WHEN A KISS ISN'T ENOUGH TO MAKE IT ALL BETTER

A Parent's Guide to Catastrophic Child Injury

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DEDICATION AND ACKNOWLEDGEMENTS

This book is dedicated to the children and their families we have helped and those still in need of help. It is also dedicated to the parents, protectors, and guardians of children everywhere. Your job is often as inglorious as it is glorious, as trying as it is triumphant, and as heart-breaking as it is heartening. And yet you persevere. We salute you.

We have learned much from the children and families we have represented over the years. Our great hope is to take what you have taught us and pass it on. We also owe a debt of gratitude to our legal team and staff. There would be no Kiley Law Group without you, only Kiley. We are especially grateful for the support of our family. No man is powerless when surrounded by people of immense compassion and great dedication. Thank you, all.

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PREFACE

What Now?

If there is a child in your life, you face a huge task. Whether you are a parent, sibling, guardian, professional, or simply a friend, you have taken upon yourself the responsibility to keep safe and sound a small, vulnerable human being. How is it possible? What now? You are responsible for the welfare of a child. What now? One of the benefits we've derived from over five decades of working with injured children and their families is an awareness of the dangers facing children today and a growing tool kit of protective strategies. One goal of this book is to open that kit and share with you the tools we've collected – and continue to collect – over the years.

Why Me?

As the parent of an injured child, this is a question you will inevitably ask yourself. Why me? Why my child? "Why me?" is a philosophical/spiritual question and beyond the scope of this book. This situation is not your fault. Inherent to the word "accident" is absence of accountability – or blame. Often, there is no one to clearly and immediately blame and so as parents, we turn the blame on ourselves. You did not cause the accident from which your child suffers. You cannot turn back time or undo events. What you can do is be as informed and prepared as possible to make sure your child does not suffer any more than necessary. You can acquire the tools, knowledge, and assistance to move forward from where you find yourself – to move toward a more positive future.

And So…

When it comes to wrongful death or a catastrophic injury case, we believe it is important that no one ever forget what really matters. The most important consideration is the mind-numbing reality that someone

has lost a child, spouse, or other loved one; or that someone has suffered paralysis, brain damage, or some other kind of crippling injury. These victims have been subjected to unfathomable pain, grief, and financial hardship, and are now asking difficult questions:

- What do I do now?
- How do I pay my child's medical bills and still feed my family?
- How do I give my child his or her life back?
- How do I get my life back?

When we work with those who are victims of wrongdoing – no matter what the cause – we always try to remember the big picture: the people we are working to help – our clients, their struggles and needs, their personal stories, and how much life really changes – how difficult life can become when someone is visited by tragedy. This sense of awareness, of remembering what is important, is the foundation of our law practice. We have tried to imbue our entire firm with these priorities, and all of our lawyers are committed to these ideals.

We are passionate about helping children. We have drawn on our own experience from decades of representing families of injured children and added to it information gleaned from research, interviews, and news stories. We have brought together our past experiences with new information to create what we hope is a compassionate guidebook for both caretakers who are looking for information about child dangers and safety and parents who are overwhelmed and bewildered by the injury of their child. You will find within these pages a variety of topics related to children and injury, including the steps you need to make a strong injury claim, how to deal with big insurance companies, how to best protect your child from injury, and how to find and get support when injury is beyond your control. Peace is priceless and knowledge is power. We hope our book brings peace and knowledge to parents trying to guide little people through a very big world.

INTRODUCTION

Why This Book?

We intend for this book to serve two purposes. One is to help educate you about the many dangers that children face every day, and to share with you ways to protect them. The second is to guide you, if necessary, through the process of making an accidental injury claim on behalf of a child.

If you are the parent or guardian of an injured child, let us reiterate that what has befallen your child is not your fault. In fact, the frustrating nature of accidents is that there often is no one to bear clear fault or take the blame. That does not mean, however, that no steps can be taken to move forward and protect you and your child from further injury, emotional or physical. Even in cases of pure accident, and especially in cases of negligence, frameworks have been erected in which to move and act. We are here to help you maneuver through these frames.

During more than five decades of representing injured victims, we have encountered first-hand the overwhelming confusion and frustration of, "What do I do now?" That frustration and confusion grow exponentially when the injured party is a child. We have labored for years to help ease the burden of those who have been traumatically injured as a result of someone else's carelessness.

The unfortunate, but nearly inevitable, truth is that in most injury accidents, one must go head-to-head with corporations, insurance companies and doctors who didn't care enough about their patients. We have encountered first-hand the methods they use to take advantage of the innocent injured. We believe that grieving parents need even extra support as they struggle to mend and heal their broken hearts and their child's broken body.

An unfortunate reality of severe injuries is that they are costly – not only physically and emotionally, but also financially. You may be facing anything from emergency room, hospitalization, and recovery costs to life-long care and treatment. If a negligent party was responsible for your child's injury, you should not have to bear this burden alone. You have a right to pursue just compensation.

We have worked for over five decades to ensure that justice be brought on behalf of those injured through negligence. One client for instance, a fourteen-month old boy, was taken to a healthcare clinic for treatment for a persistent rash on his stomach. The examining physician made a diagnosis that the child was suffering from scabies and prescribed a generic form of scabicide lotion whose active ingredient was a pesticide that was a neurotoxin. The lotion did not have any warnings for pediatric use, which would have instructed that the lotion be used in minute quantities, if at all. The pharmacy filling the prescription gave the mother the lotion in a cough-medicine-size bottle with instructions to apply the lotion to the child's body at bedtime. The mother used the product nightly until the child began to experience seizures. The child suffered permanent brain injuries from the neurotoxin in the lotion. Through skill and effort we reached a settlement with the generic drug manufacturer.

In another instance, our fourteen-month-old (female) client suffered an anoxic insult and permanent brain injury from a defective play-pen toy that was defectively designed and improperly age-grouped. During the case we learned that the nationally known toy manufacturer with a reputation for safety did not, in fact, conduct any safety analysis of its toys, and did not evaluate how the product would be used by parents. Further, the toy company did not employ a child psychologist or evaluate in any way what the appropriate age grouping should be.

Many of our cases involve auto-injury accidents. A seven-year-old girl was a belted rear-seated passenger in her parents' car when the car was hit in the left rear while traveling through an intersection. The child's seat belt failed on impact and the child was ejected from the vehicle, suffering a

head injury that resulted in loss of cognitive and speech functions. The majority of the settlement was paid by the car manufacturer and was based on the defective design of the seat belt mechanism.

Our caseload is not limited to babies and toddlers. Our firm represented parents of an 18-year-old girl who sustained a fatal head injury while riding as a passenger in a golf cart. The golf carts were supplied to purchasers of the condominium at a lakeside resort and were used by owners as local transportation. The golf cart had been modified by the addition of two rear seats. The addition of these seats changed the handling characteristics of the cart making it more prone to rollovers. The young victim was a rear seat passenger when the cart rolled over causing her to strike her head on the road surface. The manufacturer's modifier and retailer of the golf cart contributed to the settlement.

These experiences and countless others have motivated us to share the information contained in this book. The terrible paradox in parenting is this: So many accidents are preventable or avoidable – yet so very many are simply not. This book provides ideas, tips, and guidelines for making children's lives as safe as possible. And when you've done all you can and accidents still happen, to provide the comfort, support, and knowledge you need to move forward in whatever way is best for you, your child, and your family.

DISCLAIMER

Why Not Only *This Book*

We are not allowed to give legal advice in this book. We can anticipate many arguments big insurance companies and defense lawyers are going to make regarding your claim. Beyond that, we can only offer suggestions and identify certain pitfalls and traps. Please do not take anything in this book to be legal advice unless you hire us as your attorneys and we have agreed, in writing, to accept your case.

This book is many things: a resource for child safety, a compendium of knowledge related to child injury cases, a guide for those unfamiliar with legalistic waters, a sourcebook for support and reassurance. But if anything, this book is a plea for you to hire an attorney. If you have picked up this book, you want to do what is best for your child and your family. As we have stated above, this book does not – cannot – constitute legal advice. It constitutes the grounds for you to move forward with the aid of a competent attorney who will be a partner in seeking justice for what has happened to your child.

VOCABULARY

Some Helpful Terms

This book deals almost exclusively with accidental injury and related claims. We would like to take a moment to solidify our vocabulary before we begin our journey through its pages.

An accidental injury, according to Black's Law Dictionary, is

> [a]n injury resulting from external, violent, and unanticipated causes; esp., a bodily injury caused by some external force or agency operating contrary to a person's intentions, unexpectedly, and not according to the usual order of events.[1]

In other words, most of the incidents covered in this book are not pre-meditated. These accidents are, however, culpable, or "due to negligence."[2]

The one pre-meditated act covered is child abuse. We will look more specifically at federal and state definition and guidelines, but as a foundation we will look again to Black's: Child abuse is "[a]n intentional or neglectful physical or emotional injury imposed on a child, including sexual molestation."[3] For the purposes of this book we shall define a child as anyone 18 years of age or younger.

1 Garner, Bryan A., editor in chief. *Black's Law Dictionary*. 7th ed. St. Paul, MN: West Group, 1999, p. 789

2 Ibid., p. 15

3 Ibid., p. 10

SECTION I

Legalese

Breaking it Down Into Manageable Bites

CHAPTER 1

Beginning at the Beginning:

Do I Have a Legal Claim?

One of the first questions you will need to answer is this: Does a legal claim exist? A legal claim arises when your child is entitled to compensation for injuries and/or damages resulting from an accident. The two major contributing factors to this designation are determination of negligence and the scope of expenses and damages. In short, are the injury-related costs great enough to warrant a claim and is someone at fault?

Generally, in order to have the legal right to retrieve compensation for your child's injury, that injury must be attributable to negligence. A person, people, corporation, or government may be negligent. A party is determined to be negligent when failing to provide or exercise reasonable care, which is most obviously evidenced when the negligent party is in violation of a known rule or law. For instance, if you run a stop sign and hit another car, you are a negligent party. If you are responsible for the care of your young child and you let him or her swim unattended in your swimming pool, you are a negligent party.

If you believe a negligent party is responsible for your child's injury, you may also believe that the injury lies within the scope of necessitating a claim, meaning the expenses and damages incurred by the injury are great enough to call for restitution. If you have any questions about this, ask an attorney. If you live in New England, our team is happy to answer any initial questions you have about your potential accidental injury claim. If you choose to contact us about a potential claim, we will meet with and interview you at no charge. Only if we move forward with your case will

any fees evolve. Every state has a number of lawyers experienced in child injury accidents. Let them help you determine if you have a case that will constitute a legal claim.

You need to be aware of your state's statute of limitations. Different acts in different locations have varying statutes. Once again, this is a question best answered by an attorney familiar with child accident-and-injury law.

CHAPTER 2

Your Next First Step:

Do I Need an Attorney?

If you conclude that you do have a legal claim, please do not try to pursue it on your own. There are many reasons we recommend you seek legal counsel in your fight for justice. The most obvious reason is that "they" will have lawyers. If the negligent party is anything but an individual – and often then, as well – you may assume that lawyers will be involved. We believe it is too much for any layperson to ask of herself to go head-to-head with experienced attorneys and skeptical jurors.

Juries can be highly suspicious of injury claims. We have watched this happen and worsen throughout our decades representing injury accident victims. On one side, insurance companies have worked very hard over the years to discredit injury claimants. They have spent hundreds of millions of dollars on propaganda to impact juries and swing verdicts in their direction. On the other side, Americans are bombarded daily through news, television shows and movies that involve claimants suing for injury related expenses and damages. The populace is in danger of becoming desensitized and distanced from the very real issues at stake in a personal injury trial. The defendant's lawyers are likely to play on this distance and mistrust.

Juries just don't like accident cases. According to Neal Feigenson, they often have "a common-sense conception of accidents as melodramas."[4] How can we expect someone to seriously deliberate a melodrama? You can hire an attorney who understands how juries work and who knows

4 Feigenson, Neal. Legal Blame: How Jurors Think and Talk About Accidents. Washington, DC: American Psychological Association. 2000. p. 87

how to present a case in a way that will take it from "melodrama" to real-life drama. In his book Legal Blame: How Jurors Think and Talk About Accidents, Feigenson searches for some kind of pattern in how juries reach their decisions in accident cases. While he finds that predicting or even talking about how jurors think is a highly complex proposition, a kind of process can be uncovered:

> *If there is any overarching pattern in this complexity, it is that jurors in accident cases try to achieve what we call total justice. They strive to square all accounts between the parties (even though the issues the law asks them to resolve may not be framed in those terms), to consider all information they deem relevant (even if the law tries to keep them from relying on some of it), to reach a decision that is correct as a whole (even if they reach it by blurring legally distinct questions), and to feel right about their decision (even though the law discourages them from using their emotions to decide).*[5]

Further, Feigenson is able to formulate a framework that gives us a way to talk about juror discourse – how they think and talk – about accidents. He cites four components of that framework:

- common sense,
- the formal law, including substantive rules as well as legal procedures and institutions,
- the thinking of experts, most relevantly for these purposes that of judges and legal scholars,
- and, above all, the facts of the case.[6]

These issues become even more complex when the injured party is a child. In order to successfully communicate your case to jurors, you will need a team that is familiar with jury discourse. You need a team that moves comfortably, confidently and competently within the framework

5 Ibid., p. 5

6 Ibid., p.10

illuminated above. The defendant will have an entire contingent helping him present his case. You deserve to have someone working on your behalf to build and present a strong case from the available facts; to communicate effectively with the judge and jury; and to help provide legal precedence, knowledge of procedures, and the thinking of experts related to your case.

