



NEWS YOU CAN USE

Rental Car Insurance: Do You Need It?

A New York resident is on vacation and has stopped into a rental car agency. Let's listen in:

Customer: "Hello, I came to pick up my rental car. I was told it was \$30 per day".

Salesman: "Sure, but you should really get the "rental insurance" on it for an extra \$10. Otherwise, you may be responsible for any damage to the car or injuries to others."

If this were you, what would you say? Should you buy the insurance?

What is really irksome is that the rental car agency lured you in with a quote that did not include insurance and now they are telling you that you really need the insurance, which increases the price they quoted for you significantly. It's a kind of switch-and-bait. Now they are using scare tactics to get you to bite.

But again, what do you do?

Well, here's your answer if you are a New York resident with an auto policy issued in New York: **No thanks, I don't need it!**

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.

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).

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.

At least that's the answer if the rental contract does not exceed 30 days and the rental car will not be driven out of the United States and/or Canada. The extra "collision damage waiver" and the "liability" insurance they are trying to sell you does you no good at all. Your own New York auto insurance automatically covers it!

This is not typical of insurance policies issued in other states, such as Florida, which is why Florida residents may need to purchase this additional insurance.

Caveat: The rental car insurance in your New York policy is only automatic if you have fewer than five vehicles insured and if the insurance is issued to you and your spouse only. Also, note that policies insuring certain types of vehicles, such as most types of trucks, are not required to include the rental vehicle coverage. If you are not sure whether your own auto policy covers rentals, call your insurance agent and find out.

Don't pay more than you have to. Don't buy rental insurance without calling your insurance agent to make sure you really need it.

None of the information provided in this article is legal advice. You should consult with your insurance agent before deciding whether you need renter's insurance.

DEVELOPMENTS IN THE LAW

Your Right To a Civil Jury Trial Is Disappearing

Our jury system is in trouble, big trouble, and that's no small matter. It's a Constitutional matter. The right to a civil jury trial is enshrined in our Constitution's Seventh Amendment as part of the Bill of Rights.

But that right is under siege. Who is assaulting this important right? Corporate America. Corporations are tucking away arbitration clauses into the contracts their customers and employees are routinely required to sign. These arbitration clauses state something like this: "The company may elect to resolve any claim by individual arbitration". With these simple words, corporations are depriving millions of Americans to their Seventh Amendment right to a jury trial.

Examples abound. Do you have a credit card, a cell phone, or internet service? Then you have given up your right to a jury trial in any dispute with those companies. In the fine print of your service contract lies a hidden a requirement that you "arbitrate" any disputes at a forum pre-selected by the corporation. The same is true in many employment contracts you might sign. Think your boss has discriminated against you? No jury. No Court. Arbitration.

What's wrong with that? Lots. The arbitration forums chosen by corporations are often heavily stacked with pro-corporate arbitrators who are afflicted by something called "repeat player bias". What's that? You might go up against a corporation in arbitration just one time in your lifetime. The arbitrator doesn't know you from Adam. But the corporation you are up against appears repeatedly before those same arbitrators defending claims brought by all its customers. The corporation is a "repeat player". Repeat players get cozy with the arbitrators. If the "repeat players" don't like certain arbitrators' "tendencies", they refuse to select them or otherwise sideline them. The arbitrators know who butters their bread. If they want to stay in the arbitration business, they had better please the "repeat players".

Another problem: The arbitration clauses are written to prohibit class actions. That's why the language quoted in red above says "INDIVIDUAL arbitration" is required. You can't go up against the corporation with a group of other consumers who were wronged just like you were. Each consumer has to go it alone. Thus, companies such as cell phone service providers can rip off all their customers for small amounts — say \$30 each — and the victims can't band together to bring a class action. And how many of them are going to bother going through the arbitration process on their own for a measly \$30? None. And that's one of the reasons corporations are forcing us into arbitration agreements.

These arbitration clauses have not yet had much impact on our personal injury and medical malpractice cases. Plaintiffs injured in New York by the negligence of others still have — in most cases — a right to a jury trial. But it's probably only a question of time before doctors and manufacturers try forcing personal injury and medical malpractice arbitration clauses onto their patients and consumers. Not sure how all that will turn out. But for anyone who believes in an even playing field and in our Constitution, it is scary...

COMMUNITY SPOTLIGHT

Speno Music

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. Speno Music is another. So we stopped in for a visit and talked with owner Mike Speno.

M&S: So, Mike, how did Speno Music get started?

Mike: Well, in 1948 a guy named Paul Rower and my grandfather, Nick Speno, opened "Auburn Music". In 1969 the name changed to Speno Music. But it's the same business.

M&S: Your grandfather? So this is a third generation family business?

Mike: Actually, we're going on the fourth! My son and two daughters work with me.

