



## COMMUNITY SPOTLIGHT

### Whiting's Wallpapers and Paint

We're Auburn's homegrown personal injury law firm. And although we are from a small town, we get big city results. Our clients come from all over, including Syracuse and Rochester, because of our reputation. But we are not the only bigtime homegrown business in this small town. Whiting's Wallpapers and Paint is another. So we stopped in for a visit and talked with owner Peter Whiting:

**MICHAELS & SMOLAK:** So, Peter, tell us first how you are related to the original founder of this historic Auburn business.

**WHITING:** My great grandfather, William Whiting, started the business on East Genesee Street, just one building up the hill from your law office, in 1910. Within a few years he took on his two sons, Fred and Frank (Frank was my grandfather), who continued the business after he was gone. Frank's son (my father), named William also, joined the family business and kept it running after Frank and Fred retired. So that makes me the fourth generation. We moved to our current location on Fulton Street in 1991.

WELCOME TO 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](mailto:bersani@michaels-smolak.com).

And if you like what you see, please add us on Facebook, follow us on Twitter ([@cnylawyers](https://twitter.com/cnylawyers)) and subscribe to our blog ([centralnewyorkinjurylawyer.com](http://centralnewyorkinjurylawyer.com)).

## For Serious Cases

[forseriouscases.com](http://forseriouscases.com)

## Our Team



Lee Michaels



Jan Smolak



Michael Bersani



David Kalabanka

the

MICHAELS

& SMOLAK

pledge

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.

***Gee, so Whiting's Wallpapers and Paint is over 100 years old and into the fourth generation. What are the chances of another 100 years and four more generations?***

Ha! Hard to say, but I don't think that's impossible. I have three sons and my youngest is already talking about the family business as his "backup plan". That sounds like me when I was his age. It was my backup plan until I realized it was better than any frontline plan I could imagine.

***You've got to explain that one to us!***

Well, when I graduated from Ithaca College I was goofing around with bartending jobs and such. Then in 1990 my dad's longtime employee, Bruce Lewis, was retiring. My dad says to me, "Pete, if you ever want to get into the family business, it's now or never. If I replace George with someone else, I won't have a place for you." At that point I realized I did not want to be tending bars for the rest of my life, so I took the leap.

***Any regrets?***

No way! I love this business. Wouldn't want to be doing anything else.

***What do you love about it?***

Service. I love helping my customers make their homes and businesses shine. It's very rewarding that they keep coming back to us for help and advice.

***Peter, tell us a little bit about the business and how it has evolved since 1910.***

Sure. Well, back in 1910 until the early 1990's, wallpaper was a big seller. At about that time, though, it became too expensive for many people. Wallpaper used to cost only about three to four times as much as paint, but now it's more like ten times as much. It's become a luxury item. So, not surprisingly, it used to account for about 25% of our sales, but now it's more like 2%. But what we lost in wallpaper sales we gained in window treatment sales. That's big now.

***I see the name "Benjamin Moore" on your storefront. What's that all about?***

Well, we started selling exclusively Benjamin Moore paint in 2005. We just thought it was the best paint out there. Nothing prevents us from selling other brands, but we just don't want to. Benjamin

Moore has every paint imaginable at very competitive prices.

***Peter, your only location is Auburn, right?***

True. But interestingly my great grandfather started two stores, one in Auburn and the other in Rochester. Then, during the great depression, he had to consolidate for financial reasons. He assumed Auburn was going to become the “big city”, and thus more economically viable in the long run, so he dropped the Rochester location! Well, he didn’t pick the city that became the biggest, but he did pick the best city in my opinion.

***What has the competition been like over the years?***

Gee, back in the day there were more than a dozen privately owned paint/wallpaper shops in Auburn. Little by little they disappeared. We are the “last of the Mohicans!” Now our main competitors are the box stores.

***Why did you survive rather than the other small shops?***

Well, I would like to think that we gave the best quality, price and service. It’s kind of Darwinian out there.

***Well, how do you fare against the big boxes? Are you going to become extinct? Is that where paint sales are evolving?***

Actually, it’s easier than you would think for us to compete against them. We are holding our own! People assume prices will be lower in the big boxes, but we are just about the same with paint prices, and if you want to buy small items like paint brushes, we are usually cheaper.

***So if prices are more or less the same, why are your customers so loyal to you?***

The answer can be summed up in one word: service! People want advice. They want someone they can talk to, get opinions from, share their decorating “dreams” with. Selling a customer paint is just the beginning for us. It’s a whole relationship that follows. Try getting that kind of TLC and service at a big box!

***Peter, thank you for your time. And by the way, those solar window blinds you recommended for our office are working out great.***

Glad you are happy with them. Let us know if you need anything else!

## NEW LAWS

### Register Your Drone!

Only a few years ago the price of a drone was so far out of the average household’s reach that you probably didn’t know anyone who owned one. Look around you now. You probably know many drone owners. In five years perhaps most people will own one. That’s because they have become smaller, cheaper, and are getting cheaper still.