Another reason you need an attorney is the simple truth that personal injury cases are complex, complicated and often confusing – even without the complications of convincing a jury. Throughout this book, we have done our best to give you some basic guidelines for making a personal injury claim on behalf of your child, but we hope those guidelines in themselves have made the case for legal counsel. One legal slip can lose you time, energy and money or even lead to your case being dismissed. Once again, the defendant will most likely have an attorney. You should not have to do this on your own.

If you do try to proceed with any kind of legal claim without counsel, you become the prosecutor. This is a dangerous prospect. For one thing, you will appear hostile to jurors. As we saw earlier, juries are often already suspicious of accident cases. If you are the prosecutor, you move from being the victim to being an aggressor or attacker. Further, as prosecutor you will be solely responsible for determining what evidence to present and how best to present it. You will need to know the right things to say and when to say them. Finally, insurance companies will often take an individual far less seriously than an attorney. Kenneth M. Phillips, creator of dogbitelaw.com, puts this into perspective: "An insurance adjustor will offer a parent [only] 10% to 20% of what he would offer if the child had an attorney."[7]

Most importantly, you have plenty to deal with before and beyond legal concerns. You are facing the pain, anger and perhaps guilt associated with the injury of a child. Your main focus will, and should be, the injured child. There is no shame in cutting yourself some slack. Get help. Let someone who has been trained in the legal field and who has experience with

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child injury law help you and your family. You have already been through enough and done enough on your own.

The injury of a child can change your life – and the life of your child and family – forever. You must make an instant transition from "parent and child" to "parent and injured child." This evolution leads to a seemingly endless list of ramifications: your roles change as parent, spouse, relative and friend; your relationships change both within your family and out in the world; even your hopes, dreams and plans may have to change, not only for your child's future, but also for your own. It is not surprising that legal concerns may be on your back burner. But according to the book Children with Traumatic Brain Injury, A Parents' Guide,

> *[t]his sudden transition has broad legal implications.*
>
> *First, it's essential that your family initiate as quickly as possible an immediate legal review of the actual event of your child's injury (the motor vehicle collision, assault, fall, etc.) or onset of harm (onset of symptoms, initial communication from health care professionals of harm).*
>
> *. . . In the first hours, days, weeks and months following your child's injury, your family and rehabilitation team will have many opportunities to make sure that the legal system will work for your child, rather than against her.*[8]

This parents' guide was put together by an expert team of medical and rehabilitation specialists, a speech-language pathologist, social workers, psychologists, special educators, and an attorney.[9] It is apparent to them that in the case of traumatic brain injury, legal advice should be sought immediately, and that if a claim is determined to exist, you will best

8 Lisa Schoenbrodt, Ed.D., ed. Children With Traumatic Brain Injury, A Parent's Guide. Bethesda, MD: Woodbine House. 2001. p. 351-352

9 For further discussion of legal issues surrounding TBI and children, see chapter 10 of Children with Traumatic Brain Injury: A Parent's Guide, edited by Lisa Schoenbrodt. Many of these arguments apply to other forms of accidental injury.

serve your child by gaining legal aide. We would argue the same holds for any injury.

If you have come to this book because you are the parent of an injured child or another adult in the life of an injured child, chances are the injury is severe. As you will see in the chapters to come, costs involved in treating severe injuries can be staggering. You will not only have costs involved in immediate treatment and recovery, but depending on the injury and its severity, you may also be looking at a lifetime of expenses. You need not bear this burden alone. In fact, you have a right to receive financial recompense from the party responsible for your child's injury. Without experience in injury law and negotiation, chances are you will receive far less than you need or deserve. An insurance adjuster will often offer you only 10 to 20 percent of what he would offer an attorney.[10]

As you read through this book it should become clear to you that you will need help to navigate the murky waters of accidental injury claims. You are not working for yourself alone, but for your child. Getting help from a competent and experienced attorney will allow you to place greater focus on your child and your family. You will of course need to work closely with your attorney and you don't want to be ignorant of the process and proceedings of your case, but let the lawyers do the work for which they are trained and free you from some of the distress of the legal process.

Wherever you choose to go for legal counsel, please don't delay. Witnesses may move away and memory fades. Evidence may be lost, misplaced or destroyed. With so much going on and so much at stake, you can see why you need an attorney to help you build the best and strongest case possible.

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CHAPTER 3

Identifying the Arena:

Will My Case Go to Court?

Once you and your attorney determine that your child's injury meets the legal requirements for a valid claim, you may proceed with serving the claim and filing the lawsuit for compensation. Most child injury cases settle out of court. In instances of dog bite cases for instance, "[w]hen the victim is a child, at least 98% [of cases] settle out of court, without a trial."[11] Not all cases will settle and some cases will begin in one arena and end in another. You will need to communicate with your lawyer along the way to stay clear about where your case lies.

Please be aware that if your case does go to court, your child may be called to testify. Generally, a child may be determined competent to testify if he or she meets the following criteria:

- The child must understand the obligation to speak the truth on the witness stand.
- The child must have had, at the time of the injury, the mental capacity to receive an accurate impression of the incident.
- The child must be able to independently and accurately remember the incident.
- The child must have the capacity to express in words his memory of the incident.
- The child must be able to understand and answer simple questions about the incident.

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In the end, the judge will determine if your child is competent to testify. Your child will meet with the judge, who will visit with her to evaluate her demeanor, capacity, and manner of testifying.

As we said earlier, the odds of your case going to court are small. In our experience, if you provide strong evidence of liability against the defendant, your child's injuries are serious, and your case is supported by medical doctors and other experts involved in the case, you will most likely settle out of court. We would be remiss, however, to not advise you to prepare as if a trial were inevitable. This way you and your attorney will be thoroughly prepared for whatever path your case takes.

CHAPTER 4

Dealing with Insurance Companies:

You Are at War, But It Is a War You Can Win

After more than 50 years representing accident victims in Massachusetts, we are disturbed by the extent to which insurance companies take advantage of accident victims. If the negligent party involved in your child's accident has insurance, you *will* have to deal with an insurance company. Even if you decide to not retain an attorney, please do not attempt to negotiate with an insurance company without at least seeking legal counsel. This is big, confusing, scary stuff – let someone with experience and expertise help. Our allegiance as attorneys is to accident victims and their families – *never* to insurance companies or government agencies.

When you are injured, you often enter a war zone. But we are in this war together. Big insurance companies have declared war on injured people and their attorneys. These companies have waged this war in both legislatures and in the media and the hundreds of millions of dollars they have spent on propaganda have had a tremendously negative impact on juries and jury verdicts. Juries have become skeptical of injury claims; less so when the injured party is a child, but the prejudices still exist. A seasoned attorney can help you through and around these roadblocks.

The tactics and strategies of insurance companies constitute a large part of why we always recommend a claimant not move through the injury claim process without an attorney. Insurance companies hire aggressive attorneys and experts whose loyalty is to their client and they will work to protect that client by any legal means necessary. They may try to discredit you, your child, your doctors – anyone involved in testifying on your behalf. This is why it is so important to fully document your child's accident and

all relevant actions and conversations and to communicate fully with your attorney. You cannot help your attorney too much.

Please keep in mind that insurance adjustors are out to protect their client – not your child. Don't accept deals or offers without legal counsel. Don't let yourself be bullied into taking action you believe will be harmful to your child or insufficient to cover expenses and damages. And don't let the adjustors undermine your confidence. They may try to underplay the time and energy, cost and pain involved in your child's injury. You know how difficult and expensive this experience has been; continue to stand up for yourself and your child.

Insurance companies, their adjustors and lawyers will use several strategies to throw you off balance. Again, their goal is to get you to settle for as little time, money and energy cost to their client as possible.

Delay tactics. Adjustors will try to put you off until you are simply too worn down to continue your fight. You do have a right to demand recompense from the negligent party. And you have a right to ask for terms that you find reasonable. You need not give in to this wearying tactic. Don't settle without legal advice and don't give up – these are the goals of delay tactics. Trust your attorney and let him or her push back against the wall of delay.

Requesting unnecessary information. Consult with your attorney before producing any information for insurance companies. Your attorney will know what information is necessary and what is merely busy-work intended to wear your resolve.

Disputing medical treatment. Adjustors may claim that certain medical treatments were/are unnecessary for the recovery and health of your child, or they may claim the treatments, while necessary for your child, are unrelated to the claim injury. First, trust your doctors. Second, consult with your attorney. Be prepared, if your attorney deems it advisable, to provide second and third opinions to substantiate any medical treatment.

Disputing medical charges. Adjustors may dispute not only treatment, but also their cost. They may also, again, dispute which charges are actually related to your child's injury. Consult with your attorney. You may be asked to confer with your doctor(s) about reasonable fees and charges. If you have retained an attorney who is experienced in accident injury law, he or she will have knowledge of and access to further knowledge regarding medical expenses.

Misrepresenting policy benefits. Insurance policies are complex and confusing. Insurance companies have a bevy of experts at their disposal who are able to weave words into a web far too complex for you to find your way through alone. Get help from someone who is on your side and who can accurately translate policy information for you. This is another area where you will reap much benefit from retaining legal counsel.

Befriending you. Adjustors and insurance lawyers are not your friends. While as individuals they may indeed feel sorry about your child's injury and wish her the best, as professionals their job is to protect their client. They are hired to make sure you get as little as possible while they take as much ground from you as they can.

False promises. We cannot say this enough: Do not accept any offer from an insurance company or any of its agents without first obtaining legal counsel. The companies have been doing this for years and you are new to the game. Don't let yourself get bamboozled into a deal that will lead to little or no follow-through and be, in the end, harmful to your child and his future.

Trying to convince you to not hire a lawyer. Don't let the insurance company fool you. They will have lawyers. And – as stated earlier – their lawyers will be aggressive and fully focused on protecting their client from your claim. Adjustors or lawyers may approach you with deals that are "too simple and too good to require a lawyer." We strongly recommend that you obtain legal advice before accepting any offer from anyone acting as an agent for the insurance company.

Something you must keep in mind is that you are often fighting not just for recompense for your child's immediate situation, but for her future. You need expert information and advice on what you can expect to result from your child's injury and how that will affect you and your family in the coming years. And then you need expert counsel on how to proceed with that information in regards to your injury claim. A defendant may be held accountable for the future ramifications of his negligence.

As you can see, adjustors and insurance lawyers will be working hard to protect their client from having to take responsibility for his actions. You and your child deserve to have someone fighting hard on your behalf.

We don't want to interfere with any legal relationship you already have. If you already have legal representation, this book may raise certain questions for you. Please discuss them with your lawyer. Each law firm does things a little differently, and small differences don't mean that one of us is right and the other is wrong. If you are having any problems with your lawyer, please sit down with him or her and try to work things out. It is usually better to work out problems and stay with your original lawyer than to switch lawyers partway through an injury claim. Our firm normally does not accept cases in which another attorney has been involved. If, however, you have not yet retained counsel, please call us. We have decades of experience with accident injury law and a proven track record of successful child injury cases.

CHAPTER 5

Covering Your Bases:

Important Steps Toward a Successful Claim

As stated in the Disclaimer, this book does not constitute legal advice. It also by no means provides an exhaustive list of pitfalls and recommendations. This chapter, however, offers some guidance on the steps necessary to prepare and support a strong case.

Documentation. First, document everything. Second, document everything. Gather as much information about your child's injury as possible and from as many sources as possible. As you move forward through your case and into your child's future, continue to document everything. If your documentation is stored largely on a computer, make backups. Accurate and thorough documentation is an invaluable resource for you and your attorney throughout your injury claim trial.

Medical attention/advice. Make sure your child gets the medical attention he or she needs. Have your doctor(s) advise you on your child's current and projected needs, but remember that you know your child better than anyone. While you do need expert advice, if your doctor or your lawyer goes against what you know to be true, find another. Be in full communication with your doctor(s). Even share information that you feel should be obvious. As we said earlier, you know your child best. Our medical professionals may be skilled and brilliant, but they are not mind readers. The goal in this is to help ensure that everything possible is being done to meet your child's needs.

