

Law Offices of Mark D. Petti

LEGAL NOTES

September / October 2004



Auto Accidents: When to sue.

In Massachusetts, you are entitled to seek damages for pain and suffering against the operator(s) of the other motor vehicle(s) involved when any one of the following criteria are met:

1. Death is caused;
2. A fractured bone is suffered;
3. Permanent and serious disfigurement is caused;
4. A "sense" is lost such as hearing, sight, taste or smell;
5. Loss of a body member is suffered;
6. Or, where your reasonable and necessary medical bills equal or exceed \$2,000. (Mass. Gen. Law Chapter 231: Section 6D.)



Our office specializes in representing clients' claims as a result of personal injuries sustained as a result of motor vehicle accidents.

Proof of any one of the elements above typically require obtaining your medical records from the institutions or individuals by whom you were treated as a result of the accident. We will obtain your medical records for you upon receipt of your written consent typically in the form of a Release. You may also be entitled to receive Lost Wages for time out of work as a result of a motor vehicle accident. Again, we will obtain the required documentation in order that you may receive Lost Wage payment(s).

You may then decide with the advice and counsel of your attorney whether you should pursue your action against another party for damages.

CHILDREN ARE BACK IN SCHOOL. PLEASE DRIVE SAFELY!



Christopher Columbus
Great Italian Explorer
In 1492, Columbus sailed the ocean blue.



Columbus Day is October 11th

Did you know:

The first celebration of Columbus Day in America was held in New York City, 1792.

This newsletter provides general information and is designed to keep you up-to-date with changes in the law. It does not constitute legal advice. Please note that making a phone call or sending an e-mail does not create an attorney-client relationship; this requires a written agreement. Please do not e-mail any confidential information until an agreement is signed; at that point, we can exchange confidential information freely.



T H E H O M E S T E A D A C T

Legislature increases Homestead

Effective October 26, 2004 !

MASSACHUSETTS GENERAL LAWS CHAPTER 188, SECTION 1-10



On July 28, 2004, the Legislature approved Chapter 218 of the Acts of 2004 amending the amount allowed to protect their property from three hundred thousand dollars (\$300,000) to five hundred thousand dollars (\$500,000) of the value per residence, per family. This becomes effective **October 26, 2004.**

What does this mean? If you have previously recorded a Homestead, your protection amount will automatically increase to \$500,000 on October 25, 2004. Of course, if you have not recorded a Homestead, you have no protection and should strongly consider recording one now.




In addition, if you previously recorded a Homestead and have re-financed your home after the recording of the Homestead, you may need to record a new Homestead. Most mortgages have a clause in them stating that a previously recorded Homestead will be null and void upon the recording of the new mortgage.


A Declaration of Homestead will not protect you for the following:


- federal, state and local taxes, assessments, claims, and liens;
- First and second mortgages held by financial institutions or others;
- An execution issued from the Probate Court to enforce its judgment that a spouse pay for the support of a spouse or minor children;
- Where buildings on land not owned by the owner of a Homestead estate are attached, levied upon or sold for the ground rent of the lot whereon they stand.
- Upon an execution issued from a court of competent jurisdiction to enforce its judgment based upon fraud, mistake, duress, undue influence or lack of capacity.


If you would like more information or have specific concerns regarding the Homestead Act, please contact our office @ 508-586-4466 to schedule an appointment.


HALLOWEEN SAFETY TIPS


 Know the route your kids will be taking if you aren't going with them. The best bet is to make sure that an adult is going with them.


 Make sure you set a time that they should be home by. Make sure they know how important it is for them to be home on time.

 Make sure your kids have change or a cell phone to call home if needed.

 Explain to children the difference between tricks and vandalism. Throwing eggs at a house may seem like fun but they need to know the other side of the coin as well, clean up and damages can ruin Halloween. If they are caught vandalizing, make them clean up the mess they've made.

 Beware that you may be held liable for some actions of your children - **BOO!**

 Make sure your yard is clear of such things as ladders, hoses, dog leashes and flower pots that can trip the young ones.

 Pets get frightened on Halloween. Put them inside to protect them from cars or biting a trick-or-treater.

These tips will help to ensure a safe and fun Trick Or Treat for everyone. For more tips,

Briefly Speaking

Mark D. Petti, Esquire



Dear Reader:

When injured in an accident, the pain and suffering experienced as a result of those injuries can become overwhelming. In some cases, the injuries can change your life forever.

Our law firm prides itself by representing personal injury clients with the utmost respect, consideration and compassion. We zealously fight for your legal rights while preparing for trial or obtaining a settlement that fairly compensates our clients for their injuries.

We have established a proven record of winning results. We handle cases of all sizes and understand that each case is our client's most important case. Some of our recent case results include:

- * \$3Million Settlement. Negligence/Personal Injury case.
- * \$ 900K Settlement. Medical Malpractice case.
- * \$ 65K Settlement. Motor vehicle accident case.
- * \$ 50K Settlement. Motor vehicle accident case.
- * \$ 20K Settlement. Motor vehicle accident case.
- * \$ 19K Settlement. Motor vehicle accident case.

