



BACHUS & SCHANKER, LLC

ATTORNEYS AT LAW
COLORADO'S INJURY LAW FIRM

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Bachus & Schanker, LLC
Attorneys At Law

1400 16th Street
Suite 450
Denver, CO 80202
303-893-9800
877-653-9800
FAX: 303-893-9900

155 East Boardwalk Street
Suite 400
Fort Collins, CO 80525
970-223-9802
FAX: 970-232-3101

e-mail:
info@coloradolaw.net
Web site:
www.coloradolaw.net

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Bachus & Schanker clients recovering after serious injuries

This winter, **Bachus & Schanker, LLC**, helped two of their clients negotiate significant settlements for injuries they sustained because of someone else's negligent behavior.

For Brian M. and Grant M., these settlements will allow each of them to continue their rehabilitation and recovery after two devastating accidents changed their lives forever.

Brian's Story

On the afternoon of November 17, 2004, Brian M. was helping guide a delivery truck into the alley of the restaurant he was working to open. As Brian was trying to help get the delivery truck parked, the driver of the delivery truck suddenly pulled forward and to the left, trapping Brian between the truck, the concrete corner of the building, and a patio railing.

Brian tried to get the driver's attention; however, the driver paid no attention and continued, driving forward and to the right, crashing into a corner of the concrete wall and forcing the concrete wall into Brian's right thigh. Instead of stopping, the truck kept moving, dragging Brian along the rail and tearing open more than 1½ feet of his right leg. Eventually, Brian was able to free his leg from the truck. Over the next seven months, Brian endured three surgeries, numerous infections, and has a permanent deformity in his leg. He missed nearly 34 weeks of work and had to learn to walk again.

The insurance company for the truck driver requested that, prior to filing a lawsuit in this matter, the parties attend a settlement conference, which is a rare request prior to filing a lawsuit. At the settlement conference, the insurance company representatives heard all about the negligent, reckless conduct of their insured, and learned more about Brian and the lifelong ordeal he will endure as a result of this incident. **Darin Schanker, a founding partner of Bachus & Schanker, LLC**, was able to negotiate a \$450,000 settlement for Brian.

Brian, a former football and rugby player, has remained strong and is working hard every day to make progress on his recovery. With this settlement, Brian diligently follows his therapy requirements, thankful for each new milestone he reaches in his recovery, and is getting stronger every day.

Grant's Story

Grant M. has always been an active athlete, devoting his time to running, skiing, hiking, and generally enjoying the Colorado outdoors. On September 21, 2005, however, his life changed forever.

At approximately 7:30 a.m., Grant was driving his Harley-Davidson motorcycle in Louisville when a driver traveling the opposite direction turned left in front of him without looking. Grant tried to avoid the crash but, after slamming on his brakes, he skidded approximately 53 feet, hit the passenger side of the vehicle, and was thrown up and over the vehicle, hitting his head and shoulder on the windshield. Grant was flown by helicopter to St. Anthony's Central Hospital, where he received emergency treatment for multiple lacerations to his face and body, a fracture to



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We take your family's safety and security personally.

Workers' compensation

When insurers refuse to pay

Workers' compensation regulations are state-based insurance programs that effectively cover claims by workers injured on the job or who suffer work-related diseases or illnesses. Insurers regularly handle claims with understanding and efficiency.

On occasion, an insurer may deny claims benefits, as the following case illustrates. Workers should consult an attorney experienced in workers' compensation law for counsel.



Fall from a ladder

When a retail store employee fell from a ladder and severely injured her back, her physician recommended surgery. When she filed a workers' compensation claim, the insurer denied her petitions and an independent Industrial Commission's confirming orders for several years.

The employee's attorney sued the insurer, demonstrating it had not acted in good faith. A jury held for the plaintiff, stipulating a significant award, and held the insurer liable for lifetime medical care and disability benefits for the underlying injury under the state's Workers' Compensation Act.