Legal advice. Obtain legal advice before giving statements, signing papers, or accepting estimates, deals, or settlements from the negligent party, insurance companies, or any lawyers acting on behalf of the defen-

dant. Protect yourself and your child from diversionary tactics or vague language that can end up helping the defendant more than you.

Hire an attorney. More specifically, hire a personal injury attorney. Based on our years of experience in law and what we've seen over the years, we recommend that you choose an attorney with child injury experience. Do not feel bad about shopping around. Choose an attorney you trust and with whom you feel comfortable. Our law firm offers an initial free consultation so that we can get to know each other and determine together if we are the best fit for you and your case.

Be in full communication with your attorney. We cannot emphasize this enough. Be open and honest with your attorney about every aspect of your family situation: your income, the mental and physical activity levels of your child before and after the injury, any previous injuries or health conditions, your child's – and perhaps your family's – health history, etc. Share with your lawyer any information requested and any further information you believe might be helpful. Your legal team has had years of experience in sorting and organizing pertinent information but cannot analyze or utilize information they don't have. You cannot give your attorney too much help.

The injury claim process can be long and confusing. But if you remember these steps and let your attorney lead you through them, the tasks at hand can be much less arduous.

SECTION II

Injury Overview

Looking at Some Specifics

CHAPTER 6

Bicycle Injuries

We cannot imagine a person today who does not know that bicycle helmets prevent injuries. According to the CDC, the results are dramatic: brain injury is cut by 88 percent and face injury by 65 percent. Yet only one in four children ages four to fifteen wear helmets, and among teens the rate is almost zero. Nearly 140,000 young people end up in emergency rooms each year with head injuries resulting from bicycle accidents.

Bicycle accident injury claims work very much the same as other claims. Unfortunately, you do not have control over the carelessness or negligence of others and you may at some point need to file such a claim. There are steps, however, to help your children protect themselves while cycling.

We understand that once a teenager leaves the front door, there is little you can do to monitor his or her behavior. Still, encourage them to wear helmets when they bike. Share with them injury and death statistics and real-life stories. In the appendix section of this book, we list several websites that contain safety information for pedestrians and bicyclers; many of them also contain stories about cycling injuries. With your younger children, however, you typically still have more sway. Make sure they wear helmets. Children fifteen and under constitute 59 percent of all bicycle injuries seen in U.S. emergency rooms. Teach your children the rules of the road. If your children will be biking at dusk or after dark, make sure that their bicycles have reflectors and that they wear reflective clothing.

Getting your kids to wear helmets can be difficult. We would like to share with you tips from a couple of sources. From the CDC, here is a series of case examples that urge parents to insist on helmets and encourage

children to wear them. The examples also give ideas for how parents can get their children to wear helmets and how children can stand up to their friends who think their helmets are "geeky."

First is an example for your teens about how their lives can be changed in an instant. Remind them that the chances for brain injury are reduced by 88 percent when they wear a helmet.

- A teenager riding a bicycle without a helmet is struck by a car and suffers a serious head injury. He endures months of rehabilitation, with bad headaches, slurred speech and facial scars. He loses confidence in himself, becoming increasingly isolated socially.

Next, we see the harsh potentiality for parents. We are responsible for the safety of our children. We cannot be everywhere at all times and we should not beat ourselves up for accidents that are beyond our control. But we are the examples set for our children. Don't let something like this happen to you:

- A divorced father takes his two young daughters out for a bike ride while they are visiting him on a Saturday. While the mother insists that the children wear helmets, he has never bought any, and he and his daughters ride without them. One daughter falls from her bike, striking her head on the sidewalk. She required stitches and is in great pain. The father feels tremendous guilt.

Instead, here is an example of how to work the helmet into the very existence of the bike:

- A young girl wants a bike for her birthday but her father knows she doesn't like helmets. He says, "Here's the deal. I'll get you a bike, but it comes with a helmet. If you get on the bike, you put on the helmet. Deal?"

The following is our favorite. If we can find older kids and young adults who our children think are "cool," we can go a long way toward getting our kids in helmets. Sometimes the encouragement works better when it

comes from someone other than us – someone who is not the parent or the un-cool old person.

- A ten-year old boy does not want to wear a bike helmet because his friends do not wear them; he thinks it would make him look like a geek. His mother takes him shopping for a helmet; he shows little interest. She chats with a young salesman while her son is browsing out of hearing distance. The young salesman, good-looking, athletic, starts talking to the boy about riding bikes, asking what kind he has and where he rides it. Then he asks what kind of helmet the boy wears. When the boy hesitates, the salesman says, "Come on over here, I'll show you the kind I use." The boy feels flattered and is interested in looking at helmets.

Finally, here is a story you can share with your younger kids and tweens. It gives an example of a boy who firmly, but simply stands up to his friend.

- Two boys decide to ride their bikes to the store. One says he has to go upstairs to get his helmet first. Others say not to bother, they're not riding far. The first says he doesn't want to get his brains splattered on the street and goes to get his helmet.

We hope you will find these vignettes helpful in talking with your children about wearing bicycle helmets.

Bicycle safety is an incredibly prolific topic on the Internet. You can find dozens of sites that share statistics, stories, and safety tips. Because helmets are so important to keeping your child safe on a bicycle, we want to share one more document with you. Following is a list of twelve ideas from the Bicycle Helmet Safety Institute about getting your kids to wear helmets[12]:

1. **Establish the helmet habit early when your children get their first bikes.** If they learn to wear helmets whenever they ride it will become a habit for a lifetime. If possible, start them off

12 helmets.org

with helmets while they are still on tricycles to establish the link between wheeled vehicles, pavement and helmets. It's never too late, however, to get your children into helmets.

2. **Let them pick the helmet out.** If they make the decision they are more likely to buy into the idea. If the helmet they want is a little more expensive, it's still cheap for the protection they will have when they actually wear it. Some parents buy their child a new helmet every year so they are excited to wear it. If the grandparents want to send a helmet, tell them to send a gift certificate for one instead.
3. **Wear one yourself.** Provide a role model for your kids; they learn best by observing you. Whenever you ride your bike, put on your helmet. Show them that you hold yourself and your brains in high esteem.
4. **Encourage their friends to wear helmets.** Peer pressure can be used in a positive way if several families in the neighborhood start making helmet use a regular habit at the same time. If no other kid in your neighborhood uses a helmet, your job will be a lot harder.
5. **Talk to them about why you want them to protect their heads.** Let them know:
   Their bikes are not toys, but their first vehicles.
   You love them and value them and their intelligence.
   They can hurt their heads permanently or even die from a head injury.
6. **Give your child a short course in bike safety**, using a guide like our "Teaching Your Child to Ride A Bicycle." Placing the helmet in the context of a safety program shows that it is not just an arbitrary rule and helps underscore why you are requiring it. It is not enough to put a helmet on the child and send them off without some basic safety instruction.
7. **Point out when watching sports events how many professional athletes use helmets.** Football and hockey players, base-

ball batters and race car drivers wear them.

8. **Take your child to a bicycle race.** Bicycle racers are required to use helmets in the US, the Tour de France and almost everywhere. They will see—usually close up—really cool riders, competing in a hotly contested event, all of them using helmets.
9. **Reward your kids for wearing helmets.** Praise them; give them a special treat or privilege when they wear them without having to be told to.
10. **Don't let them ride their bikes unless they wear their helmets.** Be consistent. If you allow your children to ride occasionally without their helmets, they will not believe your messages about the importance of wearing them. Tell them they have to find another way to play, or must walk or take a bus to get somewhere if they don't want to use them.
11. **Plan bicycle outings together when all family members wear their helmets.** Ride with a local bike club if you can, where all riders will probably be wearing helmets and many of them, like the racers, are accomplished riders.
12. **Remember:** Crashes causing head injuries can occur on sidewalks, driveways, bike paths, and parks, as well as streets. You and your children cannot predict when a situation will occur that will end in a fall from a bike. It is important to wear a helmet whenever riding even if it's just down the street or on a bike trail.

For further information, visit the Institute's website (helmets.org). They have articles that explore why kids don't like helmets – including interviews with kids themselves, explain how to choose and maintain helmets, and talk about helmet laws across the United States.

With gas prices sky-rocketing and concerns about children's inactivity coming to light, bicycling is experiencing a resurgence among both adults and children. You want to stay around for your family as much as you want

to keep them around. Educate yourself and your children on the best ways to stay safe while on a bicycle whether you are in a park, in a parking lot, or on the road.

CHAPTER 7

Birth Trauma

Our dream from the moment we find out that we are to be parents is that we will have a happy, healthy child. Late at night we may nurse far-fetched nightmares about our child's birth, but we truly hope and believe that the birth will go, if not smoothly, at least normally. While odds are in our favor, things sometimes do go wrong. Twenty-seven out of every 100 children will suffer a birth injury this year. Each year, 10,000 babies are born with trauma-related Cerebral Palsy. While we sincerely hope you never need the information in this chapter – or in any of this book – we would be remiss if we did not share with you the possibilities and your options.

Birth trauma is an injury that occurs during the birth process and results from mechanical forces. These injuries have many causes: The doctor may wait too long to perform a cesarean section; a nurse may administer a dangerous dose of Pitocin to the birth mother; the doctor may misread or misinterpret the fetal heart rate monitoring strips; the medical team may fail to act in a timely manner; or the medical team may fail to act in a necessary or appropriate manner. True accidents do happen during the birthing process. Though we have advanced medically beyond the imagination of even our own parents, childbirth can still be unpredictable. If, however, the action causing your child's birth trauma is negligent, you do have grounds for compensation.

Birth trauma can lead to two major categories of injury. The first is injury resulting from oxygen deprivation. Hypoxia and asphyxia can lead to permanent brain damage and Cerebral Palsy. Cerebral Palsy is actually a group of problems that affects body movement and posture and can lead to mental retardation, seizures, and vision and hearing problems. According

to Web MD, Cerebral Palsy is one of the most common causes of lasting disability in children.[13]

Cerebral Palsy can be broken down into three locative categories: diplegia, where only the legs are affected; hemiplegia, where half of the body is affected (for instance, the right arm and leg); and quadriplegia, where both arms and legs are affected and sometimes the face and torso. There are also three major types of Cerebral Palsy:

- Spastic CP is where there is too much muscle tone or tightness. Movements are stiff, especially in the legs, arms, and/or back. Children with this form of CP move their legs awkwardly, turning in or scissoring their legs as they try to walk. This is the most common form of CP.
- Athetoid CP (also called dyskinetic CP) can affect movements of the entire body. Typically, this form of CP involves slow, uncontrolled body movements and low muscle tone that makes it hard for the person to sit straight and walk.
- Mixed CP is a combination of the symptoms listed above. A child with mixed CP has both high and low tone muscle. Some muscles are too tight, and others are too loose, creating a mix of stiffness and involuntary movements.[14]

Costs related to CP can be extreme. You are often looking at least one and possibly a variety of therapies, including physical therapy, occupational therapy, and speech and language therapy. Your child will also need any variety of equipment, from crutches and braces to wheelchairs. She will also most likely need ongoing medication and possibly outside care.

One of the complications of CP is that it can take years to diagnose. MyChild, an organization dedicated to the care of children with Cerebral Palsy, Erb's Palsy, and other neurological disorders, points out that the spectrum of "normal" development for babies and toddlers is enormous;

13 Web MD. webmd.com

14 National Information Center for Children and Youth with Disabilities (NICHCY). Legacy resources now maintained by the Center for Parent Information and Resources (CPIR). parentcenterhub.org

children simply develop at different rates. If, however, you feel that something is just "not right" with your child and you suspect he may have CP, take him to see a doctor who is trained to diagnose it.

MyChild provides the following list of CP warning signs.

Struggles with fine motor skills. These include handling scissors, using crayons, buttoning a shirt, and any other movement that uses her fingers and hands

- Struggles with gross motor skills. These include walking, riding a tricycle, kicking a ball, and other movements that use his legs and arms.
- Trouble sitting upright. It takes a lot of muscle tone to sit up without toppling over.
- Shakes a lot or has uncontrollable jerking of her legs, arms, or torso.
- Muscles are weak.
- Body tremors, drooling, weakened muscles in his face; may lose control of his tongue.
- Trouble moving from one position to another.
- Trouble sucking.[15]

Again, if you feel uncomfortable with your child's development and she exhibits the above signs, follow your gut. See a doctor to at least rule out the possibility of CP.

