

# YOU & the LAW



## FOLEY, LAMY & JEFFERSON

228 Saint Charles Avenue, Suite 1110

New Orleans, LA 70130

Phone: (504) 586-9395

Fax: (504) 586-9410

Email: danfoley47@aol.com

Harold J. Lamy Timothy K. Lamy

Daniel S. Foley Bryan K. Jefferson

## Your insurer's duty to defend claims against you

Homeowner's insurance and auto insurance are two forms of coverage familiar to most people. Homeowner's insurance protects you against losses from property damage to your home. Your auto insurance policy may also cover property damage to your vehicle.

Another important benefit of your insurance coverage is a provision that protects you when someone claims you are liable for his or her injuries or property damage. These claims can be the result of a car wreck or an incident that happened on your property.

When someone sues you for an injury involving your property or your vehicle and you are at fault, your insurance company has a responsibility to pay for any damages you owe the injured party, up to the dollar amount of your policy.

Your insurer also has a duty to defend you in a court of law when someone sues you for an incident covered under your policy.

This means that the insurance company will hire a lawyer to represent you in court and will pay your attorney's fees and any court costs for the suit.



© istockphoto.com/Image Source

This duty to defend is a valuable part of your insurance coverage. Without this protection, you would have to pay the legal fees for your court case. In some cases, the legal costs can be more than the amount of the damages to the injured party.

When it appears likely that a judge or jury will find you at fault in causing the damage or when the amount of the damage is less than what it will cost the insurance company to fight the claim, your attorney may offer to settle the claim.

In that case, the insurer will pay damages to the other party, up to the amount of your insurance policy, in exchange for an agreement that the injured party will release you from

payment of any additional damages that exceed the amount of the insurance payment.

There are some exceptions to this duty to defend. If the claim against you is for something not covered under your policy, there is no duty to defend. For example, if you intentionally harm someone, there is no duty to defend.

The duty to defend only applies to civil proceedings for damages. The insurance

company has no duty to defend you in criminal proceedings, even if the criminal charges arise out of the same incident as a civil suit for damages.

To preserve your right to have the insurance company defend you at its expense, it is important that you promptly inform your insurer if you are involved in an accident or incident in which someone is injured or property has been damaged and you may be sued. You also have a duty to cooperate with the attorney hired by your insurance company to defend you.

The duty to defend is a benefit of the insurance coverage you purchase with your premiums. Be sure you preserve this important protection.



## When your mobile phone is used to stalk you

The mobile phone is useful technology that lets us easily stay in touch with family and friends through calling, texting and emailing, even when we are away from home.

Modern smartphones can also map the best routes to take when you're driving, locate restaurants and businesses, and allow you to make purchases online.

Unfortunately, people with bad intentions can also use this helpful personal device against you. Someone wishing to threaten or intimidate you, such as an abusive former spouse or partner, can download stalking software onto your phone that makes it easy to track details of your personal life.

These software applications, known as spyware, can monitor your phone conversations, text messages, emails, photos and passwords without your permission or knowledge.

You won't be able to tell that a stalking app was installed just by looking at the phone, but there are other clues that someone may have tampered with your phone.

If you learn that an abuser or stalker has specific knowledge of where you are, details about conversations you've had or text messages you've sent or received, or where you have searched online, you should suspect a spyware app has been installed on your phone.

Other signs are that your phone's battery drains faster than usual, you have unknown data charges on your bill, or you have trouble turning off your phone.

For more information and for help for domestic violence and stalking victims, visit <http://www.hotline.org> or call 1-800-799-SAFE.



© istockphoto.com/MrKornFlakes

### Steps to take when you think someone is tracking you with your electronic device

Law enforcement and domestic violence advocates offer these suggestions if you believe someone is using your mobile device to spy on you.

- Back up your phone to save the information that is on it. It could contain evidence of the stalking or abusive behavior useful to law enforcement.
- Once your phone is backed up, reset the phone to its original factory settings. This will wipe off the spyware. It also will erase all the information and programs you've added since you purchased the phone. You'll have to reload those safe apps separately from your backup.
- You may want to get a new phone, with a new number and a new account. Don't sync the backup from your old phone to your new phone. Doing that will reinstall the spyware from your backup.
- Know where your phone is at all times. Use strong passwords on your phone and other electronic devices and change them frequently. Always keep your passwords private.

# Be aware of hidden sources of caffeine

Caffeine is a naturally occurring stimulant found in the leaves, seeds and nuts of certain plants. It gives us an energy boost that reduces drowsiness and fatigue and improves focus and attention.

Coffee is a familiar source of caffeine, and it is in many other foods and beverages. Tea has caffeine, though not at the levels typically found in coffee. Even decaffeinated teas and coffees contain some caffeine.

