



# PLATTNER VERDERAME, P.C.

## Attorneys At Law

FALL 2004

Plattner Verderame, P.C.  
Attorneys At Law

Richard S. Plattner\*  
Frank Verderame\*  
Randall A. Hinsch  
Daniel R. Salcito\*—Of Counsel  
Leroy W. Hofmann\*—Of Counsel  
Stephen I. Leshner—Of Counsel

\*Arizona State Bar Certified  
Specialist: Injury and  
wrongful death

316 East Flower Street  
Phoenix, AZ 85012

P.O. Box 36570  
Phoenix, AZ 85067

602-266-2002  
Toll-free: 877-805-4LAW  
FAX: 602-266-6908  
email:

[pv@plattner-verderame.com](mailto:pv@plattner-verderame.com)

Web site:

[www.plattner-verderame.com](http://www.plattner-verderame.com)



### PERSONAL INJURY PRACTICE

- Free consultation
- Home appointments available
- 24-hour emergency service
- No recovery. No fee. We do not get paid unless you do.
- Se habla Español
- Board certified trial attorneys

## JUSTICE UNDER ATTACK

As a recipient of this newsletter, you know that the articles contained in it are normally related to legal issues, to discussion of your rights as consumers, and to issues that involve access to justice in the courts.

After the speech given by President Bush recently at the Republican Convention, we are motivated to address some things that he said. Clearly, the president has decided to attack trial lawyers like us and to seek to limit the legal rights of people like you who are injured by car wrecks, defective products, and fraud by insurance companies. The president even chose to attack the court system and citizen juries.

Interestingly, he made only one reference to Osama Bin Laden, but multiple references to trial lawyers and our court system. To us, that says a lot about his commitment to limiting your rights. If his plans to dismantle the court system and deprive you of your rights are realized, you will be denied access to the justice that you deserve.

Some of the corporate and insurance interests that support President Bush want him to take away your rights because they do not want to be held accountable for the pain and destruction of lives that they cause. They want everyone else to have personal responsibility, but they do not want to be responsible or held accountable for their own actions.

We do not intend to suggest or tell our clients and friends how to vote in this or any

election. We understand that the choice is personal and that you will base your choice on the candidates' positions on a wide range of issues. But, we also understand that there is a clear difference between the candidates and their positions when it comes to your rights and your access to justice.

The president wants to limit your rights. For 29 years, John Kerry has consistently voted to support the legal system and the rights of injured consumers. As a firm that is dedicated to fighting for the rights of our clients, rights that have been guaranteed by the United States Constitution, we believe that those rights should be cherished.

We think of the elderly clients who were abused in nursing homes, our clients who were widowed and crippled by drunk drivers, our

clients whose insurance companies refused to pay benefits to them after collecting their hard-earned premium dollars, and all who were harmed by the carelessness and selfishness of others.

It troubles us to see the leader of our country promising to leave you without access to justice and promising to take away your day in court. We remain dedicated to serving all of you and hope that you share the same commitment to justice.

As it says in the Bible, "...let justice roll down like waters, and righteousness like a mighty stream...." (Amos 5:24)



*As a firm that is dedicated to fighting for the rights of our clients, rights that have been guaranteed by the United States Constitution, we believe that those rights should be cherished.*

*We take your family's safety and security personally.*

## HMOs and patient care

To obtain the best care at the lowest cost, HMO members can ascertain their rights and responsibilities from a number of sources.

- At enrollment, members obtain a comprehensive handbook or guide that outlines benefits, treatments, and services the plan covers.
- The HMO plan contract defines benefits, such as deductibles and lifetime limits, with greater specificity.
- The plan's Member Services telephone representatives can advise on what the plan covers, particularly for "out of network" services.
- If HMO coverage is provided through an employer, the company's human resources office can answer questions about plan rules, costs, coverages, appeals, and complaints.
- A state's insurance department can also advise



on HMO patients' rights and responsibilities.

- HMOs customarily pay for services on the basis of specific treatment guidelines, called practice protocols. Members can usually obtain the best medical attention with the highest coverage when participating physicians follow HMO treatment protocols.