Drones are not just a hobby. They serve many useful business purposes: Inspecting cellphone towers, shooting pictures for multidimensional real estate portfolios, maybe eventually even delivering pizza. But they can also be put to nefarious or negligent use: Snooping on people, following or harassing them, interfering with other aircraft.

Are we heading to a world of “star wars” with drones? Will drones be bumping into electrical wires, houses, cars and people? Will personal injury lawsuits involving drones become as common as auto accident lawsuits today? Only time will tell.

But the point is we cannot allow the skies to become the wild west. We need REGULATIONS. We know the “R” word is a dirty word to some people, but what options are there? We are a land of laws. The task for our regulators and law makers is to protect our privacy and safety without infringing (too much) with our liberties in the sky.

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The Federal Aviation Administration has taken the lead (after all, these machines FLY). Just before Christmas, they promulgated a regulation requiring that most drones be registered. Specifically, drones weighing more than 0.55 pounds and less than 55 pounds, must be registered. Even a child flying a drone in the backyard has to register! The three-year registration is only \$5. You will also be required to have your FAA registration certificate in your possession when operating your drone.

If the owner of the drone is less than 13 years of age, then a person 13 or older is required to register the drone.

The penalty for failure to register? The FAA may impose a civil fine of up to \$27,500. Criminal penalties include fines of up to \$250,000 and/or imprisonment for up to three years.

Now the government knows who is flying what. But that's just a start! The FAA has proposed rules to limit most drones flying beyond daylight hours and requiring commercial users of small drones to keep their aircraft within sight. That may seem too restrictive to some, but it makes sense to us with this being a new technology, and given recent near collisions with helicopters and airplanes.

For more information go to [faa.gov](http://faa.gov) or to our blog: [centralnewyorkinjurylawyer.com](http://centralnewyorkinjurylawyer.com).



#### NEW LAWS

### Underride Guards: Stop The Slaughter!

In the last few decades, the way we build cars has drastically reduced deaths and serious injuries. Our car crash case volume has gone down, and the injuries are often less severe.

Some of the greatest safety improvements are at the front of the car, which is now designed to absorb a great deal of crash impact — accordion like. This, accompanied with airbag deployment and seat belts, saves hundreds of lives per year.

But all these safety features are of no avail if the car you are riding in slides under the back of a tractor trailer or truck. The occupants' heads get crushed against the back of the trailer. The car's structures designed to absorb the energy of a crash are bypassed, as they slide underneath the truck. The airbags and safety belts can't do their jobs at all. It is literally a "head-on" collision. That's your head, not the car's.

"Underride guards" are designed to prevent this scenario. They hang down from the back ends of box trailers and semitrailers, as shown in the photo. They save lives. But they do not save as many as they could.

Regulations (by the U.S. National Highway Traffic Safety Administration, or "NHTSA") now require underride guards to sustain only a 30 mile-per-hour impact. Cars that crash faster usually break off or bend in the underride guard so that it does no good.

The NHTSA is now proposing that the requirement be raised to 35 miles per hour. Manufacturing new trailers with the stronger underride guard will cost, on average, an extra \$229 per trailer. Well worth the cost in our opinion.



#### A LOOK INTO THE FUTURE

### Say Goodnight to Drowsy Driving!

Drowsy driving kills thousands of people in the United States each year. We've all been there: You are driving down a boring interstate highway at night. You start to nod off and, just when you're about to enter la la land, you "snap out of it" and clutch the wheel, your heart racing. Scary, huh? And you were one of the lucky ones. Other drivers, succumbing to the sirens of sleep, crash and burn.

But a new device may keep drivers like you awake and save your life. Here's how it works:

A Bluetooth headset fits on one ear and points an infrared sensor toward the eye to detect blinking. (See photo). The driver's blinking frequency indicates drowsiness. The data is transmitted by Bluetooth to a smartphone. If the sensor detects drowsiness, the headset vibrates, flashes and beeps to alert — and awaken — the sleepy driver.

Simple, right? The device has not been perfected and is not on the market yet, but one day it will be.

The creator of this device had better hurry up if it wants a return on its investment: Self-driving cars will be taking over our roads within a decade. When cars are driving people, and not visa versa, the would-be "drivers" can just snooze away without the need for the new device.

Either way, car rides are going to get safer. And that's good news for everyone.

## *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

*attention attorneys*

## INJURY & MALPRACTICE REFERRALS

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!

### MEDICAL MALPRACTICE

## Eight Ways To Protect Yourself And Your Loved Ones From Medical Malpractice

Medical Malpractice is rampant. You've probably been hearing about it in the news. It is now the third leading cause of death (after heart disease and cancer) in America. But, readers, we bear good news: Although you can't avoid all malpractice, there are some simple steps you can take to minimize the likelihood that you or your loved ones will be victims:

**Buddy up.** Always bring a trusted friend or family member with you to a hospital surgery. Having someone act as your advocate throughout your stay is crucial, especially if you will be medicated or anesthetized. Sign any legal paperwork needed so your "advocate" has permission to know the details of your treatment and to discuss them with your doctors and nurses.

