



Seufert Law Offices, PA

We'll Get You Through It

From the Captain's Log Watch that Dry Heat



If you have never been to the left coast - do it. The 2022 Annual National Trial Lawyers Winter Convention was in Palm Springs, CA this year and as the NH Delegate to the convention off I went on Delta from BOS to PSP. Descending into Palm Springs airport from 35,000 feet you can see the Pacific Ocean in front of you and the Sierra Nevada Mountains behind. Palm Springs is about 120 air miles from LA but they say it can be a 5 hour drive at the wrong time. I grabbed an Uber ride for the 13 miles to the Marriott Hotel convention site and the pic shows the view from my hotel room, not a bad place to spend time with 1500 of your closest lawyer friends. The next morning the meetings were starting late and everyone was on their own for breakfast. I opted for the fancy restaurant on-site and had eggs benedict with coffee. The tab was \$32, while they did give you a whole carafe of coffee I found a local supermarket later that day and purchased fruit, granola bars, and other snacks and ate breakfast in my room the remaining four mornings for \$3 per day, the coffee maker in the room worked just fine. Once the convention events started there was food during lunch and dinner for the attendees, and fortunately the Delegates had their own meal service during Delegate Meetings which was quite good, with carafes of coffee, as the remaining attendees were served rather modest offerings of hotdogs, Tostito chip, and bottled water, Rank has its privileges.



Being on the edge of the Joshua Tree National Park there were mountain ranges all around so a few of us got together in the afternoons for hikes between meetings. I learned about "dry heat" the hard way. On one 7.5 mile hike up and down a mountain side I drank the 2 water bottles I absconded from the steerage class attendees' dining hall and drank both of them on the way up, so had no water for the way down. While it was 85° and no wind, it felt like 70° back home, no problem. You did not visibly sweat and I felt no signs of heat stroke. As the mountain was 5 miles from the hotel we took an Uber back and forth and getting out of the Uber upon return to the hotel my left leg decided it was done working and was locked. I peg-legged my way back to my room and drank 2 more bottles of water (with a touch of whiskey) and all was well within an hour. Watch that "dry heat". The left coast does create somewhat of a travel dilemma as my flight out at noon had me not getting home until 2:00 am the next day (time change, stopovers) and up I was at 6:00 am to make it to my hearing in Superior Court in Brentwood at 9:30 am. Gotta take the good with the bad. ●

March 2022 News



DWI Breath Testing and the Intoxilyzer


The legislature has decided that police officers no longer need to supply an individual with a captured sample of their breath when that individual takes a breath test subsequent to a DWI arrest. Captured samples, which were caught in clear tubes, could be sent by individuals to an independent lab for testing. This acted as a check on the accuracy of the Intoxilyzer machine. There is a new process. The individual who submits to the test either waives his/her right for an additional test or agrees to an independent blood draw. In other words, the second sample is now a blood sample, not a sample of breath taken from the machine.



The new rule sets out how this happens. Specifically, each arresting department now has blood collection kits that, when used, will be sent to the State Forensic Lab who, in turn, can release the samples for independent testing. This new rule probably makes no practical difference, as those second samples when tested were very rarely out of tolerance, in other words different from the reading that the machine provided. When there was a reported difference, that difference was usually always higher. In other words, the Intoxilyzer provided a result that was lower than the actual blood alcohol content of that individual, not higher.

Police officers may tell individuals that in order to get the independent test, they can go to the nearest hospital or ConvenientMD Urgent Care facility and have their blood drawn. But without the Police first contacting these facilities, explaining to them the new law, and obtaining their willingness to do the draw the ability to get a second sample is nearly impossible. Hospitals or other such facilities are almost certainly not going to be responsive to an individual walking in unannounced and asking for an independent blood alcohol test. If the facility does do a blood draw there is no guarantee that that facility has any idea what the law is regarding what happens after the blood is drawn. If you are in this situation follow the steps for an independent sample. If you aren't provided what is required under the law the court may order the suppression of any breath test. ●

Specialist –v- Generalist



In the legal field clients may think, do I need a specialist, meaning an attorney who focusing on just one area of the law, or do I need a generalist, an attorney who can view the case from multiple angles to determine the often multiple issues and how to best resolve them? Seufert Law, having serving the citizens of NH for 4-decades, is both a specialist and a generalist. Attorney Seufert, nationally certified in civil litigation, handles complex civil litigation in the areas of personal injury, workers compensation, bankruptcy, and trust and estate litigation. Attorney Baumann, a former prosecutor, handles criminal, DWI, family law, and landlord tenant. Attorney Snook, a Webster Scholar graduate from UNH Law, handles general civil litigation.