### When an HMO plan errs

Most HMOs deliver members' health services as promised in the contracts. When they do not—or deny or delay treatment—members have legal recourse. A diabetic patient with numerous high-risk factors for cardiac disease suffered a myocardial infarction and died. The patient's wife and estate sued the HMO for delaying stress-testing and not prescribing blood-pressure medications. Their lawyer provided evidence that with timely treatment, the patient would have had a near-normal life expectancy. The jury awarded a wrongful-death verdict and damages.

## Manufacturing, employment, and injuries

It's no secret that our nation's manufacturing sector has declined in scope and size over the past decade as productivity has increased and jobs have moved overseas.

Surviving manufacturing companies know that they must continue to make accommodations to remain efficient and competitive. Management may lay off part of its workforce, which means that the fewer remaining employees pick up more of the work. Purchasers increasingly look for suppliers who can provide needed products and services at lower costs. Supervisors may extend or delay maintenance and replacement schedules to get additional months or years of use out of capital equipment. Some companies overhaul and renovate plant equipment rather than replace it.

### Rebuild...with safety

When a maintenance employee crawled beneath a refurbished conveyor system to make an adjustment, the motor's chain drive crushed his wrist and severed part of his pinkie. Since the injury was to his dominant hand, he sued his employer for loss of future wages and inability to do repair work. His attorney argued that the equipment's rebuilder had failed to incorporate an inner chain guard that would have prevented accidental contact with the chain drive. The parties settled.



## Cosmetic surgery



According to the American Society of Plastic Surgeons (ASPS), in 2003 over 8.7 million procedures were performed on patients who wanted to improve their appearance and manage signs of aging—a 32 percent increase over 2002. Invasive surgical procedures grew 5 percent. Minimally invasive procedures, such as Botox® injections, grew 41 percent.

Like all other surgeries, cosmetic surgery involves risk. Reality programs, such as ABC's *Extreme Makeover*, may cause some patients to fail to appreciate the seriousness of cosmetic surgery as well as potential outcome problems and side effects associated with surgery and medications.

ASPS suggests that patients considering cosmetic surgery...

- insist on a physician board-certified by the American Board of Medical Specialties.
- demand safe surgical facilities.
- require a medical examination and evaluation.
- learn all they can about cosmetic surgery.
- seek ASPS-affiliated physicians.
- ask questions.

### Outcome problems

Cosmetic-surgery patients can seek justice in the courts when physicians make preventable mistakes. Following surgery to lengthen his chin, a patient suffered restricted lip movement. The plaintiff's attorney showed that the patient was not warned of the procedure's risk. A jury awarded a judgment, which a judge reduced. The case will be retried.

©2004 Allergan

## Medical technology and premature babies

Neonatal Intensive Care Units (NICUs) are high-technology hospital departments.

Neonatologists have 24-hour access to computerized physiological data on a high-risk or premature infant's health status. Electronic monitors continually assess and report basics, such as temperature, blood pressure, and respiration. Doctors may request specialized high-tech testing to evaluate a baby's blood oxygenation, cardiac functions, and even vision and hearing capabilities.

Equally important is the time and care that skilled and experienced physicians and compassionate staff give to each infant. Newborns' parents recognize the balance between the masses of high-tech NICU equipment and the quality time caregivers spend touching, talking to, and smiling at babies.

### When errors occur

Although NICUs help many newborns survive, parents have recourse when caregivers make preventable mistakes. A baby was born prematurely at 27 weeks of gestation. The hospital's pharmacy erred in mixing a nutritional glucose solution, which caused the baby to suffer hypoglycemia, seizures, and brain injury. The parents sued for negligence and reached a structured settlement for lifelong care.



## HOME WARRANTIES

Builders who construct new homes usually provide a one-year written warranty through which they agree to correct construction or cosmetic workmanship deficiencies.

In most cases, contractors want to satisfy customers. Many construction companies conduct a premortgage settlement walk-through of a new property, which enables owners to identify contractual omissions or substitutions and final-finish blemishes that builders should repair.

