

Recovery & Resolution

A LEGAL NEWSLETTER FOR
HEALTH CARE PROFESSIONALS



Graham Lundberg & Peschel *Founded 1979*

Complex Personal Injury Cases

Complex personal injury cases can arise in all areas of practice including, but not limited to, motor vehicle accidents, construction site accidents, work place injuries, pedestrian accidents, defective products, premise liability, bicycle accidents and defective roadway design. Despite the area of practice, complex injury claims usually present themselves with many complicated variables such as numerous sources of insurance coverage, insurance stacking issues, multiple injuries to each claimant, multiple health care providers and multiple at-fault parties. While not all of these issues are present in each case, many times a complex case has two or more of these variables present in it that require an experienced personal injury attorney for proper handling. Illustrative examples of the complex issues that often arise are outlined below in the practice areas of bicycle accidents, work place injuries and motor vehicle accidents.

Bicycle Accidents:

Over the years, GLP has successfully represented bicyclists involved in serious injury claims against at-fault motorists. In these cases, we have found that locating the proper sources of insurance to pay for the medical bills is one of the initial challenges. In respect to bicyclists' claims, the at-fault driver's first-party personal injury protection medical coverage will be primary and must first be exhausted. Second, the injured patient's own motor vehicle personal injury protection coverage may provide secondary

medical bill coverage. Third, after these two separate sources of PIP coverage are exhausted the client's health care coverage would be utilized. Thereafter, a recovery against the at-fault motorist's third-party liability insurance carrier is pursued. In this regard, we often are faced with obtaining primary liability coverage under an initial policy and secondary coverage through the at-fault party's personal umbrella policy (PUP). Thus, in the case of a bicycle versus motor vehicle accident we may interact with five separate insurance carriers on behalf of our client. In addition to the insurance coverage variable, a second variable that repeatedly arises is dealing with severe and permanent injuries that lead to subsequent and progressive injuries later in life. For example, an injured bicyclist who originally suffers a pilon fracture to the right ankle may need a total ankle replacement surgery five or ten years down the road. Experienced trial counsel can anticipate and look out for the

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Example of a Complex Case

By Sean A. Ayres

The attorneys at Graham Lundberg & Peschel handle a wide variety of complex cases. Our South Sound office recently assisted a woman who was severely injured in a motor vehicle collision which occurred on Interstate 5.

Our client was the front seat passenger in a vehicle being driven by the Defendant southbound on Interstate 5 near the Tacoma Dome. Unfortunately, the Defendant lost control of his vehicle, spun across 3 or 4 lanes of I-5, clipped another vehicle, and then came to rest on the outside shoulder of the freeway facing at an angle back towards northbound freeway traffic.

After the vehicle came to a stop, the Defendant driver went to check on the vehicle that he had hit. Our client, severely shook-up and fearing for her safety as she sat with her door facing toward the busy freeway, decided to exit the vehicle toward the safety of the shoulder of the road. As our client exited the vehicle via the driver's side door, she discovered her right leg could not bear weight, causing her to fall to the pavement where she dislocated her thumb and cut her face. Our client later learned at the hospital that she had severely fractured her right femur. Subsequent surgical intervention placed a rod and screws in her leg, and our client suffered through months of rehabilitation.

Interestingly, our client's insurer refused to cover her medical bills under her PIP because it concluded that her injuries were not as a result of an automobile accident. The carrier alleged that this was a "slip and fall" incident, and therefore, it denied both Personal Injury Protection (PIP) coverage and Liability coverage for the acts of the Defendant driver.

We commenced suit against the at-fault driver for negligence and against our client's PIP carrier for improper denial of PIP benefits, and for acting in bad faith with respect to our client's claim. Our position during litigation was that it did not matter whether our client was injured in the "collision" itself or while she was exiting the vehicle because it was the Defendant's negligent conduct that placed her in such position of peril.

Prior to trial, Graham Lundberg and Peschel brought a summary judgment motion before the Superior Court. The Court agreed with our position on the causation of our client's injuries and rejected both Defendants' arguments. After additional procedural maneuvers and a mediation, both Defendants eventually agreed to a combined settlement of about \$200,000.

While this proved to be a difficult, complex, and time consuming case, the results for our client were significant. We were able to guide our client past the inevitable insurance company denials and steer her toward a just and warranted conclusion to this unfortunate event.

Complex Personal Injury Cases, continued

future consequences of a serious injury and take steps to ensure that monies are allocated for future medical care and the client's overall well being.

Work Place Injuries:

Injuries in the work place are not uncommon. Work place injuries seem to lead to complex cases because many times the at-fault party responsible for a client's work injury is not known. For example, in a past work-related death claim, our firm filed a lawsuit against seven corporate Defendants in an effort to locate the true wrongdoers. Further, work place injuries often involve conditions that arise at a work place where there could be 20 or 30 separate contractors involved in the construction of a building or structure. Finding the correct wrongdoer can be burdensome, onerous and a challenging task.

