

Recovery & Resolution

A LEGAL NEWSLETTER FOR
HEALTH CARE PROFESSIONALS



Graham Lundberg & Peschel *Founded 1979*

Recreational Accidents – Liability vs. Assumption of Risk

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As the summer season approaches, recreational activities and opportunities abound, and so do accompanying risks of injury. Some of the most common settings for injury incidents are amusement park rides, including go-karts; rentals of recreational vehicles; use of recreational lands, parks, or boat-launching facilities; public or private pools; and all manner of water sports.

Since there are so many factual settings that present potential injury scenarios, from premises liability to rentals or use of recreational vehicles, it is impossible to give you, the reader, in the limited space available, a complete education on the law of negligence and how it may apply in a specific situation. However, two points in particular need to be emphasized.

First, when one of your patients tells you their injury occurred in a recreational setting, the best suggestion you can give is that they consult an attorney to determine if potential liability exists.

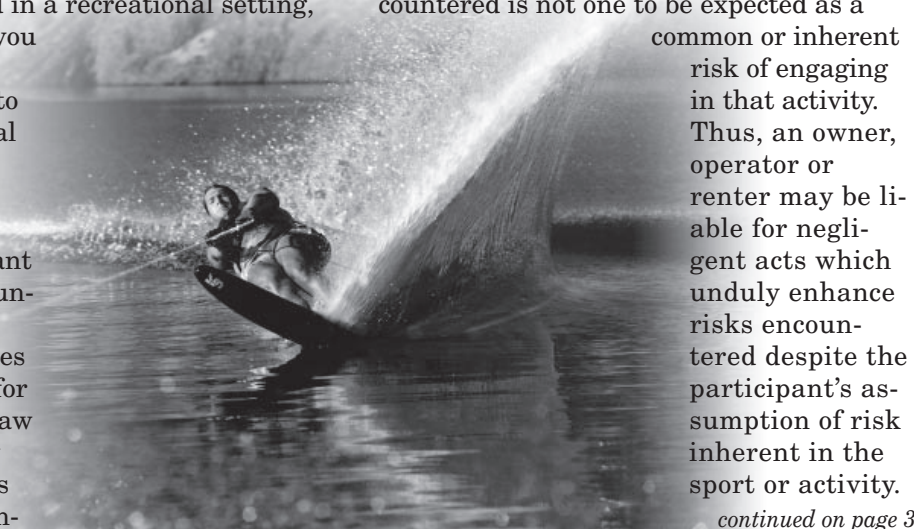
Second, if an incident involves minor children, it's important for your patients to understand that in the use of written releases to disclaim liability for injury, Washington law regarding pre-injury releases of liability is clear. Parental pre-in-

jury releases are not an effective bar to liability. This is not necessarily true regarding releases signed by adults prior to engaging in a recreational activity or use of a recreational vehicle. However, again, the context and language of the release must be analyzed before any decision can be made about the potential for recovery against a landowner, amusement park operator or renter of a recreational vehicle.

Generally, releases are intended to inform the potential participant or renter of the dangers inherent in an activity. The release is designed to show that the potential participant has expressly and knowledgeably assumed a risk inherent in the activity contemplated. However, no release can act as a bar to liability if the actual risk encountered is not one to be expected as a

common or inherent risk of engaging in that activity. Thus, an owner, operator or renter may be liable for negligent acts which unduly enhance risks encountered despite the participant's assumption of risk inherent in the sport or activity.

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Keep an eye on upcoming issues of this newsletter for information on our complimentary...

Legal Educational Seminars

Critical Time Limits on Personal Injury Claims

There are specific time limits within which a personal injury case must be brought; these time limits are called "statutes of limitations."

"Within" means before the time period expires. If, for example, an automobile collision occurred in Washington on June 5, 2000, and a person waits until June 5 three years later to file a lawsuit, that person may have waited one day too long and lost his or her right to sue. The applicable time limitations are of critical importance, because failure to either resolve any claims or file a lawsuit within the time period provided by the applicable statute of limitations will usually result in a loss of the right to bring any claims against the at-fault party or parties.

As summer gets under way many people will be taking vacations throughout the United States and British Columbia. People will be driving outside of Washington, either in their own car or in a rental car, and some will unfortu-

nately be involved in automobile collisions through no fault of their own. It is important to be aware of the general personal injury statutes of limitations in areas of the United States outside of Washington and in nearby British Columbia. Be aware, however, that there are literally dozens of additional statutes of limitations and other issues that may affect a person's right to bring a personal injury case. It is important that your patients contact an attorney should there be any questions regarding their rights to make a personal injury recovery.

