



Seufert Law Offices, PA

We'll Get You Through It

From the Captain's Log This Dog Was Not Lucky



A recent trip to Ft Myers illustrates the power of Mother Nature. On final approach to Ft. Myers airport we flew parallel to Ft Myers Beach, or what was left of it. Everything to the ocean side of Estero Blvd. was merely sand and shattered debris, mostly sand. Everything to the land side was covered with blue tarps, or what was salvageable was, as most wasn't. Upon landing and driving the streets most were still lined with 4-6' high debris on both sides with behemoth FEMA dump trucks with cranes and claws chewing on the piles. We found 3 massive staging areas in and around Ft Myers where these FEMA trucks were disgorging their contents and bulldozers were creating trash mountains, one which was burning intentionally, or accidentally, in spite of perhaps EPA regulations. The smell of the petrochemicals, raw sewage, rotting vegetation, moldy carpet, and who knows else mixed in, was nauseating. In the canals were sunken boats of all stripes, with some still in backyards. People for the most part we're trying to rebuild their lives, and houses, and the newer houses seem to fare somewhat better, with emphasis on "somewhat". Home Depot and Lowes were

surprisingly well stocked, no doubt 2022 sales will smash all prior records. Contractors were busy, and the undercurrent of gypsies, tramps, and thieves were making their rounds. The legitimate contractors will have 5-10 years of business booked, where undoubtedly the now unemployed hotel and restaurant workers will pivot to reconstruction employment. Funny how free enterprise economies fill the void.

For those who live in paradise apparently there is an occasional entry fee. ●

December 2022 News



Custody (Parenting Time) and How It Can Be Divided

Parents involved in a divorce or parenting petition often have questions about custody issues, or parenting time. The questions generally concern what options are best in any given situation. This article summarizes the key points of the ways in which parenting time is divided.

In New Hampshire the law is that there is a presumption that parenting time should be shared, in other words divided equally between the parents. In the past that equal division was called joint custody. It is now referred to as shared parenting time. The way in which shared parenting time is structured can take many forms, such as alternating weeks, sharing weekdays with alternating weekends, etc. The structure is meant to suit the family's schedule. However, it may be that due to schedules or distance one parent has a greater share of parenting time.

A parent may be awarded sole custody or residential responsibility if the other parent has issues such as untreated substance abuse or mental illness. Such an award of parenting time may be modified if the parent receives treatment for their illness.

In addition to a parenting schedule there is the issue of decision making. Each parent makes day to day decisions while the children are in their care, including emergency decisions regarding health or welfare. There is most commonly an order for joint decision making for decisions regarding education, religion and medical care. When a parent has sole parenting time or in cases involving domestic violence between the parents there is very often an order for sole decision making.

The best case scenario for children in these cases is for shared parenting time and joint decision making. The statistics are clear that the mental health of children in contested parenting cases suffers. The ability of parents to co-parent in those kinds of cases also suffers. •



Little Sleep and Big Trucks—A Dangerous Combo

Over 30,000 Americans lose their lives on our roadways each year, including nearly 4,000 who are involved in collisions with large commercial trucks. Many factors play roles in triggering accidents, but one that's become more prominent in recent years is fatigued driving.

Studies have shown that fatigue is a critical factor in up to 30% of fatal truck crashes and 15 % of crashes involving serious injury. Fatigue is dangerous no matter what size vehicle is being driven, but the sheer size and weight of a large commercial truck—which, including cargo, may weigh up to 100,000 pounds—magnifies the destructive force of a crash.

When drivers are fatigued, reaction time suffers, judgment is impaired, and drivers are often unaware of their diminished performance. A truck driver not sleeping for 24 hours is equivalent to having a blood-alcohol concentration of .10, which is over twice the legal limit for truck drivers in most states.

Driver fatigue has many sources. Lack of sleep, long hours, stressful work with tight schedules, nighttime driving (when the body wants to be sleeping), monotony, physical labor in addition to driving, poor health and fitness, medication, and sleep disorders (e.g., sleep apnea), among other circumstances, all contribute to fatigued driving.

