



PLATTNER VERDERAME, P.C.

Attorneys At Law

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Season's Greetings!



May you and all those you love experience great joy, warmth, and good will during this wonderful holiday season. We also hope that peace, happiness, and good health come to you and yours throughout the coming year.

We would also like to thank you from the bottom of our hearts for seeking out our legal services over the years and for referring your relatives, neighbors, and colleagues to us.

Toddler run down by speeding cop

Daniel M. was a client of **Randall Hinsch** and **Richard Plattner**, attorneys with the law firm of **Plattner Verderame, P.C.** Daniel was a bright, beautiful little boy of 4 1/2 years of age when he was struck in the head by a speeding police car. The police officer was responding to a dispatcher's call, speeding through Daniel's residential neighborhood without his lights or siren on, although he knew the call was probably a false alarm. The officer's driving violated Arizona statutes as well as the Police Department's own internal policies and procedures.

Daniel suffered a significant brain injury as a result of the blow to his head. Although he still showed a normal IQ on tests and looked like he had made a good recovery from his injuries, the part of his brain that was damaged dealt with his ability to control his emotions. As a result, Daniel would go into uncontrollable rages. As he grew older and bigger, Daniel faced more frequent and more serious disciplinary problems at home, at school, and with the law. Daniel's public school put him in a special class, but he needed more resources than the school could provide to ensure his safety and the safety of his classmates and teachers.

Daniel's parents came to Plattner Verderame, P.C., for help. The firm brought suit and the police department settled shortly before trial. The settlement provided the necessary money to place Daniel in a private, full-time school and residential facility suited for his specific needs. The funds should also provide for Daniel's lifetime care. That care will now not ruin Daniel's parents financially, and Daniel will probably enjoy a better environment and better care than he would get in a government-funded home, where we would all share the cost of his care. Daniel is close enough for his parents to visit and enjoy him as he grows up. He will know his family and know their love for him. We can't replace the close-knit family life that Daniel once knew, but we are proud that the successful lawsuit will provide Daniel with the financial means to be in a proper facility, where he can grow up safely and have his best chance for happiness. Our best wishes to Daniel and his family as they carry on with making their lives the best they can be.

We take your family's safety and security personally.

CHILD DAY CARE

For dual-income career couples who have children, day care is fundamental. In choosing a care provider, parents cross a threshold into a new world of experiences and relationships with their child. Entrance into child day care also requires understanding the serious responsibilities that both parents and day-care providers share regarding the health and welfare of a child.

Here are some guides for parents in selecting and monitoring day-care operations.

- Ask to see the facility's license.
- Spot-check the facility for sanitation and safety.
- Inquire about management and staff qualifications and experience.
- Read all the background information you receive.
- In order to see how things work, visit the center several times before enrolling your child.
- Get and stay involved in your child's care.
- Ask your child frequently for comments on his or her experiences.
- Later, make unannounced visits to see your child.
- If you have any concerns, talk to the facility's director.



BE VIGILANT

No matter how carefully a family previews and monitors a day-care facility, problems can always arise. After a six-month-old suffered permanent brain damage, cerebral palsy, and blindness, his mother sued the day-care operator and owner, alleging assault and battery. A jury awarded damages after finding both the owner and operator responsible for the child, who was a victim of shaken baby syndrome.



Attorney-client privilege

Q: What does attorney-client privilege mean?

A: Without the client's permission, an attorney may not disclose confidential information that a client has communicated to him or her.

Q: Is every communication covered by privilege?

A: No. Attorney-client privilege protects only that spoken or written information conveyed to an attorney hired by the client, and which is communicated when the client is seeking the attorney's legal counsel on a matter. Counsel unrelated to a legal matter is not privileged.

Q: What about cell phones or e-mail communication?

A: Care must be taken with their use, since third parties may eavesdrop even on supposedly secure or encrypted communications.

Q: Who "owns" the privilege?

A: Only the client, who breaks it by inadvertently communicating the information to a third party.

Q: Must an attorney's employees honor the privilege?

A: Yes, other members of the firm—attorneys, legal assistants, paralegals, and clerical staff—honor attorney-client privilege.

