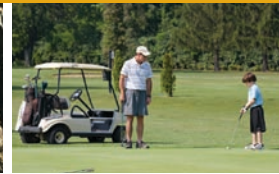




jim campbell
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at issue: youth sports



Jim Campbell Joins KSS.

It has been said the best way to prepare for a competition is to do everything you can to get to know your opponent. If this saying is even partially true, Jim Campbell is definitely a force to be reckoned with in the courtroom.

Jim joined Kinerk, Schmidt & Sethi on July 5. Jim has spent almost 20 years representing doctors and hospitals in medical neglect cases. Now, in his new role at Kinerk, Schmidt & Sethi, Jim will represent patients in the same types of cases.

Right away, it became apparent to Jim that his years of doctors and hospitals would be put to very good use working with patients. "I have advantage in representing patients in that I'm knowledgeable and experienced in the steps and tactics that physicians and lawyers will take in defending medical malpractice cases," he says. "It helps to anticipate their tactics from the beginning and, from the outset engineer the client's case to address these strategies head on."

The idea of a new focus of law was intriguing, Jim says, but it was not a decision he took lightly. "After a lot of soul searching, thinking a lot about if I would be comfortable doing this new focus, I thought yes, I would be terrific opportunity to work at Kinerk, Schmidt, and Sethi, and start in new direction," he says. "Adding my skills to

this group of great trial lawyers with stellar reputations was very appealing. Together, we can successfully assist catastrophically injured patients, whose cases have true merit."

And when he encounters medical professionals with whom he used to work years ago, Jim says everyone acts respectful of him and his new position, because they know that no matter what side he is fighting for, he will do it fairly and with sincerity.

"One thing that works out well is that former clients know I practice with integrity and am highly effective."

Jim, who was born in Arizona, graduated from Brophy College Preparatory in Phoenix. He earned both his undergraduate and his law degree, with honors, at the University of Arizona and married his wife, Audrey, also a longtime Arizona resident.

When he is not working on a case either at the firm or in a courtroom, Jim says his strong commitment to giving back to the community combined with a desire to spend time with his three young sons ages 7, 12, and 14 inspires him to coach in youth sports like baseball and basketball.



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judgment interest

10% Interest on Judgments No More!

— Ted A. Schmidt

For decades in Arizona the loser at trial had some serious incentive to pay or settle the judgment rather than appeal—the judgment would earn 10% interest if the loser’s appeal also failed. Ten percent on a substantial judgment over a year or two pending appeal could amount to some serious change which was often also viewed as a just reward for the party harmed who had to wait longer for justice.

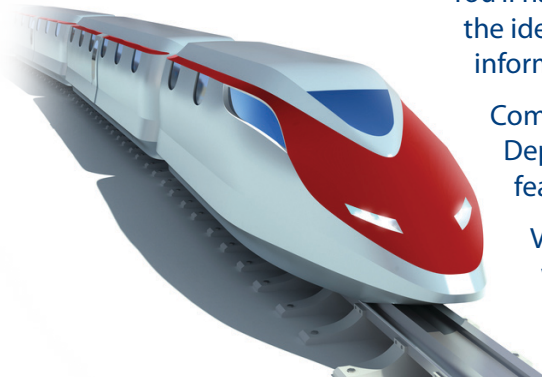
This all changed on July 25, 2011 when the amendment to ARS § 44-1201(B) dramatically reduced the rate of interest to 1% over prime or 10% whichever is LOWER.

Of equal importance, interest no longer runs on that portion of the judgment covering future damages or punitive damages. The wary trial attorney will now want to assure that the forms of verdict and or special interrogatories to the jury require them to specifically break out future and punitive damages separate from past damages so that a proper form of judgment addressing interest to be earned can be crafted.

This all changed on July 25, 2011 when the amendment to ARS § 44-1201(B) dramatically reduced the rate of interest to 1% over prime or 10% whichever is LOWER. (As of this writing the prime is 3.25—a 5.75% reduction in the old 10% interest rate.)



A high speed train connecting Tucson to Phoenix?! We think it'd be a great idea.



You'll have a chance to tell officials what you think about the idea of rail travel between Tucson and Phoenix at several informal meetings this month.

Comments and concerns will be collected by the Arizona Department of Transportation and incorporated in a feasibility study that will be used by policymakers in 2013.

Visit www.azdot.gov/intercityrail to find a video, a workbook and a survey. You will also find a listing of upcoming public forums that you can attend to learn more and share your views.



Youth Sports Are Back: Be Safe.

— Matt Schmidt

As school begins, numerous children throw on their cleats or sneakers and head to the fields or courts to participate in sports. Being active in sports is an excellent way for your child to participate in the community and learn concepts like teamwork, discipline, communication and hard work. It is an extremely fun experience when the environment is safe and friendly, so here are 5 tips to ensure that your child's experience is a valuable one:

Schedule a physical with your child's doctor before he or she hits the field. It is important to know what your child's health conditions are before they participate in physically demanding activities. Always follow a doctor's orders.

Make sure your child stretches and drinks tons of water throughout the day. Failing to stretch and dehydration are the two leading causes of injury. Though the risk of injury will always be present, these two simple steps can decrease the chance that an injury will occur.

Make sure that your child has safe equipment. Ensure that your child has shoes that fit and have enough support. If they are new shoes, break them in before the first practice or your child will come home with a new pair of blisters.

