



# BACHUS & SCHANKER

COLORADO'S INJURY LAW FIRM

*Our Passion is Justice*

## SPRING 2009

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### 2009 COLORADO SUPER LAWYERS

Congratulations to founding partners J. Kyle Bachus and Darin L. Schanker who have been named 2009 Colorado Super Lawyers. This recognition marks the third consecutive year both attorneys have received this designation.

*"This is a great honor and affirms our commitment to providing the best legal counsel to personal injury victims throughout the state of Colorado," says Kyle Bachus. "We will continue our fight for the rights of accident and injury victims."*

Every year Law & Politics, a division of Key Professional Media, Inc. employs a rigorous multi-phase process in their selection of Super Lawyers which includes peer nominations and evaluations combined



with third party research. Attorneys nominated for Super Lawyers are evaluated on 12 indicators of peer recognition and professional achievement.

The 2009 Colorado Super Lawyers list is based on surveys of thousand of lawyers from nearly 70 practice areas with only five percent of attorneys in Colorado receiving this honor.

### NEW COLORADO LAW MAKES MED PAY MANDATORY ON ALL COLORADO AUTO INSURANCE POLICIES

A new MedPay law, Senate Bill 11, effective January 1, 2009, helps protect those who need medical attention following an auto accident. It also makes limited medical coverage mandatory for auto insurance policy holders, unless the insured opts out in writing.

After no-fault coverage was eliminated in 2003 by governor Bill Owens there was the need to provide auto accident victims with a medical coverage safety net. As a solution, Governor Bill Ritter supported Senate Bill 11 which provides a cushion for Colorado residents who have been injured in auto accidents from the pressure of unexpected medical expenses. The bill also facilitates faster payment to emergency care providers, many of whom were being forced to wait 18 to 36 months for the resolution of the personal injury lawsuit, before receiving compensation for services they provided.

MedPay coverage typically averages about five dollars a month, yet provides \$5,000 in medical coverage without any deductible. That same

five dollars a month to a health insurance company would not provide nearly the same benefit! MedPay can be used by those who lack health insurance, or to supplement an existing health insurance policy. Even if you already have health insurance you still must pay large deductibles for ambulance and emergency room care, instead MedPay is now available to cover those costs. Furthermore, some health insurance policies explicitly state that it will not cover treatment for auto accidents, and if it does you may not be able to pick your doctor; thus, MedPay gives you greater freedom in choosing care providers and saves you a lot of money. Another benefit of MedPay is that the 5,000 dollar limit is for **each occupant** in the car, so even if an occupant does not personally have health insurance they are still covered. The fact that an occupant's medical expenses are covered by MedPay may prevent lawsuits from the vehicle occupants against the driver's insurance.

Auto insurance companies may try to encourage you to opt out of MedPay by falsely telling you that

*continued on page 3*

*“Americans should not be compelled by these mega-corporations to give up their American rights to civil redress in our court system to get basic consumer goods.”*

*—J. Kyle Bachus*

Let's say you've been at odds with your cell phone provider over a suspicious charge. At first glance, arbitration seems like a good idea—it's perceived as faster, cheaper and as a confidential alternative to litigation. But under the current law, if you've signed a contract with mandatory arbitration language, your right to litigate your claim in court has been eliminated.

Consumers are forced to choose between signing the contract with the arbitration clause and give up their right to a trial or to do without products, such as cell phones, credit cards, car loans or even summer camp for their kids.

In reality, the cost of arbitration is prohibitive for most consumers and most arbitration firms are likely to side with the large corporations who are repeat customers.

The Arbitration Fairness Act of 2009 was introduced by Rep. Hank Brown, D-Georgia, in the House of Representatives with a Senate version



due to be introduced soon. This bill would cancel existing arbitration provisions in consumer, employment and franchise disputes. It also gives courts, rather than arbitrators the authority to decide if the arbitration agreement is legal.

Opponents of the bill claim the amendments that were created to help consumers would have a negative impact on com-

mercial arbitration and that it will increase costs, increase resolution timing and create a hostile arbitration environment for international businesses.