**Let'm Know.** Make sure your healthcare professionals have your correct health information, including pre-existing conditions and allergies. Never assume they already know.

**Follow Up For Test Results.** If you have a test done, ask about the results. Don't assume that no news is good news, and always ask for a copy of the results, and for an explanation of what they mean for you.

**Give Your Prescription List.** Make sure your doctor has an accurate list of all medications you've been taking.

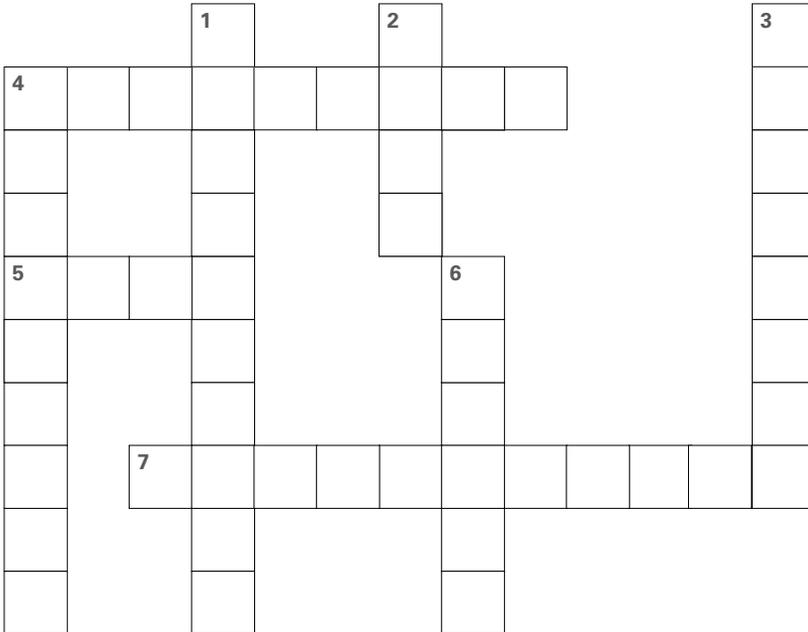
**Check Prescriptions.** Double-check with the pharmacist that the drug and doses she is giving you matches the script your doctor wrote.

**Know Your Drugs.** If you receive a prescription, don't just take it. Find out what it is for, how long you need to use it, and what the possible side-effects and contraindications are.

**Investigate your doctor, hospital.** It's ok to doc shop. Choose the facility and the doctor who have the most experience performing your procedure and good track records. Compare hospitals' infection rates, complication rates, and much more at [medicare.gov](http://medicare.gov).

**Avoid wrong-site surgery.** Pre-surgery procedure is supposed to include marking the part of your body that will be operated on. Make sure they do it, and do it right!

NEW M&S NEWSLETTER FEATURE  
**Legal Crossword Puzzle**



**ACROSS CLUES:**

- 4. The person you sue.
- 5. Tort reformers want to place \_\_\_\_\_ on damages.
- 7. The time limit for filing suit is called a statute of \_\_\_\_\_.

**DOWN CLUES:**

- 1. A session where a lawyer asks a witness or party questions under oath, usually in a law office.
- 2. Medical malpractice occurs when a doctor’s treatment of a patient falls below the standard of \_\_\_\_\_ for doctors in the community.
- 3. Beyond negligent, more careless.
- 4. Exchange of documents and other information between the parties in a lawsuit.
- 6. A tort is defined as a \_\_\_\_\_ of duty by defendant toward plaintiff.

*If you need help, email us for a “hint”, or for the answer key:  
 bersani@michaels-smolak.com*

**SAFETY CORNER**

**Car Seats: Get Your Annual Check-Up!**

Results from recent child car seat inspections throughout New York State revealed that out of 931 random car seats inspected only 112 seats were installed correctly. That’s only 12%! Nevertheless, most parents — 96% to be exact — BELIEVED they had their kids correctly installed in the car seat.

What was wrong with the car seat installation? In some cases, the seats didn’t fit the child, in others they weren’t fitted in tight enough, in still others they were installed or positioned incorrectly.

Well parent, are you worried yet? Good. Now do something about it. Go to [www.seatcheck.org](http://www.seatcheck.org). You will learn some important fact there, like the fact that fatal injuries are reduced by 71 percent when child safety seats are used. More important, the website offers a free New York State child safety seat inspector locator program.

Then go to a free car seat inspection near you. That’s the only way you can know for sure you are using the car seats in the right way to best protect your little sweeties. Don’t assume — like 96% of parents do — they you are doing it right. Make SURE you are doing it right. Get it checked. You can’t afford to be wrong about this.

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