



Seufert Law Offices, PA

We'll Get You Through It

From the Captain's Log The Best Laid Plans



It was a slow Sunday morning, got up and having a cup of coffee and planning a quiet day when one of my sons called. "Dad, what are you doing today, I have a tree in my front yard I am thinking of cutting down, want to help? And do you have some rope as its pretty close to the road and my house..." Sure, I have some rope, let me finish breakfast and I'll be up. An hour later we're in his front yard looking at this tree the size of a giant Sequoia over 100' tall that stands 10' from the roadway and on the other side 10' from his house. "Ah, son, this tree cutting thing could go badly, I think we need a

professional". So I call a friend of mine that does this for a living and fortunately he was home this Sunday and agreed to drive right up. Looking at the tree he said it would be a challenge but he thought it could be done if he needled it perfectly between the house and the road, and so the cutting began; and he didn't need my rope. With a bunch of the grandkids safely aside as onlookers the chainsaw screamed to life.



Well a slight miscalculation. The width of the canopy of this tree was a little wider than thought, and, as it did battle with David the Chainsaw, and having an estimated weight of 1-ton per foot in height, Goliath saw its opportunity to flank the enemy and twist towards the house on its way down. As my old carpenter friend was fond of saying "that's going to leave a mark". Fortunately my son's house shouldered into the onslaught and only lost a few pieces of siding and a couple of asphalt shingles. I'll call it a tie. ●

January 2021 News



The Benefits of a Structured Settlement



Once a personal injury plaintiff settles or wins their case, they may need to decide how to receive their compensation. Two common options are a lump-sum payment or a structured settlement, which is a series of payments over a period of time.

With a structured settlement, the defendant (or their insurance company) typically transfers the amount owed in the settlement/verdict to a third-party administrator, who disburses the funds to the plaintiff according to the agreed-upon terms.

Plaintiffs have the flexibility to choose the payment amounts, the frequency of payments, and how long payments will continue. For instance, a plaintiff can request a large initial payment to handle pending bills, then receive smaller amounts after that, or opt for smaller payments initially and larger ones down the road. An allowance

for additional payment amounts can be made for extraordinary expenses, such as a child's college tuition. Some plaintiffs choose to delay payouts until they reach retirement.

Advantages of a structured settlement include lowering the risk of spending money too quickly or lavishly; avoiding the hassle and complexities of managing a large sum of money; and having the assurance of future income.

Drawbacks of structured settlements include a plaintiff's inability to alter the terms of the settlement if their circumstances change, and inability to make their money grow until they have it in hand.

Structured-settlement payments are generally not taxable, but earnings made from investments of that money typically would be. In many instances, structured settlements makes the most sense for large settlements.

Our office can help you determine if a structured settlement best suits your situation and make recommendations on its details. •

Uber and Lyft Accidents Can Be Tricky

Uber and Lyft are ride-sharing services that have grown by leaps and bounds over the past few years. It's popular because it's convenient and less expensive than taxi service. Simply sign up, download their app onto your smartphone, request a ride, and a nearby driver—in their own personal vehicle—will be there in minutes to whisk you off to your destination.

However, auto accident cases involving Uber and Lyft vehicles can be more complex than typical auto accident cases. Uber and Lyft define themselves as a technology provider, not a transportation service. They take the position that their drivers are not considered employees; instead, they're classified as independent contractors. What this does is attempt to shield Uber/Lyft from certain complaints and claims made against them when one of their drivers is involved in an accident.



An Uber/Lyft driver may be off duty, on duty but between rides, or on duty with a passenger onboard. Insurance coverage will vary for each circumstance, further muddying the waters. When there is an accident involving an Uber/Lyft vehicle, the driver and passenger(s) of the vehicle, occupants of another car that was party to the accident, and/or pedestrians can all be impacted in various ways.

As always, familiarity with your own insurance is important. For instance, does your own insurance company cover you if you're an Uber/Lyft rider? Are they aware that you drive for them? If not, they'll likely not cover you in the event you're in an accident while "on duty" as you would be using the insured vehicle for a business purpose.

Uber/Lyft related auto accidents can be tricky. A good course of action is to contact a knowledgeable auto accident attorney to protect your rights. •



Arrest Warrants

Unless an offense is committed in the presence of an officer, such as a DWI, or the safety of the public is at risk, an officer needs a warrant to make an arrest. Both the United States as well as the New Hampshire Constitution set out the requirements for the issuance of an arrest warrant.

In the first instance, there needs to be probable cause. An officer has to demonstrate that more probably than not a criminal offense was committed by an individual who is specifically identified. The officer can use circumstantial as well as eye witness evidence to establish probable cause.

Once the officer believes that there is probable cause, the next step is to draft an affidavit and warrant. The officer will set out in the affidavit the facts that give rise to probable cause. The officer will also draft the arrest warrant itself. The warrant will be for certain specified offenses. Usually the officer will draft the complaints that correspond to the offenses listed in the warrant. That is done so that the signator to the warrant, who must be a justice of the peace or a judge, can see that the facts set forth in the affidavit give rise to probable cause for the elements of the offenses in the complaints.

The officer will then present those documents to the individual who is making a determination as to whether there is probable cause for an arrest warrant to be issued. That individual must be "neutral and detached". In other words, another officer or someone familiar with the defendant or any of the witnesses, could not sign the warrant. On occasion, the individual reviewing the affidavit will ask the officer questions about the facts recited in the affidavit. Any such questions and answers must be noted on the affidavit.

If the signatory finds probable cause, an arrest warrant will issue. Once that happens, the officer would most likely contact the defendant named in the warrant to see if they would come down to the police department to turn themselves in. It is easier for both sides: it saves the officer from chasing down the individual to arrest them, and it saves that person the embarrassment of being arrested at home or at work.

If this should happen to you, do not answer any questions posed by any officer other than those such as name and date of birth. You do not want to say anything to incriminate yourself. Maintain your right to remain silent. ●

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Protect Your Family, Protect Your Rights



The Best
Laid Plans

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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.

Clean the Snow Off Your Car ... and Don't Forget the Roof!

Every winter there are all-too-frequent incidents of chunks or slabs of snow and ice that fly off vehicles' roofs, leaving a trail of property damage, traffic accidents, injuries, and fatalities in their wake.

Jessica's law in NH makes it illegal to drive with snow and ice accumulation on a vehicle's roof. In these states, police can ticket drivers, with fines generally ranging from \$250 to \$1,000. Unfortunately Jessica died from what happened to her which caused her parents to push for the legislation.



But, besides the fines are the civil liability of the offender as all drivers owe a legal duty to one another to exercise of reasonable care. Failing to clear a vehicle's roof of snow and ice that ends up causing injury may violate that standard and could be grounds for negligence, regardless of whether state or local laws exist or not.

If you are the victim of flying snow or "ice missiles," try to get the license plate number of the offending vehicle, or the name of the company if it was a truck. (In many cases, the drivers are not aware of what happened.) Get photo documentation if possible; call 911, which will spur a police report — important for an insurance claim or potential personal injury lawsuit; and contact our office to protect your rights. ●