



PRSRT STD  
U.S. POSTAGE  
PAID  
McPherson, KS  
PERMIT # 6

### THANK YOU FOR YOUR REFERRALS!



*Referrals are the lifeblood of our business, and we thank each and every one of our readers for their trust in us. We promise you that if you refer friends or family, we will treat them as if they were our own family.*

## We've Moved!

We're excited to announce that in December we purchased a building at 193 Lake Avenue in downtown Saratoga that is now the home of our office. We look forward to continuing to serve our clients from our new location. Plus, Walter loves being able to come into the office every day.



*If you have questions, or would like to be removed from this list, just send an email to [newsletter@doraziopeterson.com](mailto:newsletter@doraziopeterson.com), or call the office.*



### Restoring Faith in the System

By Scott

I just finished a book called "A Children's Bible". It's a short, dark novel about a group of detached parents and their increasingly frustrated children who are left to deal with the fallout in a not-too-distant dystopian future. Uplifting, I know...

There's a funny scene towards the end of the book. The children are being held by a group of armed young men at a barn. The parents come to save the day, however arrive completely unprepared and are summarily captured and taken to a holding area. One of the children chastises the parents for being unprepared. To which the father responds, "we have the law on our side. We've threatened litigation!"

There's no arguing that society has been tested a bit lately. The events of the past few weeks (longer, really) have been concerning to many of us.

But while the divide seems to have grown, one thing I think most of us can agree on is that anarchy is not the answer. Restoring faith in the system, regardless of how difficult that may be, is.

## OUR TAKE

I want to avoid an overtly political discussion here, but I thought Senator Mitt Romney said it well when he told the Senate that "the best way to restore the faith of voters who are upset is by telling them the truth."

How do we ensure that people are told the truth? Well, the legal process may be helpful.

The legal system, generally, seeks to determine what is true. Did a person commit a crime? Was someone at fault for an accident? What did the parties to a contract actually intend?

We saw this play out recently when Dominion Voting Systems took legal action to prevent individuals and media outlets from saying things that were objectively false.

Did this completely stop the falsity? No, but it helped - several media outlets quickly walked back their false claims.

"We've threatened litigation" may be a useless term in a lawless society. But, fortunately, we're not there. And for now it's one (certainly not the only) way to get to the truth.

### IN THIS ISSUE:

Page 1:  
**Restoring Faith  
in the System**

Page 2:  
**So How Does  
an Insurance  
Company  
Actually Value  
Your Claim?**

Page 3:  
**Workplace  
Rights - Vaccines**



## HOW DOES AN INSURANCE COMPANY VALUE A CLAIM?

When someone is severely injured - in an automobile accident, fall, or because of a hospital error, often the first step is a conversation with a representative of the insurance company.

The insurance company is, after all, in most cases the real decision maker. Because the insurance company has the money, and often will decide whether to pay and how much to pay.

It's not uncommon for an injured person to consider trying to "work things out" with the insurance company on their own. And in some cases, this can make sense. If you have not sustained a particularly significant injury, or have made a very good, quick recovery, it may not be worth it for you to pay a lawyer to handle the claim.

But if you or your family has suffered significantly, it will in most cases make much more sense to have an attorney involved, for a number of reasons. Complex issues of liability and damages can come up, and an experienced lawyer can help you navigate the process and, in many cases can help maximize your recovery. Remember, you only get one "bite" at the apple; once you settle your claim and sign a release, it's over.

### So How Does an Insurance Company Actually Value Your Claim?

Clients often feel very strongly about their claims. This makes sense - it is very personal to you and you have every right to be vested.

But because of this, clients also often believe that the insurance company will recognize the intangible aspects of the claim. The stress that it has caused the family, for example.

Remember one thing - insurance companies

do not make money by paying more than they should. They make money by being relentlessly cheap; by paying as little as possible on as few claims as possible. Their goal in every case is to save money.

How do they do this? By being conservative.

### So What Do They Consider?

Real, verifiable damages. Medical records and reports confirming the injuries; records of treatment for a specific injury; records confirming lost income as a result of the injuries; records of medical billing.

### What About Emotional Distress?

Insurance companies will consider the mental/emotional distress that an injury has caused to you or your family, to some extent. They will consider it more significantly if you have received actual treatment for it. If you tell them that you have been devastated, but they see photos of you on Facebook on the beach or out with friends, they will discount their evaluation.

### The Bottom Line

Many insurance companies use software to help evaluate injury claims. This software attempts to take the "human" component out of the equation, and only make payments based upon tangible information.

For this reason it is critical that if you were injured, you do your best to document the injuries, your treatment and your losses. While your own feelings about the loss are important, from the perspective of the insurance company the more documentation that you have, the easier it is for them to increase their offer.



## WORKPLACE RIGHTS - VACCINES

COVID-19 vaccine are here. For many, this is wonderful news. For others, there are concerns about whether they will be "forced" to get the vaccine. Some have reservations about the safety of the vaccine, and others simply do not want to be told what to do.

As a general matter, vaccine requirements are commonplace. We see them in schools as well as in the workplace. And, as a general matter, they are permissible. There are two main issues that come into play in the workplace: individuals with disabilities and individuals whose religious beliefs prevent them from taking a vaccine.

Under the Americans with Disabilities Act (ADA), individuals with disabilities are entitled to reasonable accommodations that do not pose an undue burden on the employer. If an employee has a disability within the meaning of the law, and that disability renders that employee unable to take the vaccine, and not taking the vaccine doesn't pose an undue burden on the employer (or cause the employee to pose a direct threat in the workplace), then an exception may be appropriate. Otherwise, it is the EEOC's position that mandatory vaccines do not run afoul of the ADA.

To that end, the EEOC's Pandemic Preparedness in the Workplace publication has been updated for COVID-19. While Number 13 on vaccines is related to the flu vaccine (because at the time of the publication there was no approved COVID-19 vaccine), the analysis should be the same. Back in 2009, in response to the H1N1 influenza outbreak, OSHA also indicated that employers may require flu vaccines.

Title VII of the Civil Rights Act of 1964 protects employees from religious discrimination. Like the ADA, reasonable accommodations of an employee's sincerely held religious beliefs are required under the statute. Accordingly, the EEOC takes the same position on religious exemptions to vaccine requirements (except to note that it is easier for an employer to meet the burden standard in a religion case than a disability case). In this polarized country we are living in, it's important to note that political beliefs are not religious beliefs.

The New York State Human Rights Law has similar workplace disability and religion protections and the outcome is likely to be the same (i.e., vaccine requirements generally permissible). Last year, New York actually removed the religious exemption for school children's vaccines in response to measles outbreaks, which was upheld in a court challenge. In the workplace, there are already existing vaccine requirements for healthcare personnel in New York.

For a legal perspective, the New York State Bar Association has expressed its support for mandatory vaccinations if necessary.

Ultimately, due to individual sensitivities or reservations about taking a new vaccine, the EEOC suggests that employers encourage the vaccine rather than mandate it.

As with all employment cases, every situation is different and depends on its own set of facts. What may be reasonable in one workplace, may not be reasonable in another. And, most importantly, to have any protection, an employee must fall within a protected class: an actual disability or a sincerely held religious belief. A general or political objection, or simply not wanting to be told what to do, is not going to be enough.