If you have any questions about a legal matter that is important to you, please feel free to call me anytime.

Mark D. Petti



FAMILY LAW: CHILD SUPPORT



Child support is a growing concern in the area of Family Law. According to the Massachusetts Department of Revenue,

“Every month, thousands of parents in the Commonwealth fail to provide financial support for their children, in violation of a court order and in spite of a wide variety of enforcement measures used by DOR. In 2004, there are 21,989 parents who owe more than \$10,000 in past-due child support and who have made no payment whatsoever in the last 6 months.”

Recently, a Mother filed suit in Suffolk Probate & Family Court for back child support payments from a 1968 divorce case, totaling more than \$236,000 including interest. Although more than 36 years have passed, the Judge allowed the case to go forward because the statute of limitations “creates a rebuttal presumption that the judgment has been satisfied”. The child support payments were not paid thus the statute of limitations did not apply.

If you are have any questions regarding child support, please feel free to call me anytime @ 508-586-4466 to schedule an appointment.



REAL ESTATE: ARE YOU BUYING OR SELLING A HOME? WHAT IS TITLE INSURANCE?

Title Insurance Compared to Other Insurance

An automobile owner pays a premium to an insurance company to assume the risk of loss for any accident in which the owner might become involved. Title insurance companies insure parties against loss resulting from matters affecting title to real property. Unlike other forms of insurance, title insurance relies on a single premium paid at the time you purchase your property.

Title Insurance for Owners

Owners desiring title protection must purchase a separate policy insuring their ownership interest. The essence of the owner policy is that it insures the owner against loss by reason of the status of the record title being other than as stated in the policy, subject, of course, to certain standard exclusions and exceptions relating to the particular property.

The Standard Owner Policy

This policy provides the basic coverage's for persons desiring to protect their interest in the property. It insures the following:

- 1. You are the true owner of the property.
2. There are no defects, liens or encumbrances other than those that are listed in the policy.
3. The title you acquired is marketable and cannot be rejected by a subsequent buyer as being impaired by some defect that existed at the time you purchased the policy.
4. You have a legal right of access to the property from a public street or private right of way.
5. The company will defend your title if it is challenged and will pay costs, attorneys' fees and expenses to defend you against any claims made against your title which fall within the coverage of the policy.
6. CATIC increased the coverage by 10% each year for the first five years without additional cost.

When selling or buying your next home, contact our office for legal answers to all your real estate questions. From the Offer to Purchase to the Purchase and Sale Agreement to the closing itself - Call 508-586-4466.

PETTI CASH \$1.00 off your next deli purchase with this coupon*
Petti's Market & Deli
216 Belmont Street, Brockton, MA 02301
Tel. (508) 586-6210
Exp. 11/01/04

AUTO ACCIDENTS



There are approximately 12 million car accidents in the United States each year. It is a disturbing fact that you or someone you know is likely to be involved. Take a few minutes to read the Auto Accident Checklist of do's and don'ts if you are involved in an accident.

AUTO ACCIDENT CHECKLIST

- ✓ **STAY CALM.** Move yourself and your passengers out of harms way. Call the police.
- ✓ Assist anyone who is injured. Call for an ambulance if necessary.
- ✓ Get the name, address, phone number, and license number of the other driver(s) and car(s). Exchange insurance information.
- ✓ **DO NOT** discuss the accident (except with police), but **DO** make notes of anything the other driver(s) says about the accident.
- ✓ Get the names, addresses, and phone numbers of any witnesses.
- ✓ Get photographs of your vehicle, contact your insurance company and write down everything you remember about the collision ASAP.
- ✓ Contact our office to discuss your legal options.

Q & A

ANSWERS
TO YOUR
LEGAL
QUESTIONS

Q. While shopping at food warehouse I tripped and fell over empty boxes left on the floor resulting in a broken wrist and rib, there are three witnesses to this fall. The manager did nothing except have me fill out an incident report. I had to ask three times for ice for the injury. Should I seek legal advice even if I had insurance to cover medical bills? How much will it cost?

A. Yes, you should seek legal advice immediately. Don't be concerned with the cost. In a personal injury case, our office receives what is called a "Contingent Fee". This means that fees are paid only if you win the case.

You are entitled to recover for your pain and suffering, loss of income, disability, medical expenses, loss of earning capacity and other consequential damages that you may suffer as a result of the injury. Having your own medical insurance should not effect whether or not you decide to proceed with a lawsuit for personal injuries. Any settlement reached with the insurance company of the food warehouse will most likely include subrogation (reimbursement) to your medical provider.

Email you legal questions to mdpetti@pettilaw.com or visit our website. Names, address, or specific information will not be used in publication.



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Complimentary Issue



Thanks for the Referrals

Our clients *are* our business. We are grateful that many of our clients and friends feel confident in recommending our firm. The best source of our business is word of mouth.

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

