



Jebaily Law Firm, P.A.

MY LAWYERSSM

Ronald J. Jebaily • George D. Jebaily • Rangeley B. Chewning
(843) 667-0400 • (800) 868-0400



Season's Greetings!

May you and those you love experience the quiet beauty of the holiday season. We hope that you and yours enjoy peace, happiness, and good health throughout the coming year.

We would also like to thank you for allowing us to be of service to you, your relatives, neighbors, and colleagues.

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Retail customer safety

Retail businesses are responsible for maintaining safe surroundings for customers who enter and shop on their premises.



If a business is forgetful or negligent about its safety obligation, causing a customer to suffer an injury, the owner may be held liable for the harmed individual's medical expenses, pain and suffering, and lost wages.

An automatic-door incident

As a customer entered a chain drugstore, the automatic door malfunctioned and struck him very hard on the right arm, severely bruising it. The next morning, the shopper's physician diagnosed the source of his severe arm pain as necrotizing fasciitis and hospitalized him. Over the following seven days, physicians treated a resultant infection successfully, avoiding amputation. The patient now has an eight-inch scar on his arm. The patient's attorney sued the drugstore chain, alleging it negligently maintained the automatic entry door and failed to inspect it for malfunctions. The parties settled before trial.

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291 West Evans Street
P.O. Box 1871
Florence, South Carolina
29503-1871
(843) 667-0400
Fax (843) 661-6424
(800) 868-0400

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8:30 a.m.-5:30 p.m.
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8:30 a.m.-5:00 p.m.

- Home and hospital appointments available
- 24-hour emergency services

TRIAL LAWYERS

America's trial attorneys, who protect everyone's rights and champion their legitimate causes, pledge access to our civil justice system for working families who may lack the resources to take product grievances to court.

Lawyers promote the public good through their efforts to secure safer products, better workplaces, cleaner environments, and quality health care by protecting the rights of the injured and preserving the right to trial by jury.

Trial attorneys typically handle cases like these:

- A child paralyzed after being struck by a drunk driver.
- A young woman unable to have children because of a medical mistake.
- A person denied a promotion due to racial discrimination.
- An elderly person mistreated in a nursing home.
- A community whose water was made toxic by a local manufacturer.



I've never filed a lawsuit!

Question:

Although I was injured in a fall, I'm really reluctant to talk to an attorney about filing a lawsuit. Basically, I'm not really a litigious person. I've never filed a lawsuit, and I feel really uncomfortable about initiating one. Is that right?

Answer:

You're not alone. Even though the media make it look like people file lawsuits at the drop of a hat, the exact opposite is true. Lawsuit numbers are declining.

However, many people like you often feel somewhat uneasy about seeking recourse for harm, even when their injuries came through no fault of their own.

Being Good Samaritans like you, they think, "I should have noticed that slippery spot in the supermarket aisle where I fell."

However, most of our cultural, religious, and civil history shows that those who have been harmed have the right to seek fair recompense. It's important not to confuse justice with reprisal. Asking a place of business to pay for medical care for harm that its employees were responsible for is not revenge; it's expecting fair treatment, especially when a party responsible for harm refuses to acknowledge or accept responsibility.



Vehicle rollover accidents

Auto, truck, and sport-utility-vehicle rollover accidents unnecessarily kill 10,000 Americans annually. Another 24,000 suffer severe injuries.

Long-suppressed internal documents show that automakers knew as early as 1966 that car and truck roof designs were so weak that occupants could be crushed to death in rollover accidents. Ford could have fixed this deadly problem for \$43.13 per vehicle. Instead, manufacturers hid the information for years and continued selling dangerous vehicles.

In 2005, the National Highway Traffic Safety Administration—despite specific direction from Congress to increase vehicle roof safety—established auto industry-sympathetic standards mandating only minimal improvements to existing standards. The regulations also prevent lawsuits against manufacturers who ignore their own internal safety researchers to bolster their bottom lines.



No \$43.13 safety improvement

Gary Skinner of Graysville, Alabama, was an avid fisherman with a love for music, says his wife Angela. But on July 28, 2005, Angela lost her 48-year-old husband in a rollover accident when his 1999 Ford Ranger blew a tire, causing Gary to lose control of the vehicle. As Gary's car rolled over, the roof caved in on him, causing a fatal head injury.

FOR YOUR SAFETY

Recalled product roundup

Here are some recently recalled products you may have in your home or at work:

✓ **Arctic Cat, Inc.**, has recalled 41,000 Arctic Cat Snowmobiles with fuel tanks that can crack, leak, and burn riders.

✓ **Arctic Cat, Inc.**, has also called back 2,120 Arctic Cat Prowler XT Off-Highway Utility Vehicles. Rear brake calipers may leak brake fluid, reducing braking ability and potentially injuring riders.

