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If you suffer an accident or injury, your main concern is your health and the condition of any other individuals involved in the incident. But once those issues have been addressed, you may want to pursue legal action against the responsible party (or parties).

What to do: First, collect all the relevant documents and available evidence. Next, contact an attorney who is experienced in handling personal injury matters. Then you can sift through the viable options. For example, the attorney may help you arrange a settlement. It may not be necessary to file an official lawsuit.

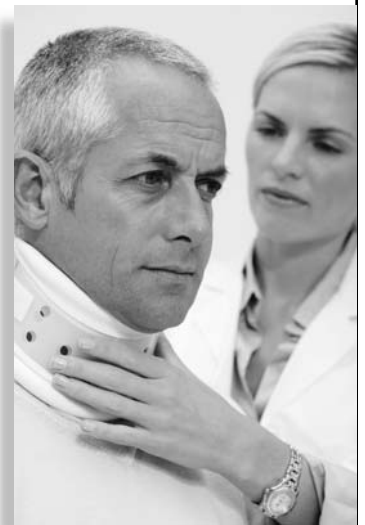
Depending on your situation, a settlement may be the best approach. (Settlements can be reached at any stage of the proceedings.) This can spare you the time, expense and turmoil of a protracted trial. Negotiations will take place between the respective law firms. Any proposed settlement terms must be agreed to by both sides.

However, if the circumstances warrant it, you may decide to proceed to trial. This decision should encompass a number of factors, including the extent of the injury and its impact on your family's future. In addition, remember that the personal injury laws vary from state to state, as do other aspects such as the filing process, time limits, types of damages sought and monetary amounts allowed.

Key point: A personal injury attorney can provide valuable guidance in this area. The attorney can draw on past experience, prior court decisions and legal trends and theories.

Documentation of evidence is usually critical to the case. Although an attorney can assist you, much of the recordkeeping should be done before you meet, preferably at the time of the incident. Thus, as soon as possible, write down everything you can remember about what occurred before, during and after

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FOLLOW NEW GUIDANCE ON GENETIC TESTING

The Genetics Information Nondiscrimination Act (GINA)—signed on May 21, 2008—has been phased into law over an 18-month period. This new federal legislation protects individuals against discrimination based on genetic testing. New regulations issued by the government went into effect on December 7, 2009.

Background: The new law enables people to take part in research without fearing that their DNA information might be used against them. For example, coverage could be refused to a woman facing a greater likelihood of having breast cancer. Employers also could use DNA information to decide whether to hire or fire workers.

Before the enactment of GINA, many states had already passed legislation prohibiting genetic discrimination. The degree of protection from these laws varies widely among the states. While GINA sets minimum standards that must be met in all states, it does not weaken a stronger protection provided by any state.

The new regulations clarify some of the rules in GINA pertaining to group health plans. In addition, they provide definitions of certain key terms. For instance, the regulations define “genetic information” as information about genetic tests and the manifestation of a disease or disorder in an individual or his or her family members. **Caveat:** Genetic information does not include age or gender.

Under the new law, requests for genetic information cannot be made prior to enrollment in the plan for underwriting purposes. For this purpose, a request is made prior to enrollment if it is made before the effective date of plan coverage. Thus, health risk assessments offered prior to enrollment cannot request genetic information such as the medical history of a family.

Incidental collections of genetic information that could not be reasonably anticipated do not violate GINA. However, if it is reasonable to anticipate that genetic information will be provided, the incidental collection exception does not apply, unless there is an explicit statement that genetic information should not be provided. ☞

BASICS OF PERSONAL INJURY CLAIMS

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the accident. Video, photographs and witness accounts can bolster your position.

It is also necessary to document evidence establishing the extent of your injuries. Do not limit this to physical injuries; it also applies to mental and emotional distress. Similarly, keep records of all your treatments and any impact on your work and personal life.

If you were involved in a car accident, take photographs of the scene and obtain names and testimonies of any witnesses. For injuries caused by a defective product, maintain the product in the same condition it was in at the time of the injury. Also keep all packaging, instructions and receipts that accompanied the product. Remember that visual evidence will be helpful to your case. Once again, you can rely on your attorney to help you gather these records.

Other special circumstances may come into play. For example, if the lawsuit is being filed against the government, your attorney will file a notice of claim before any other action is taken. The claim informs the government about your injury and provides an opportunity for the government to respond before a case is initiated in civil proceedings. The government may reject the claim and enable the case to proceed.

In summary: Find out what legal options are at your disposal. This will enable you to make an informed decision. ☞



Who Says Talk Is Cheap?

A policy prohibiting sexual banter at work may seem severe, but it can help. If you implement

such a policy, make sure you follow through on violations.

New case: A male worker threatened to blackmail his female supervisor if she did not consent to having sex with him. Then he told others that the supervisor was having an affair with another employee.

The company had a strict no-sex-talk rule. When the worker was fired for violating the rule, he sued. But the district court in Illinois dismissed the case. The worker was not meeting legitimate company expectations because he had broken a workplace rule.

WHAT A POWER OF ATTORNEY CAN DO

The thought of being incapacitated—either permanently or temporarily—certainly is not pleasant. Nevertheless, it is important to take precautions in the event you suddenly become incapable of managing your financial affairs. No one is immune.

