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Don't Forget About the Equifax Data Breach

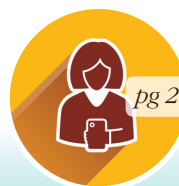
With the disturbing news of the Equifax data breach in September 2017, some Americans wisely took action to protect themselves. Others were alarmed initially, delayed their response, and simply forgot about it as the headlines faded. Information that was hacked can be stowed away for years and then just as suddenly be utilized to turn an unsuspecting victim's life upside down.

For those who have not taken any measures to combat possible ID theft, here are some options for reconsideration:

- **There are some free credit-monitoring services available** to alert you to suspicious activity. Keep in mind that free services that last only a year might be insufficient. Your information may be “out there” for a lot longer than that.
- **Check your credit reports** from the big 3 credit-reporting agencies: Equifax, Experian, and TransUnion. You are eligible for a total of three reports every 12 months through annualcreditreport.com. If you find accounts or account activity you don't recognize, your identity may have been stolen. Visit IdentityTheft.gov for help.
- **Consider placing a credit freeze on your files.** This will make it very difficult for someone to open a new account in your name (including you!). Your existing accounts, however, are still vulnerable to tampering.
- **Place a fraud alert on your files** if you find a credit freeze too inconvenient. Creditors will be notified that you may be an identity-theft victim and should verify that anyone seeking credit in your name is really you.
- **Scrutinize your bank and credit-card statements** for charges you don't recognize.

No game plan is foolproof, but the measures above will improve your odds of containing the damage. •

January 2018 News



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Preexisting Injuries and Auto Accident Case



Some people are under the mistaken notion that preexisting injuries might preclude them from recovering damages in an auto accident claim against a negligent driver. Truth is, a preexisting injury often has no impact on a claim and may even lead to higher compensation, since the accident may result in more severe consequences than it otherwise would have due to the preexisting condition (something known as the “eggshell plaintiff” rule).

Insurance companies should not have to pay for injuries that already existed prior to an accident. What’s fair is fair. However, many insurance adjusters will frequently argue that all preexisting injuries or conditions were unaffected by an accident. In many cases, that’s patently untrue.

Some insurance adjusters will employ the strategy of trying to settle a case quickly, without the involvement of an attorney. Yes, your claim can be settled in short order, but it will be a lopsided outcome in favor of the insurance company.

The key to solving this conundrum is to determine what injuries were caused by the accident; what preexisting conditions were made worse by the accident; and what preexisting injuries were unaffected by the accident. The best way to do this is to hire an experienced auto accident attorney.

An auto accident attorney will gather your medical information; explain why a preexisting condition should have no impact on the calculation of damages; or demonstrate how the accident led to greater harm due to the preexisting condition.

Hiring an auto accident attorney can alleviate the stress of legal/insurance matters and allow you to focus on what’s most important: healing. •

A Pill that Tracks Its Own Usage

Recently the Food and Drug Administration approved the first digital drug, Abilify MyCite, which is an antipsychotic medication prescribed for schizophrenia, bipolar disorder, and as an add-on treatment for depression. The pill is embedded with a sensor the size of a grain of sand. When the pill dissolves, stomach acid activates the sensor, which sets off a chain reaction.

The sensor will record the time and date that it was activated, and then transmit that information to a patch that is worn by the patient. From there, the info is relayed to the patient’s smartphone, from which it can be forwarded to anyone monitoring the patient’s healthcare situation by way of an app.

The main goal of the digital pill is to make sure that patients follow through with taking their medication, which can bring some peace of mind to family members. It may also aid doctors whose patients claim their medications aren’t working, but in actuality the patients aren’t taking the medication as often as prescribed.

There are concerns, however, with this new pharmaceutical technology. As with anything digital, there’s always the possibility that the information might fall into the wrong hands. Privacy worries are legitimate.

