WELCOME TO THE SECOND EDITION OF THE Michaels & Smolak newsletter!

Don't hesitate to send your comments (the good, the bad and the ugly!) to Mike Bersani at bersani@michaels-smolak.com.

And if you like what you see, please “friend us” on Facebook, “follow us” on Twitter (@cnylawyers) or subscribe to our blog (centralnewyorkinjurylawyer.com).

Our Team

LEE MICHAEKS  JAN SMOLAK  MICHAEL BERSANI  DAVID KALABANKA

SE HABLA ESPANOL!

Know any Spanish (or for that matter, French) speaking folks who need a personal injury lawyer? Attorney Mike (“Miguel”) Bersani is totally fluent in Spanish, having lived in Spain for a few years and having married a native Spanish speaker. He also speaks fluent French, having lived in Paris for five years. He’ll be happy to “hablar” or “parler” with his clients.
we deeply appreciate the trust our clients have placed in us and we will strive to uphold that trust by working hard and fighting for our clients’ rights.

IN THE COMMUNITY

Michaels & Smolak Honored “Hometown Heroes” All Summer Long At Auburn Doubledays’ Home Games

Giving back to those who make Cayuga County strong is a priority for the Auburn New York personal injury lawyers at Michaels & Smolak. That’s why Michaels & Smolak honored United Way of Cayuga County volunteers as “hometown heroes” at all Auburn Doubledays home games this summer.

How did this Michaels & Smolak charitable program work? We asked the United Way of Cayuga County to nominate volunteers who work with their 23 partner agencies. At each home game, one United Way volunteer was publicly recognized and honored as a “hometown hero” and received six game tickets and food vouchers for his or her family and friends. A different volunteer was honored at each of the 38 home games. Michaels & Smolak funded the program, including the free tickets and food for the “hometown heroes”.

What was really cool about this program was how it recognized that volunteering is not just an individual effort, but a family, community one. Family and friends often help the volunteers balance things at home and work so that they can volunteer. That’s why we at Michaels & Smolak treated not only the volunteers, but their family and friends as well. Yes, we were proud to “take them out to the ballgame”!

We hope being publicly honored and treated has been an exciting reward for United Way’s hard-working volunteers, and inspired others in the audience to “step up to the plate” as volunteers as well.

To learn more about the United Way, or to make a donation go to www.unitedwayofcayugacounty.org or call 315-253-9741.
**LEGAL QUESTION OF THE DAY**

**The Legal Rights of the Injured Passenger**

Ever been a passenger in a car? Sure you have! What rights do you have if you are injured? Lots. First, you are automatically entitled to “no-fault” benefits. Under New York law, the standard auto insurance policy provides every injured passenger with a maximum of $50,000 combination medical expenses and lost income reimbursement. It doesn’t matter whose fault the accident was, or even if no one was at fault; if you were hurt in a motor vehicle accident, the vehicle you were in has insurance to cover you to at least that extent.

Beyond that, though, you have a right to bring a “liability” claim for additional compensation against whoever was at fault. Typically, that’s the driver of the car you were in or another car who struck it, or both. From them (or their insurance carriers) you can claim “pain and suffering” compensation as well as any of your medical expenses or lost income that exceeded the $50,000 no-fault limit.

Generally, though, you have to show that your injury was “serious” to tap into these additional “liability” benefits. The definition of “serious” is bizarre under New York law, and, for example, may include a hairline fracture of a finger but may not (depending on the circumstances) include a torn knee cartilage requiring surgery. That’s why you have to check with a New York personal injury attorney to find out whether your injury “qualifies” as “serious” under New York car accident law.

All this is just a tiny fraction of the important information a passenger injured in a car accident needs to know. To find out more, call us!

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**NEWS YOU CAN USE**

**Six Things Bicyclists Need to Know**

Attorneys Lee Michaels and Mike Bersani are avid cyclists and make up the “Cycling Law” group of Michaels & Smolak. Here are some safety tips for fellow cyclists from Lee and Mike:

1. **FOLLOW THE RULES OF THE ROAD**
   Follow the rules of the road (It’s the law!), just as cars do, and drivers will be able to predict your next move. For example, many cyclists insist on riding against the traffic flow (on the left side of the road) instead of with it. Would a car do that? No! Is it dangerous? Yes! When these cyclists get to an intersection, the car entering the intersection from their left, and turning right, won’t be looking for them. Bam!

2. **BE AWARE: EVERY CAR IS AN ENEMY**
   Imagine they are all trying to kill you and you will be safer. Try to make eye contact with motorists before you assume they see you and are going to respect your right of way.

3. **CYCLE SINGLE FILE WHEN CARS ARE GOING TO PASS YOU**
   Two cyclists can ride side by side when there are no cars (it’s the law!).

(continued on page 5)
areas in which we can help

our attorneys can help with all personal injury & malpractice cases such as:

- Motor Vehicle Accidents
- Catastrophic Injuries
- Construction Accidents
- Slip/Trip and Falls
- Wrongful Death
- Medical and Legal Malpractice
- Defective Products
- Almost any Accident or Malpractice Case of Any Kind

TOOTIN’ OUR OWN HORN DEPARTMENT

Attorney Mike Bersani Publishes Article, Goes on Tour . . .

