

# Recovery & Resolution

A LEGAL NEWSLETTER FOR  
HEALTH CARE PROFESSIONALS



Graham Lundberg & Peschel *Founded 1979*

## Graham Lundberg & Peschel's Top Ten Dos and Don'ts in a Personal Injury Case

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1. **DO** complete the HCFA billing form fully and correctly.

2. **DO** document specifically how the patient's activities of daily living are affected by his or her injuries.

3. **DO** make detailed, legible and accurate chart notes that document all subjective complaints and objective findings.

4. **DO** a full initial exam after any new injury or new accident.

5. **DO** document pain complaints or symptoms as a result of the subject accident even if they pertain to an area of the body that you are not treating. (*See illustrative story on page 3.*)

6. **DO** document and photograph any abrasions, bruising and swelling found immediately after the accident.

7. **DO** refer out for other treatment or diagnostic modalities when appropriate.

8. **DO** make sure you are aware of all the treatment your patient is receiving for his or her injury. (*See illustrative story on page 2.*)

9. **DO** ensure that all available medical coverage is utilized, including personal injury protection and health insurance.

10. **DO** encourage free legal consultation with a qualified personal injury attorney.

1. **DON'T** release any medical records without a HIPPA-compliant medical authorization.

2. **DON'T** ignore that the patient had a preexisting condition, disability or dormant condition prior to his or her accident.

3. **DON'T** talk to your clients about settlement.

4. **DON'T** let your patients meet with the opposing adjuster.

5. **DON'T** forget to file and renew your lien pursuant to RCW 60.44. (*See illustrative story on page 2.*)

6. **DON'T** send all your bills to the PIP carrier at one time. Bill frequently and promptly.

7. **DON'T** ignore the PIP carrier's request for treatment updates, reports or records.

8. **DON'T** send prior records to the third-party adjuster before discussing it with your patient and obtaining the patient's consent.

9. **DON'T** forget to document work or activity restrictions in your chart notes and/or findings and write a disability slip for the patient. (*See illustrative story on page 3.*)

10. **DON'T** send your patient to an insurance-requested independent medical exam without having him or her first consult with a qualified personal injury attorney.



Introducing a New Seminar Topic...

The Top Ten Dos and Don'ts in a Personal Injury Case

See page 3

# File and renew liens pursuant to RCW 60.44

**D**ON'T forget to file and renew your liens pursuant to RCW 60.44.

Even though it may be a hassle and an administrative nightmare, do not forget to file and renew your liens. This lesson was perfectly illustrated by a recent case handled by our South Sound office. A local health-care provider had treated a patient over the course of several months and had outstanding billings exceeding \$1,000. Despite the relatively small amount of treatment, the health-care provider dutifully and properly filed a lien and renewed it per the lien statute, RCW 60.44. Most importantly, the health care provider notified the third-party insurance carrier via certified mail, return receipt requested. As luck, or the lack thereof, would have it, the patient (not a client of Graham Lundberg & Peschel) and her attorney accepted a settlement and cashed the settlement check without paying the health-care provider.

The health-care provider contacted our office to discuss his options. We asked the health-care provider to provide us with proof of the outstanding billings, proof of the properly filed and renewed lien, and proof of receipt by the third-party insurance carrier. We then contacted the third-party insurance carrier to alert them of their violation of provisions of the lien statute (RCW 60.44.050). Our office informed the third-party carrier that, despite having made settlement with the patient and having received a release and hold-harmless, they were still

required to satisfy the health-care provider's lien. After much debate (which detailed the fact that attorneys' fees and costs would be sought in litigation over the lien), the third-party insurer acquiesced and paid the full amount of the lien to the health-care provider.

The health-care provider's time and effort in properly completing, filing, renewing and serving his lien paid off in protecting his work. This effort allowed the health-care provider to satisfy this otherwise "realistically not collectable" account.

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## Be aware of all the treatment your patient is receiving

**D**O make sure you are aware of all the treatment your patient is receiving for his or her injury.

Prior to hiring our law firm our client had treated with two chiropractors simultaneously, a different chiropractor every other day. According to the client, he was treating with each chiropractor for different reasons. Unfortunately, neither chiropractor knew of the other. This seriously jeopardized the client's case and caused us to have to file a lawsuit. The simultaneous chiropractic treatment became a significant issue in litigation with respect to whether all the treatment was reasonable and necessary. It was difficult for either doctor to make an opinion on the reasonableness and necessity of the treatment when the doctors were unaware of other treatment the patient was receiving at the same time. It is important to ask the patient about other treatment they may be receiving, or your opinions may be seriously questioned if the case enters litigation.

### Are You Ready To Play!

September 11th is  
**The 2004 WSCA Golf Classic**  
At High Cedars Golf Course in Orting, WA



Sponsored by Graham Lundberg & Peschel  
For more information contact  
Bud Greene at the WSCA (206) 878-6055





# Document pain complaints

**D**O document pain complaints or symptoms as a result of the subject accident even if they pertain to an area of the body that you are not treating.

