



KINERK
BEAL
SCHMIDT
DYER &
SETHI, P.C.

Attorneys at Law

JUNE 2007

PERSPECTIVES

The First 15 Minutes After Your Car Accident

Tires squeal, glass breaks and metal bends as your car jerks to a halt. You have just been involved in a collision. How you spend the next 15 minutes may save a life, including your own. It may also decide who gets the traffic ticket and who pays for any injuries and property damage.

Dial 911. The very first thing to do is call 911. If you suspect any injuries, even minor, tell them that. Your immediate concern should be to get the paramedics or an ambulance there as soon as possible. Injured folks should not be moved except by the paramedics. Do not refuse medical treatment: that is the first question you will be asked if you later make an injury claim.

Car Accident Kit. It's wise to keep a collision kit in your glove box. This should include a pen or pencil, paper, your vehicle's registration and auto insurance card, emergency contact numbers, and a disposable camera.

You have just been involved in a collision. How you spend the next 15 minutes may save a life, including your own.



AFTER AN ACCIDENT:

Make Your Auto Insurance Coverage Work For You

How to Use Your Medpay Coverage.

Medical Payments coverage, or "medpay," is a form of health insurance that triggers when you or your passengers are hurt in an accident. It is a no fault coverage, so it applies regardless of who is at fault for the collision.

Medpay may also cover you and your family when in other people's vehicles, or when you or a family member are on foot and hit by a car. Covered costs are subject to the limits you choose when you buy your auto insurance policy. Typically, medpay is purchased in amounts between \$2,500 and \$10,000, although it is available in even higher amounts.

1790 East River Road
Suite 300
Tucson, Arizona
85718

www.kbsds.com

continued on page 3

continued on page 2



Make Your Auto Insurance Coverage Work For You, cont. from page 1

If you have health insurance, you may not think you need medpay coverage, but there are many advantages to it. For example, medpay is not network-based, so you can see any doctor of your choosing. Also, medpay will provide payment for many services not usually covered by traditional health plans, such as dental treatment, extended nursing assistance, physical therapy, medical devices—even funeral services. And medpay can help you cover other out-of-pocket costs like co-pays and medications.

You should check your health insurance and auto insurance to make sure that you are not paying for the same benefits twice. To minimize your out-of-pocket costs, ask your auto insurer how to designate which providers you want to be paid with your medpay benefits. Then carefully select the providers who offer services that are not covered by your health insurance. In most cases, medpay coverage can provide you with some peace of mind and a cushion during the difficult days after an accident.

How Your UM/UIM Coverage Protects You.

All drivers in Arizona are required to carry liability insurance to protect other drivers if they cause an accident. The problem is that the mandatory insurance requirement is only \$15,000. Given today's health care costs, even a minor accident can cost you that much or more.

A bigger problem is that many Arizona drivers have no auto insurance at all. Conservative estimates put the number at between 15 and 20% of Arizona drivers, but it may be as high as 40%. The bottom line, however, is that if someone hits you there is a good chance they have no auto insurance.



That's where uninsured or underinsured coverage helps. This is protection you buy from your own insurance company. If you are hurt by someone with no insurance, your Uninsured Motorist coverage (UM) is triggered and will compensate you for your injuries, medical bills, and lost wages. If the person who hits you does not have enough insurance coverage to fully make things right, your Underinsured Motorist coverage (UIM) kicks in and fills the gap.

UM and UIM coverage is portable. It follows you, and others on your policy, regardless of whose car you are in. It even protects you if you are on a bike or walking and are hit by a vehicle.

This protection is relatively inexpensive, especially considering the peace of mind it brings. You should review your own auto policy to make sure that you have this coverage and talk to your agent about increasing the protection to the maximum level the carrier will let you have and you can afford. Then if you are hurt by someone who is uninsured or underinsured, you will still be protected.

—Dev Sethi



The First 15 Minutes, cont. from page 1

Also include road flares, light sticks, or small reflective road signs (available at your auto parts store) to use at night to warn other drivers of the accident. These should be placed several hundred feet away from the accident to alert other drivers to slow down or avoid the area.

Take photos. Whether using a camera you keep in the glove compartment or the camera on your cell phone, if you are not seriously injured and can get out of your car, immediately take photos, first of your car (inside and out), the other car, any marks or debris on the roadway, and any injuries.

Take notes. You should always carry a small notepad and pen or pencil in your car. Use it right away to take notes on what happened and especially what other people at the scene have to say. Get the names and phone numbers for all witnesses you can find, license plate numbers, time of day, weather, light conditions, speed, seat belt use, and anything else you can find out about what you and others observed at the time of the wreck.

Ask questions and write down the answers, but don't volunteer information.