✓ **Tyco Fire & Security** asks buyers to return 21,000 Fire Detection Systems. Sensors may have reduced sensitivity to smoke in conditions of high humidity and high temperature and delay smoke detection in a fire. Tyco Fire & Security also has requested that buyers return 128,000 smoke detectors that also may have reduced sensitivity to smoke.

✓ **BRK Brands, Inc.**, a subsidiary of First Alert, Inc., has recalled 145,890 First Alert® ONELINK™ Battery-Powered Smoke and Combination Smoke/Carbon Monoxide (CO) Alarms. The alarms drain battery power rapidly and will chirp to alert consumers to replace the batteries. Failure to replace batteries before the battery power terminates may cause the alarm to fail to detect smoke and carbon monoxide in a fire.

✓ **PTI Sports, Inc.**, has asked buyers to return 14,000 Schwinn Deluxe Bicycle Child Carriers. Plastic guide tabs on the carrier seat rack can break and injure child riders.



Nursing homes...

...and accident prevention

Families with elderly relatives who reside in nursing homes should be particularly vigilant about nursing home and rehabilitation center accident-prevention protocols.

Since many older people may have mobility or physical-dexterity problems, residences and facilities should get rid of accident hazards, such as low objects, floor obstructions, unstable chairs and beds, and unsafe restraint devices.

Dangerous restraints

A 77-year-old patient admitted to a nursing home was asphyxiated after she slid down in her wheelchair and became trapped in restraints. Her daughter sued, alleging care providers had used restraints without physician's orders or family consent. A jury awarded damages for the death and the daughter's loss of society with her mother.



Malpractice insurance

Falling claims and rising premiums

For years, medical malpractice insurance carriers have maintained that claims payouts have increased dramatically, forcing them to raise premiums they charge doctors to cover payments.

However, a 2005 Center for Justice & Democracy study shows that the medical malpractice insurance companies have been overcharging physicians. In the past five years, while doctors' malpractice premiums have more than doubled, insurers' claims payments increased very little or have even gone down. The study showed that in 2004, insurers' premiums were about three times higher than their total claims payouts. Between 2000 and 2004, malpractice premiums increased by 120 percent, but claims increased by less than 6 percent.

Falling claims

Several insurers saw their claims payouts actually decline, but raised policy premiums anyway.

- Healthcare Indemnity raised premiums by \$173 million, 88 percent. Its claims actually dropped \$74 million, 32 percent.
- ProNational increased premiums by \$87 million at the same time its claims payouts fell by \$43 million.



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Living wills and advance directives

The 2005 Terry Schiavo case made Americans aware of the potential need to prepare living wills and advance directives.

Advance directives

Experts estimate that one in four adults has an advance directive. A key element of each individual's estate planning for those who choose it, an advance directive is a legal document that people use to specify their wishes about handling medical care at the ends of their lives.

Two elements are usually fundamental to an advance directive:

- **A medical power of attorney**, which designates a trusted person, or proxy, to make care decisions if the person is too ill to make them for him- or herself.
- **A living will**, which is written instructions outlining the scope of life-prolonging medical care the person wishes to receive.

In all 50 states, regulations require doctors to comply with patients' advance directives. However, compliance may be challenged on bases of vague directive language, wavering proxies, and objecting family members. Care-delivery factors complicating advance directive observance may include innovative medical and surgical technologies and pharmaceutical intervention. Medical ethics and spiritual issues may enter decisions as well.

Plan now

Individuals who specify advance directives can take immediate steps to ensure that their end-of-life care wishes will be met by...

- asking family members to comply with wishes.
- selecting trustworthy proxies and clearly communicating wishes with them.
- establishing advance directives in every state of residence.
- filing "Do Not Resuscitate" orders at all relevant health-care institutions.
- obtaining legal counsel for understanding and creating directives.



An advance directive is a legal document that people use to specify their wishes about handling medical care at the ends of their lives.

PRODUCT LIABILITY

Microwave heat packs

Many who suffer accidents, sports injuries, or everyday aches and pains use microwave-warmed heat packs to obtain immediate and ongoing relief.

Inexpensive and easy to use, heat packs come in many sizes and configurations to relieve discomfort in backs, knees, and necks. They are also lightweight, portable, clean, and odor-free. Many have washable coverings. Most are filled with heat-retaining gels or beads.

Gel-pack burns

As a woman removed a hot gel pack from her microwave oven, its wrapper ruptured, severely burning her hand. She sued the manufacturer, alleging the product was defective and unreasonably dangerous since it came apart under normal heating conditions. The manufacturer initially countered with a claim of user negligence, but settled to preclude punitive-damages exposure.