

Seufert Law Offices, PA

We'll Get You Through It

From the Captain's Log Yes it is tax deductible travel



OK, those of us who insist on staying in NH during the winters appreciate at least a quick trip or 2 to the warmer climes during the dead of winter. Fortunately my profession has a national organization that tries to hold its annual convention during February in a warmer zip code. This year was Miami Beach, FL. For those who have never been, Miami Beach is said to be the closest country to continental US that you can go to for great Latin American food and culture. While the official language is Spanglish, with a little spanish you can get by.

So off to Miami Beach, FL I go late January 2019 (via Ft. Myers for a short visit with my 83 year old mother). Now getting to Miami Beach is pretty easy, US citizen's are welcome with a green card, as long as you obey their cultures. You'll fit in better driving a McLaren 570 or Ferrari 458. You'll get some snobbish looks driving a rather pedestrian Corvette ZR-1, or Porsche Cayenne, but hey, if that is all you can afford. To save any embarassment I dropped off my Kia rental at the local Enterprise franchise and just used Lyft (they even drive Mercedes in Miami Beach). Having booked for the convention rather late (I signed up in October for this January event and the "blocked rooms" were already sold out) so I used the HotelTonight app on my smart phone. I was able to book at a 4-star hotel the 1st night that was literally 100 feet from the Lowes Convention Center where the convention was going on, at \$250 a night, -v- the \$600 rate at the Lowes. The 2nd and 3rd nights I got a 5-star hotel one block north for \$225 a night. I highly recommend this app, you just got to have guts showing up without a hotel reservation and hoping that you snag a room close by, but when it works it's a thing of beauty.

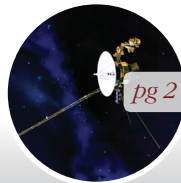


The mornings were all filled with presentations and seminars at the Lowes Convention Center but at nights the organization booked venues for 1000 of your closest friends to see Latin American flame dancers, seaside cocktail parties where budding US Senators and Congressman were hitting attendees up for campaign contributions, and one evening our NH contingent (with a Seattle colleague by invitation) skipped the nights events and just had drinks in the Art Deco District. And the drinks, well if you got to the 2nd one you were not walking too far back to your hotel.

So back again to the frozen north, as I sit writing this piece a snow storm is predicted to hit at about 6 pm tonight, and my phone app says it is 78° back in Miami Beach. ●



February 2019 News



Miranda Warnings And Television



Television shows are probably a bad way to get information about anything, unless you're watching National Geographic. Even "reality shows" are scripted. They are definitely a bad way to get any kind of legal advice. The Law and Order type shows do a disservice to those who have been arrested and charged with a crime. There is a belief that what happens on TV equates to what the Constitution and laws of the states actually provide for.

When you watch someone being arrested on television, inevitably they are being read their Miranda warnings at the same time the handcuffs are being put on. There seems to be a perception that if that does not happen, the case will be dismissed. Unfortunately, that is not true.

Miranda is required to be read when two conditions are met: the individual is in custody and subject to interrogation by a member of law enforcement. The term "custody" refers almost always to an arrest. However, there are occasions when an individual may be in custody without actually having been arrested. The term "interrogation" is a little more nuanced.

Interrogation happens when an individual is being questioned about an incident. If you are a suspect in a crime and an officer is questioning you about what you know about the crime that is considered to be interrogation. However, if you have been arrested and the officer is asking you questions relating to your personal information or relevant to bail, that is not considered interrogation. If the individual offers information to the officer, that would not be subject to Miranda warnings.

If you have been arrested an officer does not need to read Miranda after the arrest in order to go through the booking process. In order to ask you questions relating to the events that lead to the arrest, however, the officer would have to read you Miranda. The consequences of the officer's failure to advise you of your Miranda rights does not lead to a dismissal of the case. It may result in any such statements that you provided to the officer being suppressed. •

Family Court Rule 1.25-A



Family Court Rule 1.25-A states that if you file a Petition for Divorce or a Parenting Petition you have to provide certain financial documents to the other side. When you're involved in these cases, you will hear lawyers, clerks and judges refer to these documents simply as "1.25-A's". The list of what you need to provide is longer for a divorce than for a parenting case.

People are often frustrated by the fact that they are required to provide these documents to people with whom they have been in a relationship, often for many years. However, failure to provide this information can lead the court to hold you in default

or deny you the opportunity to make arguments about child support and a division of assets and debts. The parties do have the right to limit the documents that they exchange with one another. However, that limitation has to be done by agreement. In other words, both sides have to agree on what part of Rule 1.25-A does not need to be complied with.