Teach the importance of sportsmanship and make sure that his or her coach is illustrating the same. Sports can teach children how to behave appropriately or terribly in a variety of situations depending on how the grown-ups around them are acting. Bad sportsmanship is not only damaging to the development of a youth, but also has the dangerous likelihood of hurting others.

Congratulate your child for his or her achievements. Too much criticism can dishearten a child into disliking an activity that with a little more encouragement they would have loved.



- 1 - Schedule a physical with doctor**
- 2 - Stretch and stay hydrated**
- 3 - Safe equipment**
- 4 - Good Sportsmanship**
- 5 - Congratulate for achievements**

We Had a Deal: Contracts 101

— Ted A. Schmidt

As lawyers, we are asked certain questions over and over by clients, friends and families that are extremely important to their day to day lives. Often times these questions revolve around principles of contract law. If you can remember the following 10 concepts you will know most everything you need to know about contract law.

1 - In order to create a contract, there must be a **"meeting of the minds."** This means that the folks making the contract have a common understanding of what they are agreeing to and a common intention to be bound by it.

2 - Most contracts do **NOT** have to be in writing. As long as there is agreement on the essential terms and each party is to gain something and give up something oral contracts are usually binding.

3 - The main **exception** to rule 2 is a contract to sell real estate or to sell goods over \$500 in value.

4 - Especially where people have an ongoing relationship and common course of dealing with each other a contract can even be formed by a **person's actions** alone.

5 - To have a contract each party to the contract must have some **obligation** to perform. A promise to do something is not a contract unless the other person promises to do something as well.

6 - You can contract to do most anything. However you **cannot** contract to do something **illegal or against public policy**—like charging a ridiculously high interest rate.

7 - The **small print** really does matter. Many businesses use form contracts and we all tend to only focus on the main terms. This is a mistake. You can be bound by the fine print.

8 - There are **laws to protect** consumers against unreasonable terms that a big company may try to enforce against an unwitting consumer. You are entitled to your "reasonable expectations" as to what you contracted for especially in insurance contracts.

9 - You do not have to have an agreement on **every single term** to have a contract.

10 - **Put it in writing.** The very best way to assure you get what you want and reasonably expect in a contract is to put it in writing and have both sides sign it.





happenings

The International Academy of Trial Lawyers has inducted **Ted Schmidt** as a member. IATL is a truly elite group of trial lawyers representing both sides of the Bar, in civil and criminal practice. Over 30 countries are represented in the membership, which comes by invitation after an in depth vetting process and is limited to 500 individuals. Ted is only the 17th member from Arizona.

Ted was also recognized by SuperLawyers for the fourth year in a row! We are exceptionally proud of Ted and congratulate him on these well-deserved honors.



Jim Dyer served the Arizona State Bar and the Arizona Supreme Court as a member of the Committee on Character and Fitness of the Arizona Supreme Court. This Commission reviews applications for admission to the State Bar and ensures that applicants are of sound character and fit to serve as lawyers in Arizona. Jim is currently a member of the State Bar's Board of Legal Specialization. This group oversees the various certified specialties of the Bar, including Personal Injury and Wrongful Death.



Congratulations to **Matt Schmidt** who received Second Place honors in Arizona Attorney Magazine's 2011 Creative Arts Competition. Matt's heartbreaking and touching story, *The Taker*, explores the relationship between a son who can and would do anything for his mom, except what she forbids him to do. You can read Matt's story at tinyurl.com/thetaker.



Dev Sethi has been busy working on some exciting events that are coming to downtown Tucson this fall. On October 23, bring your family down for FAME – A Family Arts and Music Experience. This free festival will take over the Children's Museum Tucson with food, interactive arts and crafts and entertainment. The fun continues with a free performance of *Thomas and the Library Lady* performed by the amazing actors from Childsplay. The event kicks off at noon at the Children's Museum and Childsplay performs at the historic Fox Theatre at 3:00pm.



Speaking of the Children's Museum, it celebrates its 25th Anniversary this year! Don't miss the museum's gala birthday party on November 12, *An Evening of Play*. This event gives adults a chance to act like kids and enjoy a night in the Museum. There will be food from Tucson's favorite restaurants, along with some unique entertainment including a chance to blend your own wine, check out some cool physics experiments and marvel at the fire art of *Elemental Artistry*.

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The lawyers of KSS have over 100 years combined expertise in personal injury, products liability, medical malpractice, and governmental liability cases. Most of our cases are referred to us by other attorneys, and we have paid over \$10 million in referral fees to these lawyers in the last three years alone.

Learn more and buy tickets at

www.childrensmuseumtucson.com/eveningofplay





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We are dedicated to providing the strongest representation for our clients in a wide range of cases involving serious injury or death. And we appreciate the opportunity to work with referring lawyers from Arizona and around the country. We appreciate the trust those lawyers have in allowing us to assist their clients. We welcome the chance to talk. If you have a case to discuss or simply want to know more about us, please give us a call.

Are you interested in our thinking? If you would like to be added or removed from our mailing list for the KSS newsletter, please contact Bea Flesher at 520.545.1674 or bflesher@kss-law.com.

Our Attorneys: Burt Kinerk, Ted Schmidt, Dev Sethi, Jim Campbell, Jim Dyer, Matt Schmidt
Exclusively representing individuals in significant injury and wrongful death matters.

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