Cerebral Palsy is a scary condition and can leave you feeling helpless and overwhelmed. If your child is diagnosed with CP, please know that you are not alone. The appendix of this book lists several websites where you can find information and support. For immediate assistance, here is a list of Tips for Parents from the National Institute of Neurological Disorders and Stroke (NINDS):

15 cerebralpalsy.org

A. Learn about CP. The more you know, the more you can help yourself and your child. See the list of resources and organizations at the end of this publication.

B. Love and play with your child. Treat your son or daughter as you would a child without disabilities. Take your child places, read together, have fun.

C. Learn from professionals and other parents how to meet your child's special needs, but try not to turn your lives into one round of therapy after another.

D. Ask for help from family and friends. Caring for a child with CP is hard work. Teach others what to do and give them plenty of opportunities to practice while you take a break.

E. Keep informed about new treatments and technologies that may help. New approaches are constantly being worked on and can make a huge difference to the quality of your child's life. However, be careful about unproven new "fads."

F. Learn about assistive technology that can help your child. This may include a simple communication board to help your child express needs and desires, or may be as sophisticated as a computer with special software.

G. Be patient, keep up your hope for improvement. Your child, like every child, has a whole lifetime to learn and grow.

H. Work with professionals in early intervention or in your school to develop an IFSP or an IEP that reflects your child's needs and abilities. Be sure to include related services such as speech-language pathology, physical therapy, and occupational therapy if your child needs these. Don't forget about assistive technology either!

The website also includes tips for teachers of children with CP. Share these websites and tips with anyone in your life that will be working with your child.[16]

The second category of birth trauma injury is nerve damage. A child with nerve damage from birth trauma can end up with permanent loss of feeling and movement in arms and shoulders. He can also end up with brachial plexus palsy, more commonly known as Erb's Palsy. Erb's Palsy affects the arm and runs a spectrum from weakness to paralysis.

Birth trauma injuries tend to be permanent and irreversible – your child won't get better. This means a lifetime of medical expenses for the injured child. Beyond medical and therapeutic expenses, parents may want to set up a trust to make sure their child is cared for beyond their own lives. As you can see, if your child's birth trauma was caused by someone's negligence, the negligent party should be responsible for helping you with these costs.

16 ninds.nih.gov

CHAPTER 8

Traumatic Brain Injury

Every 11 seconds someone in the United States sustains a traumatic brain injury.[17] The Brain Injury Association USA estimates that more than 5 million Americans currently live with disabilities resulting from traumatic brain injury. Males are nearly two times more likely to be hospitalized and three times more likely to die from a traumatic brain injury than females.[18] As you can see, males are over twice as likely to suffer from this type of injury. Current CDC data show that people age 75 and older have the highest rates of TBI-related hospitalizations and deaths.[19] Traumatic brain injury, or TBI, is a head injury where there is evidence that the brain has been affected. Such evidence presents as

> an altered level of consciousness (for example, drowsiness, lethargy, confusion, coma); or
>
> neurologic signs, such as localized weakness, that indicate that part of the brain has been injured.[20]

TBI is a spectrum injury; there is no single description or diagnosis of the resulting medical issues. The effects of TBI are unpredictable, sometimes delayed, and often permanent. As this book was originally being written in the spring of 2009, acclaimed actress Natasha Richardson suffered a head injury while skiing. She insisted she felt fine and refused medical treatment. A few days later she was in the hospital in a coma and she died shortly thereafter. Please seek immediate medical attention any time your child receives a serious blow to the head.

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17 Brain Injury Association of America (BIAA). biausa.org

18 Schoenbrodt, Lisa, ed. Children with Traumatic Brain Injury: A Parent's Guide. Bethesda, MD: Woodbine House, 2001, p. 2

19 Brain Injury Association of America (BIAA)USA. biausa.org

20 Schoenbrodt, Lisa, ed. Children with Traumatic Brain Injury: A Parent's Guide. Woodbine House, p. 8

The most common cause of TBI is motor vehicle accidents. An improperly restrained or unrestrained child can suffer brain injury at speeds as low as 4 mph. TBI can also be the result of other accidents where the head is hit or severely jostled, like sledding, skating, skiing, or biking; contact sports like football, hockey or boxing; fights and other impact injuries; abuse – impact or shaking; and previous brain injury. Behavioral and physical issues from a previous TBI often result in a child being more vulnerable to ending up in injury situations, making it "[o]ne of the highest risk factors for sustaining a TBI. . ."[21]

There is much vocabulary surrounding TBI. Some of the terms with which you should be familiar are: open brain injury, closed brain injury, coup contusion, contrecoup contusion, and focal brain injury. A contusion is simply a bruise. An open brain injury is caused by something penetrating the skull and piercing or hitting the brain directly, while a closed brain injury occurs when the skull is not penetrated. A coup contusion occurs when the brain injury causes bruising on the cortex at the point of impact. A contrecoup contusion, however, is caused when the bruising is located on the brain opposite from the point of impact, resulting from the brain bouncing against the other side of the skull. All of the above may result in either general or focal brain injury. Focal brain injury specifies that the injury has affected a very localized area.

As we stated earlier, TBI is unpredictable. With focal brain injury we can, however, project types of damages and resulting issues based on the location of the trauma. One major area of localized trauma occurs in the four lobes of the forebrain. Damage to any of these lobes may affect very specific functions:

- The frontal lobes assist in coordinated fine movement, the motor aspects of speech, executive function (thinking abilities that allow us to have goal-directed behavior), motivation, social skills, and certain parts of what we call personality.

21 Ibid., p. 2

- The temporal lobes are important for memory, receptive language, and musical awareness.
- The parietal lobes are important in the interpretation of sensory information (including high level skills such as reading and understanding of spatial relationships) and attention.
- The occipital lobes perceive and interpret visual stimuli seen by the eyes.[22]

The diencephalon – the final part of the forebrain – along with the midbrain and hindbrain create the brain stem. The brain stem is responsible for the transfer of sensation; autonomic control – basic bodily functions; equilibrium, voluntary muscle control and coordination; and some emotional control.

In addition to this localized function disruption, TBI may lead to neurological issues such as postconcussion syndrome, headaches, seizures, hydrocephalus (water on the brain) and motor impairment; psychiatric issues such as AD/HD, agitation or aggression, depression and personality change; and disruption of the endocrine and immune systems. In short, a child with TBI may suffer impairment in learning and thinking, speech and language, balance and movement, and behavior. Parents and caregivers of a child with TBI must also be on the lookout for delayed injuries like bleeding and edema (swelling of the brain).

The costs associated with TBI can be staggering. They include medical care and treatment at the time of injury and potentially for the life of the child; home health care; special education needs; respite care, which in long-term care situations gives families a much-needed rest; and rehabilitation and therapy including physical, occupational, speech, vocational, and psychological. As with children suffering from birth trauma, the parents of children suffering from TBI may wish to set up a trust to ensure they will be cared for beyond the life of the parent.

22 Ibid., p. 6

No amount of money can make up for the injury of your child. The cost of care, however, can be overwhelming. And studies have shown that money can matter to the quality of life of a debilitated individual:

> *. . . [O]ne study of 238 adult patients with TBI found that in cases where more financial resources were expended, independent living skills significantly improved.*[23]

If your child's injury is due to negligence and insurance offered is insufficient, you do have recourse to help ease your potentially ongoing financial hardship.

While not all TBI is unavoidable, there are some things you can do to protect your child. Utilize car seats and safety restraints at all times (see chapter 11). Make sure your child wears a helmet when participating in sports or recreational activities such as sledding, skating or biking (see chapter 6). See that your child is properly supervised when you cannot be present. You can even work with your school and neighbors to make sure adults are working together in the community to watch out for the welfare of your children. Be on friendly terms with your neighbors and your children so that you are respected in a supervisory capacity, and vice versa. Start a grassroots movement to ensure proper maintenance of sporting and playground equipment. Urge your city to re-cover playgrounds with non-abrasive and cushioning materials.

Traumatic Brain Injury may result from a number of other issues addressed in this book. But as you can see, it also warrants its own chapter. The anguish, confusion, and upheaval resulting from TBI can be overwhelming. Please remember that you are not alone. The appendix of this book includes several suggestions of where to find support. If you know a young adult who is trying to wrap his head around the injuries of a sibling or trying to understand what has happened to her friend, there are several resources out there geared toward young adults. Despite its age, we would recommend the book Head Injuries, by Nathan and Jay Aaseng. It is a

23 Ibid., p. 353

concise, comprehendible source for young adults and families struggling to understand TBI. You may also want to visit *Survivor's Voice* on the Brain Injury Association USA website (biausa.org). *Survivor's Voice* is filled with first-hand accounts of living with brain injury.

CHAPTER 9

Burns

Burn injuries are a serious cause of injury in children in the United States. According to the Centers for Disease Control and Prevention, every day 435 children ages 0 to 19 are treated in emergency rooms for burn-related injuries, and two children die as a result of being burned.[24] Children who survive severe burning can be left with blistering, bleeding, scarring, loss of skin, infection, and other secondary injuries specific to different burn types. Burn victims may also require counseling to deal with the emotional and psychological ramifications of their injuries.

There are four major burn categories: thermal, electrical, chemical, and light. Thermal burns include scalding or direct contact with hot water, steam, open flame, or heated surfaces. Flash burns also fall into this category. Thermal burns constitute the highest percentage of burns in children. Risk factors include flammable clothing, unattended open flames, unattended cooking, and untested food or drink.

Scalding is the most common type of burn for younger children (for older children it is open flame), either from water in the kitchen or bathroom, from hot beverages, or from hot liquids left cooking on the stove or cooling on the counter. The most obvious form of prevention is, as ever, supervision; don't leave children unattended around hot stoves or open flames. Educate your children and communicate with them about how to behave when the stove is on or how to look for steam from their food and drink; how to behave around an open flame; and that they need to ask an adult to work lighters and light candles or fireworks. Hand-test bath water for your young children. There are also hot water safety devices on the market. While your children are too young to be fully responsible

24 CDC, Protect the Ones You Love: Burns.

for self-policing the hot water taps, you can lower the temperature of your water heater. According to scald-burn prevention charts[25], it takes only 1 second to receive a 3rd degree burn from 150°F water. By lowering the temperature to 130°F, you buy yourself about 30 seconds. To prevent serious scalding, you should set your water heater to 120°F. At this temperature, it would take about 8 minutes for 2nd degree burns to form and about 10 minutes for 3rd degree burns.

Electrical burns occur when the skin comes into contact with electricity either by directly touching a current-wielding device or through an electrical arc. The actual burns from electrical contact may be exterior or interior. Because of the electric current that flows through the body, other injuries may result, such as cardiac arrhythmia, cataracts, renal failure, and ruptured eardrums. Electrical burn victims can also suffer from secondary injuries like trauma from a fall or violent muscle contractions. There are several steps you can take toward protecting your child from electricity. Be aware of where electrical cords lay in your house, cover all unused outlets, keep any live wires out of reach of your child, and most importantly, teach your children about electricity safety.

The eyes and sensitive areas of the body are most vulnerable to chemical burns, which result from the skin coming into contact with a strong acid or base. Beyond communication and education, you can best protect your child from chemical burns by keeping cleaning solutions and other dangerous chemicals out of reach or locked up.

Light burns result from prolonged exposure to ultraviolet light. The most common causes are sunlight and tanning beds. Light burns are the most preventable in the burn category. If your teens tan, educate them on the dangers of over-tanning and monitor their tanning bed usage. Sunburn prevention is so simple. Appropriate clothing and hats, sunscreen, and moderation to sun exposure take only a little extra effort and can save hours of pain and injury. If a child is left unprotected too long in the sun, this can be prosecuted as abuse or neglect.

25 U.S. Consumer Product Safety Commission. Avoiding Tap Water Scalds.

Burns can be divided into three categories: first degree, second degree, and third degree. First-degree burns are the least severe, damaging only the top layer of skin. Symptoms include redness, pain, slight swelling, and possibly peeling. The most common sources of first-degree burns are sunburn and flash burns. These burns rarely require professional medical attention and can be treated at home with lotions, ointments, and pain inhibitors. If your child suffers from a first-degree burn, first cool the area with water (not too cold) or a cool compress. You may give your child appropriate pain inhibitors and may want to go with ibuprofen if there is much swelling. First-degree burns heal naturally, but you may want to assist the healing process with the use of lotions or ointments. Contact your local pharmacist or pediatrician for recommendations.

Second and third-degree burns are far more dangerous and will require immediate medical attention. Once you are sure your child is safe from further burning, call a doctor as soon as possible. Second-degree burns damage several layers into the epidermis and are identified by blisters, swelling, severe pain, and redness. The skin will often look wet and shiny. The most common causes of second-degree burns are scalding, flame, and brief contact with a hot object. Third-degree burns are the most severe. All layers of the epidermis are injured with damage moving into the tissue underneath, or the dermis. Sometimes damage can reach as far as muscles, tendons, and bones. The skin often appears dry, but can look waxy, chalky, leathery, brown, or charred, and your child may feel little or no pain due to nerve damage. Third-degree burns are most commonly the result of scalds, open flame, extended contact with a hot object, electrical burns, and chemical burns. Because new skin will not grow where the entire epidermis is destroyed, grafting is often required.