M&S: Four generations is a long time. Were you always right here at 3 East Genesee Street in Auburn?

Mike: No. For the first 4 years we were right across the street, but from 1952 till now we haven't budged.

CONTINUED ON NEXT PAGE >>>



GOOD DEEDS DEPARTMENT

Michaels & Smolak honors Auburn's 'heroes' Again

The following Article appeared in the Auburn Citizen Newspaper recently. It is reprinted with permission of the Citizen. We are pretty proud of our firm!

Volunteering: Michaels & Smolak program honors Auburn's 'heroes'

Jordyn Reiland, The Citizen

When you think of a hometown hero, what comes to mind? Is it a first responder such as a police officer, firefighter or EMT? Maybe it's an educator, a nurse, someone that stopped to help someone in need.

When the law firm of Michaels & Smolak began thinking about doing something new to support the community, they looked to the United Way of Cayuga County as a natural fit. David Kalabanka of the firm said the United Way has "a firm understanding of the community's pulse, especially when it comes to volunteers."

Dave says that they like to give back and support local organizations, especially youth-based groups. When discussing the firm's already active community involvement, they knew they wanted something different and a way to recognize more individuals. He said that working with the United Way came to mind because they "truly have eyes and ears in the community as to who is working to make it a better place."

The result was a decision to recognize the many volunteer "heroes" that do great deeds, often unnoticed, throughout the region. And, so in 2013, the Everyday Hometown Heroes program began.

"Volunteers can often do thankless work, very graciously," Dave said. "They are the people doing the tasks that make this a community and make it better."

The Everyday Hometown Heroes program allows the United Way to recognize the efforts of one Cayuga County champion at each Auburn Doubledays home game with four box seat tickets and a \$10 concession voucher. The hero is recognized briefly in the fourth inning by the Doubledays staff, which reads a paragraph about why this individual is deserving of this honor. Michaels & Smolak kindly funds the entire program.

"Michaels & Smolak has generously offered the Everyday Hometown Heroes program at the Auburn Doubledays for the past three years to all of our volunteers," said Carrie Sue Hanno, interim executive director of the United Way of Cayuga County. "The United Way could not accomplish all that we do without the dedicated volunteers that provide us with tremendous talent, knowledge and the most valuable asset: time."

The United Way seeks the help of its 23 partner agencies and 41 programs throughout the county in identifying these individuals. United Way and other community volunteers are on the front lines of turning actions and ideas into sustainable community solutions. Volunteer opportunities run the gamut of possibilities, from helping people learn to read to mentoring youth to serving on boards and committees. No matter what the task, they are giving their time, talent and resources into making our community stronger and ensuring opportunities for all.

For example, Carrie points out that the United Way's CASH program is such a success because of many community members who take time to learn a skill and then spend more time helping others get to a better financial place. With the free tax return program, 757 families were helped this year.

Additionally, all United Way committees are all comprised of volunteers who bring ideas, direction and a voice to the organization. They also have great office volunteers that really help them to get the job done.

Carrie noted, "I am thankful that Michaels & Smolak law offers the Everyday Hometown Heroes program to show the family and friends of our volunteers how much they are appreciated and that they can be proud of the work they do to help balance things at home while their volunteer loved one is giving of themselves."

>>> CONTINUED FROM PAGE THREE

M&S: Gee, the music business can't be the same now as it was way back then. Can you tell us about the early years?

Mike: You bet. Back in the day — in the 50's — a music store was your home entertainment store. We sold music appliances such as stereos, radios — you name it. And we sold big instruments — pianos and even organs.

And back then we were the first store in all of New York State to offer "rent-to-own" band instruments for school musicians.

It was a big success because parents didn't have to shell out a big purchase price. They could rent their kid's instrument for only a \$1 a week!

M&S: So how are things different now?

Mike: Well, the invention of tabletop keyboards killed our piano sales business, but we still sell other instruments. And of course we no longer sell radios and stereos and home entertainment equipment.

But we still sell, rent and maintain musical instruments. That's a big part of our business. Schools districts are a main source of our business.

CONTINUED ON NEXT PAGE >>>

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!



LEGAL EXPLANATION DEPARTMENT

Why Is My Personal Injury Case Taking So Long To Resolve?

At Michaels & Smolak we get this question from time to time. The answer is complex, but explaining complex things to judges, juries and clients, is what we do for a living. So here goes:

1. Most often it is not a good idea to settle your claim until you are done treating or at least until your doctor can render an opinion on what — if any — permanent injuries you have. This often takes a year or longer. Insurance adjusters won't give you anything for "permanent" injuries until your medical records make it clear that they are permanent.

