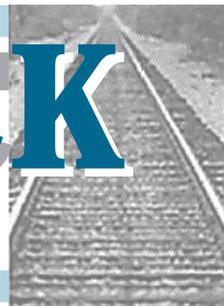


BACK ON TRACK



Shapiro, Cooper & Lewis NEWSLETTER

WINTER 2004

Brought to you by

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Identity theft: one attorney's advice

A corporate attorney sent the following out to the employees in his company...

The next time you order checks, have only your initials (instead of first name) and last name put on them. If someone takes your checkbook, they will not know if you sign your checks with just your initials or your first name, but your bank will know how you sign your checks. When you are writing checks to pay on your credit-card accounts, DO NOT put the complete account number on the "For" line. Instead, just put the last four numbers. The credit-card company knows the rest of the number, and anyone who might be handling your check as it passes through all the check-processing channels won't have access to it. Put your work phone number on your checks instead of your home phone. If you have a P.O. Box, use that instead of your home address. **Never** have your Social Security number printed on your checks (DUH!); you can add it if it is necessary. If you have it printed, anyone can get it.

Place the contents of your wallet on a photocopy machine, do both sides of each license, credit card, etc. Keep the photocopy in a safe place.

We've all heard horror stories about fraud that's committed through stealing a name, address, Social Security number, credit card, etc. Unfortunately, I, an attorney, have firsthand knowledge—my wallet was stolen recently. Within a week, the thief(s) ordered an expensive monthly cell phone package, applied for a VISA credit card, had a credit line approved to buy a Gateway computer, received a PIN number from DMV to change my driving-record information online, and more.

But here's some critical information to limit the

damage in case this happens to you or someone you know: We have been told we should cancel our credit cards immediately. But the key is having the toll-free numbers and your card numbers handy so you know whom to call. Keep those where you can find them easily. File a police report immediately in the jurisdiction where it was stolen. This proves to credit providers you were diligent and is a first step toward an investigation (if there ever is one).

But here's what is perhaps most important (I never even thought to do this): Call the three national credit-reporting organizations immediately to place a fraud alert on your name and Social Security number. I had never heard of doing that until advised by a bank that called to tell me an application for credit was made over the Internet in my name. The alert means any company that checks your credit knows your information was stolen and that they have to contact you by phone to authorize new credit. By the time I was advised to do this, almost two weeks after the theft, all the damage had been done.

There are records of all the credit checks initiated by the thieves' purchases, none of which I knew about before placing the alert. Since then, no additional damage has been done, and the thieves threw my wallet away this weekend (someone turned it in). It seems to have stopped them in their tracks. The key numbers are:

Equifax, 1-800-525-6285; Experian (formerly TRW), 1-888-397-3742; Trans Union, 1-800-680-7289; and the Social Security Administration (fraud line), 1-800-269-0271.

The value of labor unions

[Editor's note: written by a business-school student]

Many people today believe that the labor movement has outlived its usefulness, that it had a valuable role to play in the first half of the 20th century but is now irrelevant, an anachronism.

My colleagues at the business school, for instance, describe unions as "dinosaurs" and as support of that idea note that their influence and power are waning.

It's true that the proportion of the national workforce represented by unions has fallen steadily over the last 25 years. And as the economy struggles and health costs continue to skyrocket, employers—even many of those earning healthy profits—do hold the upper hand in contract negotiations and are demanding wage freezes, cuts in benefits, and other concessions from workers.

But union victories are also victories for those workers

not covered by union contracts. This is because nonunion employers often match what's been won by unionized employers in the same industry.

Economists call this phenomenon the "union-threat effect" because employers offer these improvements in order to lower the chances that their workers will organize.

Paid vacations, health insurance, pensions, and sick leave did not become commonplace in American workplaces because of employer generosity, but because unions fought hard for them, and won.

The same is true for laws protecting employees. When proposed, most employers vigorously fought the eight-hour day, the Social Security system, overtime and minimum wage laws, workers' compensation statutes, occupational

(continued on back page)

Medical malpractice testimony

Under attack by medical societies

The rights of victims of medical malpractice are under attack from many quarters. Legislators, insurance companies, pharmaceutical manufacturers, and others falsely argue that out-of-control lawsuits and overly sympathetic juries granting large awards are responsible for medical malpractice premium increases.

A new intimidation tactic recently initiated by medical societies in some states is causing medical experts who testify on behalf of medical malpractice victims to think twice before going to court. The medical societies are establishing medical tribunals to review the testimony of doctors who go to court. If medical testimony fails to meet terms and conditions, the societies can suspend or expel the physicians from society membership.

As a result, some expert-testimony doctors fear appearing in court because they worry about retaliation by their peers in medical societies. This is notably true in higher-risk medical specialties such as neurosurgery, gynecology, obstetrics, and anesthesiology.

Opponents of medical tribunal review say that the process is designed not to protect patients, but to inhibit doctors from testifying by intimidating them with sanctions or banishment. Some go so far as to claim that the process actually

obstructs justice. Not only that, many also believe that America's legal system is set up so that judges and jurors are perfectly capable of evaluating evidence—including expert medical testimony—and rendering fair and reasonable judgments in medical malpractice cases. Opponents also point out that medical societies' demands for peer review for expert testimony for plaintiffs may not be equally applied to testimony paid physicians provide for deep-pocket medical malpractice defendants and insurance companies.