Drunk-driver accident victims

U.S. transportation authorities claim that motor vehicle accidents involving alcohol kill one victim every 30 minutes. Alcohol-related accidents also seriously injure other victims every two minutes. Annually, more than a million Americans and their families suffer at the hands of drivers who are impaired by alcohol.

Anyone injured in an alcohol-related auto accident should seek the counsel of an experienced attorney to obtain compensation for medical treatment, lost income, emotional distress, and other damages.

Third-party responsibility

In addition to seeking recompense from negligent drivers and their insurance providers, personal injury attorneys may also uncover liability of third parties, such as restaurants and other establishments that serve or sell alcohol.

A drunk driver ran a stop sign, collided with another vehicle, and killed its driver. When the victim's wife and estate sued for wrongful death and emotional distress, the plaintiff's attorney also made a claim against a nightclub that served the drunk driver alcohol immediately before the accident. The parties settled before trial.



Pharmaceutical RESEARCH Dollars

Pharmaceutical marketing

U.S. drug manufacturers spend 2.5 times more money on marketing drugs to consumers and doctors than they invest in pharmaceutical research.

To make windfall profits on prescription drug sales, pharmaceutical companies spend billions influencing physicians and other health-care providers to prescribe and utilize their medications.

In one case, former Medtronic employees blew the whistle on the company's marketing generosity, which included giving doctors financial kickbacks. Their case settled in federal court in August 2006 for \$40 million.

In other lesser instances, medical-school professors claim that drug representatives often provide many doctors' offices free lunches, some costing as much as \$250, to buy access for sales.

Access costs American consumers millions and adds billions to drug companies' marketing annually. In 2004, Merck alone spent \$7 billion in marketing, compared with \$4.01 billion in research. Public Citizen, a consumer advocacy group, reported that in 2005, the pharmaceutical industry committed more than \$60 billion to marketing efforts.

FOR YOUR SAFETY

Recalled product roundup

Here are some recently recalled products you may have in your home or at work:

- ✓ **Target Stores** is voluntarily recalling 185,000 Firestreet Scooters. The handlebars, wheels, and brakes can break and detach, causing rider injuries.
- ✓ **Acuity Specialty Products Group, Inc.**, asks consumers to return 6,800 five-gallon pails of "Zep Industrial Purple Cleaner & Degreaser" and "Zep Heavy-Duty Floor Stripper" cleaning products, which can crack, leak corrosive products, and harm users.
- ✓ **Atico International USA, Inc.**, has recalled 209,000 folding picnic tables with legs that can unexpectedly buckle, break, fold, or collapse, injuring users.
- ✓ **Fun Express, Inc.**, has called back 340,000 bendable toys given away at libraries. The toys are decorated with paint containing excessive levels of lead, which is banned under federal law. Lead is toxic and, when ingested by children, can cause adverse health effects.
- ✓ **Black & Decker** has requested buyers to return 160,000 cordless electric mowers. An electrical component in the lawn mower can overheat, catch fire, and burn users.

Damages limitations

- Can lawsuit damages caps harm those injured? Damages-cap legislation restricts amounts a jury can award for injuries, no matter what case facts may be. Some state legislatures have enacted caps in civil cases, while others have not. Some caps apply to specific kinds of cases, such as medical malpractice. Other caps limit only noneconomic damages, and some limit punitive damages.
- In states that cap damages, a jury's or judge's award is automatically reduced to the amount of the cap—even though the

Legal dictionary

Many clients find legal terms mystifying. From time to time, we'll provide easy-to-understand definitions to help clear things up. This time, you'll learn the meanings of several important terms used in courts to help you better understand our legal responsibility concepts.



Liability

A person's, group's, or business entity's legal responsibility for an injury or loss for which they are responsible.

Negligence

The failure to exercise the kind of sufficient care that a reasonably prudent and careful person would use under specific circumstances. If an injury results from another's negligence, that person or entity may be liable to pay damages for any injury they caused.

Statute of limitations

An arbitrary time limit—in years—that cuts off a plaintiff's ability to file an injury case after a certain period of time from the date of the injury, even if the injury is not detected until much later.