Motor Vehicle Accidents:

Motor vehicle accidents can also lead into complex claims due to the fact that many involve three or

more automobiles. A rear-end accident that involves a lead non-fault Plaintiff and two or more following drivers can lead to a fact finding mission regarding what following driver or combination of drivers are at fault. Our firm has been involved in numerous situations where the Plaintiff was forced to sue two or more following drivers in an effort to discover the true sequence of events leading to our client's injuries. Thereafter, issues then develop regarding multiple at-fault party's insurance carriers and negotiations that involve a combination of insurance carriers in order to obtain a fair recovery for our client.

Conclusion:

Graham Lundberg & Peschel has become one of the leaders in Western Washington's legal community in handling complex personal injury claims. Our dedicated legal team can help your patient sort out the competing and overlapping complex issues in order to ultimately reach a fair, reasonable and just result.





HELP STOP REFERENDUM 67

Support The Insurance Fair Conduct Act

The Washington legislature recently passed The Insurance Fair Conduct Act during the 2007 session. Governor Christine Gregoire signed the Act into law. Now the insurance companies want the Act repealed. We need your help to stop the insurance companies and to protect consumers in Washington. The big insurance companies are pumping hundreds of thousands of dollars into a campaign to distort the facts about the new law, and what it means for consumers.

The Insurance Fair Conduct Act provides common sense protections that require insurance companies to promptly handle claims. The Act makes sure that consumers get the service paid for. The Act ensures fair treatment by the insurance industry and has penalties for the insurers if they fail to treat their customers fairly.

We pay our insurance premiums expecting the insurance industry to honor claims. Now, because of the Act, the insurance industry will have to honor its end of the bargain.

The insurance industry is howling mad. Although the Act has been signed into law, it can be repealed through a referendum. This summer, the insurance industry will ask Washington citizens to sign petitions to put Referendum 67 on the ballot to try to repeal the insurance Fair Conduct Act. Paid

signature gatherers will be in our communities around the State asking for your signature. Before you sign anything, it is important to know the facts.

The insurance industry is funding this Referendum, paying the signature gatherers, and mounting an expensive advertising campaign to mislead voters. They are trying to fool people by calling themselves "Consumers Against Higher Insurance Rates" even though all of their funding comes from the insurance industry. They do not care about insurance rates, which are not even addressed in the Act signed into law. The insurance industry just wants to repeal the Insurance Fair Conduct Act because it makes them treat consumers fairly.

Please do not sign the petition! Stop the insurance companies before they start this attack.

Read Referendum 67 and the Insurance Fair Conduct Act. Visit our website for a link to the full text of the Act and Referendum. You may also go the Washington Secretary of State's website for more information:

www.sestate.wa.gov/elections/initiatives/referendum2.

If you have questions about the new Insurance Fair Conduct Act or Referendum 67 please do not hesitate to contact any of the attorneys at Graham Lundberg & Peschel. Thank you for your help.

SUCCESSFULLY MANAGING COMPLEX CASES

Graham Lundberg & Peschel welcomes you and your office staff to attend a **FREE** Educational Seminar.

Join us in a discussion regarding:

- Multiple accidents
- Multiple claimants
- Multiple at-fault parties
- Multiple sources of recovery

This is one seminar you cannot afford to miss! Seating is limited so register today!

Wednesday, **August 29**
Tacoma - La Quinta Inn

Thursday, **August 30**
Everett - Holiday Inn

Thursday, **September 6**
Bellevue - Red Lion Inn

Thursday, **September 6**
Port Orchard - McCormick Woods Country Club

Thursday, **September 13**
Renton - Holiday Inn

Thursday, **September 20**
Seattle - Best Western Executive Inn

Plan to attend this informative seminar! Seminar registration form included in this issue.

- All Seminars: 12:30 – 2:00 pm
- Complimentary Lunch Will Be Served
- Doctors of Chiropractic, Massage Therapists, and Physical Therapists will earn 1.5 CE credits
- Registration is limited to four attendees per office





We are a team of legal professionals working together to advocate for the injured while being recognized in the community for providing the highest level of service.

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Lindsey Martin
Becky Moilanen
Martha McDonald
Melanie Shotts

**CONVENIENTLY
LOCATED**

For the convenience of your personal injury patients, we offer several meeting locations throughout Puget Sound and Peninsula communities. Attorney consultations are encouraged and always free.

- Auburn**253-931-1111
- Bellevue**425-827-1111
- Burien**206-241-1708
- Everett**425-252-1111
- Federal Way** ...253-946-1111
- Gig Harbor**253-853-5005
- Lacey**.....360-786-1717
- Lakewood**253-274-1111
- Lynnwood**425-775-1111
- Marysville**360-658-1111
- Port Orchard** ..360-876-5005
- Puyallup**253-845-1112
- Renton**425-235-1111
- Seattle**206-448-1992
- Silverdale**.....360-876-5005
- Tacoma**253-627-7701

Or Call Toll Free

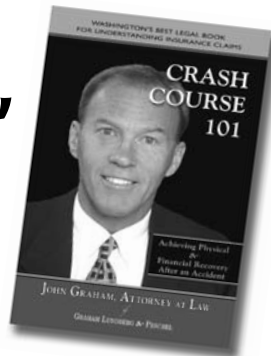
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