



BACHUS & SCHANKER, LLC

A T T O R N E Y S A T L A W

C O L O R A D O ' S I N J U R Y L A W F I R M

FALL 2003

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Bachus & Schanker, LLC, provides free legal services to 911 victims

After a tragic disaster struck our nation on September 11, 2001, trial lawyers from across the nation, including **Bachus & Schanker** partner **J. Kyle Bachus**, rallied to support the 9-11 victims and their families by providing free legal services to help the victims receive benefits from the federal Victim Compensation Fund.

The September 11 Victim Compensation Fund of 2001 was established in the wake of the September 11, 2001, tragedies to compensate victims and their families for the losses they suffered. **J. Kyle Bachus** was asked by the Association of Trial Lawyers of America (ATLA) to participate in a national program to provide free legal services to these 9-11 heroes. **Bachus & Schanker, LLC** was very excited about this incredible opportunity to help and agreed not only to provide free legal services, but also volunteered to pay Mr. Bachus's expenses to travel to and from New York City during the course of his representation of his assigned client.

Mr. Bachus is honored to represent Rosendo "Rosey" Velez through the Trial Lawyers Care Program. Rosey was a Captain with the New York Critical Response Medical Squad, which participated in the rescue and recovery efforts in the aftermath of the World Trade Center collapse on September 11, 2001. While participating in recovery efforts, Rosey sustained a severe leg injury that developed into a condition known as

lymphedema. Lymphedema is an accumulation of lymphatic fluid in tissue, which causes extreme swelling and can cut off oxygen availability in the lymphatic transport system, which can lead to severe infection.

Rosey has developed severe stage-3 lymphedema, which means the swelling in his legs is irreversible and the tissue has become hard and unresponsive. As a result, Rosey is essentially bedridden and unable to move his legs. Due to the injuries he received in the recovery efforts of September 11, 2001, Rosey is permanently disabled. Rosey lives in New York and is married with two daughters, ages 12 and 5. Rosey is an American hero whom we are proud to represent and ensure that he receives the best care, treatment, and support available.

"When Kyle called and said he was coming out to meet with me over Memorial Day Weekend, that really threw me for a loop," Rosey said. "At that point in time, everything had been so negative, and Kyle coming out here was the first positive thing that had happened for me in this situation in the last two years. With all the red tape involved in making this claim, Kyle is the only person who has made this process easier, and I appreciate all of his support and guidance in this process."

Rosey's story is just one of thousands of stories from victims of September 11, 2001. The attorneys participating and donating their services to Trial Lawyers Care, Inc., are dedicated to providing top-quality legal services to ensure that these heroes receive fair and just representation to the compensation fund in order to begin the healing process. **Bachus & Schanker, LLC**, welcomes this incredible opportunity to provide a service to those truly in need of compassionate legal assistance.

"This is what being a trial lawyer is all about," said Bachus. "I am truly honored to help. As with all of our clients, the victims of 9-11 are real people who face real legal problems, and we are providing real solutions. When any tragedy happens to an individual or family, we want to be there to help pick up the pieces and provide guidance, support, and solutions as they begin putting their lives back together."

Client access page up and running

Bachus & Schanker, LLC wants clients to remember our online "Client Access" Web page designed so you can make inquiries and be provided with updated information about your case 24 hours a day, every day. All you have to remember is coloradolaw.net. You can find the link to the "Client Access" page on the top left-hand side of the **Bachus & Schanker, LLC** home page. Click on the link and you will find a window where you can make your inquiry as well as a drop-down menu where you can select the case manager, paralegal, or attorney who will receive your inquiry. Try it and let us know what you think!

We take your family's safety and security personally.

PHARMACISTS' ERRORS

No one really knows how many patients receive incorrectly dispensed prescriptions annually.

However, what is known is that:

- In 2002, researchers found medication errors in one in five doses administered in 36 health-care facilities in two states.
- The Institute of Medicine reports that hospitals alone are responsible for medication errors that cost more than \$2 billion annually.
- More than 7,000 patients died from medication mistakes in 1993, up from just under 3,000 deaths in 1983, according to a university study.

The health-care industry has embarked on improving medication dispensing by appointing pharmacists to hospital treatment teams and using computerization to verify prescriptions, doses, and timing.

Patients can take an active role in making sure they get the right prescriptions. When picking up any medical prescription:

- Ask the pharmacist to verify that the prescribed medication has been dispensed for the medical condition it will control.
- Confirm the correct manufacturer, form, quantity, strength, and use schedule.
- Question the physician or pharmacist about potential side effects.
- Carefully read all accompanying literature to obtain effective treatment.
- Comply with all directions.
- Check with the physician if there are any questions.

