



# GOLDBERG & GOLDBERG

A Premier Plaintiff's Firm Recognized and Rated Over Sixty Years for the Highest Level of Legal Skill and Integrity.

## Practice Areas

- Personal Injury
- Wrongful Death
- Auto and Truck Collisions
- Medical Malpractice
- General Civil Litigation
- Nursing Home Negligence
- Wills & Trusts
- Probate & Estates

Goldberg & Goldberg has consistently earned the Preeminent AV Rating, the highest awarded by the Lexis-Nexis Martindale-Hubbell Peer Review Ratings, based on our legal ability and devotion to professional ethics. Since Martindale-Hubbell bases assessments on surveys of members of the bar and of judges, we take pride in our colleagues' recognizing and respecting the quality of our legal work.

## what's inside

### page 2

Cosmetics laced with mercury?

The differences between "comprehensive" and "collision" auto insurance coverage

### page 3

Protect your loved one from nursing home abuse  
Did you hear?

### page 4

It's not just pit bulls and rottweilers

# do you REALLY need a will?

A client recently asked me if he needed a will. He intended to leave everything to his spouse and erroneously assumed his wishes would be accomplished without the necessity of us preparing a will for him. Laws differ significantly from state-to-state on the issue of how property is divided if someone dies intestate (without a will). In all three local jurisdictions, if you have children, parents or siblings, your properly could go to all or some or those relatives in various percentages. For example, in Maryland and the District of Columbia, your estate would be divided between your spouse and your parents if there are no children. In Virginia, your spouse would inherit everything if there are no children. In all three jurisdictions, all children would share in the estate with the spouse.

It is never too early or too late to develop a solid estate plan to ensure that your assets are distributed to whom you want, in the manner you desire and under whose control you prefer. For example, while you may wish for your child, grandchild niece or nephew to get a portion of your estate, it may be prudent to create a trust and name a trustee who would hold and manage that distribution until the child reaches an age that you determine would be appropriate to ultimately allow full distribution. Trusts can also be an extremely valuable planning tool when an individual owns property in another state. The individual can own the property in his or her trust and avoid a probate proceeding in a second state. Transferring property through a trust rather than through probate allows you to keep asset information out of a public probate proceeding.

Setting down your preferences in a will or trust could also avoid inevitable differences that could develop among your heirs in the absence of a

well written estate plan. Unfortunately, we see such conflict often develop when there is either no estate plan or one that is outdated.

Additional documents of critical importance for every estate plan is the durable power of attorney. In a durable power of attorney, an individual appoints a spouse, child or another close relative or friend to act as his or her agent in the event that he or she is incapacitated and unable to write checks, pay bills or perform other necessary tasks on his or her own behalf. As individuals live longer yet perhaps suffer from a disability, we have seen this document take on greater importance. Without a durable power of attorney, a family member or friend would have to institute a court proceeding asking the court to appoint a guardian of the individual. These proceedings can be time consuming and very costly, whereas a durable power of attorney is relatively simple and modest.

A final key element of each individual's estate planning should include the advance directive for health care decisions and designation of a health care agent. The advance directive – or living will – is a legal document that outlines the scope and nature of life-prolonging medical care that the individual wishes to receive. A part of that document designates a health care agent to make care and treatment decisions if the person is too ill to make them for his or herself. Individuals who prepare advance directives can take immediate steps to ensure that their wishes will be met and followed. Please contact us if you have any questions. ■



## COSMETICS LACED WITH *mercury?*

The Food and Drug Administration (FDA) recently issued a warning about mercury-tainted cosmetic products on the market. Women in at least seven states may have been unwittingly applying poison to their skin through the use of skin-lightening and anti-aging products sold as soaps, lotions, and skin creams.

The FDA has identified 35 such products. Most are manufactured overseas, and the great majorities are sold in African-American, Latino, Asian, and Middle Eastern neighborhoods.

Mercury is nothing to trifle with. It is readily absorbed through the skin and can damage the body's nervous system and organs such as the kidneys, leading to illness and possibly even death. Though the amount of mercury in the affected products on the FDA list is low, mercury accumulates in the body over time. Repeated use can also lead to symptoms like irritability, depression, memory problems, tremors, and hearing and vision issues.

Mercury can also vaporize, meaning people might breathe it in, putting the user and others in close proximity at risk (in particular, infants and young children).

The word “*mercury*” might not be listed on product labels. “Mercurous chloride,” “calomel,” “mercuric,” and “mercurio” may be listed instead but indicate the same ominous thing—the presence of mercury.

If you've been using a mercury-tainted product, stop immediately. Wash your hands and any body parts to which the product was applied and call your local environmental health agency to find out how to properly dispose of the product. ■



## THE DIFFERENCES BETWEEN “COMPREHENSIVE” AND “COLLISION” auto insurance coverage

Most states mandate that a driver carries liability insurance, designed to cover damages your vehicle causes to other vehicles.

Comprehensive and collision coverage—which covers damages your vehicle sustains—are, aside from a couple of exceptions (i.e., paying a lender or leasing), optional. Some people are confused about the differences between the two. Here is what each covers:

**COLLISION COVERAGE** pays for damages inflicted upon your vehicle as a result of hitting another car or object. If you smack into another car, back into a fire hydrant, or swerve to miss a panicked squirrel and wind up plowing into a fence, collision coverage will pay for damages. Generally speaking, collision coverage comes into play when your car was moving and collided with something else.

