

# CHRISTOPHER T. HURLEY & ASSOCIATES

A t t o r n e y s A t L a w



WINTER 2002/03

Christopher T. Hurley  
and Associates

Attorneys At Law  
AV Rated

11 S. LaSalle Street  
Suite 1340

Chicago, IL 60603  
312-553-4900

FAX: 312-553-0964

email:

cth@hurley-law.com

Web site:

www.hurley-law.com

OFFICE HOURS

Monday-Friday

8:30 a.m.-5:00 p.m.

Weekends by appointment

## Christopher T. Hurley & Associates obtains \$4.2 million verdict

**C**hristopher T. Hurley and Mark R. McKenna recently obtained a jury verdict of \$4.2 million for an eight-year-old boy who as a newborn underwent the amputation of his right foot as a result of medical negligence. The jury found that the defendants, Dr. Maria Teresa Gomez, a neonatologist, and her employer, Neonatal & Pediatric Service, S.C., of Oak Brook, Illinois, failed to diagnose and treat a blood clot that had developed in the child's right leg.

Soon after the clot developed on the child's first day of life, the child's right foot and leg turned blue, due to reduced blood flow to the extremity. Mr. Hurley and Mr. McKenna argued at trial that Dr. Gomez should have diagnosed a condition called thromboembolism after the discoloration occurred, and initiated immediate treatment with medications, including Heparin (an anticoagulant) and urokinase (a thrombolytic or "clot buster" medication). Dr. Gomez did not initiate treatment with these medications and instead waited over seven hours to transfer the child to Loyola University Medical Center. By the time of transfer to Loyola, the tissues were dead from lack of blood flow, and the child had gangrene. Physicians at Loyola were forced to amputate the child's right foot above the ankle.

"The jury felt that Dr. Gomez should have immediately used all of the treatments at her disposal to try and save this child's foot," Mr. Hurley said after the verdict. "No patient, whether young or old, deserves to be ignored when life or limb is at risk."



## Christopher Hurley admitted to Fellowship of the American College of Trial Lawyers

**C**hristopher T. Hurley has become a Fellow of the American College of Trial Lawyers, one of the premier legal associations in America.

The induction ceremony took place recently before an audience of 1,150 persons during the recent 2002 Annual Meeting of the College in New York City.

Founded in 1950, the College is composed of the best trial lawyers from the United States and Canada. Fellowship in the College is granted solely by invitation, and only after careful investigation, to those experienced trial lawyers who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility, and collegiality. Lawyers must have a minimum of 15 years of trial experience before they can be considered for Fellowship.

Membership in the College cannot exceed one percent of the total lawyer population of any state or province.

The American College of Trial Lawyers strives to improve and elevate the standards of trial practice, the administration of justice, and the ethics of the trial profession. Qualified lawyers are called to Fellowship in the College from all branches of trial practice.

### TRIAL LAWYERS

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

*Celebrate the joyous spirit of the season!*

# CHILD DAY CARE

For dual-income career couples who have children, day care is fundamental. In choosing a care provider, parents cross a threshold into a new world of experiences and relationships with their child. Entrance into child day care also requires understanding the serious responsibilities that both parents and day-care providers share regarding the health and welfare of a child.

Here are some guides for parents in selecting and monitoring day-care operations.

- Ask to see the facility's license.
- Spot-check the facility for sanitation and safety.
- Inquire about management and staff qualifications and experience.
- Read all the background information you receive.
- In order to see how things work, visit the center several times before enrolling your child.
- Get and stay involved in your child's care.
- Ask your child frequently for comments on his or her experiences.
- Later, make unannounced visits to see your child.
- If you have any concerns, talk to the facility's director.



## BE VIGILANT

No matter how carefully a family previews and monitors a day-care facility, problems can always arise. After a six-month-old suffered permanent brain damage, cerebral palsy, and blindness, his mother sued the day-care operator and owner, alleging assault and battery. A jury awarded damages after finding both the owner and operator responsible for the child, who was a victim of shaken baby syndrome.



## Attorney-client privilege

**Q: What does attorney-client privilege mean?**

**A:** Without the client's permission, an attorney may not disclose confidential information that a client has communicated to him or her.

