage and quadriplegia requiring 24-hour care, his parents filed suit against the hospital. A jury's verdict provided an award to the child because jurors were convinced that nurses failed to monitor the mother's progress in a timely fashion and report fetal distress to the attending physician.



STOP CHECK FRAUD

You can shield yourself against check fraud by taking some simple steps.

- **Use initials** instead of your first and middle names when you order checks from your bank. Check thieves will be less confident about endorsing them.
- **Shred** credit-card and other receipts that go in the trash.
- **Write only the last four numbers** of your account on any check to pay your credit-card bill. No one can copy your account number.
- **Seal** checks in security mailer envelopes.
- **Review cancelled checks and statements** during reconciliation to look for alterations or inappropriate transactions.
- **Protect deposit slips** since thieves can make bad-check deposits and take cash back.
- **Patronize** retailers that use fingerprints or electronic check-fraud software systems.



- **Report check fraud** to financial institutions and law enforcement immediately.
- **Obtain victim assistance or legal counsel** if fraud leads to emotional problems or serious financial loss.

Brokerage firm "Full disclosure"

In 2002, investment brokerage giant Merrill Lynch paid \$100 million to the State of New York to settle a case alleging that it had defrauded its retail brokerage customers. New York showed that while the firm's analysts were recommending misleading "buy" recommendations to its retail customers, the same analysts were sneering at these investments in internal e-mails and other communications.

What's the lesson from this for the average retail investment customer?

- Consider investment decisions very carefully. Do the proper amount of homework to verify analyst recommendations.
- Understand that some brokerages make more money through stock-and-bond underwriting than through stock sales to retail customers. As a result, some analyst recommendations may be tools to gain highly profitable investment-banking business.
- Be aware of consumers' rights. Investment firms and brokers have "a duty of due care" to disclose *all* material facts about investment recommendations and to never lie to customers.
- Understand that federal laws and recent decisions have diminished investors' rights to recover.

Municipal bond recommendation

Even big investors who do their homework can fall for investment misrepresentations. When municipal bonds defaulted, several mutual fund companies that invested millions in apartment building renovations sued a stock brokerage firm, charging that the brokers intentionally misstated the occupancy levels and conditions of the buildings. A jury awarded significant compensation for damages as well as prejudgment interest costs and fees.

Profiles in

FAMILY BRAVERY

One reason why defective products seem to go undetected for a long time is that victims often settle prior to trial and, as part of the settlement, agree never to talk about the products' deficiencies.

A family that lost its young son in a vacation accident deserves special mention for its bravery in sharing information about a defective elevator. The inn where the family stayed had an old, two-story elevator with an outer door and inner folding gate separated by a seven-and-a-half-inch gap. The family's son was crushed to death after being trapped in the gap.

When the family planned to sue the inn and the elevator manufacturer for their loss, they learned from their lawyer's investigation that several other children had died in similar elevators. Motivated by the loss of their son, they promised to do all they could to prevent other children from being hurt or killed as a result of dangerous elevators.

The case was resolved, but only after the parents insisted that they would not settle until the elevator company agreed not only to make the necessary technical changes to protect riders, but also to publicize the hazard so other children would not be harmed in elevators.



DUI Q & A

A conviction for driving under the influence of Alcohol, a controlled substance, or a prescribed or over-the-counter medication is serious.

Q: What are some possible outcomes of DUI?

A: Drivers can lose their driver's licenses, have difficulty obtaining auto insurance, or even lose their vehicles to impoundment, among others.

Q: What's the difference between suspension and revocation of a driver's license?

A: A judge can order a *temporary* DUI suspension for 90 days or six months. Judges can also revoke driver's licenses indefinitely in serious cases or repeat-offender incidents.

Q: What happens to drivers who get caught driving while their license is suspended or revoked?

A: Judges can send them to jail, exact large fines, or sentence them to significant community service for this very serious offense.

Q: What help can a lawyer provide for DUI offenses?

A: The best counsel is to never commit DUI. Lawyers can investigate matters helpful in preparing a defense to obtain alternate punishment, minimize an outcome, or obtain a dismissal.

Mandatory arbitration

More and more businesses are adding mandatory arbitration clauses to the fine print of documents they require consumers and employees to sign. They claim that avoiding going to court saves everyone time and money.

In reality, mandatory arbitration bypasses everyone's rights to seek remedies through the courts, which leaves consumers and employees not only unprotected against wrongdoing, but also offers little recourse in disagreements. What's wrong with them? They can be dreadfully unfair and are not bound by state or

federal laws. Further, although corporations pay costs to industry-insider arbitrators, consumers may have to pay thousands in legal fees and are restricted on the evidence they can bring to arbitration.

Service contract

An appeals court invalidated a binding arbitration agreement that a long-distance telephone-service provider required its subscribers to sign. The court said the "take-it-or-leave-it" service contract was "unconscionable" because it did not give consumers a meaningful choice to negotiate, modify, or waive fees or terms and conditions.



We are **your** law firm

We want you to think of us as **your** law firm.

If you have legal matters that need attention, please let us know. If we cannot handle the matter, we will refer you to a competent firm that can.

Please feel free to refer us to your family, friends, and neighbors for their legal needs. We welcome the opportunity to help.



**CALL US. YOU'RE GOING TO
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ABOUT THINGS.**

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Endodontist wins \$750,000 settlement in car accident case

Partners **Ira Sherman** and **Joseph Cammarata** were successful in obtaining a \$750,000 settlement for a 42-year-old self-employed endodontist, wife, and mother of three young children who was injured when her car was struck by the driver of another vehicle who ran a red light. She suffered severe permanent injuries, including herniated discs in her neck and lower back. She underwent a double-level fusion to repair the damaged disc in her neck, which left her permanently incapable of performing root canals on a daily basis, thereby significantly diminishing her ability to earn a living.

The law firm was able to vigorously and convincingly present to the insurance company the dramatic negative impact the accident had on her quality and enjoyment of life.

What is tort reform...really?

When you hear the words "tort reform," replace them—every time—with the following: "My family and I will lose our legal right to sue wrongdoers in court for harm that we experience." It's a mouthful, but it's true.

Tort, or legal, "reform" is not "reform" at all. It's an excuse that lawmakers use to try to take away many of the legal rights of American families in order to subsidize corporate wrongdoers, including the manufacturing, asbestos, pharmaceutical, tobacco, and insurance industries, among others.

These powerful and wealthy corporate interests don't want to be held accountable—it's bad for their bottom lines—and some politicians are eager to help them.

Lawmakers are discussing "reforms" that, if enacted into law, will adversely affect medical malpractice victims, injured workers under Workers' Compensation, vehicle accident sufferers, people harmed by defective products, and many others who are injured by other wrongdoers. Tort "reform" will simply make it harder for the victims that the system is really supposed to protect to obtain justice and compensation for the harm done to them.



Have a *safe* holiday

Your family will greatly enjoy the upcoming holidays if you spend a little time thinking about making your home safe and secure, particularly for your young children.

- Fix your holiday tree to walls or windows so that it can't tip over. Check that combustibles are far from fireplaces and heaters.
- String no more than three strands of cooler-operating miniature tree lights together. Slide cords aside to avoid trips and falls.
- Replace breakable and sharp ornaments with safer items. Avoid using tinsel strands, which can choke children. Replace metal ornament hooks with safer string loops.
- Always be mindful of burning candles.
- Store an approved, inspected fire extinguisher in a handy place.
- Replace batteries in smoke and carbon-monoxide detectors.
- Make at least one family gift a home-safety item, such as a first-aid kit or second-floor escape ladder.