

SUMMER 2004

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TRIAL LAWYERS

- Medical negligence
- Product injuries
- Automobile accidents
- Aviation accidents
- Wrongful death

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Christopher T. Hurley & Associates, P.C., changes name and adds two new partners

The law firm of Christopher T. Hurley & Associates, P.C., has changed its name and added two new partners. According to managing partner **Chris Hurley**, effective immediately, the firm will be known as **Hurley McKenna & Mertz**. The name change reflects the addition of Mark R. McKenna, 35, and Michael T. Mertz, 32, to the partnership.

Both McKenna and Mertz have practiced with Hurley as associates for a number of years since becoming members of the bar.

“Their promotion to partner recognizes their

outstanding legal skills. Changing the firm name also recognizes their contributions to the practice, and acknowledges our work as a focused team,” Hurley added. “We have a deep bench of talent, which puts us in a strong position to grow strategically, to the benefit of our clients.”



Mark R. McKenna, Christopher T. Hurley, and Michael T. Mertz

About the firm

Founding partner **Christopher T. Hurley** has been a personal injury trial lawyer for 20 years. Before opening his own practice, he was a trial lawyer at Baker & McKenzie, the world’s largest law firm. Chris has a particular interest in protecting the rights of the elderly. He sponsors a special elder law lecture series at Loyola University Chicago School of Law, where he received his J.D. (See related story on page 4.) He also is a Fellow of the American College of Trial Lawyers, is included in the peer-nominated “Leading Lawyers” list of top attorneys, and is a frequent speaker and writer on legal topics.

New partner **Mark R. McKenna**, a native of Chicago, has been with the firm since 1994. He has a bachelor’s degree from Northwestern University and received his J.D. from the University of Illinois College of Law. He served a two-year internship at Kirkland & Ellis before attending law school. In addition to his work in personal injury, medical malpractice, construction negligence, and product liability, Mark is experienced in civil rights and employment-discrimination cases. Working together, Mark and Chris recently obtained a verdict of \$4.2 million for a child who underwent amputation of his right foot due to medical negligence.

Michael T. Mertz, also promoted to partner, joined the firm in 1997 as an associate. He earned his bachelor’s degree from Gustavus Adolphus College, and his J.D. from DePaul University, College of Law. Mike clerked for Mr. Hurley during law school. As an associate, he concentrated his practice on medical malpractice, product liability, construction accident, motor vehicle, and premises liability cases. He has successfully litigated cases in Illinois, Wisconsin, and Tennessee. Mike also is an active member of the Chicago Bar Association, where he is the current co-chair of the CBA’s Young Lawyer Section’s Tort Litigation Committee. Mike and Chris recently obtained a record \$7.2 million verdict in DuPage County for the family of a woman who died because her doctors failed to diagnose and adequately treat her pneumonia.

FRAUDULENT health insurance

Wrongdoers selling phony insurance plans are popping up everywhere. Their less-expensive coverage may look very appealing to Americans who lose coverage at work, experience rapidly escalating premiums, or cannot get coverage elsewhere.

Not only do scammers often lack licenses to sell insurance, they also

don't have sufficient reserves to cover payments. Their game is to pay smaller initial claims to solicit greater premiums from future policyholders. A study found that more than 100,000 scam-insurance-plan buyers have been

stuck with \$85 million in unpaid medical bills since 2001.

Experts offer the following warning signs to look for in potentially counterfeit health-coverage solicitations:

- Unbelievably low rates.
- No health prescreening requirement.
- Automatic preexisting-condition coverage.
- Promoted and endorsed by individuals allegedly representing labor unions or professional associations.
- Sales pitches that replace "insurance" with "benefits."

To check a plan's legitimacy, call our state's insurance commissioner's office for licensing, know the agent who will pay claims, and contact an attorney for counsel.

Housing discrimination... ...and the elderly

As our nation grays, greater numbers of aging people may find themselves denied equal opportunity in obtaining housing.