Supporters of the Arbitration Fairness Act believe it's about restoring consumers' right to a jury trial.

**To read the full Law Week article by Matt Masich and for more information on the Arbitration Fairness Act and how it effects your rights as a consumer visit our web site at: [www.coloradolaw.net](http://www.coloradolaw.net)**

## **Bachus & Schanker Cares Foundation 2009 Events Calendar**



**May:** King Soopers Charity of Choice Month for Walk Like MADD • [www.coloradolaw.net](http://www.coloradolaw.net)  
**May 9:** 8th Annual Cerebral Palsy of Colorado Mother's Tea • [www.cpcoco.org](http://www.cpcoco.org)  
**May 11:** Electronic Recycling Week at Bachus & Schanker's Denver and Fort Collins offices

**June TBD:** Dolls for Daughters • Tea Party • [www.dollsfordughters.com](http://www.dollsfordughters.com)

**July 11:** Brandon & Paul Foundation • Wall-Bop Golf Tournament • [www.brandonandpaulfoundation.com](http://www.brandonandpaulfoundation.com)  
**July 18:** Dolls for Daughters Bowl-a-Thon • [www.dollsfordughters.com](http://www.dollsfordughters.com)

**August 1:** Mothers Against Drunk Driving • Walk Like MADD • [www.walklikemadd](http://www.walklikemadd)

**September 12:** The Leukemia & Lymphoma Society • Light the Night Walk • [www.leukemia-lymphoma.org](http://www.leukemia-lymphoma.org)  
**September 12:** Pikes Peak Challenge • [www.pikespeakchallenge.com](http://www.pikespeakchallenge.com)

**October 10:** Walk to Remember • [www.walktoremember.org](http://www.walktoremember.org)

**November:** Dolls for Daughters Dolls and Donations Collection • [www.dollsfordughters.com](http://www.dollsfordughters.com)

your health insurance already covers them. The reason insurance companies try to dissuade you from participating in MedPay is not to save you money; it is to force a premature settlement of a case. As an accident victim, you may feel pressure to settle because you are personally responsible for the expense of your treatment following an accident. Oftentimes the bills go unpaid for as long as two years, until a settlement is secured, meanwhile you see your medical bills piling up while receiving collection threats from bill collectors. MedPay can reduce the pressure that many may feel to settle prematurely just to get your medical bills paid.

In looking out for your best interests, the Senate has included a provision in the new act that prevents an insurance company from being reimbursed out of the final settlement. At Bachus & Schanker, we believe that when you pay for a benefit then you should receive that benefit when it is owed to you. If the large auto insurance companies were able to get reimbursed for the \$5,000.00 paid out on your behalf, then the insurance company is essentially loaning you \$5,000.00 and you are paying for an illusory benefit.



Medpay makes financial sense, it's cost effective by covering expenses health insurance may not, and at the same time does not have to be paid back out of the final settlement. Additionally, MedPay may even prevent lawsuits from vehicle occupants to recover medical expenses because it covers each occupant. If you opt out of MedPay you are taking a real gamble; by saving a small amount of money now, it could cost you a lot more later.

### Summing Up How the Changes in MED PAY Law Affects You

The following outlines the major changes to MedPay coverage that will affect your safety net coverage and provides a comparison of the

major effects to the law prior to January 1, 2009, and after January 1, 2009.

#### **Prior to January 1, 2009 Senate Bill 11 Changes:**

- An insurance company was not responsible for any medical bills unless someone was proven to be "at-fault" for the accident.
- Those injured in auto accidents were responsible for paying for their own medical treatment, and would later be reimbursed by the at-fault party if it was determined that there was one.
- Those with health insurance had to pay large deductibles for emergency care and were limited by who they could treat with and what would be covered.

- Those without health insurance had to petition for a lien to secure treatment, and many medical providers refuse to treat on a lien.

#### **After January 1, 2009 Senate Bill 11 Changes:**

- This act shall take effect January 1, 2009, and shall apply to policies **issued or renewed** on or after the applicable effective date of this act.

