perspectives

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PERSONAL INJURY LAW
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Presenting Personal Injury and Safety Issues

Summer 2011

Rules Of The Waterway: Boating And Traumatic Injury Claims

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Spring is a great time for boaters to prepare for a safe and fun boating season. While the unofficial kick-off to boating season in Washington started on May 7, 2011[1] and National Safe Boating Week was May 21-27, 2011[2], injuries and fatalities from boating accidents happen all year round. In fact, the highest percentage of boating-related fatalities occurs in the winter months.[3]

Some Disturbing Statistics:

According to the United States Coast Guard (USCG):

- Nationwide in 2009, 3,358 people were injured and 736 people died in boating incidents. This represents a fatality rate of 5.8 deaths per 100,000, up 3.6% from 2008.
- Of those injured, 18.5% reported broken bones, 5.5% reported internal injuries, 3.2% reported a concussion and less than 1% reported a spinal cord injury.
- Of those who drowned, 9 out of 10 were *not* wearing life jackets.
- In 2009, 73% of fatal boating incident victims drowned.
- Operator inattention, operator inexperience, excessive speed, improper lookout and alcohol use rank as the top five primary contributing factors in accidents.[4]

In 2009, Washington ranked 17th in the nation for the number of recreational vessels, with 269,845 registered in the state.[5] During that year, 111 boating accidents were reported in Washington to the USCG. Of those, 66 involved injuries and 22 involved fatalities. More than $1.2 million in property damage was incurred as a result of these incidents.

Obtain a Boater's Education Card:

Washington boaters are required by law to take and pass a boater education course and have their education card with them when operating a boat of 15 horsepower or more on Washington waterways. In 2011, boaters ages 12 to 35 years are required to carry the card when operating a boat. The law will soon apply to older boaters. In 2012, the age is raised to 40 and in 2013 the age increases to 50. The card requirement is phased in through 2014 (at which point all boaters 59 and younger will be required to have a boater education card). Boaters born before Jan. 1, 1955, are exempt. Washington and Oregon have a reciprocity

agreement in place which allows either card to be valid in both states.

Know the Rules of the "Road"

In addition to obtaining a boating education card, all operators of watercraft are required to follow the "rules of the road," or rather the rules of the waterways. While most seem like common sense and are similar to the rules for driving an automobile, there are some important distinctions to consider:

1. When approaching another boat head on, always "give way" to the right if both boats are powered boats. If one boat is powered and the other is a sailboat, the powered boat must give way. The sailboat shall continue on its course.
2. When two powered boats approach each other on a perpendicular or intercepting course, the boat on the operator's left must give way. If one of the boats is a sailboat, the powered boat must always give way.
3. When overtaking and passing a boat, the boat to the rear shall always give way to the boat being passed.
4. All boat operators must stop and render assistance to a boat in distress unless doing so would endanger his or her own vessel or passengers.
5. Every boat must proceed with extreme caution and at a safe speed when visibility conditions are restricted.[8]

In addition to these rules, some Washington waterways have additional equipment and operational restrictions. Before boating on a particular waterway, check in with the sheriff's office or police department for local regulations. Local boating ordinances can be found at **www.mrsc.org/Codes.aspx.**

Life Jackets Save Lives:

Equally important to knowledge of the rules, is the use of a life jacket or "personal flotation device" (PFD) when on the water. Washington law requires that all boaters under the age of 12 wear a PFD that meets or exceeds current USCG standards. In addition, no person may operate or permit the operation of a vessel without a PFD on board for each person of the vessel.[9] Of the 472 drowning deaths reported to the USCG in 2009, only 87 (18.4%) were wearing a PFD.[10] Eighteen children under age 13 lost their lives while boating in 2009. 50% of the children who died in boating accidents in 2009 drowned. Of those, only 44% were wearing a PFD as required by state law. [11]

If you are injured in a boating accident, you may have a claim for damages against another boater or the boat on which you were injured. As with motor vehicle collisions, there may be other entities at fault as well. Identifying applicable coverage may be difficult and the involved insurer(s) are unlikely to voluntarily step forward to accept liability and offer compensation. A thorough evaluation of potential issues of negligence and insurance should be completed by an attorney familiar with the nuances of traumatic injury, negligence and insurance coverage.

If you have experienced a traumatic injury due to a boating accident and have a potential personal injury claim, a legal consultation is advisable to learn about the unwritten and written rules of a personal injury claim. More importantly, you should contact a personal injury attorney who is familiar with boating accident claims. Not every patient needs to hire an attorney to represent them, but all can benefit from a consultation to explain their legal rights and duties.

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1 www.seattle.gov
2 www.safeboatingcounsel.org
3 www.uscgboating.org/statistics/accident_statistics.aspx
4 www.uscgboating.org/statistics/accident_statistics.aspx
5 Ibid.
6 Ibid.
7 Ibid.
8 www.boat-ed.com/wa
9 RCW 79A.60.160.
10 www.uscgboating.org/statistics/accident_statistics.aspx
11 Ibid.

Adler Giersch PS Donates Funds for Summer Neuroscience Student Program

At Adler Giersch, it is vitally important to us to give back to the communities in which we work and to support future leaders in both the medical and legal world. This summer, while Adler Giersch PS is "showing the ropes" to second year law student, Ms. Laura Tucker, we are also assisting our colleagues at Harborview Medical Center with their fellowship program to encourage the next generation of medical scientists, researchers, and doctors.

On July 22, 2011, Richard H. Adler will speak to a group of mostly undergraduate students enrolled in Harborview Medical Center/ University of Washington's Summer 2011 Neuroscience Fellowship program. The law firm has also donated $5,000 directly to this program to help fund the 10 week science and research-based Fellowship.

Students will attend weekly Grand Rounds, teaching sessions, and have the opportunity to observe brain surgery and spinal cord surgery at Harborview or UW Medical Center. This is a unique program that allows young students the chance to observe as many as seven different surgeons and to attend seminars presented by top neuroscience research professors. This program has accepted 25 students for the 2011 Summer Program from 15 different schools. ◆

Calendar

On June 11, 2011, Richard H. Adler and nationally renowned massage therapist, Diana Thompson, hosted a seminar-fundraising event for the Massage Therapy Foundation. The event, *Whiplash, Spinal Trauma, and the Personal Injury Case*, was a two part medical and legal workshop that included an integrated medical approach to treatment, insurance information and live demonstrations of massage techniques. All proceeds were donated directly to the foundation for research on the effectiveness of massage therapy to treat a range of medical conditions.

July 13, 2011 Attorneys Richard H. Adler and Jacob W. Gent will present to the teaching faculty at Bastyr University.

July 22, 2011 Richard H. Adler will present at Neuroscience Summer Fellowship program at Harborview Medical Center and the University of Washington.

July 28 – 31, 2011 All the attorneys at Adler Giersch PS will attend the annual Washington State Association for Justice legal education convention in Whistler, BC.

October 7 – 9, 2011 The attorneys of Adler Giersch PS will present a simulated courtroom examination at the Washington State Chiropractic Association's Fall Convention in Lake Chelan, WA.

November 17, 2011 Richard H. Adler will travel to Orlando, Florida at the invitation of the American Association of Physical Medicine and Rehabilitation and speak at their Annual Convention in Orlando, FL. This is the second year Mr. Adler has been asked to present.

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