

# Recovery & Resolution

A LEGAL NEWSLETTER FOR  
HEALTH CARE PROFESSIONALS



Graham Lundberg & Peschel *Founded 1979*

## GLP Case leads to New Law in Washington State

**G**raham Lundberg & Peschel, through one its founders and senior partners, Scott F. Lundberg, has represented the estate of a worker, Alan Davis, through his personal representative, Tami Davis. Alan Davis was tragically killed in an industrial accident on December 19, 2000. After many years of diligent work and advocacy by Mr. Lundberg, and the skilled appellate work of Seattle attorney Phil Talmadge, the case has led to an important change in Washington's common law that will benefit Washington's workers and their families for the 21<sup>st</sup> century.

### The Facts of the Case

On October 12, 1992, Baugh Industrial Contractors (Baugh) entered into a contract to build a network of subterranean pipes for a sand and gravel processing facility belonging to Glacier Northwest.

In turn, Baugh hired

E.J. Rody & Sons, Inc. (Rody) to install the on site utilities and underground piping for the facility. In the course of its work, Rody assembled and installed high-density polyethylene pipes and buried the piping underground. Rody had exclusive control over the installation. The project was substantially completed in April 1997, and Glacier accepted the work and began operating the facility shortly thereafter.

In December 2000, after observing that a pond had formed, Glacier suspected a leak in one of the underground pipes. Alan Davis was the foreman of the crew assigned by Glacier to excavate the area and find the leak. While the pipeline was still covered with several feet of dirt, Mr. Davis entered the excavated hole to try to pinpoint the leak. Tragically, several cement blocks, weighing between 1,500 and 1,800 pounds each, fell into the hole when a nearby wall collapsed. One of the blocks crushed Mr.

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# Out-of-State Medical Bill Review Companies Used to Reduce Bills

Does it seem as if your patients, utilizing their PIP coverage after an automobile collision, are getting “nickled and dimed” when it comes to getting their bills paid? It is a fast growing trend among automobile insurance carriers to use outside medical bill review companies and databases to pare down their own insureds’ medical bills, in an effort to pad their own bottom lines.

These outside companies typically use out-of-state doctors and nurses to review records and billings submitted from health care providers to the PIP carrier. The doctors and nurses on a regular basis find that the treatment is not reasonable and necessary, and that the billing is above customary standards. If you have ever closely reviewed some of the documents forwarded from the PIP carriers, you

would note that many of the decisions are literally rubber-stamped with the name of the doctor or nurse. Databases are also used by PIP carriers in an attempt to show that the submitted charges are not within the “community norm” for similar services.

The decisions made by these outside companies are followed by the PIP carriers, who will likely provide an explanation that, due to the “independent” review, they are unable to pay the billed amounts. Many times the reduction is only a few dollars, but when multiplied by thousands of claims, the “savings” to the PIP carriers is tremendous.

Unfortunately, this practice is not contrary to any current Washington State insurance regulations. However, the PIP language of the patient’s automobile insurance policy should be carefully analyzed to

see if it addresses any review process utilized by the insurance company. An example of language that has been held by the Insurance Commissioner’s Office to be valid in determining reasonableness is “the charge determined by a statistically valid database that is designed to reflect charges for the same or comparable services or suppliers in the same or similar geographic region.”

If you are experiencing trouble with your bills being reduced by the PIP carrier, refer your patient to a personal injury attorney at Graham Lundberg & Peschel. Our attorneys will be able to review the PIP policy language and determine whether or not there is a valid claim for the full PIP benefits to be paid and what possible remedies can be explored if less than total payment is made.

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## Attorney Spotlight on Molly Crowley

Graham Lundberg & Peschel wishes to welcome Molly (Kling) Crowley as our new associate attorney for the South Sound Tacoma Office. Molly devotes her practice to personal injury.

Born and raised in Tacoma, Molly attended Stadium High School before earning a B.A. in English at the University of Washington in Seattle, graduating cum laude in 1996. Molly was a member of Phi Beta Kappa National Honor Society and Golden Key National Honor Society.

She went on to Washington

and Lee University School of Law, Lexington, Virginia. Molly graduated from law school in 1999, and began her practice in Washington State.

Molly is a member of the Washington State Bar Association; Washington State Trial Lawyers Association — Eagle Member, Women of WSTLA, Tacoma — Pierce County Bar Association.

When she is not advocating for her clients, Molly enjoys spending time with her husband, Mike, and two children: Bea and Tom. She also is an avid skier and tennis player, and loves to read and knit.

## WSCA 2006 Corporate Member of the Year

Graham Lundberg & Peschel was recently honored by the Washington State Chiropractic Association (WSCA) when it recognized the Firm as its 2006 Corporate Member of the Year. Kenneth B. Golden, Managing Partner of the South Sound Office, was singled out at the WSCA Winter Convention for his work with the Organization as a frequent guest speaker and columnist, and for his support of the WSCA’s many activities, including its annual Golf Tournament.