Be careful what you say. You are obligated to exchange driver's license and automobile insurance information with the other driver. It's best, however, to wait for the police to arrive and let them handle this. Keep your conversation with the other drivers brief and let them do the talking. Anything anyone says at the scene of the accident will probably be admissible in court, so it is wise not to apologize or say anything else that could be interpreted as an admission of fault. Ask questions and write down the answers, but don't volunteer information. Do not argue with others as to what occurred, and do not admit to anything you did or didn't do, see, or hear.

Don't excuse the other driver or witnesses. You do not want to give permission to the other driver or witnesses to leave the scene. You can't physically restrain them, but you should tell them they are obligated under Arizona law to stay until the police arrive or they could be guilty of leaving the scene of an accident. If you agree to let another driver leave without calling the police on the promise that they will pay to fix your car, you take the risk that they are uninsured, do not have the means to pay, and will refuse later with virtually no recourse for you.



Report the accident to your insurance company ASAP. Your auto policy requires you to report the accident as soon as practical. Whether or not you believe you are at fault, you should do this as soon as you can so that your insurance company can do a thorough investigation on your behalf.

—Ted Schmidt

Find more useful tips and vital information on our new website.

Go to www.KBSDS.com for helpful articles and past issues of our newsletter.

More on Recalling Unsafe Products: The FDA's Role

Our last issue discussed the role of the CPSC in recalling unsafe consumer products. The Food and Drug Administration is another federal agency charged with keeping us safe. The FDA ensures the safety and effectiveness of our food, medications and medical devices, and cosmetics. It also oversees the safety of feed and drugs for pet and farm animals, as well as radiation-emitting consumer products like microwave ovens.

When the FDA determines that a food or medical product is unsafe, it issues a consumer warning or withdraws the product from the market. The FDA notifies the general public of safety alerts and recalls by issuing press releases. You can find these notices at fda.gov/opacom/7/alerts.html.

In February 2007, the FDA instituted a six-month pilot program designed to increase the public's awareness of food recalls. For recalled food products that pose a significant risk of serious harm or death (there were more than 100 of these in 2006), the FDA is including a photo of the food item with its press release. Depending on the success of the pilot program, the FDA may expand its use of photos to even more products.

Nationwide Allergy Alert

This FDA's pilot program requires that a photo of a product posing a serious risk accompany its press release.

Harry & David



If the FDA recalls your drug or medical product, talk to your doctor about the best course of action. For other products, you should take the item back to the place of purchase and ask for a refund. The store or pharmacy should have a refund policy for products that have been recalled.

For questions about FDA recalls, visit fda.gov or call the FDA's Food Safety Hotline at 1-888-723-3366. If you have an adverse reaction to a prescription drug or over-the-counter medication, you should immediately contact your doctor, and report the problem to the FDA at accessdata.fda.gov/scripts/medwatch.

Recent Recalls and Consumer Warnings Include:

Recall: All Shelhigh Medical Devices (sterility concerns).

Warning: Suicidal thinking and behavior in young adults taking antidepressants.

Warning: Counterfeit drugs sold on the internet.

Recall: Multiple dog and cat foods (melamine contamination) and dog chews (salmonella contamination).

Recall: Listerine Agent Cool Blue Plaque-Detecting Rinse Products (microorganisms).

Allergy Alert: Harry & David chocolate candies (undeclared nut allergens).

Recall: Ben & Jerry's Country Peach Cobbler Ice Cream (undeclared wheat).

Recall: Peter Pan peanut butter (salmonella contamination).

—Erica McCallum

Planning Ahead for the Unexpected.

Unfortunately, bad things happen to good people (like you, for example). You can help to avoid complete disaster in a difficult medical situation with proper planning and preparation.

Of course, everyone needs to be covered by health insurance, and anyone with a family or assets to protect needs life insurance and a will. If you really want to protect yourself and your family, there are a number of other steps you need to take BEFORE you are injured or become seriously ill. Preparing instructions now for your loved ones and doctors to follow if you become unable to speak for yourself will save everyone grief and help avoid disputes.

STEP 1

Pre-Hospital Medical Care Directive (Do Not Resuscitate or “DNR”).

Some people simply do not want any type of resuscitation efforts by the Fire Department or at the Emergency Room. If you do not have a “DNR” in your wallet or glove box, you WILL be resuscitated by CPR, electric shocks, the whole nine yards. If for any reason you do not want this resuscitation, you can obtain a form (which will have to be signed by you, your doctor, and a witness) for FREE from the Arizona Attorney General at azag.gov/seniors/life_care/LifeCarePlanning.html.

STEP 2

Living Will (End of Life Care).

On the other hand, if you end up in an irreversible coma, persistent vegetative state, or have a terminal condition, you can direct the people who are caring for you to prolong your life to the greatest extent possible. Or you may want some specific care if you are terminal, or no care at all. You can make your wishes known through what is called a “living will.” You can obtain the form, for FREE, at the Arizona Attorney General website listed above.