Depending on the severity of the burn, medical expenses can range from immediate and moderate to extensive, long-term and expensive. Minimal costs will include pain control, infection control and the treatment of blisters and scarring. As we saw earlier, some types of burns come with their own set of secondary injuries. Although burn injuries are common, they are also preventable. Communicate with your children and

educate them about fire and heat-source safety, chemical safety, respect for electricity, and the dangers of over-exposure to sunlight and tanning bed lights.

CHAPTER 10

Dog Bites

The purpose of this chapter is NOT to instill a fear of dogs nor to exacerbate the climate of fear mongering that seems so popular in this country in relation to dogs. This chapter purports to share some basic facts and to advise you of your potential rights if your child is bitten by a dog due to the negligence of another.

According to the CDC, 4.5 million people are bitten each year. Almost one in five of those bitten require medical treatment, and children are more likely than adults to end up in a doctor's office or emergency room. The good news is that the CDC also reports that recent research has shown that dog bite injuries among children are declining.

Dog bite laws vary from state to state. Massachusetts, according to dogbitelaw.com, "has one of the best laws for the protection of dog bite victims, especially young children."[26] The owner or keeper of a dog is strictly liable for that dog's bite unless the victim was trespassing, teasing, tormenting, abusing, or acting otherwise inappropriately toward the dog. Children younger than 7 years of age are generally assumed to be exempt from the above list. While this can be debated in court, the burden of proof lies with the defendant.

Dog bites are another of the most preventable injuries you will read about in this book. Following are a list of danger signs to be aware of and to teach your children (from dogbitelaw.com) and a list of safety tips for kids (from the CDC):

Dog Attack Danger Scale:

26 dogbitelaw.com

- Knowing the danger-signs can keep you and your children safe. Dog attacks are associated with one or more of the following circumstances:
- A dog in its own yard, and no master present. In 2012, at least 5 of the 37 fatal dog attacks happened in this manner.
- The pack mentality. Three dogs are worse than 2, 4 are worse than 3, etc. Docile dogs often become uncharacteristically violent and vicious when they are in a pack. In 2012, 15 of the 37 canine homicides were caused by two or more dogs.
- Chained or tethered. Dogs that are tied up are dangerous. Since 2003, more than 450 Americans, mostly children, have been injured or killed by chained dogs.
- Male. Male dogs are several times more dangerous than female dogs. Unneutered male dogs are the worst.
- Newness. A new dog in the house is dangerous for the first 60 days, and a person who is new to a household where a dog resides is in danger of attack for the first 60 days. In 2012, roughly one-third of all dog bite fatality victims were either visiting or living temporarily with the dog's owner when the attack occurred, and 75% of deaths under these circumstances were children ages 8-years and younger.

<u>Safety Tips for Children:</u>

- To help prevent children from being bitten by dogs, teach the following basic safety tips and review them regularly:
- Do not approach an unfamiliar dog.
- Do not run from a dog or scream.
- Remain motionless (e.g., "be still like a tree") when approached by an unfamiliar dog.
- If knocked over by a dog, roll into a ball and lie still (e.g., "be still like a log").
- Do not play with a dog unless supervised by an adult.

- Immediately report stray dogs or dogs displaying unusual behavior to an adult.
- Avoid direct eye contact with a dog.
- Do not disturb a dog that is sleeping, eating, or caring for puppies.
- Do not pet a dog without allowing it to see and sniff you first.
- If bitten, immediately report the bite to an adult.

Both the CDC website and dogbitelaw.com offer extensive resources on safely integrating a dog into your household and educating your children about dog safety.[27]

27 cdc.gov and dogbitelaw.com

CHAPTER 11

Motor Vehicle Accidents

Everyone knows the basic facts about motor vehicle accidents. You cannot turn on the television or open a newspaper or, in fact, peruse almost any form of media without being bombarded with public safety announcements, accident injury commercials, or articles and statistics about motor vehicle accidents. We will not waste your time with a chapter full of statistics and gruesome detail. To validate the pervasive nature of this form of injury accident, however, we will share with you some numbers from our own state. In 2023, Massachusetts recorded more than 105,000 crashes, resulting in almost 300 fatalities. In 2024, the state reported 369 total traffic deaths. These are the statistics for one state; you can imagine the commonality of vehicle-related injury accidents across the United States.

When your child's motor vehicle accident injury results from the negligence of another, you have grounds for a lawsuit. An entire industry has grown up around the probability of proving such claims: the auto insurance industry. While culpable motor vehicle accidents can be simpler to prove than other injury accidents, the insurance industry provides a mountain of resistance to compensatory claims. Please review chapters 4 and 5 on dealing with insurance companies and covering all your bases. Here, too, are some important reminders:

- Document the crash as soon, as accurately and as completely as you can. Include copies of any police or emergency room reports. Continue to document all doctor visits and medical treatments.
- Don't give statements to any insurance company or adjustor until you have acquired legal counsel. Such statements may be used as evidence against you.

- Don't sign anything without advice from an attorney – you may just be signing away your right to any further or future claims.
- Cooperate fully with your doctor(s) and lawyer(s).
- Be open and honest with your doctor(s) and lawyer(s).
- Choose an attorney who has experience and a high success rate with motor vehicle-related child injury accidents.

By taking proper and timely action, you greatly increase your chances of levying a successful campaign for compensation and damages.

In a perfect world, you will never need to pursue this kind of lawsuit. There are aspects of motor vehicle incidents that are beyond control, but we must do whatever is within our power to protect our children from harm. According to Safe Kids USA, car crashes remain a leading cause of death for children in the United States and are the leading cause of death for children and teens ages 1–19. Research of passenger cars provided by the National Highway Traffic Safety Administration (NHTSA) shows that lap/shoulder seat belts, when properly used, reduce the risk of serious crash-related injury and death by about half for adults and older children. For light-truck occupants, seat belts reduce the risk of fatal injury by 60 percent and the risk of moderate-to-critical injury by 65 percent. As you can see, prevention can be key. Here is a simple child passenger safety guide:

- Birth – 2-4 years old → Rear-facing car seat, as long as possible, until the child reaches the maximum height or weight allowed by the seat manufacturer.
- After outgrowing the rear-facing car seat and until at least age 5 → Forward-facing car seat with a harness and top tether.
- After outgrowing the forward-facing car seat and until the seat belt fits properly, usually around 4'9" → Booster seat and seat belt.
- When the seat belt fits properly, typically between ages 8-12 and around 4'9" tall → Seat belt.

- Children younger than 13 should still sit in the back seat.
- Children 13 and older may sit in the front, but should put the seat as far back as possible from the airbag.

By following these simple guidelines, you travel countless miles toward protecting your child from harm.[28]

Backovers and Non-Crash Accidents

The National Highway Traffic Safety Administration reports that U.S. emergency rooms see an estimated 95,000 children ages 14 and younger each year for injuries resulting from motor-vehicle non-crash incidents. These incidents include backovers; trunk entrapment; power window entrapment leading to strangulation; hyperthermia, which happens when a child is left alone in a hot vehicle; and rollaways, which occur when a car slips or is unintentionally pushed out of gear.

Backovers remain a serious type of non-crash motor vehicle accident involving children. In an NHTSA study, backovers accounted for about 78 percent of the cases reviewed.[29] The study found that 90 percent of those backover cases involved children, and that about 96 percent of those child victims were age 8 or younger. Slightly more than half of the backover cases studied were fatal. Young children are often simply too small and too quick to be seen. And any of you who parent teenagers know how unobservant they can be. Unfortunately, the study found no one consistent pattern to look for to avoid backovers. Incidents were spread pretty evenly across a wide range of situations: children approaching from either side of a vehicle; standing immobile or playing behind a vehicle; riding in a hatch; running up from behind a vehicle; and other unknown approaches (the unknown category resulted from incidents where there were no witnesses or the driver simply had no idea where the child came from).

28 For more detailed information about child passenger safety and car seats, see Safe Kids USA. childrenssafetynetwork.org/resources/safe-kids-usa

29 Chidester, Augustus "Chip". Backover and Non-Crash Events, Special Crash Investigations: Protecting Children in and Around Cars; Lifesavers 2008. April 13 2008.

Many backovers result from simple carelessness or recklessness. The NHTSA report documented, for instance, a backover case that resulted in the death of a seven-year-old boy. The boy was "skipping" home from school when the driver of an Escalade backed down his driveway and hit the boy. The Escalade was fitted with an Ultrasonic Rear Parking Assist (URPA) device, but the driver had turned it off. We know these sensory devices can be annoying, but they were developed for a very important reason. Please – never turn off any rear parking assist device your vehicle has. These sometimes annoying noise-makers can make the difference in the life and death of a child.

Despite what you might think – or hope – many backovers are sadly not the result of careless neighbors or strangers. The NHTSA report also documented the following story: Mary[30] left her 18-month-old daughter, Vanessa, in the house while she backed the car out of the garage. The garage was too narrow for Mary to work the child safety seat well. Vanessa got excited and ran out of the house. She ran directly into the path of the car. Vanessa was hit by the car bumper and run over by two tires. Due to the good construction of her car, Mary did not feel that she had run over anything. We can only imagine Mary's shock and grief when she stopped the car and got out to retrieve her daughter from the house, only to find her lying injured in the driveway. Vanessa died from her injuries. Child safety websites are full of backover stories where the driver is a parent; it can happen to anyone.

To learn more about backover prevention, visit the Safe Kids website (safekids.org). They have a program called Spot the Tot that

> *. . . teaches parents, drivers, caregivers and children new safety tips to increase awareness about small children sharing the same space as vehicles. It is designed to create awareness and reduce the risk of injuries and fatalities that occur in driveways, parking lots, and sidewalks.*

30 Names changed.

Taking a few extra moments each time you get in your car can save the life of a child.

Similar to backovers are rollaways and frontovers. A rollaway occurs when a car slips or is unintentionally knocked into gear. The car may run into or over a child, send the car into traffic, or allow it to crash in any number of ways that could injure a child. The mother of a friend of mine survived a rollaway when she was a child. Andrea[31] and her sister were playing in their father's car, which was parked at the top of a long, sloping driveway. The girls knocked the car into gear and it rolled down the driveway, picking up speed as it neared the highway against which the house sat. Fortunately, rather than careening onto the highway, the car slid into a recessed garden. Andrea recalls that it was terrifying to be in that out-of-control car heading for the highway. Harrison Struttmann wasn't so lucky. He was killed in 1999 by a rollaway car that was accidentally set into motion by two toddlers "left unattended in a running vehicle."[32] Harrison's parents, Terrill and Michele, founded an organization called Harrison's Hope, which is dedicated to education about and prevention of injuries and deaths resulting from children left alone in or around motor vehicles. Rollaways are some of the simplest auto accidents to avoid. Don't let your children play in the car alone. Teach them about the dangers of knocking the gear shift out of place. Maintain your car so that the gears won't slip on their own. Set your parking brake and lock the car doors. Such caution can save the life of a child.

According to Kids and Cars, we don't yet have solid numbers on frontovers. They are, however, a growing risk due to the increase of higher and wider vehicles. We seem to love giant cars and trucks in this country. The problem is that from them, you simply cannot see who may be walking in front of your vehicle.

The Kids and Cars website offers the following recommendations to keep children safe in and around cars:

31 Name changed.

32 harrisonshope.org/faq.html

- Walk around and behind a vehicle prior to moving it.
- Know where your kids are. Make children move away from your vehicle to a place where they are in full view before moving the car and know that another adult is properly supervising children before moving your vehicle.
- Teach children that "parked" vehicles might move. Let them know that they can see the vehicle; but the driver might not be able to see them.
- Consider installing cross view mirrors, audible collision detectors, rear view video camera and/or some type of back up detection device.
- Measure the size of your blind zone (area) behind the vehicle(s) you drive. A 5-foot-1-inch driver in a pickup truck can have a rear blind zone of approximately 8 feet wide by 50 feet long.
- Be aware that steep inclines and large SUV's, vans and trucks add to the difficulty of seeing behind a vehicle.
- Hold the children's hand when leaving the vehicle.
- Teach your children to never play in, around or behind a vehicle and always set the emergency brake.
- Keep toys and other sports equipment off the driveway.
- Homeowners should trim landscaping around the driveway to ensure they can see the sidewalk, street and pedestrians clearly when backing out of their driveway. Pedestrians also need to be able to see a vehicle pulling out of the driveway.
- Never leave children alone in or around cars; not even for a minute.
- Keep vehicles locked at all times; even in the garage or driveway and always set your parking brake.
- Keys and/or remote openers should never be left within reach of children.

