



# Disability News

## Your One Stop For Injury and Disability News (and some fun stuff, too!)

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## December Is Here!

December is here! Instead of trying a Holiday feel good theme I thought I would revisit a topic I have spoken about during the year. Setting your goals and how to achieve them. I must admit, I am taking this story directly from my friend Jay Henderson and I love it. So Jay, since I am an attorney, if you want, sue me.

Aren't your Goals really just about WHAT you are trying to do and HOW you look at them? Here's a great story.

A little league coach was pitching to his team of 7 year olds. Not really familiar with how to handle a bat or

really swing it they either missed the ball, or hit little dribblers back to the Coach.

The Coach then had an idea, he picked up the ball, showed it to the team and asked them "What is this?"

You can imagine the reaction. "It's a baseball Coach" (followed by a 'Duh!').

"No its not" the coach replied, "It's a tomato. And the next time you see it coming at you I want you to smash it with your bat, smash the tomato!"

The boy took the bat and smashed the 'tomato' into the outfield. The

other players quickly followed up on this example, all with big grins.

Moral – NOTHING had changed – except the kids' idea of what they were trying to do. Sometimes the best way to achieve a goal is to think of it in different terms.

So as you look forward to the holiday season and beyond , think about your goals, then try looking at that goal in a different way, go smash that 'tomato!'

(Thanks again to Jay Henderson; for a unique view of how to hire the best check out [www.topline-performance.com](http://www.topline-performance.com).)



Warm Wishes for a New Year filled with Peace, Health and Happiness

**You asked for information— we got it!**

**Check out the disability specialists at**

**[www.markhofflaw.com](http://www.markhofflaw.com)**

## A Dog's view of the Holiday Season—from the M&M barking reporter...Daisy

And, a big man with a white beard and a very loud laugh may emerge from your chimney in the middle of the night—**DON'T BITE HIM!!**

Woof! Thanks for joining me this Holiday season. Just got a few things to point out from a dog's perspective this time of year. Be especially patient with your humans during this time. They may appear to be more stressed out than usual.

They may come home with large bags of things they call gifts. Do NOT assume that all the gifts are yours.

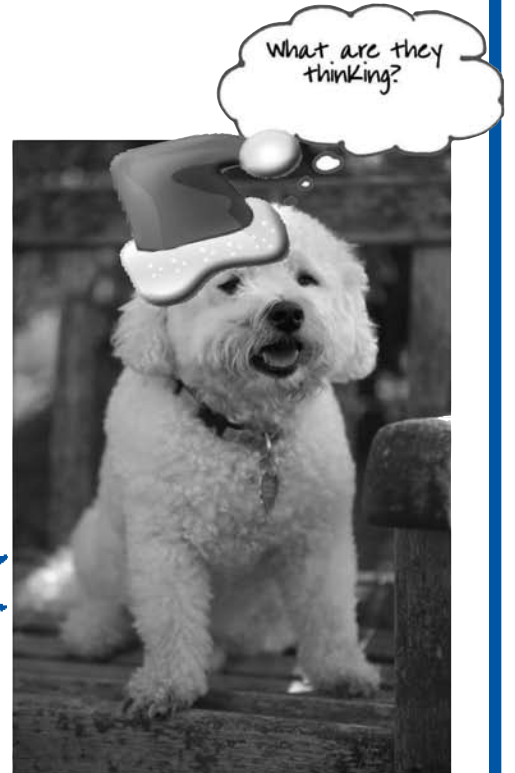
Be tolerant if your humans put decorations on you. They seem to get some special kind of pleasure out of seeing how you look with fake antlers and funny red caps.

They may bring a large tree into the house, set it up in a prominent place and cover it with lights and decorations. Bizarre as this may seem to you, it is an important ritual for your humans, so there are some things you need to know:

- Don't pee on the tree!
- Don't drink water in the container that holds the tree!
- Mind your tail when you are near the tree!
- If there are packages under the tree, even ones that smell interesting, don't rip them open!
- Don't chew on the cord that runs from the funny-looking hole in the wall to the tree!



Your humans may occasionally invite lots of strangers to come visit during this season. These parties can be lots of fun, but they also call for some discretion on your part. Remember—not all strangers appreciate licks and kisses, don't eat off the buffet table or off of anyone's plates and be pleasant—even if the strangers are sitting on YOUR spot on the sofa! *Woof!*



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### Holiday Safety at Home

It's a magical time of the year—but it's also a time with increased safety hazards in the home. Did you know most home fires occur in December? Here are some things you can do to stay safe while enjoying the holidays—decorations and all!

If you have a fireplace, move stockings and holiday decorations off the mantle BEFORE starting a fire.

Recycle wrapping paper rather than using it to get the wood going—burning wrapping paper can cause dangerous sparks!

Be mindful of kitchen accidents, including burns! Don't leave anything unattended on the stove and turn pot handles inward so that "little hands" don't grab them!

Check electrical outlets—be mindful of electrical overload if you're decorating with lots of lights and a tree.

Be sure to blow out candles before going to sleep and if you have "little ones" around, never leave candles unattended.

Also, be sure candles are in secure holders and placed where they cannot be knocked down easily!

Have a "real" tree? Water it regularly!

Have an "artificial" tree? Make sure it's flame retardant!



# Yes, Third Party Action Lawsuit Affects WC Cases

We're asked all the time—If I settle a lawsuit (third party action) stemming from my work accident, does it affect my workers' compensation case? The answer is yes—if you settle your lawsuit it will affect your workers' comp case in many ways.