**Q: Is every communication covered by privilege?**

**A:** No. Attorney-client privilege protects only that spoken or written information conveyed to an attorney hired by the client, and which is communicated when the client is seeking the attorney's legal counsel on a matter. Counsel unrelated to a legal matter is not privileged.

**Q: What about cell phones or e-mail communication?**

**A:** Care must be taken with their use, since third parties may eavesdrop even on supposedly secure or encrypted communications.

**Q: Who "owns" the privilege?**

**A:** Only the client, who breaks it by inadvertently communicating the information to a third party.

**Q: Must an attorney's employees honor the privilege?**

**A:** Yes, other members of the firm—attorneys, legal assistants, paralegals, and clerical staff—honor attorney-client privilege.

**Q: How long does privilege exist?**

**A:** Only a client's authorization or a court's ruling can break it.

## LEGAL LEXICON

Many clients find the legal terms used in court puzzling. From time to time, we'll offer some easy-to-understand definitions to help clear things up. This time, you'll learn the meanings of several important terms used in courts to help you better understand our trial and jury system.

### Testimony

Statements of fact about a case that a witness declares are true while under oath or affirmation.

### Direct examination

Preliminary questions that lawyers ask witnesses who have been called by their client and who support the issue and welcome any questions. Lawyers use direct examination to establish the basics of a case.

### Cross-examination

Probing inquiries by the opposing attorney about the testimony of direct examination witnesses in order to weaken or counter the testimony and other side's case.

### Redirect examination

Questions asked of witnesses about testimony and matters brought up during cross-examination to validate key points or contest misimpressions.

# HEART HEALTH

## Cardiac pacemakers

In implant use since the 1950s, pacemakers regulate heart rhythm disturbances and help millions of people lead normal and productive lives. Pacemakers work by directing minute electrical impulses to aid the heart's muscles in relaxing and contracting normally.

Technological advancements have improved pacemakers' electronic circuitry and have reduced their size and weight. Battery life has also been extended greatly.

In the past, pacemaker implants were done only in hospital operating rooms under general anesthesia. Today, the procedure, while still a major medical undertaking, is often performed in electrophysiology laboratories under local anesthesia.

Pacemaker recipients return to normal life within days of the procedure, but must obtain periodic cardiac assessments. Physicians can monitor pacemaker function by telephone transmission.

### Ongoing cardiac care

A key element of pacemaker implant care is follow-up medical attention. Following a patient's artery bypass, valve replacement, and pacemaker implant therapies, a hospital staffer improperly removed the pacemaker's wire leads. The patient's attorney filed suit and won a settlement from the hospital by demonstrating that a nurse's negligent removal of pacemaker wires tore the patient's heart tissue, caused dangerous complications, and led to additional surgeries.



# FOR YOUR SAFETY

## Recalled product roundup

Here are some recently recalled products you may have in your home or at work.

- ✓ **PM International Ltd.** has recalled 22,000 international two-prong adapter plugs, which can separate upon removal and pose an electric shock hazard to users.
- ✓ **Whirlpool Corporation** recalled 17,000 combination washer and gas dryer units, whose dryers can overheat and catch fire.
- ✓ **Candle-lite** called back 80,000 Martha Stewart Everyday® Brand ceramic potpourri simmering pots. Candle flames can flare from ventilation holes and burn consumers.
- ✓ **Graco Children's Products, Inc.**, has asked consumers to return 152,000 toy tracks attached to children's activity centers. The track can break and then cut, pinch, and choke young children.

### Recalls are rising

It's more important than ever to try to stay up-to-date on product recalls, which are increasing. In 2001, Food and Drug Administration recalls jumped by 24 percent (up to more than 4,000), and the Consumer Product Safety Commission (CPSC), which has jurisdiction over more than 15,000 varieties of consumer products, had more recalls in 2001 than in any year since 1990. At the same time, however, consumers are not always heeding recall messages. The CPSC says that returns on some recalls have been below 20 percent.

