YOU & the LAW

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Recent 'Ponzi' scams, recalls show importance of civil courts

The recent rash of exposed financial scams, product recalls and corporate misconduct highlights the critical role the nation's civil justice system plays in protecting consumers and holding wrongdoers accountable.

For many decades, Americans relied on federal and state regulatory agencies to protect them against irresponsible manufacturers and scam artists who use an arsenal of underhanded schemes to bilk people out of hard-earned money. However, reports of misconduct by some of the nation's largest corporations and Wall Street insiders, financial scams that continued unchecked for years, and delayed product recalls that led to injuries or deaths have shaken many citizens' confidence in the government agencies that are supposed to protect us.

Many people believe the nation's current economic meltdown was caused at least in part because federal regulators allowed Wall Street insiders to operate with little oversight and enforcement.

There has been much talk in Washington, D.C., and across the nation about the effect the federal government's loosening of regulatory controls has had on safety and the nation's economy. Such agencies as the U.S. Securities and Exchange Commission, the Consumer Product Safety Commission, U.S. Food and Drug Administration and the Agriculture Department are charged with protecting citizens from illicit financial schemes and dangerous consumer products, including foods and medicines that make people sick.

However, in many instances regulatory agencies failed to act until thousands of citizens lost billions of dollars to "Ponzi" schemes, or died or became ill after eating contaminated food products.

For example, a large U.S. distributor of peanut products sold salmonella-infected peanuts that sickened more than 690 people and killed nine. The company was allowed to continue to operate despite inspections that found filth, rat droppings and insect infestations at its facilities.

Firms that were supposed to advise consumers on how to invest their retirement accounts and other funds allegedly were operating Ponzi schemes that continued for many years with no or little regulatory oversight. Thousands of consumers lost more than $60 billion in just two recent cases. One of the main responsibilities of the Securities and Exchange Commission, created in 1933, is to regulate activities of the people who sell and trade stocks so that investors are treated fairly and honestly.

With such lax regulation, consumers' only option for relief is the civil justice system. However, even this option was restricted by a 2005 federal law that limits consumers' ability to join together in lawsuits.

Consumers represented by their attorneys have been able to recover millions of dollars by going to court and arguing their cases before judges and juries. Without the civil justice system, consumers in many such cases would have simply lost their life savings without any chance of getting all or part of it back.

The civil justice system stands out as the place where average citizens can go to be treated fairly, even when facing powerful corporations.

New $787 billion stimulus law can save you money

Whether you get your news from watching television, reading the paper or surfing the Internet, chances are you've heard or seen the phrase "stimulus act" in the past few months. This phrase refers to the American Recovery and Reinvestment Act of 2009, a $787 billion stimulus law designed to help boost the economy out of recession. President Barack Obama signed the bill into law in February.

While the law gives aid to businesses and state and local governments, it also benefits many average consumers. Included in the law are various programs that give the average citizen more money to spend on such items as cars and houses.

The law also contains provisions that assist the unemployed and help people attain a higher education. Some of these provisions include:

- **A federal tax credit of up to $8,000 for homebuyers who purchase their first homes before Dec. 1, 2009.** A tax *credit* is more valuable than a tax *deduction* in that it lowers the amount of tax you owe dollar for dollar. Thus, an $8,000 tax *credit* lowers your tax bill by $8,000. On the other hand, a tax *deduction* reduces your taxable income, so the value depends on your individual tax bracket.

- **A federal tax deduction for local and state sales taxes paid on new vehicles costing up to $49,500 that are bought before Dec. 31, 2009.** This deduction is allowed on 2009 tax returns for some buyers, depending on their income and other factors. Local and state sales taxes on new vehicles vary from state to state, but typically range from $1,000 to $3,000.

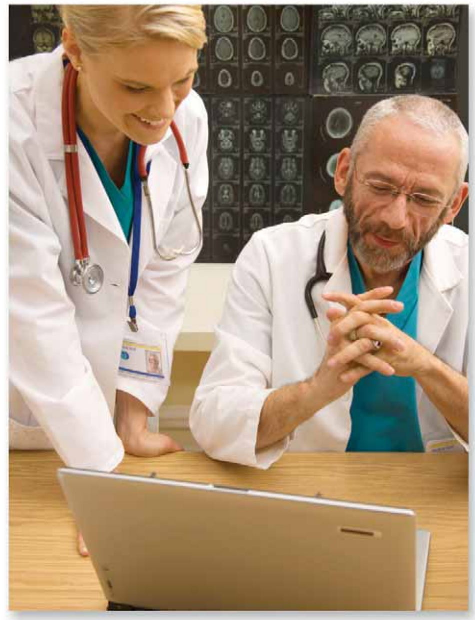
- **A tax credit of up to $2,500 for higher education.** To be eligible, you have to spend $4,000 or more in a single year on tuition and expenses for you or a family member. This tax credit applies to 2009 and 2010.