Q: How long does privilege exist?

A: Only a client's authorization or a court's ruling can break it.

LEGAL LEXICON

Many clients find the legal terms used in court puzzling. From time to time, we'll offer some 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 trial and jury system.

Testimony

Statements of fact about a case that a witness declares are true while under oath or affirmation.

Direct examination

Preliminary questions that lawyers ask witnesses who have been called by their client and who support the issue and welcome any questions. Lawyers use direct examination to establish the basics of a case.

Cross-examination

Probing inquiries by the opposing attorney about the testimony of direct examination witnesses in order to weaken or counter the testimony and other side's case.

Redirect examination

Questions asked of witnesses about testimony and matters brought up during cross-examination to validate key points or contest misimpressions.

HEART HEALTH

Cardiac pacemakers

In implant use since the 1950s, pacemakers regulate heart rhythm disturbances and help millions of people lead normal and productive lives. Pacemakers work by directing minute electrical impulses to aid the heart's muscles in relaxing and contracting normally.

Technological advancements have improved pacemakers' electronic circuitry and have reduced their size and weight. Battery life has also been extended greatly.

In the past, pacemaker implants were done only in hospital operating rooms under general anesthesia. Today, the procedure, while still a major medical undertaking, is often performed in electrophysiology laboratories under local anesthesia.

Pacemaker recipients return to normal life within days of the procedure, but must obtain periodic cardiac assessments. Physicians can monitor pacemaker function by telephone transmission.

Ongoing cardiac care

A key element of pacemaker implant care is follow-up medical attention. Following a patient's artery bypass, valve replacement, and pacemaker implant therapies, a hospital staffer improperly removed the pacemaker's wire leads. The patient's attorney filed suit and won a settlement from the hospital by demonstrating that a nurse's negligent removal of pacemaker wires tore the patient's heart tissue, caused dangerous complications, and led to additional surgeries.



FOR YOUR SAFETY

Recalled product roundup

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

- ✓ **PM International Ltd.** has recalled 22,000 international two-prong adapter plugs, which can separate upon removal and pose an electric shock hazard to users.
- ✓ **Whirlpool Corporation** recalled 17,000 combination washer and gas dryer units, whose dryers can overheat and catch fire.
- ✓ **Candle-lite** called back 80,000 Martha Stewart Everyday® Brand ceramic potpourri simmering pots. Candle flames can flare from ventilation holes and burn consumers.
- ✓ **Graco Children's Products, Inc.**, has asked consumers to return 152,000 toy tracks attached to children's activity centers. The track can break and then cut, pinch, and choke young children.

Recalls are rising

It's more important than ever to try to stay up-to-date on product recalls, which are increasing. In 2001, Food and Drug Administration recalls jumped by 24 percent (up to more than 4,000), and the Consumer Product Safety Commission (CPSC), which has jurisdiction over more than 15,000 varieties of consumer products, had more recalls in 2001 than in any year since 1990. At the same time, however, consumers are not always heeding recall messages. The CPSC says that returns on some recalls have been below 20 percent.

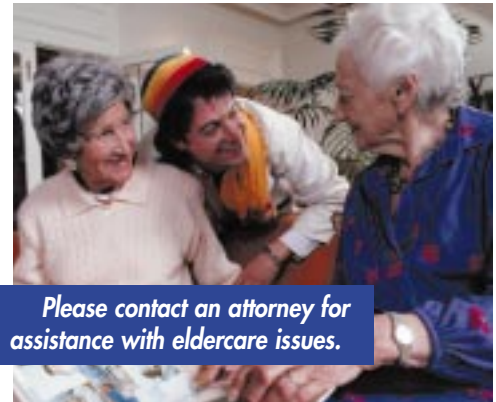
ELDERCARE

Assisted-living residences

One of the privileges of family life is helping a beloved elder family member find an assisted-living residence to meet their daily living, health-care, nutritional, social, and spiritual needs. Seniors' residences vary in both offerings and qualifications, so it's important for a family to review several residences before making a selection.

