

THE CASE OF THE LYING HIT & RUN DRIVER

David and his family are moving from California to Utah where David will start a new job. They are moving their belongings in a Truck and U-Haul. David is filling up his gas tank at a Convenience Mart/Gasoline Station. Jack the Jerk has parked his car in front of the Convenience Mart, leaves his motor running and goes into the store to buy a Coke and cigarettes. Jack the Jerk also leaves his 3 year old son in the car who moves the gear shift knob to neutral. Jack's car rolls down the hill to where David is filling up his gas tank. It hits David and badly breaks his leg. While David is lying on the ground crying out in pain, Jack walks up to him and says "spare me your sob story" and then drives off. A witness gets Jack the Jerk's license plate number.

David goes to an attorney in Utah who notifies Jack's car insurance company of David's claim. The attorney thinks it best to hold off filing suit until David's injury has stabilized and the extent of his injury is better known. The attorney doesn't know California's statute of limitations is 1 year. (Utah's is 4 years). 6 days after the 1 year period has run, the insurance company adjuster notifies David's attorney that he is closing his file because the deadline for filing suit has passed.

1. Is Jack's child negligent? Is Jack?
2. Which state's statute of limitations law governs this case?
3. Has David's lawyer committed malpractice?
4. What can be done to prevent a double injustice?