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FOR YOUR SAFETY

Recalled product roundup

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

- ✓ **Dorel Juvenile Group, Inc.**, has called back 670,000 of its Cosco Arriva and Turnabout infant car seats/carriers, which have carry handles that can loosen and harm children.
- ✓ **Homier Distributing Co., Inc.**, has recalled 150,000 extension cords, 180,000 portable lights, and 54,000 fluorescent work lights. The products have undersized wiring, faulty electrical connections, incorrect polarization, inadequate grounding, and plastic handles that can shock and burn users.
- ✓ **Stihl, Inc.**, has asked buyers to return 13,000 chain saws with incorrectly installed fuel tank vents that can dislodge and catch fire.
- ✓ **Conceptual Marketing & Development, Inc.**, has recalled 1.1 million Model 4650 metal weed-cutting attachment blades, which can snap off and injure consumers.
- ✓ **Lane Furniture Industries, Inc.**, has called back 620,000 high-leg recliner chairs. A mechanism can pinch and injure consumers who reach under the chair to operate the footrest.
- ✓ **Central Sprinkler Company**, an affiliate of Tyco Fire Products, LP, announced it will voluntarily replace 35 million Central fire sprinklers that have faulty O-ring seals. Consumers can hire their own contractors and obtain reimbursement for all or some of the labor charges after notifying Central in advance and completing certain forms.

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.



BENZENE exposure and illness

Since the early 19th century, benzene—a clear, colorless, and practically odorless solvent—has been used in many industries to make dyes, varnishes, pesticides, lubricants, and much more.

However, exposure to benzene, even in minute amounts, can endanger one's health. Absorbed through the skin or inhaled, it can cause a wide variety of very serious illnesses, such as leukemia, aplastic anemia, non-Hodgkin's lymphoma, and multiple myeloma.

Benzene product exposure is so serious that laws usually require employers to educate workers who come into contact with it about its hazards. Employers must also train workers to handle benzene safely and provide them with clothing and equipment to protect themselves while using it. People using cleaning agents, lubricants, degreasers, or other solvents should ask employers to be sure they are using the chemicals safely.

People who suspect they may have been harmed because they improperly used benzene at work or at home should contact their physician and attorney.

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.



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Railroad Station

This is a new column in our newsletter and will be a recurring column. The idea is to provide news updates in the rail industry.

AMTRAK funding approved

Prior to the 2003 Christmas recess, a congressional compromise committee agreed to provide Amtrak with \$1.2 billion in funding for fiscal year 2004. Amtrak's president, David Gunn, said that "this number will allow us to continue to operate the national system."

FRA proposes new final rule to silence train horns at certain local crossings

Responding to various community train-whistle bans around the country, the FRA announced that it was publishing an interim final rule in December 2003 to allow local communities to quiet train horns at certain crossings if safety requirements were met. The rule would allow local governments to have quiet zones in certain areas where there was a low risk of collision, or to propose specific upgrades meant to lessen risks where the hazards were greater. The rule also proposes the use of an automated horn system at certain crossings as a substitute for the train horn in a locomotive engine. The previous law, the Federal Railroad Safety Authorization Act of 1994, required locomotives to sound their horns to announce when trains were nearing any of the nation's 150,000 grade crossings.

BLE votes to merge with Teamsters

Members of the BLE voted overwhelmingly to merge with the Teamsters Union, forming the Brotherhood of Locomotive Engineers and Trainmen, a division of the International Brotherhood of Teamsters Rail Conference.

NIOSH welding fume exposure publication

NIOSH published a major comprehensive review of scientific literature on health effects associated with welding, entitled "Health Effects of Welding, Critical Reviews of Toxicology" (published 2003), and is further pursuing NIOSH research at the Health Effects Laboratory Division in Morgantown, West Virginia. One of the key issues being researched is the effect of manganese and how it affects the central nervous system during welding activities.

The value of labor unions

(continued from front page)

safety and health protection, and bans on child labor. It was the labor movement that pushed these proposals through and which today fights employer-led efforts to weaken or undo them.

More recently, the job of watchdog has fallen, in part, to the labor movement.

For example, American Airlines executives tried to pay themselves huge bonuses and create a pension plan for top management that would be protected even in the event of bankruptcy, while at the same time claiming poverty and asking employees to take significant pay cuts. The scheme was exposed by the pilots union.

The labor movement will survive, but its current struggles should be of concern to everyone—employees, managers, and investors—who believes that unbridled corporate power is a dangerous thing and that checks and balances and accountability are desirable in a democratic society.

MAGAZINE CONTEST UPDATE

In how many U.S. States are common-carrier freight trains currently operating?

- A. 49 states
- B. 38 states
- C. All 50 states
- D. Only 12 states

Choose the correct answer and you may win a year's free subscription to one of a number of popular magazines. E-mail answers to mwareing@hsinjurylaw.com no later than **March 5, 2004**. The answer will be drawn from correct entries and announced in the next newsletter.

The answer to the contest in our last issue was Pennsylvania, which ranked #1 in both categories with 62 railroads (10 percent of the total in North America) and \$555.3 million paid to 45,800 beneficiaries as of 2001. Congratulations to **Wayne Fuller**, who had the correct answer drawn from entries received.