**COMPREHENSIVE COVERAGE** provides coverage for damages to your car caused by any non-collision situation. For example, a tree branch that topples onto your car, hail that shatters your windshield, or vandalism. Typically, comprehensive coverage kicks in for situations that cause damage to your car, but in which your car wasn't moving. Some policies, however, might include car accidents involving a deer or moose under comprehensive coverage.

If you have an older vehicle that has low actual cash value (check Kelley Blue Book values or Edmunds.com, for example), and your comprehensive and collision coverage payments total more than 10 percent of the value of your vehicle after your deductible is subtracted, it may be time to drop comprehensive and collision. For example, say you have a car worth \$3,000 and a \$500 deductible; you're able to get back \$2,500 if your car is totalled.

If you're paying more than \$250 per year for that limited collision and comprehensive coverage, then it might be time to part ways. But make sure to talk to your insurance agent for your particular situation. ■



# PROTECT YOUR LOVED ONE FROM nursing home abuse

The decision to place a loved one in a nursing home can be emotionally wrenching. You certainly want them to get the finest care possible, but mistakes happen at even the most prestigious of facilities.



Honest mistakes are one thing; abuse is another. And, while the number of nursing home abuse cases is disturbing, only a low percentage of cases actually get reported. Oftentimes, the victims' pleas fall on deaf ears. Victims may fail to report abuse, or are unable to. Family members or friends need to be their advocates. Overcrowding, understaffing, or improper training of personnel can also lead to abuse, whether intentional or not.

There are five categories of nursing home abuse: emotional, physical, sexual, neglect, and exploitation. To help protect your loved one, you should:

- Be aware of drastic changes in personality.
- Keep an eye out for signs of withdrawal or depression.

Check for indications of physical abuse (e.g. bruises, pressure sores, changes in skin coloration).

- Take note of their personal hygiene and room conditions.
- Check their medications and make sure things are in order.
- Listen to any complaints and take them seriously (even if they have a lifelong "reputation" for complaining).
- Pay close attention to rapid weight change which may indicate starvation or dehydration.
- Investigate any injuries requiring medical treatment.
- Make sure that any sedation is necessary and justified.
- Take note of any reluctance of your loved one to talk about an injury or other situation that occurred at the nursing home.
- Make sure you are satisfied with the explanation for an unexpected death.

Contact an experienced nursing home injury attorney if you suspect a loved one has been the victim of abuse. ■

Important Dates – May 2012

May 5 – Cinco de Mayo    May 8 – National Teachers Day    May 12 – International Nurses Day  
May 13 – Mother's Day    May 19 – Armed Forces Day    May 28 – Memorial Day

## did you hear?

According to a new study conducted by researchers at Washington University School of Medicine in St. Louis, antibiotics provide little or no benefit for people suffering from sinus infections. While the study indicates that 1 in 5 prescriptions in the U.S. are prescribed for sinus infections, a better course of treatment probably is just waiting for the infection to run its course.

Overuse of antibiotics is a growing health concern since some bacteria continue to develop resistance to the drugs we use to try to combat them. ■



# GOLDBERG & GOLDBERG

5530 Wisconsin Avenue  
Chevy Chase, Maryland 20815  
(301) 654-5757 phone  
www.GoldbergLawGroup.com

## DO YOU REALLY need a will?



SEE PAGE ONE

This publication is intended to educate the general public about personal injury, medical malpractice, and other issues. It is for information purposes only and is not intended to be legal advice. Prior to acting on any information contained here, you should seek and retain competent counsel. The information in this newsletter may be freely copied and distributed as long as the newsletter is copied in its entirety.

## IT'S NOT JUST pit bulls and rottweilers

Just this week, Maryland's highest court issued a new decision that holds dog owners responsible for the actions of their dogs in certain situations. Specifically, the owner of a pit bull or pit bull mix is now strictly liable for damages caused by his or her dog, regardless of whether the dog had previously injured someone or whether the owner knew or should have known that the dog was dangerous. Significantly, this decision also extends liability to a landlord, who rents the premises to the owner of the dog, for the injuries caused by the dog.

Pit Bulls and Rottweilers get most of the publicity due to the severity of damage inflicted, but *any* dog has the potential for harm (including "good" ones). In January, a woman from Ottawa, Canada, received a settlement for an incident at a Home Depot in which she was bitten on the nose by a Shih Tzu, which necessitated plastic surgery. Some may think of Shih Tzus as small and spunky dogs, but probably not maulers. Sharp teeth and anxiety/fear/surprise is a volatile mix, no matter what size the dog.

Over 50 percent of dog bites are inflicted on children 12 years of age and under. Education is the best prevention for dog bites,

whether to a child or adult. Here are a few quick rules of thumb:

- Never treat a dog unkindly (sounds obvious to adults, but kids may think pulling a tail or ear is funny).
- Don't bother a dog when it's busy eating, playing with a toy, sleeping, or tending to puppies.
- Never approach an unfamiliar dog in any environment.
- If a loose dog approaches you, stand completely still, keep your hands by your side, stay quiet, and look away from the dog.
- Parents, supervise your children when near a dog.

Dog attack victims sustain over \$1 billion in losses every year. Homeowners and renters insurance policies typically cover liability for dog bites to non-residents of the home. In light of this recent court decision however, I would anticipate that new insurance policies will exclude coverage for bites from pit bull or pit bull mix dogs. With no insurance to pursue, the unintended consequence of this court decision is that a victim of an attack will be less likely to recover anything for his or her injuries. ■

Visit us at [www.GoldbergLawGroup.com](http://www.GoldbergLawGroup.com)