- Make sure all child passengers have left the car after it is parked.
- Be especially careful about keeping children safe in and around cars during busy times, schedule changes and periods of crisis or holidays.
- **These precautions can save lives.**

For additional information, visit the KIDS AND CARS website at kidsandcars.org.

You may not be aware of the dangers of power window entrapment. The headlines are not emblazoned with these injuries as with traffic collisions and backovers. But according to Kids and Cars, hundreds of children die each year from strangulation due to being caught in a power window. Following is a PSA from Kids and Cars:

> ***Hundreds of children have been injured or have died because of dangerous power windows in vehicles. The average power window has the power to cut a cucumber or a carrot or a grapefruit in two. And, today, too many cars on the road have "rocker" or "toggle" switches that are too easy to push and windows that do not automatically reverse when encountering resistance. A child in a car, with their head out of the window, a knee inadvertently pushing the switch, is a disaster in the making.***
>
> ***The message to parents is clear: Never, ever leave a child alone in a car. Not for one minute. The message to auto manufacturers is also clear: Every single car should have the safer switches that must be pulled up to raise the car window. And, just as garage doors, every car should come with "auto-reverse" mechanisms on all power windows. Power windows have the power to kill.***
>
> ***Never ever leave a child alone in a car alone.***
>
> ***Not for one minute.***

The numbers for trunk entrapment injuries are not nearly as high as in other motor vehicle-related statistics. Still, several children are trapped in trunks each year. Usually, they have decided the trunk is a fun place to play and accidentally lock themselves in. Occasionally, the entrapment results from a sibling prank. Fortunately, fatalities here are low, but children can still die of hypo/hyperthermia. Education is the key to preventing trunk entrapment. Teach your kids that the trunk is never a place to play or to play out a joke. All cars built after 2001 are fitted with a glow-in-the-dark trunk release. Show your kids where this is and make sure they know how to use it. If your car was manufactured before 2001, you can purchase a retrofitting kit or have your mechanic put a release in for you.

The second most common non-crash motor vehicle accident is injury and death due to temperature change while a child is left in a car. Children's bodies are much more susceptible than adults' to temperature change. A child left unattended in a car can easily incur serious injury or die from hyperthermia (dangerously elevated body temperature) or hypothermia (drastically lowered body temperature). According to safekids.org, an average of 33 children die each year from heat stroke. A child's core temperature rises three to five times faster than an adult's, and the air in a car heats up quickly. If, for instance, the ambient temperature is 86°F, the temperature inside the car can reach 134°-154° in a matter of minutes.

More recent research continues to show that children left unattended in vehicles remain at serious risk of heatstroke and death. A 2024 study analyzing 296 cases found that children unknowingly left in vehicles accounted for 63.6 percent of left-in-vehicle deaths, while NHTSA reported 39 hot-car deaths in 2024 alone.

You may be sitting in immediate judgment of a parent who could forget his own child in his car; but it is much more common – and understandable – than you think. These unfortunate accidents happen across the board. They occur in every demographic – every age, every class, every profession. It happens to both mothers and fathers. According to Washington Post staff writer Gene Weingarten, 15-25 children each year

are left in cars, resulting in injury and death.[33] The irony of the situation is that these "forgettings" seem to be the result of our heightened safety standards. We developed air bags, but discovered they were too dangerous for children, so we moved our kids to the back seat. Then it was determined that front-facing car seats are too dangerous and we legislated that car seats must face the rear. Add to that our increasingly hectic and frenetic schedules as adults and parents. In most of these accidents, the child was too small to be visible in the car seat, silent, and with an adult at an atypical time. While these stories are always tragic, it is no surprise that a harried parent – especially one who does not normally have the child with him at a particular time of day – could lose track of an invisible, silent being in the back seat.

As you may guess, we could go on for pages about motor vehicle safety. Auto injury accidents are another of our specialties. There is much to do, however, so we must move on. We hope that we have made clear the importance of and helpful information for keeping your children safe in and around vehicles.

33 The Washington Post. Sunday, March 8, 2009. Pg. W08.

CHAPTER 12

Product Liability and Household Injury

When we purchase household products or toys for our children we expect they will benignly serve their purpose. We certainly don't expect these products to turn on us. According to the U.S. Consumer Product Safety Commission, consumer products are associated with an estimated 14 million emergency department-treated injuries each year, as well as thousands of deaths. The CPSC also issues hundreds of recalls and product safety warnings each year. Yet hundreds of thousands of product liability cases go unfiled and unreported each year because people either don't know they can file such a claim, or they believe such claims cannot be won. We are here to tell you that you have an absolute right to file a product liability claim and that we can help you win it.

Product failure can fall under any number of categories: motor vehicle, work-related products, home and personal products, toy and baby products, etc. Failure may arise through a defective product or insufficient or improper safety warnings or instructions. If you are injured by a product that is unreasonably dangerous or that doesn't include sufficient warning or instructions, you have grounds for a product liability case.

Many myths exist about product liability cases. The most prevalent is that they are impossible to win. On the contrary – over the past 50 years, we have built up a successful track record in product liability cases. You should not have to pay for someone else's negligence, and we can help you make sure that doesn't happen. Another myth is that you are necessarily at fault if you are injured by a household or work-related product. Without proper safety warnings or handling instructions, however, you are not liable for injuries incurred, or for injuries resulting from product defects. Finally, we want to be clear that accidental injury to your child does not make you a bad parent. You can only work within the framework provided

for you. If safety information is missing or a product is defective, you may be powerless to prevent injury to your child. Don't let a negligent party convince you otherwise.

Product liability cases can often be beneficial to more than just the injured party. By filing a claim you may alert a company to a defect of which it was unaware. You may instigate a recall that will alert and protect other owners of the same product. Further, you may trigger an investigation that will lead to changes in product practice in terms of production, warnings, or instructional information.

Protect yourself and your children by taking as much preventative action as possible. Read all warning and instructional information provided with any product. Keep dangerous products safely stored and make child supervision a precedent. Finally, visit the CPSC website for regularly updated recall lists and product safety tips. Product recall lists can also be found on the Safe Kids website.[34] If you are looking for a resource for child safety information that is easy to understand and fun for kids, check out "The Further Adventures of Kids Safety" on the CPSC website.[35]

34 safekids.org

35 cpsc.gov

CHAPTER 13

Swimming and Other Water-Related Injuries

Swimming and water-related injuries are some of the most common among children today. The CDC reports that drowning is the leading cause of death for children ages 1–4 in the United States. While overall rates are down, drowning is still the second leading cause of unintentional injury-related death for children ages 5-14. For every child under age 18 who dies from drowning, another 7 receive emergency department care for non-fatal drowning. Severe water-related injuries can result in brain damage, leading to learning disabilities, language and speech impairment, memory issues, impaired basic functions and possibly even a vegetative state.

Claim pursuit is a tricky subject as far as water injuries are concerned. When a child is injured at an open body of water, responsibility generally lies with the guardian. Negligence is far more common – and far easier to prove – if the body of water in question is a public or private pool. Sometimes a product manufacturer may be liable, as in cases where a child gets pulled under and stuck in an over-active suction outlet.

While household water hazards exist everywhere – we will provide a more detailed list in a moment – the CDC reports that unfenced home pools pose the greatest risk to children. The CPSC estimates that 300 children under the age of five die each year and over 2,000 are seen in emergency rooms due to accidents involving home pools. 65 percent of these accidents happen at home. Frighteningly, 69 percent of pool accident victims are not expected to be near the pool and were last seen elsewhere. Scarier still, 77 percent have been missing only five minutes or less when they are found submerged or drowned. The only way to protect your children from home pool-related injuries is to erect an appropriate barrier. According to the CPSC,

A successful pool barrier prevents a child from getting OVER, UNDER, or THROUGH and keeps the child from gaining access to the pool except when supervising adults are present.[36]

Please visit the CPSC website for detailed information and pictures pertaining to home pool barriers.

As we said earlier, your house and yard are filled with water hazards. A child can drown in as little as one inch of water. The American Academy of Pediatrics has compiled a helpful list of dangers and tips for keeping your children safe[37]:

> Each year many young children drown in swimming pools, other bodies of water, and standing water around the home:
>
> - Bathtubs, even with baby bathtub "supporting ring" devices
> - Buckets and pails, especially 5-gallon buckets and diaper pails
> - Ice chests with melted ice
> - Toilets
> - Hot tubs, spas, and whirlpools
> - Irrigation ditches, post holes, and wells
> - Fish ponds, fountains
>
> Children must be watched by an adult at all times when in or near water. Children may drown in an inch or 2 of water. Stay within an arm's length of your child.
>
> Other safety activities include the following:
>
> - Empty all buckets, pails, and bathtubs completely after each use - do not leave them filled and unattended.
> - Keep young children out of the bathroom unless they are closely watched. Teach others in the home to keep the bathroom door

36 cpsc.gov

37 American Academy of Pediatrics aap.org

closed. Install a hook-and-eye latch or doorknob cover on the outside of the door.

- Never leave a child alone in a bathtub or in the care of another child, even for a moment.
- Use a rigid, lockable cover on a hot tub, spa, or whirlpool, or fence on all 4 sides as you would for a swimming pool.
- Set your water heater thermostat so that the hottest temperature at the faucet is 120°F to avoid burns.
- Throw away or tightly cover water or chemical mixtures after use.
- Watch children closely when they are playing near wells, open post holes, or irrigation or drainage ditches. Fill in empty holes or have fences installed to protect your child.
- Learn CPR and know how to get emergency help.

As we see with many other types of injury, supervision and education are the keys to water-related injury around the house. Teach your children safety skills and keep them supervised appropriate to their age level.

Unfortunately, there are places and situations where even education and your diligent supervision may not be enough. The past decade has raised public awareness about the dangers of improperly protected suction drains in pools, spas, and hot tubs. We may expect our children to slip and fall, experience cramps, or even simply wear out. (A friend of mine relates that on a number of occasions when she was younger she overestimated her stamina and had to be rescued by a parent or lifeguard.) But we certainly don't expect for the pool itself to attack them.

Improperly covered pool drains can be deadly. The CPSC reports that the drain suction can reach as high as 300 pounds per square inch. A child who gets caught in the tow can suffer from oxygen deprivation, drowning, or disembowelment. Happily, federal lawmakers have stepped in to improve the safety of public pools, spas and hot tubs. New laws require that community parks, YMCAs, apartment complexes, condominiums and other homeowner associations, water parks, hotels, schools, and

universities comply with federally mandated safety precautions. Starting in December 2008, every public pool must have two layers of protection to prevent entrapment in pool drains. Any drain that is produced or manufactured in the United States must have an anti-entrapment drain cover, and all old drains must be retrofitted or replaced. The second layer of protection is the Safety Vacuum Release System. The SVRS detects unnatural suction or blockage and automatically shuts off the drain.

Public pool and spa owners will be held accountable for their inaction. The CPSC is the agency enforcing the new drain laws. They may not only impose fines, but also seek imprisonment for violators. Prison time for a pool drain cover violation may sound harsh at first blush, but let us share with you the stories of two of the many children whose fate inspired the current drain legislation. In 2002, 7-year-old Virginia Baker, granddaughter of former Secretary of State James A. Baker III, was entrapped in a spa drain and drowned.[38] It took the efforts of several adults to pry her from the drain, but they couldn't free Virginia in time to save her. And in Edina, Minnesota in July of 2007, 6-year-old Abigail Taylor was partially disemboweled.[39] Abigail was playing in the kiddie pool – we surely believe our children will be safe there – and got too near an improperly covered drain. The suction was so great that she was trapped; a small tear formed in her rectum and most of her small intestines were pulled out. They were later found in a section of the drain. Abigail survived the initial assault, but died from her injuries.

In almost all cases, pro-action is key in preventing water related injuries. Safe Kids points out the top five risks for children that often result in drowning: weak supervision, no barriers, weak or no CPR skills, weak or no swimming ability, and lack of a life jacket. There are several steps you can take to protect your child from water-related injuries. Check with your local public pools to make sure they have complied with the new drain safety laws. If your children swim at a private home, find out what kind of drains and safety devices the pool has. Teach your children to swim and

38 Safe Kids USA

39 wcco.com

learn to swim yourself so that you may come to your child's aid if necessary. Don't let your young children swim unsupervised, and teach your older children to never swim alone. The CDC recommends that all parents learn CPR. Be aware of dangers on your own property; if you have a home pool, fence it off. If you are taking your children out on an open body of water, make sure they wear life jackets. Please be aware that floaties and water wings do not serve the same purpose. As a supervisory adult, you can be instrumental in making sure drowning related deaths continue to decline.