Here are some screening guides:

- Ask for records of licensure, quality assurance planning, association memberships, inspection certificates, and continuing education for staff.
- Investigate resident needs assessments and a progress plan.
- Identify facility assistance available to memory-impaired or disabled residents.
- Inquire about physician and hospital availability.
- Obtain a listing of all services and activities, from medication assistance and laundry to social activities and group outings.
- Be sure to understand all costs and fees.



Please contact an attorney for assistance with eldercare issues.

When care fails

Assisted-living centers that conduct health-care testing have a particularly important responsibility to residents. After an 84-year-old was placed on a cardiac medication, he underwent testing to evaluate results. Although the test lab faxed notice of abnormal value readings to residence medical staff, they took three days to notify the resident's physician. When the resident became ill and died, his family brought a medical negligence suit against the testing lab and the assisted-living facility. A jury awarded significant damages as a "clear statement" that the resident's life had value despite his advanced age.

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!

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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.

Defending the defenseless

Matthew T. and his parents, Debra and Greg, were clients of **Frank Verderame** and **Randall Hinsch**, attorneys with the law firm of **Plattner Verderame, P.C.** Matthew was born at Paradise Valley Hospital with a blood incompatibility with his mother. As a result, Debra’s antibodies were attacking Matthew’s blood cells. The condition is called hyperbilirubinemia because the blood incompatibility causes excess bilirubin. Left untreated, the baby’s bilirubin level continues to rise until it reaches toxic levels. The toxins attack and damage the brain.

This blood incompatibility is something routinely tested for and the test was done in this case and showed the problem. However, Matthew’s treating pediatrician did not properly react and treat. Most doctors agree that brain damage starts in the baby at a bilirubin level of 20. The proper treatment for a baby such as this is to have blood transfusions to, in effect, flush and remove the antibodies and toxins from the baby’s body. But Matthew’s pediatrician allowed Matthew’s bilirubin level to reach almost 40 before the first blood transfusion was ordered.

As a result of the pediatrician’s negligence (negligence is failing to be appropriately careful in the circumstances), Matthew’s brain was injured. Matthew lost some of his hearing and needs hearing aids. He also suffered another kind of hearing

deficit called auditory neuropathy, which means that the sounds Matthew does hear are distorted. Imagine a slightly out-of-tune radio station with static and distortion. The hearing aids turn up the volume, but can’t make the sound clear. The hyperbilirubinemia also caused Matthew to develop mild cerebral palsy—but even a mild case of CP is a major injury, since it will permanently limit Matthew’s coordination, comfort, and ability to function.

The reaction of the doctors at St. Joseph’s Hospital when they received Matthew at the helipad from the air transfer from Paradise Valley Hospital was the first clue Matthew’s condition was preventable. There was shock among the health-care providers when they learned Matthew’s bilirubin level was allowed to go to almost double the acceptable level before seeking appropriate treatment.

Matthew’s parents came to Plattner Verderame, P.C., to seek help. They were in anguish over the loss of the wonderful life they had planned for their son and the years of suffering their son would endure due to the doctor’s negligence. They were overwhelmed by the costs of providing the care that Matthew would now need for the rest of his life. They wanted the doctor whose carelessness caused such damage to help carry the resulting burden.

The lawsuit was complicated by the fact that Matthew was still a baby, making it

difficult to test the existence and severity of hearing and physical problems. In a particularly outrageous twist, one of Matthew’s treating physicians testified that Matthew did not have and would never develop cerebral palsy, even though that same doctor was actually treating Matthew with medications specifically for CP!

As a result of the successful lawsuit brought on behalf of Matthew, Debra, and Greg, they now have the financial resources needed to assist Matthew in dealing with all the many difficulties his injuries are expected to cause him in his life.

It’s important for all of us to realize that lawsuits like Matthew’s benefit not only the individuals who make a financial recovery, but also all of us who would otherwise have to fund the government-assistance programs for those who cannot afford the care they need on their own. There is also justice in making those whose carelessness caused injury pay money to share the burdens of the injured. Finally, financial accountability promotes public safety: If doctors could no longer be sued, would they be more careful or less careful?

Plattner Verderame, P.C., is honored to have been of assistance to this brave family.