The documents that the rule requires individuals to exchange include bank and credit card statements, tax returns, information about ownership in a business, health insurance, retirement accounts and pensions. The one document that cannot be excluded by agreement is a financial affidavit. Neither a Petition for Divorce nor a Parenting Petition will become final until both parties have submitted a financial affidavit. That affidavit includes information about income, assets and debts.

Navigating the requirements of Rule 1.25-A can be frustrating. To help with the process, you may wish to contact an attorney who can guide you through it. •

The Concept of Strict Product Liability

Until the tide began to turn in the 1960s, a person injured by a defective product who was seeking compensation had a tough row to hoe. They were required to prove that the manufacturer or supplier was negligent in the manufacture process at some point between product inception and the product reaching consumers—frequently a monumental and prohibitively expensive task.

Many victims suffered while receiving zero compensation.



State legislatures eventually intervened and established strict product liability laws, which most states have today. Essentially, an injured person need only show that a product caused injury to them as a result of a product defect. Proving negligence on the part of the manufacturer, distributor, or seller was taken out of the equation. The goal was to restore fairness and improve product safety. So everybody in the supply chain of the product being sold is held responsible under the law, from the retailer, down thru any wholesalers, down to the manufacturer. Anybody who made money from the products sale is held responsible.

Here is what is required of plaintiffs:

- The plaintiff must show that a product was sold in a dangerous condition.
- The plaintiff must have been injured or incurred property damage due to the defective product.
- The product cannot be found “substantially” changed from the condition in which it was originally sold.

But if it is proven that the plaintiff used the product in a careless fashion or in a way for which it was not intended or continued to use it despite knowing about the defect, their case may be dismissed, or damages reduced by their own contributory fault.

Product defects include *manufacturing defect*, an imperfection limited to just one product (or a few); *design defect*, a flaw in the product’s blueprint that affects every product; and *warning defect*, inadequate warnings or instructions on proper product usage.

If you are injured by a defective product, contact a product liability attorney to protect your rights. •

February 2019 Notable Dates

February 1
National Get Up Day

February 4
National Thank a Mail Carrier Day

February 8
National Kite Flying Day

February 14
National Ferris Wheel Day

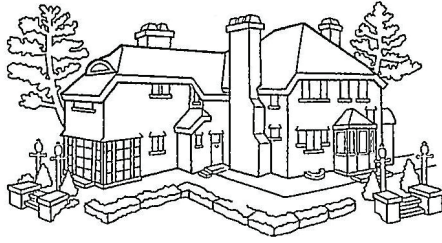
February 17
National Random Acts of Kindness Day

February 23
National Dog Biscuit Day

February 24
National Tortilla Chip Day

February 28
National Floral Design Day

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Protect Your Family, Protect Your Rights



Yes it is tax
deductible travel

SEE PAGE ONE

This publication is intended to educate the general public about personal injury, medical malpractice, and other issues. It is for information purposes only and is not intended to be legal advice. Prior to acting on any information contained here, you should seek and retain competent counsel. The information in this newsletter may be freely copied and distributed as long as the newsletter is copied in its entirety.

Seasonal Surge in Motorcycling

Across much of the country, the soon arrival of spring is accompanied by a surge in the number of motorcyclists on the roadways. Motorcycling can be a joy, but the stakes are much higher than driving a car. While the odds are a little better –v- a crash in an airplane, you sometimes don't get much of a 2nd chance in a motorcycle crash.

According to the National Safety Council, motorcycles comprise just 3 percent of registered vehicles on the roadways, but riders account for 14 percent of all traffic fatalities. Motorcycles are less visible than autos, less stable (only two wheels in contact with the road), more vulnerable to hazardous road conditions, and riders are less protected.

However, motorcyclists can diminish the risks. It starts with always wearing a helmet. While NH does not require them, in most other states, it's the law. The National Highway Traffic Safety Administration states that the simple act of wearing a helmet reduces the risk of fatality by 37 percent and serious injury by 67 percent.

Visibility is crucial. Riders should wear bright/fluorescent clothing and always drive with their headlights on. Headlight modulators are excellent attention grabbers, too. Motorcyclists should avoid other drivers' blind spots, and when passing a vehicle, they shouldn't dillydally.

Awareness of road conditions is a must. In the early spring, roads might not yet be cleared of winter debris, such as sand, cinders, gravel, etc. They're also more susceptible to potholes and cracks resulting from winter's wrath. Potholes may lurk beneath innocent-looking water puddles.

Left-hand turns at intersections can be problematic for motorcyclists—again, visibility is a major issue. In addition, motorists often tend to misjudge the speed of an approaching motorcycle.

If you have been injured while motorcycling due to another driver's negligence, contact a motorcycle accident attorney to protect your rights. ●