CHAPTER 14

Other Injuries

Before we move on, there are just a few other areas we would like to cover: daycare injuries, playground injuries, and injuries at school.

Daycare and Preschool

You expect your child to be safe at daycare or preschool. Daycare and early education providers are required by law to provide a safe and supervised environment for your child. If your child is injured at one of these locations, you may have legal recourse. You must be able to prove that your child's injury resulted from careless supervision or an unsafe environment[40]; but if that is indeed the case, you have a legal right to sue for compensation and damages.

There are several organizations and resources that provide information on daycare and early education standards and guidelines, many of which are listed in the appendix of this book. We would like to point you to a couple in particular. First, if you are concerned about being able to afford good childcare on a budget, please visit the Child Care Bureau website. They have a section geared specifically toward finding safe and reliable daycare for low income families.[41] Second, Healthy Kids, Healthy Care offers *A Parent's Guide to Choosing Safe and Healthy Child Care*. This document tells you what to look for in a daycare or early education provider in regards to such topics as supervision, hand washing and diapering, director and teacher qualifications, staff ratio and group size, emergency plans, medications, safety training, child abuse, and more.[42]

40 Forman, Deborah L. Every Parent's Guide to the Law. Orlando, FL: Harcourt Brace & Company. 1998

41 U.S. Department of Health and Human Services, Administration for Children & Families, Child Care Bureau. acf.hhs.gov/programs/ccb/parents/

42 nrckids.org (see the "For Parents" link)

Schools

School is another location where you expect your child to be safe. Once again though, if your child is injured and the school is negligent, you have a legal right to sue for compensation and damages. In the past, schools, officials, and teachers have been protected from injury claim lawsuits. Many states, however, have now abolished this immunity.[43]

Playground Injuries

The CDC reports that more than 200,000 children under the age of fifteen are seen in emergency rooms each year as a result of playground-related injuries. Boys and girls are pretty evenly split here, with girls representing 45 percent of such injuries and boys 55 percent; but regardless of gender, children ages five to nine constitute the highest rate of emergency room visits.

Playgrounds are not limited to schools. They may be found in city parks, amusement parks, recreational centers, churches . . . even the play area in an individual home can be classified as a "playground." Surprisingly, according to the CDC the injury majority occurs on different equipment when you move from public to private play areas. In public areas, climbing equipment represents the largest amount of injury, while in private areas it is swings.

An unfortunate truth in playground injury statistics is that low-income areas show the highest rate of injury. This is usually the result of poor upkeep due to lack of funding. If you live in a low-income neighborhood, join with others in the community to start a grass-roots movement demanding safety for your children. Write the board of education, city hall, and your senator. When funding can be found to properly maintain and surface public playgrounds, injury rates drop dramatically.

If negligence can be proven as a cause of your child's playground injury, you have a right to make an injury claim. You may need to speak with a lawyer to determine who the responsible party is if the injury happens at

43 Forman

a public playground. Often, however, kids are kids and accidents happen. You can play an important role in preventing playground injuries; there are steps you can take to protect your child. First and foremost are supervision and education. Lack of supervision is a leading factor in playground injuries to younger children. Make sure your children understand how the playground equipment works. Show them how to be safe on the various climbers, swing sets, merry-go-rounds, etc., that they will encounter. You can also join with other parents to insist that playground equipment be well maintained and to encourage the use of non-abrasive and cushioning surface materials (the CDC recommends 12 inches of wood chips, mulch, sand, pea gravel, or safety-tested rubber mats).

These chapters have been just a sampling of possible accidental injuries that face a child in today's world. You could not hold a book that covered every possibility. We hope, however, that we have provided you with the tools you need to help prevent injury and in the cases where prevention is not possible, to move forward to best care for your child and your family in a time of crisis. Our contact information is listed at the end of this book. Please visit our website for further information or contact our firm with questions. Remember – education and supervision are the best defense against injury to your child, both at home and out in the world. When accidents do happen, you don't have to move forward alone. We – and lawyers like us across the country – have decades of experience in helping families through the intensely troubling experience of child injury.

CHAPTER 15

Talking About the Unthinkable:

Wrongful Death

If you have come to this book for guidance on moving forward from the wrongful death of a child, please let us extend our condolences. Nothing in life can prepare us for or fully repair us from such loss. We cover in this chapter what recourse you do have in these instances.

Wrongful death of a child falls into two major categories: death of a born child and death of an unborn child. Wrongful death of an unborn child occurs when the child dies in the mother's uterus. When an investigation shows negligence as the cause of such a death, you may make a claim against those responsible for the death. If your child's death occurred in New Hampshire or Massachusetts, the law requires that any wrongful death lawsuit be filed by the personal representative of the estate — that is, the executor or administrator — rather than by family members directly. New Hampshire's statute (RSA 556) and Massachusetts's statute (Chapter 229, §2) both impose a three-year window from the date of death within which the claim must be brought.

Whenever a child dies due to the negligence of an outside party, the family has a right to bring a claim for damages against the responsible party(s). Such lawsuits will seek damages for medical and burial expenses, as well as loss of love and companionship. While such monetary claims can never make up for such an egregious loss, you still have a right to seek justice for the irreparable wrong done to you and your family.

You need not stand by and let someone who has caused the wrongful death of a child escape responsibility. Sometimes when a death occurs due to the negligence of another, that party accepts responsibility for her actions and does her best to make reparations. Sometimes though, the

negligent party refuses to take responsibility for his actions, and you have the right to hold such a party responsible. The Thomas Kiley Law Group can help you stand up for what is right and bring such a defendant to justice.

SECTION III

Support and Resources

Getting Up and Moving Forward

CHAPTER 16

Never Walk Alone:

Getting the Help and Support You Need

When your child is hurt, injured or disabled, you become more than just a parent – as if the term "just" could ever apply to the enormous task of parenting. You become a caretaker, researcher, healer, helpless bystander, advocate. We know we have said this before, but we want to be clear: You do not have to do this alone.

Get help and support from as many places as possible. If you are a religious or spiritual person, go to the appropriate religious or spiritual leader. Spend time with your rabbi, priest, preacher, priestess – whomever you can turn to for spiritual support. Talk with members of your religious congregation and find out if the organization offers any support groups. These individuals can help you to not only find some kind of peace within yourself and with your child's injury, but also in the journey toward dealing with your anger at God. These are important issues for you to deal with so that you can be healed and healthy; which is neither selfish nor wasteful, but necessary in order for you to be as present as possible to your child.

Do not be too proud or too ashamed to seek professional counseling. You are going through at least as much trauma as your child. Not only are you suffering from your own guilt, pain and frustration, but you are also living your child's emotions and experiences. Once again, the kind of healing afforded by visiting a therapist can move you toward a place of restoration that will allow you to be as strong a support as possible for your injured child. Don't assume that you can't afford counseling – most cities and many medical centers and private therapists offer a sliding scale.

Let yourself turn to family and friends for support. If your child is severely injured, you take on even more roles than a typical parent. Your

family and friends probably feel just as helpless as you do in the face of your child's suffering. Do not assume you are a burden; let your family and friends help in the ways they can. Let your neighbor bring dinner to you and your family. Your injured child is a major part of your life, but she is not the *only* part of your life. Your other children may be feeling neglected and may experience guilt on top of that for those very feelings. Let friends and family take your children on outings. Accept the offer from a family member to sit with your injured child while you and your partner or a friend go out for an evening that is about you. Or let a friend visit your injured child so you can spend some one-on-one time with your other children.

If you feel you have exhausted the lengths to which you can lean on friends and family, you can find further comfort and help in support groups. Organizations exist nationwide, on-line, and in local communities that are dedicated to almost any kind of injury you can imagine, as well as general support groups for parents of injured or disabled children. The appendix of this book will list several such sites and organizations. You may also contact local religious organizations, libraries, doctors, hospitals and friends to learn about others.

The organizations and sites listed in the appendix of this book will also give you another weapon against frustration and despair – knowledge. Arm yourself with as much information as possible. Ask your doctors and lawyer(s) for resources and materials, poll your friends and family, search online, and scour public and university libraries. More than ever before we live in an information-accessible age. One hardship you are not required to suffer is ignorance. Our one caution here is to not try to learn everything all at once. Your goal is to be the strongest, healthiest guardian you can be for your injured child. Part of that is remembering to balance care-giving and knowledge-seeking with play, rest and rejuvenation. To the extent that your child can play, play with her. To the extent that he can learn, learn with him. And remember to also do these things for yourself.

We would like to leave you with thoughts from Steve.[44] Steve is the father of a son who suffered short-term injuries and illnesses and a daughter who suffers from a long-term disability. He shares his wisdom as a parent living with the ramifications of parenting an injured or disabled child.

When your child is hurt, injured or disabled, you become more than a parent. There's so much that happens to the child beyond the physical manifestations of the injury, and all of this is going to affect your relationship with the child.

The one phrase I have used more than any other as I've counseled my wife on those few occasions when she needs it is, "No one knows our child better than we do."

Thanks to insurance companies and over-zealous legislators, clinics and hospitals are no longer places of healing, but are increasingly becoming Fix-It Factories. Doctors make money from volume, not performance, and sometimes they get so caught up in returning a quick diagnosis that they will dismiss what a parent knows in favor of the Easy Answer. A parent must be the child's advocate in all situations, particularly if the injury is not visible at first glance. We know when [our daughter] is acting as an eight-year-old, and when she is truly in the midst of a behavioral dysfunction with a medical cause.

We have had doctors tell us, metaphorically speaking, that the fix for the engine noise is to turn up the radio. Those doctors are not our doctors any more.

The parent must also be prepared to deal with the emotional trauma that a physical injury can bring. The parent in this case is also a confidant, friend, and foundation. A hurt child needs to know where the solid ground is, and the parent is it.

44 Name changed.

The parental line of, "You scared me to death, young man, didn't I tell you not to run after the ball? Didn't I?!" has no place after a genuine hurt. Recriminations and blame are destructive, not only to the child's self-esteem, but also to his future mental health and your relationship together. Any parent who blames a child for his own injury – or the injury of someone else, especially a sibling – doesn't deserve to be a parent.

One day, I was hanging a sheet of drywall in the bathroom. [My daughter] was "helping." I got the drywall set and pushed it back into place and [my daughter] began to call insistently, "Daddy..? Daddy..?! Daddy, my fingers!" To help position the drywall, she grabbed the edge closest to her. Is it her fault her hands weren't where they were supposed to be? No. It's MY fault for not knowing where her fingers were. (She was pinched and hurt, not injured.)

A child, more so than anyone else, wants to know, "Why?" Because at a young age they're still forming their world view, they need to know what boxes to put things in, so to speak. And kids are masters at cursing the dark, just because they don't know where all the candles are.

"Why can't I walk anymore?

"Why did I have to ride my bike that day?"

Siblings will ask similar questions, directed a little differently:

"Is it my fault she got hit by the car? You said she was too young to ride so close to the street, but she followed me…"

The fact is there is no "Why." There is just "Is." (Philosophically and religiously that might not hold up for your circumstance, but save it

for later, after healing.) The important question is how we deal with it. WE. Not "you," not "I," WE. The child needs to know that he/she doesn't have to face his/her problems alone.

And neither do you. We have covered much territory throughout the preceding pages. We have tried to hit the double goal of giving you as much information as possible as succinctly as possible. "Children and accidents" is an organic topic beyond the scope of any single book, but we believe we've done our best to give you a foundation from which to work. We and our team are standing by to help you with any practical legal help you may need. Our greatest hope is that if you take away one thing from this book, it is this truth: You do not have to face this alone.

CHAPTER 17

Franciscan Children's:

A National Leader in Caring for Children With Special Health Needs

We could not close this book without talking about Franciscan Children's. Since we practice law out of the Greater Boston area, many of our clients live there, as well. We expect many of you reading this book are from the area. We've talked a great deal about child safety, injury prevention, and what your legal recourse options are if your child does get injured. Underneath all that, driving us at the core is a deep-seated concern for children. If you have come to this book because your child is already injured or so you may have the information in your pocket just in case, let us go a step further than statistics and legal terms and tell you about Franciscan Children's.

We cannot recommend Franciscan Children's highly enough. It is located right here in Boston, in the Brighton neighborhood and is one of the nation's largest centers for pediatric rehabilitation. Not all communities are medically equipped to deal with the special and specific needs and conditions that arise when a child is traumatically injured. We in Boston are extraordinarily lucky to have Franciscan. And though it is located in Boston, the hospital treats children from all over the United States.