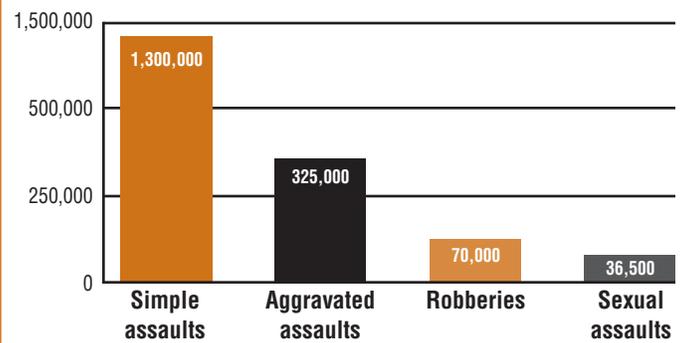
A misfilled prescription

Verify medication correctness with every refill. A diabetic woman who had taken a blood pressure-reducing medication for years was mistakenly given tablets with twice the dosage that the pharmacy's label indicated. After taking an increased dosage for several weeks, she suffered severe reactions and required hospitalization. Although her daughter discovered the medication error and the patient resumed normal dosages, she suffered a fatal heart attack. Her son and daughter sued on behalf of her estate, alleging the pharmacy was negligent and caused wrongful death by misfilling a prescription. Upon retrial, a jury awarded damages.

Workplace violence

Violence in the American workplace is becoming increasingly common. The following chart illustrates types of violent crimes committed in factories, businesses, and retail stores.

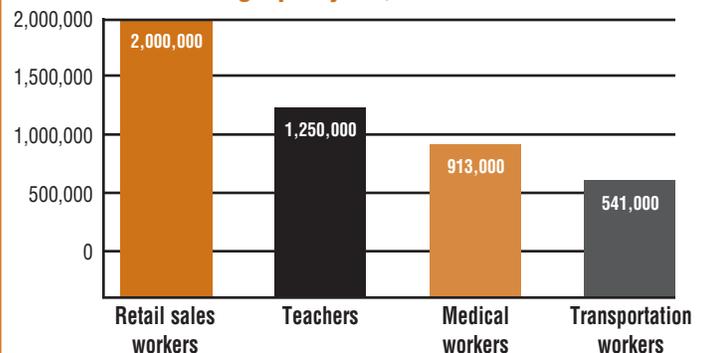
Types of violent crimes committed in workplaces, average per year, 1993-1999



Source: Bureau of Justice Statistics, National Crime Victimization Survey, *Violence in the Workplace, 1993-99* (2001)

Despite what the mass media report, employees at some workplaces are more prone to violence than others.

Types of workers victimized by crime, average per year, 1993-1999



Source: Bureau of Justice Statistics, National Crime Victimization Survey, *Violence in the Workplace, 1993-99* (2001)

Workplace crime takes its toll among workers in the form of injury, mental anguish, and even death. Victims' recourse is usually Workers' Compensation. However, in some cases, employees can seek legal remedy through premises liability, negligent or inadequate security, or from third parties, such as unions, franchisors, or security firms.

The employment manual

The estate of a deceased worker brutally murdered at a steel mill sued for damages. The plaintiff's lawyer won the estate's breach-of-duty-to-provide-employee-security case by using the company employee handbook. The manual stated that the employer would maintain a trained, responsive security force that would keep uninvited individuals—like those who committed the murder—away from the premises.

Pregnancy discrimination

Several key laws, including Title VII of the Civil Rights Act of 1964 and an amendment, the Pregnancy Discrimination Act, require employers who hire 15 or more workers to treat pregnant women the same as other applicants or employees affected with similar abilities or limitations.

Q: Can an employer refuse to hire a pregnant woman?

A: No. As long as she can perform her job's tasks, an employer cannot refuse to hire a woman because of her pregnancy or pregnancy-related condition.

Q: What if a woman is temporarily unable to do her work because of pregnancy?

A: The employer must treat her as it would any other temporarily disabled employee by adjusting job tasks, reassigning other available work tasks, or granting disability leave or leave without pay.

Q: Must an employer grant maternity leave?

A: Yes. Employees have the right to ask for voluntary leave for pregnancy, childbirth, and parenting under a company's short-term disability plan or the Family and Medical Leave Act.

Q: How does pregnancy and maternity leave affect other employee benefits?

A: Employers must treat employees who have pregnancy-related disabilities identically to other temporarily disabled employees for salary increases, accrued vacation, seniority, and other benefits.

Q: How long does an employer have to hold a job for a woman on pregnancy leave?

A: The same length of time as it holds jobs open for other employees on sick or disability leave.



Consult Human Resources or legal counsel for pregnancy-rights questions.

Oral vs. written contracts

For many people, their word is their bond in business transactions or personal deals. So a lot of buying, selling, and bartering is accomplished through oral contracts, which are earnest and mutual promises to do things.