A common method for ensuring some measure of protection is to create a “power of attorney.” In particular, it may be beneficial to use a “durable” power of attorney. Here are the answers to several questions about this estate-planning technique.

Q.How does a power of attorney work?

A.In simple terms, a power of attorney is a legal document that authorizes another person to act on your behalf (called the “attorney-in-fact”). Note: This may also be used to describe the person acting for you. The power can be either specific (e.g., limited to having someone sell your home or car) or broad. A regular power of attorney is no longer valid after you become incapacitated. However, a durable power of attorney remains in effect if you become incapacitated and terminates upon your death. That is why this variation is often preferred.

Q.Can I set up a durable power of attorney to take effect at the time I become incapacitated?

A.It depends. Such a “springing” power of attorney is not authorized in all states. You must find out the applicable state law from an experienced attorney. Similarly, you should rely on an attorney to do all the other necessary paperwork for the durable power of attorney.

Q.What if I change my mind about granting a power of attorney?

A.While you are competent, you may revoke a power of attorney (whether or not it is durable) at any time for any reason. The best thing to do is to notify the “attorney in fact” in writing. Also, notify other parties who may be affected.

Q.Can a durable power of attorney be used for health care decisions?


A.Yes. For instance, you can establish the terms for deciding whether or not you are incapacitated. In addition, it is important that you discuss these matters in detail with the attorney in fact to give him or her more guidance.

Q.How is this different from a living will?

A.A durable power of attorney gives another person the power to make decisions in your best interests. In contrast, a living will provides specific directions concerning terminally ill patients. Living wills are now recognized in every state.

Q.Can I set up a durable power of attorney for a relative who is no longer competent?

A.No. A durable power of attorney is binding only if the grantor of the power was competent when it was drawn up. However, just because someone has been diagnosed as having a specific disease does not mean that he or she is incompetent. For instance, if an elderly person is suffering from Alzheimer’s disease, it still may be possible to utilize a durable power of attorney.

If you have a power of attorney executed, it should be coordinated with other aspects of your estate plan. It is generally recommended that individuals seek professional assistance. 



A CLASH OF CULTURES AT WORK

America is the great melting pot. Typically, a workforce will be comprised of individuals with different national origins and ethnicities. As a result, employers must be sensitive to legal issues in this area, particularly as they pertain to the hiring of immigrants. One of the key issues involves restrictions on the language being spoken in the workplace.

For starters, employers must be careful to avoid discriminatory practices in the recruitment and hiring of immigrants. The landmark federal law in this area is the Immigration Reform and Control Act of 1986, which restricts employers from knowingly hiring illegal immigrants. Although employers must adhere to the law, it can take significant time for government agencies to verify suspicious documents. Inquiring about these documents on a continuous basis may be viewed as discrimination.

Instead, it is recommended that employers accentuate the functions of the job. Evaluate individuals based on their experience and competence, not their cultural background. A job candidate should speak English well enough to communicate effectively without safety risks.

Other problems may reflect conflicts of language and cultural barriers. Employers are not required to publish ads in

foreign languages, but you generally cannot dismiss applicants solely because English is their second language. Accordingly, passing over job candidates with strong accents might land you in legal trouble, unless there is a provable business necessity. Requirements to speak English only may be allowed for safety reasons or customer service reasons, but the rules differ for non-business-related functions such as lunch breaks and idle time. Conversely, strictly enforcing an “English-only” mandate could cause legal problems.

Also, you may be concerned about teamwork and productivity when employees of differing cultures are speaking different languages. As a result, your company may want to spend additional effort on team building. Concentrate on having employees meet the same company-wide objectives. To further the process, the company may use training sessions, including having English classes taught.

Recent data shows that almost 12% of the U.S. population is foreign-born. Companies are changing their outlook in recognition of this fact. 📌



B R I E F S

♦♦**Search Functions**—The respiratory technicians at an Indiana hospital shared a computer. When pornographic sites were found in the “favorites” tab, an investigation revealed that only one technician was on-site when the sites were accessed. After he was fired, the technician sued, claiming he had been singled out. But the Seventh Circuit said the firing was based on a good faith investigation.

♦♦**Dressed Down**—You may deduct the cost of special clothing needed for your job, but tax breaks are denied if the outfit is suitable for everyday wear. **New case:** A pianist purchased gowns, dresses, shoes and other accessories to wear at her concerts. Although she did not wear any of the items outside of the concert halls, the district court in New York still disallowed her deductions.

♦♦**Gift-tax Exclusion**—The annual gift-tax exclusion for 2010 remains at \$13,000 per recipient. This means that you can give a nonspouse a gift of property valued at up to \$13,000 (\$26,000 if your spouse joins in the gift) without incurring any federal gift-tax liability. For instance, you and your spouse can give four children \$104,000 gift-tax-free this year. The gifts covered by the exclusion are removed from your taxable estate.

♦♦**What’s the Call?**—Even if the economy has halted pay raises at your company, continue to conduct performance reviews. **New case:** A minor league umpire alleged he lost his job because of his age. The league said he was dismissed because of poor performance and gambling. But the league didn’t have performance reviews to back up its claims. Now a jury will decide the outcome. **Moral of the story:** Continue the practice of conducting employee reviews in both good times and bad.