When you have a work related accident or injury, and another party was partially or wholly responsible for your injury, then you can possibly bring a lawsuit against that third party ( a third party claim). In essence, you will have two claims from one injury, a workers' comp case and a lawsuit against someone other than your employer or co-worker (you can't sue either in NY except under very limited circumstances, it is your exclusive remedy).

New York Workers' Compensation law recognizes that if you do have both claims, then the insurance company should be entitled to recover some of the money it has paid out to you (recoup a lien). By paying back some money, and getting the permission of the insurance company to settle the third-party claim (consent) you will be entitled to continue to receive benefits under certain cir-

cumstances. If you FAIL to get consent—permission—then you will forfeit your right to continued medical care and weekly benefits.

However, **it is the responsibility of your third-party attorney to obtain the consent of the workers' compensation case. DO NOT BE FOOLED!** Many third-party attorneys do what is right, but others ignore this requirement because it's easier and quicker to settle the case and get you your money. However, if they do that it is also legal malpractice. It is the third-party attorneys responsibility—not yours, not your workers comp attorney and not anyone else's. **DO NOT LOSE YOUR BENEFITS - DO NOT SIGN A SETTLEMENT AGREEMENT UNTIL YOUR THIRD-PARTY ATTORNEY GETS CONSENT.**



Contact us if you have any questions—we will be happy to review your file for FREE and let you know if you are getting the right information.

## Special Days In December...

- Eat a Red Apple Day ..... Dec. 1
- First Night of Chanukah .... Dec. 1
- National Pie Day ..... Dec. 1
- National Fritters Day ..... Dec. 2
- International Day of the Disabled Person ..... Dec. 3
- National Roof Over Your Head Day ..... Dec. 3
- National Cookie Day ..... Dec. 4
- Wear Brown Shoes Day .... Dec. 4
- National Cotton Candy Day ..Dec. 7
- Pearl Harbor Day ..... Dec. 7
- National Brownie Day ..... Dec. 8
- Human Rights Day..... Dec. 10
- National Noodle Ring Day ..Dec. 11
- Poinsettia Day ..... Dec. 12
- National Cocoa Day ..... Dec. 13
- Los Posadas..... Dec. 16
- National Chocolate Covered Anything Day..... Dec. 16
- National Maple Syrup Day..Dec. 17
- Underdog Day..... Dec. 17
- Wear a Plunger on Your Head Day ..... Dec. 18
- Oatmeal Muffin Day ..... Dec. 19
- First Day of Winter ..... Dec. 21
- Humbug Day..... Dec. 21
- Look at the Bright Side Day ..... Dec. 21
- National Flashlight Day ....Dec. 21
- National Egg Nog Day ..... Dec. 24
- Christmas ..... Dec. 25
- National Pumpkin Pie Day ..... Dec. 25
- Boxing Day ..... Dec. 26
- Kwanzaa Begins ..... Dec. 26
- National Whiners Day..... Dec. 26
- Card Playing Day ..... Dec. 28
- National Chocolate Day... Dec. 28
- New Year's Eve..... Dec. 31

## Meet the Team.....Beth Kirby

My name is Beth Kirby and I have had the pleasure of working with Markhoff & Mittman as the Assistant Manager of the Social Security Disability Division for the past 4 years! I had not worked for more than 10 years and I feel so lucky to have been given this opportunity. I work with such an amazing staff that truly cares for one another and the goal of our firm—to help people in need. It has been so rewarding.

I am also the proud mother of 3 children. My daughter Morgan is 14 and enjoys playing piano, softball and art. My 13 year old son Jason is also an artist, loves video games and most recently enjoys playing paintball with his friends. My youngest son Dylan is 10 and he enjoys baseball and wrestling—and keeping all of us on our toes! In my free time I enjoy reading, music, going to

the movies, being with family and friends, and Bible studies. We look forward to this Christmas season to spend time with our family and friends and remembering how blessed we have been this past year.

I wish everyone a very Merry Christmas, Happy Hanukkah and all the best in the New Year!



Beth, Morgan, Jason and Dylan

**"I work with such an amazing staff that truly cares for one another and the goal of our firm—to help people in need."**

## Markhoff & Mittman in the Community

Managing Partner, Brian Mittman and Partner, Daniel Elias will be presenting at the Workers' Comp Law and Practice Seminar being given by Sterling Education Services in White Plains on December 15th. Continuing education credits will be given to those attending the seminar which is geared towards attorneys, benefits professionals, rehab specialists, safety directors, business managers, workers' comp administrators, human resource professionals, insurance claims/risk managers and occupational health nurses.

SES, Inc. is proud to offer **\$50 off** for attendees of **Markhoff & Mittman, P.C.**

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**SES**

And, December is.....

- Hi Neighbor Month
- Read A New Book Month
- Safe Toy and Gift Month
- Universal Human Rights Month
- Write To a Friend Month



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**Brian M. Mittman,**  
**Attorney at Law**

## Ask the Attorney

**Question:** If I am injured on the job, when will my weekly workers' compensation benefits begin?

**Answer:** Cash benefits are payable from the first day you are out of work, but only if you are out of work for fourteen days or more. Unfortunately, insurance carriers frequently delay the first payment while the case is "under investigation." This is a typical insurance company delaying tactic. Even if there is no delay, do not expect benefits before two weeks after your injury.

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