



LAW OFFICE OF WILLIAM J. LUSE

AFFORDABLE AND AGGRESSIVE REPRESENTATION

AUTO ACCIDENTS • EMPLOYMENT LAW • CRIMINAL DEFENSE

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Shoulder Injuries and Car Accidents



Shoulder injuries often occur as a result of car accidents, partly due to the actual structure of the shoulder itself but also because of other important factors. Here's why:

A shoulder is an extremely complex part of the body, with a lot of moving parts working in concert. One key component of the shoulder is a ball-and-socket joint (shoulder socket) in which the ball at the end of the arm's humerus bone (upper arm) rests within a small depression of the scapula (shoulder blade); however, the ball is larger than the socket. This allows the joint to swivel in many directions, providing great range of motion. But this benefit comes at a price.

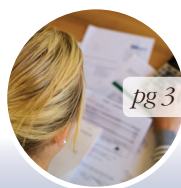
That price is instability of the shoulder joint. What stability the shoulder does have originates from the soft tissues—muscles, tendons, and ligaments—that wrap around it, not from bone, meaning the shoulder is more susceptible to injury.

Soft-tissue damage, fractures (i.e., collarbone, shoulder blade, humerus), nerve impairment, shoulder separations (collarbone separates from the shoulder blade), torn rotator cuff (damage to tendons covering the shoulder), and bone dislocations are some of the common injuries affecting the shoulder.

The direct impact of another vehicle can obviously injure a shoulder. Bracing yourself with outstretched arms may cause trauma. The effects of whiplash might radiate through the shoulder, damaging soft tissue and nerves. Upon impact, a seat belt can also cause stress where it overlaps the shoulder.

Symptoms of shoulder injury include swelling and redness, tenderness or tingling, bruising, weakness, pain while engaging in activity or while at rest, obvious deformity, and diminished range of motion. •

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FAQ Is the Rear Driver Always at Fault in a Rear-End Accident?

A: No. While it is true that most of the time when a driver hits someone else from behind he or she will be considered liable for the wreck, that's not always the case.

For instance, the lead driver may be found at-fault for a rear-end accident if he or she turned or merged in front of you too suddenly or if the brake lights on their vehicle were not working and you couldn't tell they were slowing down or stopping. In other instances, such as if your brakes failed or if you suffered a tire blowout due to a manufacturer's defect, the liability for a rear-end accident may lie with the manufacturer that designed the faulty product rather than you. Bottom line—call us if you've been involved in a rear-end collision so that your rights are protected. •



Wills and Trusts: Both Important but Very Different

We often hear a lot of confusion regarding the terms “will” and “trust”, with some folks even thinking that they are one and the same thing, which is definitely not the case. Though both are key elements of estate planning, they serve distinct roles.

A will only goes into effect after the will's creator—also known as the testator—has passed away. The person then responsible for carrying out the desires of the testator and distributing assets to the beneficiaries is referred to as an executor. Executors are in charge of wills, not trusts.

So, what's a trust? A trust is a legal arrangement under which one person or institution, called the trustee, holds legal title to property that will eventually be distributed to beneficiaries. Unlike a will, a trust can be “active” the moment it is created. It may be used to distribute property to beneficiaries prior to the death of the trust's creator (settlor), upon the death of the settlor, or delayed well after the death of the settlor.

Another key difference between a will and a trust is that a will must pass through probate, which is the court-supervised process of establishing the validity of a will, locating and determining the value of assets owned by the deceased, paying the decedent's outstanding bills and taxes, and distributing the remaining assets to the will's beneficiaries or heirs. A trust does *not* go through probate. An estate may have some parts that pass through probate and others that pass through a trust. In addition, a will becomes public record; a trust can remain private.

If you have any questions about wills or trusts, please don't hesitate to call our office. •



Chapter 13's Advantages over Debt Management Programs



If you're pondering whether to utilize a Debt Management Program (DMP) or file for Chapter 13 bankruptcy, consider the following:

Many credit-counseling agencies have pre-arranged terms with credit card companies for repayment. The interest rate may be reduced, but there will still be interest to pay.