However, being a 4-decade old law firm, Seufert Law has made connections with the best specialist in NH, and throughout the Country, in just about every other area of the law, including Medical Malpractice, Federal Tort litigation, Class actions, Products Liability, Toxic Torts and Asbestos, and the list goes on. When Seufert Law sits down with a new client and reviews the multiple issues that may be involved, some obvious and some not so obvious, it frequently reaches out and brings into the case the different specialists throughout the country for the issues that the firm does not specialize in, all at typically no additional cost to the client as the specialists are paid from the overall fees generated in the case. And those “billboard attorneys”, don't be fooled. Many of them will never meet with you or handle your case, they are just a referral agency to other law firms.

So no matter what your case, or the issues, Seufert Law is able to handle it so give us a call, we'll get you through it. ●



Hospital-Acquired Infections and Medical Malpractice

March 2022 Notable Dates

March 1
Mardi Gras

March 2
Ash Wednesday

March 13
Daylight Saving Time
begins

March 15
March Madness begins

March 17
St. Patrick's Day

March 20
First day of spring

March 31
National Crayon
Day

According to CDC statistics (2015), nearly 700,000 hospitalized patients suffered from one or more hospital-acquired infections (HAI) — roughly 3 percent of admitted patients — and over 72,000 died from them. (An improvement over 2011 data.)

Harmful microorganisms have minds of their own, despite a hospital's best efforts to thwart them. However, if negligent care or a breach of sanitation protocols occurred and caused injury to a patient, medical malpractice may be in play.

As the term implies, hospital-acquired infections originate only after admittance to the hospital. In some cases, this may include patients who have been discharged and develop infection symptoms shortly after they're home.

The majority of HAIs develop due to contaminated medical devices, tools, instruments, and surfaces. Surgical or exam infections; *Clostridium difficile* (C. diff), a bacteria causing colon inflammation; and methicillin-resistant *Staphylococcus aureus* (MRSA), a staph infection resistant to some common antibiotics, are notable as well.

To pile on, there may be negligent delays in diagnosis or treatment, or a failure to correctly diagnose or treat a patient, properly monitor their symptoms, or call in a specialist.

Infections can become life-threatening if they develop into sepsis. Sepsis, a medical emergency, occurs when the body's response to infection leads to damage to internal organs and in many cases death.

With regard to COVID-19 infections picked up at healthcare facilities, many states have shield laws in place to protect hospitals from liability. Under normal circumstances, a high bar must be cleared in order to prove a medical malpractice case; that bar is raised even higher in COVID-19 cases.

If you believe you are the victim of medical malpractice, you need expert, caring counsel. Our firm stands ready to help. •

Seufert Law Offices, PA
Attorneys At Law



59 Central Street, Franklin, NH 03235

(603) 934-9837

www.seufertlaw.com

Protect Your Family, Protect Your Rights



Watch that
Dry Heat

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.

Petitions To Annul

How can I annul my conviction is a common question. The answer depends on a few factors. One is the level of offense. Felonies, misdemeanors and violations each have their own time lines for filing a Petition to Annul. In addition, depending on the charge itself, the time to petition to annul may be extended. For instance, a violation level offense can normally be annulled a year after the sentence has been served. That is not true, however, of among other things, some motor vehicle violations for which the waiting time is longer.

A Petition to Annul cannot be filed until the sentence has been served. What does that mean? Most commonly we think of the person who is sentenced to some form of incarceration and then is released. However, if you have a suspended sentence, whether that relates to a fine or imprisonment, you need to add the time that the sentence is suspended to the time to the statutory time for an annulment. For instance, let's say the law requires a waiting period of seven years to petition to annul. If you have a fine that is suspended for two years, you now must wait nine years.

One of the factors to consider in negotiating or accepting a plea is what impact it may have on the length of time you must wait to file for annulment. If an individual has no previous criminal history, he or she may accept a longer period of incarceration or a higher fine to avoid having a suspended sentence. While the initial punishment may be harsher, in the long run that person is able to annul that conviction more quickly. If an individual has a lengthy criminal history, the time frame to petition to annul is probably not a factor.

The law provides that if a Petition to Annul is denied, that individual must wait three years to refile. If you have questions about annulling a conviction, contact an attorney who can review the offenses and the sentences imposed to give advice on when to file. ●