- **Health insurance assistance for people who lose their jobs between Sept. 1, 2008, and Jan. 1, 2010.** If you lose your job, you may already be eligible to continue your coverage by paying the premium yourself under existing COBRA law. Under the new stimulus law, the federal government will subsidize nearly two-thirds of those premiums for nine months.

- **A tax credit of $800 for many married couples who file jointly. Many taxpayers who file as "single" will receive $400.** Retirees who receive Social Security benefits and individuals on disability will receive a $250 tax credit. This tax credit phases out for people with higher incomes.

"Included in the law are various programs that give the average citizen more money to spend on such items as cars and houses."

Did you hear the one about the doctor who quit practicing because of lawsuits?



Just about everyone has heard the tales of doctors being forced to stop treating patients or moving to other states because of malpractice lawsuits. Well, it seems those tales were just that—tall tales, according to an analysis of American Medical Association (AMA) data.

The analysis by the American Association for Justice (AAJ) found that the number of doctors continues to rise nationwide and in every state. There are now twice as many doctors per capita than when the AMA began tracking physician numbers in the 1960s, AAJ said. The number of doctors rose over the last five years in all states.

Over the years, medical groups, insurance companies and others have lobbied for changes in state laws that make it difficult for patients to win claims against negligent health-care providers. One of the most common forms of such laws has been to place unreasonably low caps on the amount of money an injured person can recover from a negligent hospital, doctor or other provider of health-care services.

Lobbyists for the health-care industry have claimed that such caps on damages help doctors stay in business and keep their medical malpractice insurance premiums at reasonable levels.

However, AAJ's analysis found that the number of physicians per capita is actually higher in states that do not have artificial limits on damages the injured patient can recover. In addition, other studies found that health-care quality and patient safety are far worse in states that have eliminated accountability by limiting how much the patient will be paid for his injury.

Banks collect hefty overdraft fees from unaware consumers

Without even knowing it, you could be enrolled in an overdraft program that rakes in substantial dollars in fees for your bank.

The Federal Deposit Insurance Corporation (FDIC) found that 75 percent of banks included in a 2006 study automatically enrolled customers in their overdraft programs. Under these programs, when a customer writes a check for more money than is in his account, the bank clears the check by, in effect, loaning the customer the amount of the overdraft.

Of course, fees and interest charges usually accompany such loans. The FDIC study found these fees range from \$10 to \$18 per overdraft.

The banks studied collected an estimated \$1.97 billion in non-sufficient funds (NSF) fees in 2006, which accounted for roughly 6 percent of the total net operating revenues earned by these banks.

Some of the banks that automatically enrolled customers for overdraft programs offered opt-out provisions. In most cases, customers had to proactively opt out of such programs.

Overdraft fees can quickly add up. The FDIC study found that customers with one to four NSF transactions were charged an average of \$64 per year in NSF fees. Customer accounts with 20 or more NSF transactions racked up an average \$1,600 per year in NSF fees.

The automatic NSF enrollment programs studied by the FDIC are different from "linked-account" overdraft protection offered by many banks. In these programs, a checking account is linked to another account at the same bank. When an overdraft occurs in these programs, money is transferred from the customer's other account to the checking account.

The FDIC study found that banks rarely automatically enroll customer in "linked-account" NSF programs. Instead, customers must ask to be enrolled in such programs.

The Federal Reserve has a new rule under consideration designed to provide consumers certain protections against some overdraft fees.

Wearing safety belt when riding in back seat protects you, other passengers

You probably know about the importance of wearing your seat belt when you're driving or riding in the front seat of a vehicle: 49 states have some form of a front seat belt law. But did you know that riding in the back seat without wearing a seat belt can be dangerous to you and even other passengers in the event of a crash?

The rear seat is often considered the safest place in a vehicle, but highway safety advocates maintain that it is safer when you wear a seat belt.

Why? Because an unbelted passenger can become a dangerous, flying object in the event of a crash or sudden stop, striking front seat passengers, hitting the windshield, and even being ejected from the vehicle.

Just ask the experts. Wearing a seat belt improves a passenger's odds of surviving a serious crash by 45 percent, according to the National Highway Traffic Safety Administration. Recent studies have shown that one of the most significant ways a seat belt helps save lives is by preventing passengers from being ejected from the vehicle. Many deaths and serious injuries in crashes occur when passengers are thrown from cars and trucks.

According to *Academic Emergency Medicine*—a medical journal—a driver in a serious head-on crash is more than twice as likely to be killed if a passenger sitting directly behind him is not wearing a seat belt. A different study by the American Medical Association estimates that one in six crash deaths of drivers or front-seat passengers could be prevented if passengers in the back seat buckle up.

Studies over the years have also shown that an unbelted passenger who is riding in the back seat can strike with the force of a much heavier object during a crash. For example, an average-size adult in a 55-mph crash would fly forward with the force of 3,000 pounds—the weight of a compact sedan.

In some states, buckling up in the back seat is not just a safe idea—it's also the law. To find out if your state is among those that require back seat belt usage, visit the Governor's Highway Safety Association Web site at *www.ghsa.org.*

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