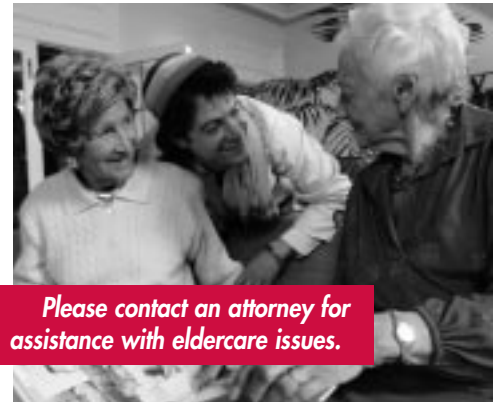
# ELDERCARE

## Assisted-living residences

One of the privileges of family life is helping a beloved elder family member find an assisted-living residence to meet their daily living, health-care, nutritional, social, and spiritual needs. Seniors' residences vary in both offerings and qualifications, so it's important for a family to review several residences before making a selection.

Here are some screening guides:

- Ask for records of licensure, quality assurance planning, association memberships, inspection certificates, and continuing education for staff.
- Investigate resident needs assessments and a progress plan.
- Identify facility assistance available to memory-impaired or disabled residents.
- Inquire about physician and hospital availability.
- Obtain a listing of all services and activities, from medication assistance and laundry to social activities and group outings.
- Be sure to understand all costs and fees.



Please contact an attorney for assistance with eldercare issues.

### When care fails

Assisted-living centers that conduct health-care testing have a particularly important responsibility to residents. After an 84-year-old was placed on a cardiac medication, he underwent testing to evaluate results. Although the test lab faxed notice of abnormal value readings to residence medical staff, they took three days to notify the resident's physician. When the resident became ill and died, his family brought a medical negligence suit against the testing lab and the assisted-living facility. A jury awarded significant damages as a "clear statement" that the resident's life had value despite his advanced age.

CHRISTOPHER T. HURLEY AND ASSOCIATES  
11 S. LaSalle Street, Suite 1340  
Chicago, IL 60603

## CHRISTOPHER T. HURLEY & ASSOCIATES

PRESORTED  
STANDARD  
U.S. POSTAGE PAID  
MAILED FROM ZIP CODE 17604  
PERMIT NO. 242

RETURN SERVICE REQUESTED

### WE'RE MOVING!

Early next year, **Christopher T. Hurley & Associates** will be moving into a new, larger office in downtown Chicago. Watch for our official announcement of the move. Remember, you can always reach us by phone at (312) 553-4900 or by e-mail at the following addresses:

**Christopher T. Hurley:** [cth@hurley-law.com](mailto:cth@hurley-law.com)  
**Mark R. McKenna:** [mark@hurley-law.com](mailto:mark@hurley-law.com)  
**Michael T. Mertz:** [mike@hurley-law.com](mailto:mike@hurley-law.com)

© Copyright 2002. Newsletters, Ink. Corp. All rights reserved. Printed in the U.S.A. [www.newslettersink.com](http://www.newslettersink.com)  
The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

## CHRISTOPHER T. HURLEY LECTURE SERIES ON ELDER LAW

The Elder Law Initiative of the Loyola University School of Law is hosting the Christopher T. Hurley Lecture Series on Elder Law. The Loyola Elder Law Initiative strives to educate attorneys and the public regarding the unique legal needs of our growing elderly population. Christopher Hurley has handled numerous cases involving abuse and neglect of the elderly, and the lecture series is an outgrowth of his lecturing and writing on issues concerning the elderly. The inaugural lecture in the series, "Monitoring Guardianships of Elderly Adults," was held on November 21, 2002, at the Loyola University School of Law in Chicago.

For questions regarding the lecture series or elder law issues, contact **Christopher Hurley** at (312) 553-4900 or at [cth@hurley-law.com](mailto:cth@hurley-law.com).

## RECENT SETTLEMENTS

**Christopher T. Hurley & Associates** has recently obtained settlements in the following cases:

**\$975,000** for the wrongful death of a 41-year-old man when physicians failed to treat an aspirin overdose.

**\$900,000** for the wrongful death of a 68-year-old man when physicians failed to diagnose and treat an infection.

**\$500,000** for a 65-year-old woman when physicians failed to diagnose her cancer. The client is now in complete remission.

**\$400,000** for an 11-year-old boy who experienced an injury at birth when an obstetrician exerted excessive traction on the child's head and neck during the delivery, injuring the brachial plexus. The child has recovered most of the use of the injured arm.