Statute of repose

Another arbitrary time limit—in years—that terminates a corporation's responsibility for marketing faulty or dangerous products.



jury or judge may believe the plaintiff should be awarded more than the cap as compensation, or even if the circumstances of the case show that a negligent or malicious defendant should be punished with a significant punitive-damages award. There is generally no way to raise a damages award beyond the cap once it is written into law.

Here is an example of how a cap of \$250,000 on noneconomic damages may be incredibly unfair to some victims.

Who is harmed	The victim's injuries or losses	The amount the jury originally believed should be awarded	The amount the victim is awarded based on the legislature's cap
VICTIM A	After being hit by a drunk driver, the victim's car caught fire. Her husband (a passenger) was killed, she was burned and left disfigured, and lost the use of her right arm. She was a homemaker and can no longer work.	\$1.2 million noneconomic damages	\$250,000 noneconomic damages
VICTIM B	After being hit by a drunk driver, this victim suffered two broken legs, had to have surgery to repair them, and was forced to wear a full body cast for two months.	\$250,000 noneconomic damages	\$250,000 noneconomic damages

VICTIM A, who suffered worse injuries than VICTIM B, nonetheless takes home the same compensation for her losses as VICTIM B. Even though the jury thought VICTIM A deserved far more compensation, the jury's judgment was overruled by a cap put in place by the legislature long before VICTIM A's case ever arose.

BACHUS & SCHANKER, LLC
Attorneys At Law
1400 16th Street, Suite 450
Denver, CO 80202



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FIRM NEWS

Bachus presents evidence seminar

Bachus & Schanker founding partner Kyle Bachus spoke at a seminar on December 20, 2006, for the National Business Institute (NBI).

Bachus discussed effective discovery techniques for preparing a case for trial. Discovery is a phase of the litigation process in which the different parties attempt to gather information that will support their claims or defenses. Bachus is a frequent lecturer for the National Business Institute, as well as other bar associations and groups. He frequently lectures on developing trial and litigation strategies.

Schanker and Bachus work on laws to help consumers

Bachus & Schanker founding partners Kyle Bachus and Darin Schanker are working with the Colorado Trial Lawyers Association (CTLA) and the Association of Trial Lawyers of America (ATLA) to propose new legislation that will improve the laws for Colorado consumers. Colorado state legislators will return to the State Capitol in early January for the 2007 legislative session. We will provide more information on upcoming legislation of interest to you and your family as the session moves forward.

Bachus & Schanker clients recovering after serious injuries

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his ankle, a closed head injury, and a fractured wrist. Grant remained in the hospital for eight days and underwent ankle surgery prior to being removed to Boulder Community Hospital for five days of inpatient rehabilitation.

Grant has spent the last year and a half undergoing extensive rehabilitation and cognitive therapy. He endured a separate wrist surgery and dental surgery for injuries sustained in the crash, as well as short-term memory loss and cognitive problems. He was out of work for two months after the crash, and then was laid off from his job as a master electronics technician shortly after his return. Due to his determination and rigorous rehabilitation program, however, Grant has made a remarkable recovery. He has resumed running and other activities, and he is working diligently to improve his cognitive abilities and memory recall.

The attorneys at **Bachus & Schanker** were able to negotiate a settlement with the at-fault driver and Grant's underinsured motorist carrier for \$500,000. Additionally, Bachus & Schanker worked with Grant to have vocational rehabilitation and neurological evaluations conducted to determine his future work abilities and cognitive therapy.

As a result of this settlement, Grant now has the resources to continue his remarkable recovery and therapy, and potentially pursue retraining education in physics or engineering.

"These are tremendous results for both Brian and Grant," Schanker said. "Our goal in every case is to ensure that wrongdoers are held accountable for their actions, and to help our clients ensure they will have the necessary resources to recover and take care of themselves and their families. We wish the best for Brian and Grant as they continue their recoveries and rebuild their lives after these serious collisions."