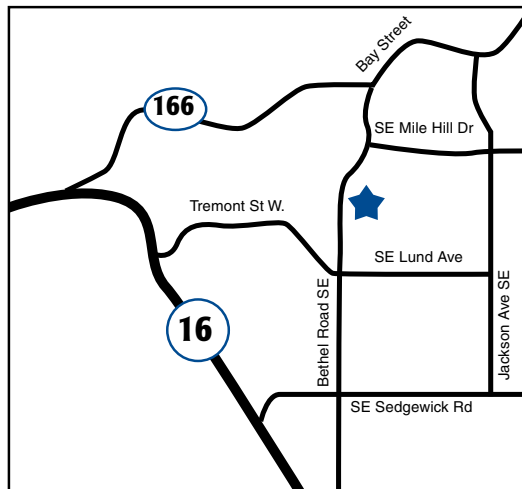
# New Port Orchard Office Location

## 2153 Bethel Road SE Port Orchard, WA

If you didn't get a chance to stop by during our open house on January 18, 2007, feel free to drop in and pay us a visit. Our office hours are Monday through Friday 8 am to 5 pm. Our phone numbers are still the same, 360/ 876-5005 and 800/273-5005.

Once again, thank you from our Port Orchard team Kenneth B. Golden, Managing Partner, Attorney Sean Ayres along with Paralegal Patti Cryder, Communications Coordinator Trish Driver, and

Administrative Assistants Teresa Garcia, Lindsey Martin and Denise Aksamit.



### GLP Case leads to New Law in Washington State, cont.

Davis's chest and pinned him to the ground. Mr. Davis later died of his injuries.

Evidence suggested that one of the high-density polyethylene pipes, which had a useful life of up to 100 years, had failed. This might have been because of a gouge or dent in the pipe.

Tami Davis, Mr. Davis's daughter, retained Graham Lundberg & Peschel and was appointed personal representative of her father's estate. She filed a negligence suit against Baugh among others.

The trial court dismissed her case on the ground that the "completion and acceptance doctrine" relieved Baugh of liability for negligence after the work was completed and accepted

by the property owner. On direct appeal to the Washington Supreme Court from the Superior Court, Graham Lundberg & Peschel argued that the trial court was wrong. The Washington Supreme Court agreed and reversed the trial court's decision.

#### New Law in Washington:

In a 6-3 opinion written by Justice Chambers and published by the Court on January 18, 2007, the Washington Supreme Court did away with the "completion and acceptance doctrine" that shielded contractors from liability for negligent work. The Court stated that "...this doctrine is outmoded, incorrect, and harmful, we now join the 37 states that have abandoned it."

## GETTING PAID IN A PERSONAL INJURY CASE

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

Join us in a discussion regarding:

- Documenting Evidence
- How to Increase the Chance of a Case Settling and Avoiding Court
- Responding to Insurance Requests

**This is one seminar you cannot afford to miss! Seating is limited so sign up today!**

Thursday, **March 22**  
**Everett** — Holiday Inn

Wednesday, **March 28**  
**Tacoma** — La Quinta Inn

Thursday, **March 29**  
**Bellevue** — Red Lion Inn

Thursday, **April 5**  
**Renton** — Holiday Inn

Thursday, **April 5**  
**Port Orchard** — McCormick Woods Country Club

Thursday, **April 12**  
**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.

**Attorneys**

John M. Graham  
Scott F. Lundberg  
Brian J. Peschel  
Kenneth B. Golden  
Cydney Campbell Webster  
John D. Webber  
Sean A. Ayres  
Molly Crowley  
Jason G. Epstein  
Tara L. Eubanks  
Jin K. Lien  
Carrie D. Umland  
Rodney G. Zerr

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Patti Cryder  
Leslie Gesterling  
Judy Hanson Earle  
Lorna Holland  
Maya Jenkins  
Danielle Pugliese  
Grace Stephens  
Heather Webb

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Lindsey Martin  
Becky Moilanen  
Martha McDonald  
Teri Pfeffer  
Charles Quackenbush  
Melanie Shotts  
Julia Tyabji

**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**.....800-273-5005
- 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*

North Puget Sound area including King, Snohomish, Island, Skagit & Whatcom  
**800-422-4610**

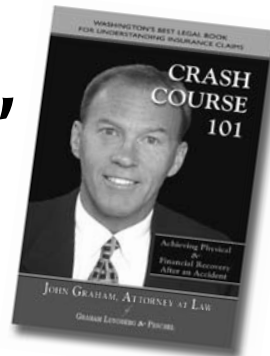
South Puget Sound area including Pierce, Kitsap, Mason, Thurston & Lewis Counties  
**800-273-5005**

or visit us online...

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