*Filing for Chapter 13 bankruptcy enables the debtor to pay off debts with zero percent interest and provides a **legal means** to eliminate debt. Income left over after reasonable family expenses goes toward paying off your debts. Anything that can't be paid will be eliminated or discharged.*

DMPs are dependent upon all creditors agreeing to the plan. If just one balks, it may throw a monkey wrench into the whole plan.

Creditors have no influence on a Chapter 13 filing. These filings are approved by a court of law.

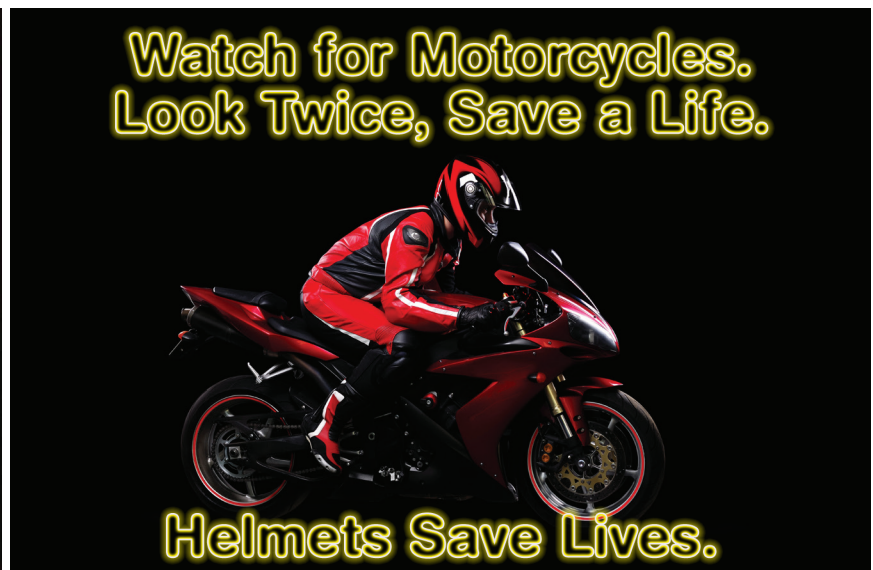
Most DMPs establish a budget and monthly payment amount. By the time arrangements are worked out with creditors, you might wind up having reports of late payment going to the credit-rating agencies, tarnishing your credit. Some creditors may seek wage garnishment to speed up repayment. If they succeed, other important budget items may suffer.

Chapter 13 protects you from wage garnishments and from late reporting to credit-rating agencies. Terms of repayment are worked out between your attorney and the bankruptcy court.

DMP creditor arrangements are voluntary and rely on the good faith of the creditors, who are free to change the rules in the middle of the game.

Chapter 13 provides a consistent set of rules and legal protection from all creditors. Harassing phone calls and letters, vehicle repossession, home foreclosure, and utility shut-offs are all off limits.

Chapter 13 is a tool to help someone regain secure financial footing, not a sign of financial failure. Talk to a bankruptcy attorney to go over your options. ●



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pg 1

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Challenging a Drug-possession Charge

If a person is charged with possession of illegal drugs, their attorney may seek to challenge the prosecution on one or more grounds: refuting the stated facts, testimony, or evidence; zeroing in on procedural missteps; or pressuring the prosecution to provide all necessary evidence at trial.

A defendant has the right to due process of law, including search-and-seizure protocol that is carried out properly. For example, if drugs were spotted “in plain view” in their car, they can be used as evidence. If a trunk was pried open without the defendant’s consent, that’s another matter altogether.

A defendant can also claim they hadn’t the foggiest idea that the drugs were in their residence or vehicle, and that the drugs must be someone else’s. A skilled defense attorney can put the squeeze on the prosecution to prove “ownership.”

An experienced defense attorney will force prosecutors to produce, in court, the actual drugs involved in the case. This isn’t always a lock, as drugs are often transferred a number of times before reaching the evidence locker. If they can’t be produced, the case may be dismissed. The prosecution must also be able to prove that the seized drugs have been checked out identity-wise, which means crime-lab analysis and analyst testimony.

Other less common defenses include entrapment, which is extremely difficult to prove; planting of drugs – equally problematic; and medical marijuana use, which may become more prominent as more states legalize it.

A charge of drug possession is serious but not hopeless. A good defense attorney in your corner could make all the difference. ●