For most, but not all, automobile collision claims, the general statutes of limitations for personal injury actions around the United States and in British Columbia are shown in the chart below.

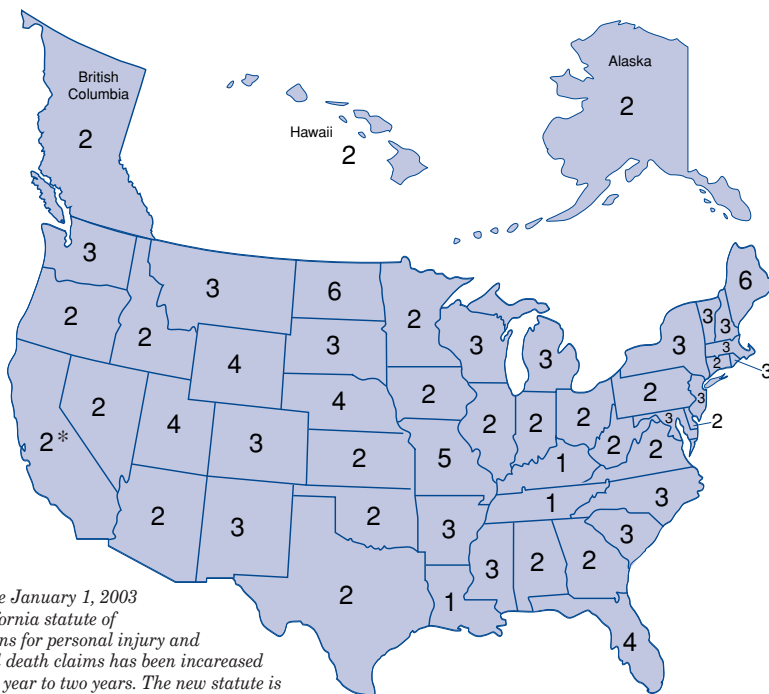
Again, these statutes of limitations are **general** and may not apply in every case. Cases involving a death or claims against a governmental entity may have a shorter statute of limitations period. Your

injured patients should call an experienced attorney for advice at the time that an automobile collision occurs and not wait until too much time has elapsed and their right to recovery is lost.

Claims against a governmental entity, including any state government agency, city, county, or the federal government and its agencies, may require additional written, mandatory notice of claims. Also, shorter limitation periods may apply to governmental claims. Often, a person injured by a governmental entity or agent of a governmental entity neglects to file a notice of claim within specific statutory time periods and his or her claims against that governmental entity are lost. Once again, it is important to contact an attorney immediately after a claim arises. Any delay could result in lost claims.

There are many exceptions to the above-referenced periods of limitation, and accurately determining which statute of limitations is applicable, and any notice period that may apply in a particular case, can be complex and technical. Also, different statutes may apply to different claims arising out of the same incident. The time periods also may vary depending upon whom the case is brought against. It is therefore critical that injured people consult with an attorney immediately when a potential claim arises.

We are available to meet with your patients in regard to personal injuries that may occur in any state or in Canada. We can represent your patients in bringing claims in other states! We often associate with attorneys around the country on cases when suit must be filed on claims arising outside of Washington. Your patient is in good hands at Graham Lundberg & Peschel, and we are just a phone call away.



**Effective January 1, 2003 the California statute of limitations for personal injury and wrongful death claims has been increased from one year to two years. The new statute is silent as to retroactivity. The most prudent choice is to assume that all claims arising in 2002 have a one-year statute of limitations and that claims arising in 2003, and afterwards, have a two-year statute of limitations.*





Convenient Locations

Do you know we have satellite offices in many surrounding communities? Because we are aware that it is often difficult for people who live in outlying districts to come to one of our main offices, we make it as simple as possible for potential clients to meet with us. Graham Lundberg & Peschel has convenient locations throughout the Puget Sound and Peninsula communities where our attorneys can meet and consult with your patients if the need arises. Following is a list of our locations for your reference.