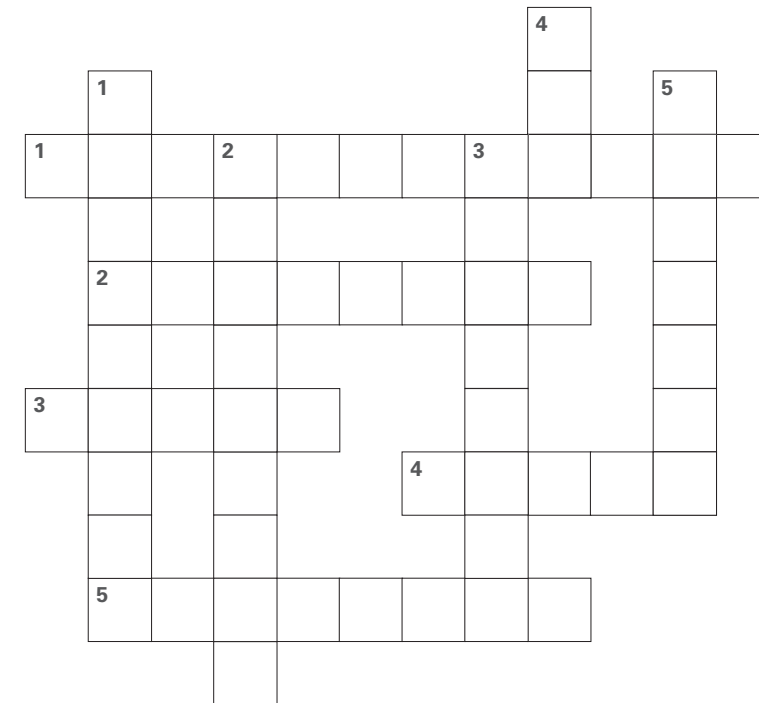
2. If the insurance adjuster is disputing "liability", that is, he or she says the defendant was not at fault, or that the accident was partially your fault, the case may take longer. We may need to sue. Only by suing can we take depositions. Once we nail down the defendant's and witnesses' sworn testimony at deposition, we can show the insurance adjuster the accident was defendant's fault. If there is still a dispute about liability after depositions, we may have to go to trial to prove we are right. That's up to you, of course. You may decide to take the low settlement. But if you want us to fight for a fair result for you, the judicial process takes months or, in complex cases, even years!

3. If the insurance adjuster undervalues your injuries, we may have to go to court to prove their true value. Again, going to court is your choice, but if you don't want to take an unreasonably low offer, sometimes you have to go to court. And again, the court process is slow.

In sum, we do everything we can to speed your case through the process without compromising your case. We know you need the compensation but we also know you deserve complete recovery. We won't rush your case unless you tell us to, and when that happens you usually get less than you deserve.

NEW M&S NEWSLETTER FEATURE

Legal Crossword Puzzle



ACROSS CLUES:

- 1. A bunch of plaintiffs sue together in a _____.
- 2. The Court will appoint a free lawyer to _____ criminal defendants.
- 3. A witness takes the _____ to testify.
- 4. Cities have police, while _____ areas have sheriffs.
- 5. Your bank will _____ on your house if you don't pay the mortgage.

DOWN CLUES:

- 1. The person who sues
- 2. Lawyers have _____ jobs and thus need to get exercise.
- 3. The outline of an agreement in general terms is also called the _____ of the agreement.
- 4. He sued me, I sued him. Tit for _____.
- 5. When you sue for just one dollar you are suing for _____ damages.

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

>>> CONTINUED FROM PAGE FOUR

We have also developed a niche market restoring vintage tube equipment, like antique console radios from the 30's. That's a very specialized skill. People drive from all over to bring us their old radios. And about four years ago vinyl records became a big collector item, so now we are selling old LP's, and that's really done well, too.

M&S: Where's your customer base? Just around Auburn?

Mike: No, no. They come from all over. We had someone drive from Utica the other day to look at our vinyl collection!

M&S: Mike, what are you most proud of?

Mike: It gives me great pride to be the caretaker of this historic Auburn business. The business has changed, but we have adopted to those changes. It's all good. It's all fun. My kids are now positioned to take this on. I couldn't be prouder of that. I hope my grandpa is looking down and smiling on us!

IN THIS ISSUE

NEWS YOU CAN USE

Rental Car Insurance: Do You Need It?

DEVELOPMENTS IN THE LAW

Your Right To a Civil Jury Trial Is Disappearing

COMMUNITY SPOTLIGHT

Speno Music

GOOD DEEDS DEPARTMENT

Michaels & Smolak honors Auburn's 'heroes' Again

LEGAL EXPLANATION DEPARTMENT

Why Is My Personal Injury Case Taking So Long To Resolve?

NEW M&S NEWSLETTER FEATURE

Legal Crossword Puzzle