Price is a drawback too. A month’s supply of nondigital Abilify can run close to \$1,000, although a generic was approved in 2015. Another option is a once-a-month injectable version of Abilify, which can alleviate adherence concerns but costs well over \$1,000 per injection. Needless to say, the sensor-embedded Abilify will carry an even heftier monthly price tag. •



<https://www.multivu.com/players/English/8175751-otsuka-proteus-abilify-mycite/>

Did You Hear?

Consumer Alert: Major Recall on Kidde Fire Extinguishers



The United States Consumer Product Safety Commission (CPSC) has announced a recall of approximately 40 million Kidde fire extinguishers made from 1973 to 2017. The extinguishers contain plastic handles and can become clogged or require excessive force to discharge and can fail to activate during a fire emergency.

The CPSC urges consumers to contact Kidde immediately to request a replacement fire extinguisher. Contact Kidde toll-free at 855-271-0773 from 8:30 a.m. to 5 p.m. ET Monday through Friday, 9 a.m. to 3 p.m. ET Saturday and Sunday, or online at www.kidde.com and click on “Product Safety Recall” for more information. ●

January 2018 Important Dates

January 1
New Year's Day

January 15
Martin Luther King, Jr. Day

National Blood Donor Month

National Glaucoma Awareness Month

Cervical Health Awareness Month



The ‘Fruit of the Poisonous Tree’ Doctrine

Generally speaking, in criminal court the prosecution cannot introduce evidence that was obtained through illegal police conduct—for instance, an illegal search or wiretap, or a coerced admission of guilt for starters. The illegal conduct is the “poisonous tree,” and the evidence garnered from that is the “fruit,” which is tainted and not admissible in court.

Here’s an example of the fruit of the poisonous tree doctrine: Police interrogate a suspect, who eventually asks for access to an attorney. Police ignore the request and wear down the suspect with hours of questioning. Exhausted, the suspect confesses to the crime. The confession is now tainted because the police failed to allow the suspect access to an attorney when he requested it.

As with many aspects of law (and life in general), there are exceptions to the rule. In one scenario, the police obtain evidence through an illegal search. However, shortly thereafter a reliable informant provides information that would have led to the police acquiring a lawfully issued search warrant. In the eyes of the court, the police would have attained the same evidence anyway. Therefore, many courts would rule the evidence admissible.

Another exception concerns the Miranda warning, or lack thereof. If a suspect voluntarily gives a statement—even without a Miranda warning—the evidence gleaned from that statement can be used in court. The statement itself might be poisoned, but the resultant fruit is not.

The fruit of the tree doctrine is complex and subject to nuance and interpretation. If you ever face criminal charges, consult a criminal defense attorney to protect your rights. ●

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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.

Determining the Value of a Personal Injury Case

There is no magic formula for determining the overall worth of a personal injury case. Some aspects are subjective, each person's circumstances are unique, and the final determination may be in the hands of a jury or judge. However, a ballpark figure can often be arrived at after a person's medical condition has stabilized.

Economic damages are a bit easier to get a handle on since they have a direct cost associated with them. Economic damages include medical expenses (past and future), lost income (past and future), and reimbursement for property damage.

Noneconomic damages are trickier because they are subjective and have no direct cost tied to them. Pain and suffering, lost quality of life, emotional distress, and loss of consortium (which is the effect the accident had on the plaintiff's relationship with their spouse) are included among noneconomic damages. Past precedent involving similar cases may be relied upon in some circumstances.

The plaintiff's role in the accident might influence the value of their personal injury case. Many states follow a "comparative negligence" standard. For example, if the plaintiff is deemed 10 percent at fault for an accident, then their compensation will be reduced by 10 percent. Some states only permit a lawsuit to be filed when the plaintiff is less than 50 percent at fault.

A few states follow a "contributory negligence" standard. If the plaintiff is even 1 percent at fault for an accident, they may be barred from receiving any compensation for their injuries.

If you have been injured by the negligence of another, contact a personal injury attorney to protect your rights. •