It’s no secret that Michaels & Smolak attorney Mike Bersani is considered a state-wide expert in the field of “municipal liability”, that is, how to sue and hold liable governmental entities such as the State, counties, cities, towns, villages, school districts, etc. for personal injuries caused by their negligence. After all, he lectures other attorneys around the State on the subject. But what’s new this year is that he is also lecturing judges on the subject! Here’s how that came about . . .

Mike wrote an article on the subject of “governmental immunity” (a common defense that the State and other governmental entities in New York raise when they are sued for personal injuries), which was then accepted for publication in the New York State Bar Association Journal, a premier law magazine for New York lawyers, including personal injury lawyers.

But it was not just the personal injury bar who took note. The judiciary did, too. After the article hit the press, Mike was invited to speak at a state-wide meeting of New York Court of Claims judges in Cooperstown. Since Court of Claims judges preside over all personal injury claims brought against the State of New York, it is easy to see why the judges want to hear from Mike about his article.

So we asked Mike how he felt about telling a room full of judges what the law is and how to apply it in their Court rulings. His response? “Scared!”
NEW LAWS

New York Ratchets Up Penalty For Texting While Driving

Hey text-a-maniacs, you just got a raise! Starting June 1, 2013, your habit costs you five points on your license instead of three. Of course it could also cost you your life, and the lives of others.

To put this into perspective, texting while driving will now cost you as many points as driving past a stopped school bus or speeding 30 miles per hour more than the posted speed limit. It is now at the top echelon of driving offenses.

And for good reasons. Gov. Cuomo justified the new law (not that he needed to) by stating the obvious: Texting while driving is a growing problem, especially among young drivers.

How do we know? The number of texting-while-driving tickets issued has soared, from about 3,500 in 2011 to 30,000 in 2012. And those are just the ones who got caught! The average age of the drivers caught is only 26.

How else do we know? Just ask us at Michaels & Smolak. Among our New York personal injury case load, texting-while-driving cases are growing. Most offenders are young. Rear-enders are prominent. For example, the texting offender never suspects the guy he is following is going to stop in the middle of the road to turn into a driveway.

Cuomo has also proposed a law suspending new drivers’ licenses for 60 days if they are convicted only once of texting while driving.

Texters — kill your habit because your habit kills.
a lot of lawyers and law firms refer all their injury and malpractice cases to Michaels & Smolak. Why?

(1) We are known for getting top dollar (in settlement or verdict) for the referred case
(2) We carry all expenses of the case
(3) We give personal attention to your clients

Consider referring your cases to us!

STAFF SPOTLIGHT
Ellen Retires!

Twenty eight years ago a smart, hard-working mother-of-two from Elbridge, NY — Ellen Williams — sent a resume and cover letter into the law offices of Lee S. and George M. Michaels (our predecessor firm). Her two daughters were now old enough so she felt she could go back to work. She had just graduated with an associate's degree in paralegal studies from Cayuga Community College in Auburn, NY. Now she wanted to realize her career goal — a job as a paralegal at a local law firm.

Meanwhile, Lee S. Michaels (our senior partner) was on the hunt for a smart, ambitious paralegal. His personal injury practice was growing by leaps and bounds. He wasn’t finding the time to draft all his own pleadings, review and summarize the hundreds of pages of medical records that landed on his desk every month, set up and calendar his depositions, and reach out to his clients for additional information he might need.

Lee received Ellen’s application, met her, and hired her on the spot.

Twenty eight years later this past May, Ellen drafted her last pleading, fielded her last phone call, and summarized her last medical record. By that time, she was paralegal to four busy lawyers. Yes, she left us — for retirement — and headed off on a whirlwind tour of the USA with her husband of almost four decades — Tom.

Ellen had an uncanny ability to read a file, meet a client, and know exactly what the issues were going to be.

We aren’t the only ones who miss Ellen. Clients loved her, too.
To celebrate her many years of outstanding service, we regaled Ellen — and all our staff — with a meal at a fine Finger Lakes eating establishment — The Elderberry Pond — overlooking the orchards and vineyards that make our little corner of the world so special. We also tucked a gift away in her travel suitcase!

In the first photo, Ellen is sandwiched between partner Mike Bersani and partner Jan Smolak on right. The next photo shows Ellen’s husband — Tom — and our whole staff. Partners Lee Michaels and Dave Kalabanka partook in the festivities, too, but somehow escaped the camera’s lens.

Ellen is still “on the road” with Tom, so she may not see this newsletter right away. Ellen, wherever you are, bon voyage!

There’s Something about Mary...

Yes, Ellen retired after twenty eight years of outstanding service. And although she was irreplaceable, we nevertheless did our best in trying to replace her. We believe we hit the mark with Mary Jones. In the photograph above she is at the Zonta Club of Auburn Women’s Golf Tournament (which Michaels & Smolak sponsored).

Mary comes to us with a long history in the “justice business”. She was a paralegal in real estate law for seven years, in bankruptcy for 5 years, and at the Cayuga County District Attorney’s Office for twelve years. She was also clerk for the Cayuga County Legislature for five years.

We didn’t just plop Mary down in Ellen’s still-warm chair. Mary “shadowed” Ellen for a few months before Ellen retired. Yes, she is still “learning the ropes”, but she’s a fast learner, a self-starter, and we expect her to be fully operational in no time at all.

So, dear clients, you will be hearing from Mary instead of from Ellen from now on. Please welcome her to our team — and to your case. If you have any questions about your case, you can email her at Jones@michaels-smolak.com, or call our office (315-253-3293).