Usually, these kinds of contracts are pledges to provide products or services for money. They are legally enforceable in court if either party, such as a business and a customer, cannot agree that the terms or conditions of the contract were met.

Oral contracts are subject to many misunderstandings. Language confusion is one. "I'll have it ready for you Friday" may mean "this Friday" or "a week from this Friday." Hearing problems can also mix up results. "Part 6D" can be heard as "Part 60." Physicians' poor handwriting has always put them, and pharmacists, at risk for prescription errors.

It's almost always best for anyone involved in a personal or commercial arrangement to document all oral contracts with simple memos or e-mails. That gives everyone a record of the offer to do something, when it should be done, the acceptance agreement, and the consideration—the money or other value—to be exchanged in the transaction.

Problems with oral contracts should be discussed with an attorney.

CREDIT-REPORT ERRORS

Any consumer who wants to obtain a credit card, secure a loan such as a mortgage, or conduct most kinds of business needs to have an acceptable credit rating.

Three major agencies—Equifax, Experian, and Trans Union—compile individual consumer credit data and provide almost all of the credit-reporting services used by businesses, lenders, and anyone else investigating a person's credit quality.

Most credit reports issued by these companies have four parts:

Identifying information, such as name, address, Social Security number, date of birth, and other basics consumers provide when they apply for credit.

Credit information on accounts, including creditor names, dates accounts were opened, credit limits, debt, payment patterns, and other data from companies consumers do business with.

Public record details feature bankruptcy and court records, financial judgments, tax liens, and other information from public sources.

Inquiries identify anyone who has asked for a consumer's credit report.

When agencies err

After information appears in a credit report, it can be difficult to change—even if it's incorrect. A study of more than 100 credit reports found that nearly a third contained serious errors that could have jeopardized getting a car loan, mortgage, or employment.

Litigation has increased over the past several years, and a fairly recent case shows how consumers can fight for their rights. An Oregon woman continually asked Trans Union to remove inaccuracies from her credit report for six years. She sued the agency after she was unfairly denied a mortgage. Her attorney won her the largest-ever award under the Fair Credit Reporting Act; her award included compensatory and punitive damages.

Anyone facing serious credit-reporting problems should obtain legal counsel.

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The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

Schanker elected to CTLA leadership

Darin L. Schanker was recently elected as treasurer of the Colorado Trial Lawyers Association (CTLA) at their annual convention in August 2003. This position puts Schanker in line to serve as president of the organization in 2007.

CTLA is an organization committed solely to the protection and advancement of individual and consumer rights through the judicial, legislative, and administrative processes. As treasurer of CTLA, Schanker will be directly involved in the organization's legislative efforts, which focus heavily on protecting consumer interests at the State Legislature every spring.

Colorado is known as a bellwether state when it comes to tort reform in that the rest of the nation watches how reform takes place in Colorado before tackling sensitive issues themselves. As an organization, CTLA has a vital role as a watchdog of the governing process and ensuring that individual rights and consumer interests are protected against other special interests.

When the Legislature recently rewrote the auto insurance system laws in an effort to lower premium rates, in addition to working with CTLA, **Schanker** and **Bachus & Schanker, LLC** partner **J. Kyle Bachus** hired their own lobbyist to protect consumers' pocketbooks and access to the courts. **Bachus & Schanker, LLC** engaged in a hard-fought lobbying effort, in which the Legislature ultimately realized the best alternative to the no-fault system was for Colorado to move forward to a pure-fault system.

Schanker's legislative and leadership skills will be a strong asset to CTLA as the organization continues to fight for individual rights and liberties.

FIRM NEWS

Couple awarded \$515,000

When a 16-year-old boy became distracted by talking on his cell phone and driving an SUV at the same time, his decisions had devastating consequences. He ran a stop sign and crashed into another car, seriously injuring the car's occupants.

The female passenger of the car suffered a severe fracture to her left knee, which required extensive surgery and nearly 20 days as inpatient in hospital and rehabilitation facilities. In addition, her husband, the driver of the car, suffered lower back and severe shoulder injuries, including a torn rotator cuff and a torn bicep tendon. This gentleman endured extensive medical and rehabilitative treatment and will ultimately require surgery to repair his injuries.

J. Kyle Bachus represented this couple in their claims against the 16-year-old, his parents (the parent's car was involved), and their insurance company. Under the direction of **Mr. Bachus, Bachus & Schanker, LLC** put its team of investigators, paralegals, and medical specialists to work to document and develop this case. The hard work paid off as Mr. Bachus was able to obtain an award of \$515,000 on behalf of this wonderful couple.

This case underscores the importance of exercising caution when driving your car and talking on your cell phone. A brief call to home on your cell phone can mean a 911 call for another car. **Bachus & Schanker, LLC** congratulates their clients on a well-deserved recovery, and we urge extreme caution when driving and using a cell phone.