Main Offices

Seattle

500 John Street
Seattle, WA 98109

Tacoma

1420 South Union Avenue
Tacoma, WA 98405

Port Orchard

502 High Street, Suite 201
Port Orchard, WA 98366

Satellite Offices

Auburn

128 – 14th Street S.E.
Auburn, WA 98002

Bellevue

Northup North Building
2310 – 130th Avenue S.E.
Bldg. B, Suite 100
Bellevue, WA 98005

Burien

920 S.W. 152nd Street, Suite 101
Burien, WA 98166

Everett

10303 – 19th Avenue S.E.
Everett, WA 98208

Federal Way

Pacifica Park Building
33838 Pacific Highway South
Federal Way, WA 98003

Gig Harbor

5262 Olympic Drive N.W., Suite B
Gig Harbor, WA 98335

Lakewood

11120 Gravelly Lake Dr. S.W., Suite 6
Lakewood, WA 98499

Lynnwood

19303 – 44th Avenue W., Suite A
Lynnwood, WA 98036

Marysville

1612 – 4th Street, Suite 200
Marysville, WA 98270

Puyallup

Puyallup Executive Park
1011 East Main, Suite A-401
Puyallup, WA 98372

Renton

Evergreen Building
15 S. Grady Way, Suite 520
Renton, WA 98055

One of our attorneys would be happy to meet with any patient of yours who might benefit from a legal consultation, and we have made it easy to arrange an appointment at a convenient location. See Page 4 for our telephone numbers.

Recreational Accidents, continued from page 1

For example, in the context of go-kart rides, let's assume that an operator allows a person with a cast to drive a go-kart, although the cast prevents him from properly operating the controls. Let's further assume that that go-kart is involved in an accident and injury to another person. The operator may be liable for negligence in allowing a person to participate who has an obvious impediment to properly controlling the vehicle. Such a circumstance would not be reasonably contemplated or assumed, either expressly or by im-

plication, by the signing of any release. Thus, a go-kart operator, like any other purveyor of amusement, must act reasonably and prudently in the operation of their amusement; despite the usual signage of "ride at your own risk," they can be held liable for enhancing or increasing the risks their patrons may encounter.

In sum, recreational liability can arise in various circumstances, and it takes a legal professional to assess the circumstances and the law that applies in any injury situation. In addition, timing is often of the

essence, as inspections of premises, vehicles, or apparatus may affect the liability analysis in a critical manner. Determining the strength of a liability claim should be done as soon as possible after a patient presents for treatment. It may lead to recovery of payments for treatment, as well as compensation for pain and suffering, depending on the circumstances, but only a legal professional can assist a patient in this analysis. Our firm's attorneys are available for free consultation concerning injuries sustained in a recreational setting.





Attorneys at Law

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.

Our Attorneys

John Graham
Scott F. Lundberg
Brian J. Peschel
Kenneth B. Golden
Cydny Campbell Webster
Sean A. Ayres
Angela DeWig
Kenneth Barry Dore
John Webber
*John Williams
Rodney G. Zerr
Tara Eubanks – Intern
Tim Jones – Intern
Ben Lambert – Intern
*admitted in Ohio only

Our Paralegals

Patricia Clanton
Patti Cryder
Kimberly Cutting
Johnnie Dano
Kathleen Gottlieb
Judy Hanson
Lora Harris
Grace Stephens
Heather Webb

Our Administration

Arlene Bolger
Tamara Briggie

Administration, cont.

Diane Daniel
Ann Harris
Thelma James
Brian Jones
Heather Kelly
Martha McDonald
Becky Moilanen
Lucinda Pieczatkowski
Tom Reger
Paula Rhyne
Krystal Starwich
Celine Cloquet Vogler
Marie Wohlert

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**
- 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**
- Tacoma 253-627-7701**

Or Call Toll Free

North Puget Sound area including King & Snohomish Counties
800-422-4610

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

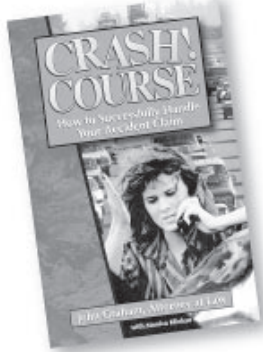
or visit us online...
www.glpattorneys.com

Are Your Patients Asking Questions About Their Recent Accident And You Don't Know Where To Turn For Help?

YOUR PATIENTS NEED...

Crash! Course

By John Graham
How to Successfully Handle Your Accident Claim



Call our office for your complimentary copy at (800) 422-4610



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