Sometime near the end of the first year, the builder may ask owners for a "punch list" of additional problems to be fixed. This is usually the home buyer's last opportunity to point out serious plumbing, HVAC, electrical, and other concerns. It may take 12 months to discover squeaky floors or steps, drywall screws that have popped up, gutters and downspouts that don't work properly, or more serious issues.

After the first year, some builders will continue to repair problems that they reasonably acknowledge as their responsibility. However, others may feel that the warranty's liability has run its course, noting that defective construction or deficient finish issues have become the owner's maintenance responsibility.

### PERSISTENT PROBLEMS

When problems persist, home owners may find assistance from consumer-protection guidelines or even state liability laws. When these don't solve the problem, home owners have recourse to legal remedies through the justice system. One home owner requested that his builder correct a drainage problem that repeatedly caused flooding and damage to his property. When the contractor refused, the home owner's attorney sued for negligence, breach of warranty, fraud, and nuisance. A jury awarded punitive damages.

## REFERRALS

By the way, it always makes us feel really wonderful when a friend, a family member, a co-worker, or a neighbor of a client comes to us for help. We take your confidence in us seriously and pledge to care for these "VIPs" as well as we care for you. Please accept our heartfelt appreciation for your referrals!

© Copyright 2004. Newsletters, Ink. Corp. All rights reserved. Printed in the U.S.A. [www.newslettersink.com](http://www.newslettersink.com)

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.

## WE WANT TO HEAR FROM YOU!

Please inform us of your e-mail address! In this electronic age, it makes it easier for us to communicate with you when we have timely information for you. We also would like to know when you move! You can send us an e-mail to update us at [info@plattner-verderame.com](mailto:info@plattner-verderame.com). Let us know what you would think about receiving our newsletter via e-mail.

Be sure to take a minute to browse through our great, new Web site at [www.plattner-verderame.com](http://www.plattner-verderame.com)! We've included lots of information for you and your friends...what to do if you're in an accident or injured, home safety tips, legal terms, types of law we practice, and bios on our attorneys. The Web site continuously changes with updates from the

Association of Trial Lawyers of America. We hope you will enjoy it as a legal resource for your family.



## Medical malpractice UPDATE

### *Caps don't reduce doctors' rates*

Despite medical injury caps passed by the Florida and Texas legislatures in 2003, physicians' insurance rates continue to rise in those two states. The much-touted cap solution to rising medical malpractice insurance rates didn't keep Florida and Texas insurers from asking for and receiving policy rate increases for 2004.

In Florida, which put a \$500,000 ceiling on noneconomic damages in malpractice cases, the state's Office of Insurance Regulation announced a "presumed factor" rate increase of 7.8 percent for 19 different insurers.

Two months after a \$750,000 cap on noneconomic damages (\$250,000 limit on an individual physician's liability) was incorporated into Texas' constitution, its insurance commissioner announced that a physician-owned insurer that covered a third of all Texas doctors asked for a 35.2 percent insurance rate increase for doctors and a 67.9 percent increase for hospitals and other institutional health-care providers. Although a second large insurer decreased rates 12 percent, reductions in coverages and increases in deductibles effectively neutralized its effect.

## Driving on HALLOWEEN



If you drive on Halloween, watch for trick-or-treaters.

Not only is it dark on All Hallows' Eve, but kids in costumes wear masks, which can limit their ability to see cars and traffic. In their excitement, some children may ignore traffic signals and dart across streets or from between parked cars.

A good driver's job is to slow down and stay alert for the signs of trick-or-treaters:

- Many children will carry flashlights or glow sticks, which are visible from far off.
- Look for youngsters' costumes done in highly visible white or brightly colored fabrics. Many parents add reflective tape strips for safety.
- Be particularly vigilant at crosswalks or busy intersections that have no traffic controls or signs.
- Some people even dress their dogs for Halloween. Be sure to keep an eye out for Franken-Fidos, too.
- Finally, if you attend an adult Halloween party, be sure to include a designated driver in your carpool.

Have a safe and happy Halloween!