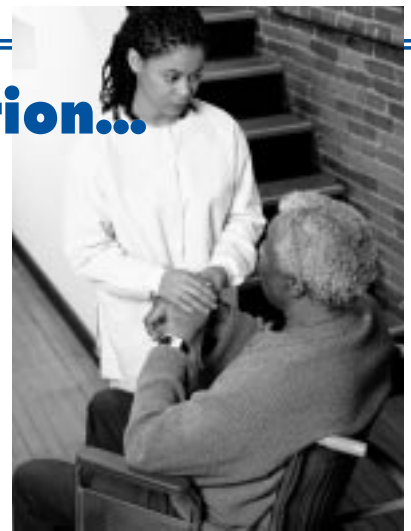
Housing discrimination against the elderly usually involves two factors. First is a perceived inability of an elderly person to live independently and to care for him- or herself and a property. The second consists of past, actual, or perceived disabilities that might make someone incapable of independent living.

If real-estate agents, rental agents, condominium associations, landlords, or even family members unlawfully deny the elderly equal opportunity to obtain housing in single-family homes, condominium communities, or rental communities, those harmed have recourse. Elderly people who have suffered discrimination are increasingly turning to the Fair Housing Act (FHA) of 1968 and the Americans with Disabilities Act (ADA) to obtain their fair rights to housing.

When a Texas couple was refused admission to a subsidized apartment complex on the basis of the husband's blindness and partial paralysis, the U.S. Department of Housing and Urban Development's FHA division determined that discrimination had occurred and took the apartment's owners to federal court. The court ruled that the FHA had the authority to bar discrimination against seniors with disabilities.

In a Florida case, an administrative law judge ruled on another FHA complaint. Here, the court agreed that a condominium association was required to make reasonable disability accommodations for a longtime resident who experienced a stroke that made him unable to walk.

Courts have also ruled that older residents are entitled to maintain service- or emotional-support animals as long as tenants reasonably comply with general tenancy obligations.



A reasonable housing accommodation for a senior can sometimes make the difference between living independently in a community or entering a care facility or nursing home. Seniors, or their children, who believe housing discrimination has occurred should consult legal counsel.



SEAT BELTS SAVE LIVES

No one ever plans on having an automobile accident. But everyone can plan to drive more safely and buckle seat belts.

Here are some statistics on how seat belts can save lives:

- Seat belts save nearly 10,000 drivers' and passengers' lives annually.
- Only seven in ten auto occupants in accidents are buckled up.
- Young males—age 16 to 25—are the least likely to buckle up and are the most likely to be involved in life-endangering accidents.
- Hospital costs for unbelted auto-crash victims are 50 percent higher than for those who buckle up.
- If 90 percent of passengers use their seat belts by 2005, the nation will likely see a 25 percent reduction in child fatalities in accidents.

PLEASE DRIVE SAFELY.

Workplace injuries... ...and equipment design

Thousands and thousands of American workers are injured on the job every day. In fact, according to the Bureau of Labor Statistics, 4.7 million nonfatal workplace injuries and illnesses were reported during 2002.

Many workplace injuries could be prevented if manufacturers designed machinery and other equipment with high safety standards in mind, and businesses required all machinery to be operated as instructed.

Worker fatality

When workers are injured by defectively designed equipment, our civil justice system offers recourse. Family members of a woman who suffered fatal injuries when a grinding wheel she was working on exploded brought suit. Their attorney alleged that the equipment's manufacturer failed to warn of design dangers and was further negligent in failing to include a protective guard on the equipment that would have prevented serious injury. The parties settled out of court.



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LEGAL DICTIONARY

Many clients find legal terms puzzling. From time to time, we offer some easy-to-understand definitions to help clear things up. This time, we'll look at legal terms associated with civil wrongs.

Tort

This is behavior or an act that one person negligently or intentionally performs which harms another person physically, monetarily, or in some other way. Torts commonly involve assaults, auto accidents, defamation, fraud, malpractice, and premises liability. The injured person has the right to sue for damages.

Tortfeasor

A tortfeasor is a person who commits the act that harms another person.

Tort of Another Doctrine

This generally accepted convention permits a plaintiff to obtain reasonable compensation for attorney's fees they have paid to sue a tortfeasor or third party.



