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“Tip of the Month”

WHEN YOU ARE HARMED, OR YOUR BUSINESS OR PROPERTY ARE HARMED

When someone harms you, your business or your property whether intentionally or unintentionally, the law gives you certain rights including the right to a remedy for your harm or losses. The most well-known harms today include personal injuries, both physical and psychological, from automobile collisions, child abuse, and medical malpractice. Harms may also involve property damage and economic loss, such as vehicle damage, business losses, and trademark infringement. The English common law, which for the most part was adopted by the American colonies, referred to these harms as trespasses. Today in our society, these trespasses have been expanded by the courts and legislatures into a large, complex body of law that includes business law, tort law, and intellectual property law. Many of these laws have the name of a cause of action: Defamation, Fraud, Infringement, Negligence, Nuisance, and Personal Injury are examples.

These laws serve four primary objectives: 1) compensate victims for harm caused by the wrongful action or inaction of another; 2) designate the wrongdoer as the party responsible for the costs inflicted on the victim; 3) discourage harmful behavior in the future; and 4) vindicate the rights of victims. To prevail in a case where an individual, business or property has been harmed, the victim (“plaintiff”) must establish certain elements to succeed. First, the plaintiff must demonstrate that the wrongdoer (“defendant”) had a legal duty to act or not act in the circumstances. Second, the plaintiff must establish that the defendant breached the duty of care. Third, the plaintiff must prove that the breach caused harm or loss.

When one breaches the duty of care, the law refers to the breach as negligence. Negligence can be characterized as an unreasonable action or inaction that causes harm to persons, businesses and/or properties. In order to determine whether the behavior was “unreasonable”, the courts apply the “reasonable person” standard. Thus, the judge or jury may find the defendant was negligent if the defendant’s conduct departed from the standard of care observed by a reasonably prudent person. Depending on the case, the law provides remedies for the victim, including compensation, injunction, and money damages.

While many of you know that our law firm focuses on business, estate planning, real estate, litigation, and intellectual property matters, we want you to know that we also handle many other types of matters, including cases involving harm to you, your property, your business, your loved ones and/or your friends and colleagues. Whether the harm is from an automobile driver, a negligent neighbor, or a business competitor, we are here to listen and help. Before pursuing a lawsuit, we will explore every avenue possible to resolve the matter without the time and expense of litigation. However, if litigation becomes the best or only option, we are prepared to handle your case from start to finish.

If you have questions about a particular harm and your rights, please call us at 668-1971 or contact us by sending an email to mailbox @ biz-patlaw.com.

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