For over 50 years, Franciscan has taken the lead in the development of comprehensive programs for children with special needs. Franciscan Children's is one of the preeminent institutions in the United States qualified to treat children suffering from traumatic injury. The doctors, nurses, researchers, and other staff members at Franciscan are devoted to the on-going rehabilitation and healing of injured children and their families. Let us share with you their mission and vision statements:

Mission:

At Franciscan Children's, our mission is to provide compassionate care and education to children with special health care needs and to help them reach their full potential.

Vision:

Our vision is to create a pediatric center for children with special needs that is a nationally and internationally recognized model, leader, and advocate of care, which offers the best possible outcome for children with special needs.

With this dedication to care for a child comes a commitment to provide support for the family of that child. The healing experience at Franciscan is one of inclusiveness and wholeness.

In our experience, while many hospitals are quite capable of treating an injury, they don't have programs implemented that treat the whole child. Think back to some of the injuries we have discussed. When your child is severely injured, they will often need more than just physical ministrations. She may now have learning or social interaction disabilities that she didn't have before. Franciscan Children's provides stellar medical treatment, but this is where Franciscan really shines. They provide comprehensive programs – both inpatient and outpatient – to meet all the needs of injured and disabled children, including physical, emotional, behavioral, educational, academic, social, and leisure.

Let us share with you some of the services provided by Franciscan Children's. The behavioral health services focus on behavioral, emotional, and learning problems faced by children suffering from injury and disability. The programs are especially focused to meet the specific needs of children with traumatic brain injury, developmental disabilities, and other medical conditions that affect behavioral functions. You might remember from our discussion of TBI that it is a spectrum injury that often leads to a variety of issues. Our children are truly blessed to have a facility like Franciscan that is equipped, qualified, and devoted to treating the host of problems that can arise from such serious and unpredictable injuries. Education services

speak to not only the academic needs of Franciscan's patients, but also their functional needs. The education programs work hand-in-hand with the rehabilitation programs to help children be as full-functioning as possible.

These services weave a network that treats the complete child; they work to bridge the gap left by any deficit incurred from your child's injury. Franciscan further offers a plethora of outpatient services and programs for children and their parents. We have said many times throughout this book that you are not alone. Franciscan Children's provides a perfect example of why. As we said, they offer programs for the whole child and the entire family. The programs include – but are not limited to – pediatrics, genetics, neurology, dental care, well-child prevention care, audiology, occupational therapy, physical therapy, psychology, reading programs, and speech-language coaching. There is not an injury mentioned in this book that cannot be addressed by Franciscan's capable and caring staff.

We feel that it is important to point out that Franciscan Children's is not just for Catholics or residents of Massachusetts – Franciscan works to heal all. The hospital even provides free interpreter services for families who feel they cannot effectively communicate through American English. ASL (American Sign Language) interpreters are also available.

We don't intend to be redundant, but what impresses us most about Franciscan Hospital bears repetition: Franciscan Hospital is dedicated to the healing of the whole self. For Franciscan, this includes the spirit. As we explored in the preceding chapter, when harm comes to our children we are often besieged with spiritual questions that we are rarely armed to answer. The hospital is staffed with chaplains who are professionally trained in theology, pastoral care, and counseling. One need not be Catholic to reap the benefits of their aid; their intention is not to convert, but to heal.

If you were to ask us what impresses us most about Franciscan, we would be hard put to answer. We are dazzled by the number and quality of services they offer. But even that excellence is not enough for Franciscan Hospital; they are not content to sit with present possibilities, regardless of

how good they already are. Franciscan works to stay at the cutting edge of child-care and pediatric rehabilitation. The hospital houses and staffs its own research center. You can see from the Center's goals how their excellence translates from current practice to research and development:

- to evaluate the delivery of care,
- to provide clinical outcomes analyses,
- to examine new methods of care, and
- to provide training to pediatric medical and rehabilitation professionals.

The Research Center partners with organizations on local, state, and national levels. It works with and within the community, universities, and relevant organizations to pioneer practices for the complete care of injured and disabled children.

In all its work, Franciscan Hospital's focus is progress, compassion, and comprehensive care for all children with special needs. We remain impressed and touched by their dedication to the recovery and healing of children and their families. The Franciscan Hospital for Children is a not-for-profit organization and depends on gifts, grants, and donations in order to continue offering its services to children in need. The recent economic downturn has affected even this precious resource, and at the original time of this writing (spring of 2009), state funding to Franciscan was cut by millions of dollars. While this book is not a fundraiser for the hospital, we feel compelled to encourage you to donate whenever possible to organizations like Franciscan Hospital for Children. They are a godsend when we are in need, but they need our help to survive.
Please look into Franciscan yourself by visiting the hospital's website at franciscans.childrenshospital.org.

APPENDIX

Injury Resources:

Prevention/Safety, Treatment, and Recovery

Support Sites By Organization

Name of Organization	Specialty	Web Address
American Psychological Association	Abuse (sexual)	www.apa.org/releases/sexabuse/homepage.html
Darkness to Light	Abuse (sexual)	www.darkness2light.org
Stop It Now	Abuse (sexual)	www.stopitnow.org
American Academy of Pediatrics	Abuse and Neglect	www.aap.org
American Professional Society on the Abuse of Children	Abuse and Neglect	www.apsac.org
Annie E. Casey Foundation	Abuse and Neglect	www.aecf.org
Centers for Disease Control and Prevention	Abuse and Neglect	www.cdc.gov
Child Welfare Information Gateway	Abuse and Neglect	www.childwelfare.gov
Child Welfare League of America	Abuse and Neglect	www.cwla.org
Childhelp	Abuse and Neglect	www.childhelp.org
Coalition for Children – Safe Child	Abuse and Neglect	www.safechild.org
HELPGUIDE.ORG	Abuse and Neglect	www.helpguide.org
KidsHealth	Abuse and Neglect	www.kidshealth.org

Name of Organization	Specialty	Web Address
National Center on Shaken Baby Syndrome (NCSBS)	Abuse and Neglect	www.dontshake.org
Prevent Child Abuse America	Abuse and Neglect	www.preventchildabuse.org
The National Children's Advocacy Center	Abuse and Neglect	www.nationalcac.org
Centers for Disease Control and Prevention	Abuse and Neglect Auto Safety Bicycle and Pedestrian safety Brain Injury Dog Bites Injury Prevention Product Liability Water Safety	www.cdc.gov
Kids Health	Abuse and Neglect Burns	www.kidshealth.org
American Academy of Pediatrics	Auto Safety	www.aap.org
Harrison's Hope	Auto Safety	www.harrisonshope.org
Keep Kids Healthy	Auto Safety	www.keepkidshealthy.com
Kids and Cars	Auto Safety	www.kidsandcars.org
National Highway Traffic Safety Administration	Auto Safety	www.nhtsa.dot.gov
National Safety Council	Auto Safety	www.nsc.org
Stop Bacovers	Auto Safety	www.stopbackovers.org
Safe Kids USA	Auto Safety Burn & Fire Safety Toy Safety Water Safety	www.childrenssafetynetwork.org/resources/safe-kids-usa

Name of Organization	Specialty	Web Address
Keep Kids Healthy	Auto Safety Burns & Fire Safety Cerebral Palsy Injury Prevention	http://www.keepkidshealthy.com
National Safety Council	Auto Safety Injury Prevention	www.nsc.org
Centers for Disease Control and Prevention	Bicycle and Pedestrian Safety	www.cdc.gov
American Academy of Pediatrics	Bicycle Safety	www.aap.org
Bicycle Helmet Safety Institute	Bicycle Safety	www.helmets.org
Pedestrian and Bicycle Information Center	Bicycle Safety Pedestrian Safety	www.pedbikeinfo.org www.walkinginfo.org
Brain Injury Association USA	Brain Injury	www.biausa.org
Centers for Disease Control and Prevention	Brain Injury	www.cdc.gov
Traumatic Brain Injury.com	Brain Injury	www.traumaticbraininjury.com
Wrightslaw	Brain Injury	www.wrightslaw.com
American Burn Association	Burns	www.ameriburn.org
Kids Health	Burns	www.kidshealth.org
The Burn Institute	Burns	www.burninstitute.org
The International Society for Burn Injuries (ISBI)	Burns	www.worldburn.org
Keep Kids Healthy	Burns & Fire Safety	www.keepkidshealthy.com/

Name of Organization	Specialty	Web Address
Safe Kids USA	Burns & Fire Safety	www.childrenssafetynetwork.org/resources/safe-kids-usa
Cerebral Palsy Information	Cerebral Palsy	www.cerebralpalsy.org
Keep Kids Healthy	Cerebral Palsy	www.keepkidshealthy.com
March of Dimes	Cerebral Palsy	www.marchofdimes.com
National Center on Birth Defects and Developmental Disabilities / CDC	Cerebral Palsy	www.cdc.gov/ncbddd/default.htm
National Institute of Neurological Disorders and Stroke	Cerebral Palsy	www.ninds.nih.gov
The Healing Center On-Line	Cerebral Palsy	www.healing-arts.org/children/cp
United Cerebral Palsy	Cerebral Palsy	www.ucp.org
National Center on Birth Defects and Developmental Disabilities (NCBDDD)	Cerebral Palsy	www.cdc.gov/ncbddd/default.htm
American Academy of Pediatrics	Day Care	www.aap.org
Healthy kids, Healthy Care	Day Care	www.healthykids.us
National Resource Center for Health and Safety in Child Care and Early Education	Day Care	www.nrckids.org
Centers for Disease Control and Prevention	Dog Bites	www.cdc.gov

Name of Organization	Specialty	Web Address
Dog Bite Law.com	Dog Bites	www.dogbitelaw.com
American Academy of Pediatrics	Injury Prevention	www.aap.org
Centers for Disease Control and Prevention	Injury Prevention	www.cdc.gov
Keep Kids Healthy	Injury Prevention	www.keepkidshealthy.com/
National Safety Council	Injury Prevention	www.nsc.org
Centers for Disease Control and Prevention	Product Liability Information	www.cdc.gov
American Academy of Pediatrics	Product Safety	www.aap.org
Shriners Hospital	Spinal Cord Injury	www.shrinershq.org
American Academy of Pediatrics	Water Safety	www.aap.org
Centers for Disease Control and Prevention	Water Safety	www.cdc.gov

ABOUT THE AUTHORS

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Tom Kiley Sr. is the founder of Kiley Law Group and a highly respected personal injury trial lawyer with more than 50 years of experience representing individuals and families affected by negligence. Throughout his career, he has been known for pairing compassionate counsel with powerful advocacy in the pursuit of justice.

Tom earned recognition as the Boston Herald Sunday Magazine's "Million-Dollar Man" for his success in significant injury cases and served on the trial team in the landmark "Woburn Case," later chronicled in A Civil Action. His lifelong commitment to holding wrongdoers accountable has helped injury victims seek justice while making communities safer.

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Tom Kiley Jr. is a partner at Kiley Law Group, where he carries forward a family legacy of fighting for those harmed by negligence. Working alongside his father, attorney Tom Kiley Sr., and following the example of his grandfather, Daniel P. Kiley Jr., he has built a respected practice centered on strategic advocacy and meaningful results for injury victims.

Known for his thoughtful approach and tenacious representation, Tom Jr. helps clients stand up to insurance companies, corporations, and negligent parties during some of the most difficult times in their lives. His work is driven by a simple belief: Everyone deserves a fighting chance.

For a sampling of verdicts and settlements achieved by Kiley Law Group, or to learn more about the firm, please visit TomKileyLaw.com.

You may also call for a free consultation: 978.965.3228.

IN THOMAS M. KILEY SR.'S OWN WORDS

Before I leave these pages, I want to share with you a little about why I became a lawyer. It may also explain further why I am so passionate about helping children and their families, accident victims . . . anyone who has been harmed due to the negligence of another – especially when that other is more "powerful" and appears unbeatable. Everyone deserves justice.

I am a second-generation trial lawyer. When I was in high school, I would accompany my father to court when he tried cases to a jury. I got to see first hand how a plaintiff trial lawyer works. My dad is a great lawyer and my mentor. Even as a teenager, I knew that I wanted to be a trial lawyer like him.

When I got to law school, I loved learning about cases in which the average person who had been needlessly injured could hold even the rich and powerful accountable for their wrongful acts. This was powerful stuff and I knew I could use it to help people who really needed it.

I remember my grandfather telling me stories about how my great grandfather, an Irish immigrant, was grievously injured while he worked in a textile mill. He ultimately died as a result of his injuries, leaving a young widow and four children behind. As I watched my dad and studied law, I became determined to work as a plaintiff trial lawyer.

Because of these stories and the work I saw my dad do, I identify with the "common man" and individuals who are forced to stand up against corporations, city governments, or more "powerful" people. I feel it is my mission – and daily vindication for my grandfather – to seek justice for those who are needlessly injured by parties who would otherwise walk away without being held accountable.

~ Thomas M. Kiley Sr.

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