SECRET settlements

Secrecy and gag orders in our state and federal courts undermine every American's right to know. Since the mid 1970s, defendants in civil litigation, as a condition of settlement, have sought to keep out of the public's eye important information that should emerge from litigation.

For instance, over the past 20 years, secret settlements have been reached to conceal very important information about sexual abuse of children by clergy, injuries from medical malpractice, automobiles that flip over or explode in accidents, and medical procedures and products that endanger health.

This insidious practice also affects Americans' perceptions of their courts and our justice system. "Protective Orders" close off the nation's courts, which are supposed to be institutions open to public scrutiny and review. "Sealed Court Files" deny a presumption of openness and honesty to court proceedings. "Confidentiality Agreements" undermine the public's respect for the courts and justice. And "Secret Agreements" increase the likelihood of additional litigation to find the truth.

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FIRM ACTIVITIES

Chicago Daily Law Bulletin ad. The firm announced its name change, new logo, and new partners in an ad appearing in the *Chicago Daily Law Bulletin* during the first two weeks of June.

Loyola Elder Law Lecture Series. *Chris Hurley*, graduate of Loyola University Chicago School of Law, sponsors the School's *Christopher T. Hurley Elder Law Lecture series*. This year's lecture, on March 23, featured Professor Marshall B. Kapp, J.D., M.P.H., a distinguished scholar in law and public health. Professor Kapp's lecture on "Therapeutic Jurisprudence: A New Lens for Examining Laws Affecting the Elderly" focused on ways in which laws and legal procedures affect people personally and socially. For more information about the Elder Law Lecture Series, contact Chris (312-553-4900; cthurley@hurley-law.com) or Marguerite Angelari (Director of Loyola University's Elder Law Initiative, 312-915-7201), or visit www.luc.edu/law/activities/opportunities/hurley_lectures.shtml.

Volunteering with Common Hope. In late March, Chris and his entire family spent a week in Guatemala, along with 15 others from Winnetka Congregational Church, volunteering with Common Hope. Common Hope, a nonprofit organization based in St. Paul, Minnesota, partners with families and communities to improve education, health care, and housing in Guatemala. The Hurleys were part of a team that worked shoulder to shoulder with local residents to redevelop the community. For more information, visit www.commonhope.org.

Chicago Bar Association seminar. *Mike Mertz*, current co-chair of the Tort Litigation Committee of the Chicago Bar Association's Young Lawyers Section, served as moderator on March 9 for a panel discussion on "Mandatory Arbitration in the Circuit Court of Cook County: Preparing and Arbitrating Cases." Mike also will be involved in an upcoming fall CBA seminar.

Article in the ABA's *Young Lawyer*. *Mark McKenna* has written an article for the ABA's *Young Lawyer* publication that discusses the practical aspects in transitioning from associate to partner, including tips to new partners. The article is scheduled for publication in late summer/early fall.

Northwestern University appointment. *Chris Hurley* has been appointed Adjunct Professor of Law at Northwestern University School of Law. He will be teaching trial practice in the fall.

Recent settlement

Chris Hurley and Mark McKenna obtained a \$7.5 million settlement for 13-year-old twins injured prior to their birth as a result of medical negligence. In December 1991, the mother of the twins went into preterm labor at 20 weeks of pregnancy. The mother's obstetrician admitted her to Northwest Community Hospital and ordered bed rest.

Even though a vaginal culture showed that the mother was colonized with Group B streptococcal bacteria, hospital obstetricians failed to prescribe protective antibiotics, which might have delayed preterm labor and protected the fetuses from the Group B strep infection. Northwest Community Hospital, a Level II facility, also failed to transfer the mother to a nearby Level III hospital, which had a high-risk perinatal unit. As a result, the twins were born at 26 weeks with permanent brain injuries.

After the settlement, Chris Hurley said, "Hospitals must put the health of the patients—especially high-risk patients such as unborn children—ahead of pride or profits. In this case, if the defendant hospital had transferred this high-risk mom to the Level III facility, the children would have had a chance at a much better outcome."