There are federal laws to regulate hours on the road, required break times, and so forth, but that doesn't mean drivers will automatically get quality sleep, or that some companies or drivers won't push the legal limits on work regulations.

If you have been the victim of an accident involving a commercial truck, contact us to protect your rights. •

Look Out Below!



Shelves stacked to the rafters with merchandise is a common sight at big-box stores, retail stores, and some supermarkets. Stacking items, even heavy ones, is an acceptable and generally safe practice ... when done correctly. Thousands of customers (and employees) are injured each year by falling merchandise; some have been killed. Here are a few examples of how things can go haywire:

- Poor stacking methods — e.g., stacking merchandise too high, placing a bigger item on top of a smaller one, or items that are too big for the shelf ominously hanging over the edge — place shoppers and employees in harm's way. Forklift operators may hit shelving and knock boxes/crates loose, creating instability.
- Heavy and oddly shaped items should be secured to shelves (bars, fencing, rope, etc.); oftentimes this safe practice is neglected.
- Defective or poorly maintained racks and shelving may collapse and unleash items on unsuspecting shoppers below. Shelves that aren't attached to a wall are more prone to hazardous incidents.
- Poor employee training and supervision.
- Employees moving in the aisles with product stacked so high they cannot see where they are going.

Falling objects can cause serious and long-term injuries, with the head or neck obviously being a frequent point of contact. Traumatic brain injuries, concussions, crush injuries, contusions, spinal cord injuries, fractures, lacerations, eye damage, and sometimes death may result.

A customer injured by falling merchandise may be able to file a premises liability claim. It must be proved that a hazardous condition existed; the owner knew or should have known of the condition; the owner failed to remedy the situation; and the victim's injury was caused by the hazardous condition.

If you are injured by falling merchandise, contact our office to protect your rights. •

PBT: Preliminary Breath Test

An officer sometimes requests a Preliminary Breath Test, or PBT, during the course of a DWI investigation. If the officer makes such a request of the operator of a vehicle, it is normally road side, after the driver has done the standardized field sobriety tests but before any arrest. Unlike the request for a breath test after an arrest, there is no written form for the driver to sign. The officer will make the request verbally. The officer must inform the driver that, whether or not they agree to a PBT, it does not prevent a subsequent, post arrest breath or blood test. If the driver agrees to the test, the results must be provided immediately. However, the results can be provided verbally unless the driver requests that the results be furnished in writing.

If the driver refuses to take a PBT, such a refusal is not admissible in court (except for the limited purpose of establishing probable cause for the arrest if the driver asserts that there were insufficient facts to support the arrest). However, if the driver agrees to take a PBT, the results of such a test are admissible for "any purpose" in court, but most judges give it little weight in deciding your guilt beyond a reasonable doubt as the PBT devices do not have most of the safeguards that the Intoxilyzer has.

But why risk it? If you are requested by the police to take a PBT test, it probably means that the officer is concerned about whether he or she has enough evidence to arrest you without it. In other words, whether he has sufficient probable cause for the arrest. Do not take the test unless you have consumed NO alcohol. •



December 2022 Notable Dates

Dec. 4
Santa's List Day

Dec. 7
Pearl Harbor
Remembrance Day

Dec. 18
Hanukkah (begins
sundown)

Dec. 21
Winter Solstice

Dec. 23
Festus

Dec. 25
Christmas

Dec. 31
New Year's Eve

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Protect Your Family, Protect Your Rights



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Holiday Wishes

While 2022 had its challenges, we all did the best to get through it.

At this special time of year, Seufert Law would like to take a few moments to wish you and your family the very best this holiday season.

We'd also like to thank you; we truly appreciate all that you have done – our clients, friends, colleagues, and court staff – to make our work so gratifying and fulfilling. We hope that we have lived up to the trust that each of you placed in us.

May you and yours enjoy good health, peace and happiness in the New Year.