Sometimes it's just the "littlest things" that can change the complexion of a personal injury case. Recording symptoms and complaints from conditions that you may not even treat or diagnose can be critical to the legal practitioner and your patient. We have had chart notes, generated within a week of the accident, which establish that a serious condition, diagnosed after a significant delay, was caused by the trauma of a motor vehicle accident.

Our client tried to establish that he could no longer run in half marathons or on his treadmill, which were his preferred means to exercise and recreate. After consultation with an orthopedist, more than 14 months after the automobile accident in which he was run off the road into a ditch, it was established that he had cartilage and ligament damage in his knee, which required arthroscopic examination and repair. After obtaining the chart notes from his family physician, it was found that there was one small entry of bruising and

tenderness of his knee, and complaint of pain behind the knee, probably caused by hitting the steering column or dashboard. At that point, the third-party insurer tendered their liability limits and our client was able to successfully assert a UIM claim to receive full recovery.

We also have a case where a major component of our client's claim is a closed head injury with long-term effects on her work and activities of daily living. She reported to her chiropractor immediately after her automobile collision with complaints of neck and back pain. She also informed her chiropractor that she had hit her head in the accident. The chiropractor treated her for her neck and back pain but failed to record her head injury complaints. Seven months after the collision, she reported to a medical doctor for memory problems and was diagnosed with a closed head injury. The insurance company for the at-fault party denied the head injury claim due to the "delayed onset of symptoms." Unfortunately, this forced us to file suit in this case to prove causation. The lesson learned is that it is important to record *all* complaints in the medical records as soon as the complaints are reported.

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# Document work or activity restrictions

**D**ON'T forget to document work or activity restrictions in your findings and write a disability slip for the patient.

One of our clients sustained enough injury in his accident that his chiropractor ordered him off of work for over three weeks and then had him on limited work duties for another six weeks. The chiropractor did a great job documenting the work restriction in his chart notes

with an explanation in his records of what the patient did for work and why his injuries would prevent him from working. Additionally, the chiropractor wrote out prescription and disability paperwork. Thanks to the chiropractor's careful documentation of the work disability, we were successful in obtaining PIP wage loss benefits and in obtaining a third-party settlement to cover wage loss.

## EDUCATIONAL SEMINARS—NEW TOPIC!

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

**Join us in a discussion regarding:**

### THE TOP 10 DO'S AND DON'TS IN A PERSONAL INJURY CASE

**This is one seminar you don't want to miss!**

Thursday, **August 19**  
**Everett** — Howard Johnson Hotel

Wednesday, **August 25**  
**Olympia** — Olympia Country Club  
**New Location!**

Thursday, **August 26**  
**Bellevue** — Red Lion Bellevue Inn

Wednesday, **September 8**  
**Tacoma** — Cliff House Restaurant

Thursday, **September 9**  
**Federal Way**  
Verrazano's Restaurant

Thursday, **September 16**  
**Renton** — Holiday Inn

Wednesday, **September 22**  
**Steilacoom** — E.R. Rogers Mansion

Thursday, **September 23**  
**Port Orchard**  
McCormick Woods Country Club

Thursday, **September 30**  
**Seattle**  
Best Western Executive Inn

Enclosed is an RSVP form. Plan to attend this informative seminar!

- All Seminars: 12:30 – 2:00 pm
- Complimentary Lunch Will Be Served
- This Seminar is for Doctors, Therapists, and their staff!
- Doctors of Chiropractic, Massage Therapists, Physical Therapists will earn 1.5 CE credits





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 M. Graham
Scott F. Lundberg
Brian J. Peschel
Kenneth B. Golden
John A. Hoglund
Cydny Campbell Webster
Sean A. Ayres
Angela L. DeWig
Kenneth Barry Dore
Tara L. Eubanks
John D. Webber
\*John M. Williams
Rodney G. Zerr
\*admitted in Ohio only

**Our Paralegals**

- Rebecca Berdan
Patricia Clanton
Patti Cryder
Judy Hanson
Grace Stephens
Diana Tennison
Catherine Torkelson
Sandi Wandler
Heather Webb

**Our Administration**

- Diane Daniel
Trish Driver
Jill Hanson
Ann Harris
Heather Kelly
Martha McDonald
Becky Moilanen
Lucinda Pieczatkowski
Tom Reger
Erin Roudybush

**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
Olympia . . . . . 360-786-1717
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

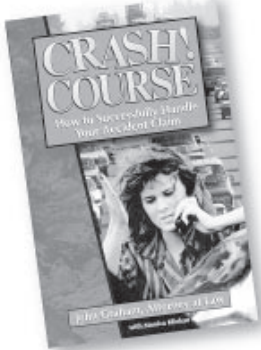
or visit us online... www.glpattorneys.com

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

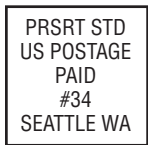
YOUR PATIENTS NEED...

**Crash! Course**

By John Graham
How to Successfully Handle Your Accident Claim



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



500 John Street
Seattle WA 98109

Address Correction Requested