- The new law requires insurance companies to provide consumers with the option of carrying a minimum of \$5000.00 in coverage per person involved in a collision to cover medical

expenses incurred as a result of an automobile injury.

- An insurance company may try to act against your best interests and encourage you to "opt-out" now to save a few dollars, even though carrying MedPay will save you a lot of money later.
- As an accident victim, you can now avoid paying high health insurance deductibles for emergency care.
- Those without health insurance can seek immediate treatment without the hassle of trying to find a health care provider who will treat the uninsured or receiving collection notices from the hospital's emergency room or for ambulance service.

*If you've been  
injured by  
a drunk driver,  
call the attorneys at  
Bachus & Schanker,  
for a*

**FREE  
CONSULTATION**

**877.653.9800**

*available 24 hours  
7 days a week*



***Mothers Against Drunk Driving  
(MADD) partners with  
Bachus & Schanker on 2009  
Colorado Statewide Sponsorship.***

Bachus & Schanker, LLC is proud to announce it's partnership with MADD by becoming MADD's first Colorado statewide sponsor. In addition to sponsoring the Walk Like MADD event and participating in other programs such as Tie One On For Safety, Bachus & Schanker is honored to extend their sponsorship to a state

wide level in order to help MADD promote its effort to eliminate drunk driving. In 2007, 226 people were killed in Colorado in alcohol-related traffic crashes. Through legislative efforts, law enforcement support, public awareness campaigns, and underage drinking prevention, MADD Colorado aims to stamp out drunk driving in our state and end this 100% preventable loss of life. Bachus & Schanker's statewide sponsorship helps MADD provide services at no cost to over 800 victims and survivors including support from trained advocates and a network of peers, guidance through the judicial process, one-on-one support, and a 24-hour help line.

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*Our  
Passion  
is  
Justice*

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**Trucking Accidents**

**Drunk Driving Victims**

**Motorcycle Accidents**

**Bus Accidents**

**Bicycle Accidents**

**Pedestrian Accidents**

**Medical Malpractice**

**Insurance Disputes**

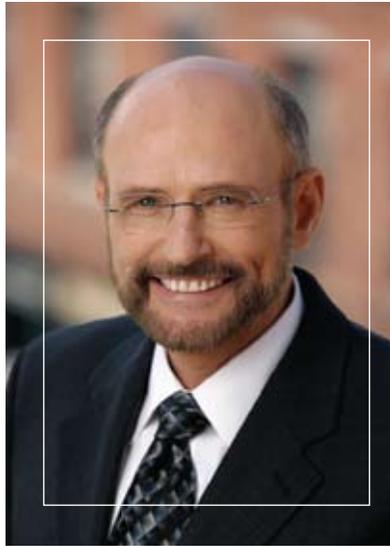
**Product Liability**

**Aviation Accidents**

**Defective Drugs**

**Nursing Home Neglect / Abuse**

**Worker's Comp Claims**



Bachus & Schanker, LLC is pleased to announce that Jeffrey F. Dean has joined the firm as an Associate Attorney. Mr. Dean heads the Fort Collins, Colorado office and as an experienced trial lawyer, he is licensed to practice and has litigated and tried personal injury and auto accident cases in Colorado, Minnesota, Nebraska and Wyoming.

As a former insurance adjuster for one of the largest insurance companies in the United States, Mr. Dean has reviewed and evaluated thousands of injury cases from both the defense and the plaintiff's perspective. He understands the challenges associated with personal injury claims, car accidents and motor vehicle crashes involving drunk drivers.

As Fort Collins residents, Mr. Dean, his wife and twin daughters enjoy the outdoor lifestyle afforded by the unique Colorado climate and beautiful setting of the Rocky Mountains, including Nordic Skiing, snow shoeing, hiking, camping and fitness training.

As a family, they are involved in their community and church. Mr. Dean has served as his church's Social Action Committee Chair and is also an active volunteer at the Catholic Charities Northern Colorado Shelter in Fort Collins.

**Experienced Trial Attorneys**

**Free Consultations**

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