For most healthy adults, two to four cups of coffee per day can provide the benefits of caffeine without unwanted side effects. This equals about 400 mg of caffeine.

Too much caffeine, however, can make you nervous and jittery, cause an irregular heartbeat and make it harder for you to fall asleep at night.

Cola drinks are another source of caffeine. Colas are the only product



© Media Bakery

specifically approved by the Food and Drug Administration to which manufacturers can add caffeine. Other food manufacturers are allowed to add caffeine to their products if they decide it meets relevant food safety standards.

If caffeine is added to a food product, it must be listed on the nutrition label; however, the label does not have to state the amount. Manufacturers do not need to list added caffeine on the nutrition label at all if the source of the caffeine is a

naturally caffeinated product, such as coffee or chocolate.

There is a current trend to add caffeine to an increasing variety of foods, such as waffles, oatmeal, peanut butter, energy drinks and energy bars. *Consumer Reports* cites market research that estimates about 14 percent of new beverages and foods added to store shelves in the past five years contain added or natural caffeine.

In addition to foods and cola drinks, some over-the-counter medications, especially for pain or for cold and flu symptoms, contain caffeine.

It is unclear if caffeine is safe or healthy for young children or adolescents. When manufacturers add caffeine to ordinary food products, it creates the potential for them to consume more than they should. Reading food product labels is one way to help monitor caffeine consumption.

# Is someone using your Social Security number?

The federal government originally created the Social Security number (SSN) to allow it to track your earnings in order to determine your qualification for government pension benefits. It is now a primary source of identifying information necessary to get a job, open a bank account, obtain a credit card or qualify for a loan. The Internal Revenue Service (IRS) uses your SSN to make sure you are accurately reporting on your tax return the wages you earned and that you get any refund due to you.

Because your wages, benefits and credit record are all tied to your SSN, someone who uses it as his or her SSN can create problems for you.

Your first clue that someone used your SSN may be a written notice from the IRS. It may notify you that its record of your wages doesn't match what you reported on your tax return or that more than one tax return was filed under your SSN.

Check your credit report periodically to see if there are reports from banks or credit card companies you don't recognize. This may indicate someone is using your SSN to obtain a loan or credit card.

To protect against unauthorized use of your SSN, keep your Social Security card in a safe place. Do not carry it in your purse or wallet.

If you suspect that someone else is using your SSN, report that to the IRS immediately. It can help you get any refund you are due and protect your IRS account.

You may also consider placing a fraud alert on your credit report with one of the credit reporting agencies. This makes it harder for someone else to create accounts in your name.

Finally, be wary of phone calls or emails you are not expecting from someone saying he or she is with the IRS. The IRS will always make its first contact with you through the mail. Forward suspicious emails allegedly from the IRS to [phishing@irs.gov](mailto:phishing@irs.gov).

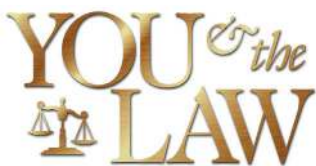


# FOLEY, LAMY & JEFFERSON

228 Saint Charles Avenue, Suite 1110

New Orleans, LA 70130

**RETURN SERVICE REQUESTED**



## Getting a good night's sleep as we age

According to the National Institute on Aging, insomnia is the most common sleep problem in adults aged 60 and older. Insomnia can include difficulty staying asleep, as well as difficulty falling asleep.

Older adults need the same seven to nine hours of sleep as younger adults, but health problems and other issues associated with aging can disrupt sleep patterns and make it more difficult to get a good night's rest. Aches and pains, as well as illness and medications, can interfere with the ability to sleep.

When insomnia continues for a period, it can become a habit. You may find yourself worrying about not being able to sleep, which can make it even harder to get a good night's sleep.

Lack of sleep can leave you feeling tired the next day. It can also affect your memory and mood and can contribute to falls or accidents.

What can you do to ensure a good night's sleep? The institute offers the following recommendations to fall asleep and stay asleep:

- ✓ Go to bed and get up at the same time each day.
- ✓ Avoid napping in the late afternoon or evening.
- ✓ Exercise at regular times each day, but not within three hours of your bedtime.
- ✓ Relax before going to bed. Read a book, listen to soothing music or soak in a warm bath.
- ✓ Keep the bedroom quiet, dark and at a comfortable temperature.
- ✓ Stay away from caffeine late in



© Media Bakery/Stockbroker

the day and avoid drinking alcohol or eating large meals near bedtime.

- ✓ Avoid watching television or using a computer, cell phone or tablet right before bedtime. Light from electronic devices can make it difficult to fall asleep. Disturbing images or news can keep you awake.
- ✓ Give yourself about 20 minutes to fall asleep after turning off the light. Try counting slowly to 100. If you're still not drowsy, get out of bed until you feel sleepy.