STEP 3

Durable Powers of Attorney.

You need to select an individual to make medical and mental health care decisions for you should you become incapacitated. You can obtain free forms for the “durable health care power of attorney” and the “durable mental health care power of attorney” at the Arizona Attorney General website listed above.

You should also have a durable power of attorney to enable someone to make financial decisions for you. The Arizona Attorney General does not have this type of free document, but you can obtain a durable power of attorney for financial matters (as well as a variety of other will and estate planning documents) for a nominal fee at a variety of websites, including legaldocs.com. It is best to have an attorney draw up these more complicated estate planning documents, and we can't guarantee any documents that you may obtain online. With that said, documents obtained from the Attorney General's website are likely to be reliable.

STEP 4

Donate Your Organs.

A lot of people would like to donate their usable organs for transplantation, and some people even want to donate their body for research or educational purposes. You can accomplish these goals through the Donor Network of Arizona at DonateLifeAZ.org. You can tailor your wishes for organ donation through the Donor Network of Arizona, or in your living will.

Of course, everyone assumes that nothing is going to happen to them: less than half of American adults have wills. If you take the steps necessary to make sure your wishes are known, you can significantly reduce the burden on your family and friends who otherwise may have to make these tough decisions for you.

—Jim Dyer



K B S D S I N T H E C O M M U N I T Y

"Let me win. But if I cannot win, let me be brave in the attempt."

Those words hold a special place in the heart of our paralegal **Sher Rhea**, as they are the words of the athletes who participate in the Special Olympics. Sher has been active in Special Olympics for many years as a volunteer coach and mentor, bringing her high school varsity coaching experience to the field. She has continued her efforts since moving to Tucson two years ago. Most recently, Sher assisted 3rd and 4th graders from Marana School District at the Pima County Track and Field Competition on March 24, 2007. She has also handed down her admiration for these athletes to her adult daughter and son, who increase awareness and raise funds for the Special Olympics through the annual nationwide Law Enforcement Torch Run.



Our Newest Graduate



Congratulations to our own **Bea Flesher** and her husband **Mark**, the proud parents of **William Phillips**. William graduated from Rincon High School on May 24th. Throughout his high school career, he has been involved in the Tucson Police Explorers, dedicating many hours to community service and training. In 2005, 2006, and 2007, he received the President's Volunteer Service Award. William plans to pursue a career in law enforcement and will be attending Pima Community College.

Appreciation for Our Lawyers



Ted Schmidt



Burt Kinerk



Bob Beal

Ted Schmidt received the **2007 Distinguished Alumnus Convocation Award** from the University of Arizona James E. Rogers College of Law. This award is conferred at convocation on a select number of alumni and friends of the law school whose professional achievements and community service are distinctive and inspiring examples to the law school's graduates. Ted is a graduate of the University of Arizona College of Law and has been an active supporter of the law school and the university since his student days. He and his wife, Ann, have established the Tara Nicole Schmidt "Have a Dream" Memorial Scholarship at the UA, a program that funds educational pursuits of worthy Arizona students.

Burt Kinerk has been designated one of **Arizona's Finest Lawyers**. This designation is bestowed by Arizona's Finest Lawyers, a web-based listing of Arizona's preeminent lawyers. Members are invited to join based upon a strict and objective criteria established by commissions within each practice area. Burt was honored for his work in the areas of medical malpractice and personal injury. Arizona's Finest Lawyers can be viewed at arizonasfinestlawyers.com.

During the past 14 years, **Bob Beal** has been instrumental in educating the Arizona legislature on proposed laws that affect tort victims and consumers. Over the years, Bob has provided a great deal of information to members of the House and Senate to help them decide whether to pass bills that preserve or eliminate the rights of individuals who have been injured by the negligence of others. Most recently, he provided valuable assistance to the legislature to make sure that our state's judges are properly paid, resulting in the Legislature's approval of judicial salary increases to go into effect in 2009. He has also worked for the successful passage of a bill to extend high school special education services to older students, so that students who reach the upper age limit do not have to stop going to school after their 22nd birthday but may continue to attend through the end their final school year.

Are you interested in receiving
PERSPECTIVES?

If you would like to be added or removed from our mailing list, please contact Bea Flesher at (520) 545-1674 or bflesher@kbsds.com.

Attorneys: Burt Kinerk, Bob Beal, Ted Schmidt, Jim Dyer, Dev Sethi, Erica McCallum
1790 East River Road, Suite 300, Tucson, Arizona 85718, Phone 520.790.5600, www.kbsds.com
Exclusively representing individuals in significant injury and wrongful death matters.