



LAVIS LAW FIRM

Protecting the rights of injured workers and accident victims.

SUMMER 2005

Brought to you by
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Physician apologies

A growing number of doctors and their medical malpractice insurers have recently been rethinking the way they respond to incidents in which they harm patients. The traditional practice has been to “defend and deny” responsibility if patients accuse them of medical injuries.

However, some doctors—who have been prompted by increasing medical malpractice premiums, patients’ rights movements, and in many cases the desire to do the right thing—are trying another approach. Through letters, phone calls, or even at special meetings over coffee with patients or family members of patients, they express regrets for errors and suffering they may have caused. The purpose of this is to state their contrition and to save some of the costs of settling disputes over medical care.

Patients who have been harmed should, by all means, listen to explanations and apologies. But they should seek legal counsel as well. A caring apology may not help fund expenses of required medical care, rehabilitation and therapy, medications, living costs, residential care, and other unforeseen needs associated with serious medical errors.

Tire safety

We all trust our families’ safety and security to our autos’ tires. To operate a car safely, a driver can take several tire-safety measures:

1. Inflate tires to the pressure recommended by the manufacturer, including the spare tire.
2. Avoid overloading the vehicle or making it top-heavy.
3. Drive safely and maintain adequate braking distances.
4. Have tires safety-checked during maintenance visits for balance, alignment, and rotation.



Tire shop negligence

When auto repair shops are negligent, juries can fairly address the injuries of those harmed. When four individuals died in a rollover truck crash after one of the tires failed—a tire that a technician allegedly never inspected, but advised did not need replacement—a wife, children, and estate sued. The plaintiffs agreed to a postverdict settlement with a major tire retailer after a jury awarded compensation as well as significant punitive damages.

Attorneys helping people.

What's wrong with "tort reform"?

The real meaning of "tort reform": taking away the legal rights of American families

Some federal and state lawmakers want to pass "tort reform," or litigation-limiting, legislation to give insurance companies and corporations more power to overturn the rights that the average citizen has to seek redress for harm through our court system.

If elected officials legislate away our citizens' right to trial by a jury of their peers in a courtroom, the new power that big insurers and companies will acquire will affect us all.

Lawbreaker protection

By limiting victims' rights, "tort reform" protects negligent drivers, greedy corporate managers, and polluters by bypassing the effective, centuries-old approach of using citizen juries to hold wrongdoers accountable for the harm they cause to others.

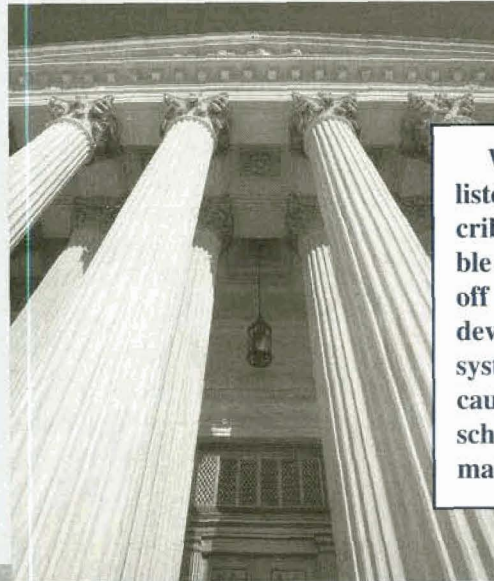
Wrongdoer defense

"Tort reform" will provide a trump-card defense for pharmaceutical companies that market drugs which injure or kill people. It will give manufacturers

who sell unsafe products an automatic shield against liability. Reform will even give nursing homes that negligently cause our elderly to suffer a "free pass" from legal action.

Unprotected victims

The most insidious effects of "tort reform" are that our civil justice system will no longer protect those who have been seriously injured or killed by careless medical errors or defective products or drugs...and no one will have the right to hold wrongdoers accountable.



When juries speak, corporate America listens. That's why...defectively designed cribs no longer strangle infants; flammable children's pajamas have been taken off the market; once-harmful medical devices have been redesigned; auto fuel systems have been strengthened; cancer-causing asbestos no longer poisons homes, schools, and workplaces; and farm machinery has safety guards.

Red-light runners

In 2002, drivers who ran red lights were responsible for 207,000 crashes, 178,000 injuries, and 921 fatalities in the United States. Red-light runners are irresponsible and dangerous drivers who put us all at risk.

The National Campaign to Stop Red Light Running believes that this problem is epidemic, particularly in urban areas.

Here are a couple of injury cases that show the extent of potential injuries and compensation from red-light runners.

A taxi driver

A cab ran a red light, striking a motorcyclist. The rider suffered multiple rib fractures, lung contusions, a fractured femur, a dislocated shoulder, chronic pain, numbness, stiffness, and scarring. The parties settled for medical expenses and an additional award for loss of consortium.

Trucker

An oil truck sped through a red light and collided with a car. A passenger suffered a subarachnoid hemorrhage, multiple fractures requiring jaw surgery, a tracheotomy, and memory loss, as well as loss of employment. The parties agreed to a major settlement.

A civil justice system MYTH

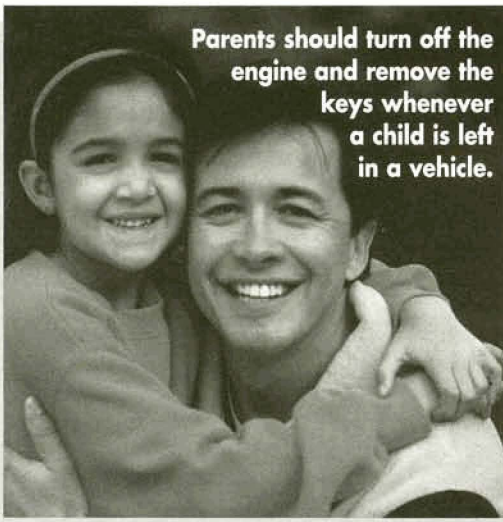
► MYTH

Jurors are not rational. Because they don't understand the subtleties of law, they get swept away by the emotional pleas of lawyers and their clients. As a result, juries give lawsuit plaintiffs huge punitive damages awards on a regular basis.

► FACT

You, your friends, neighbors, and coworkers are America's juries. And you are not irrational. Contrary to common belief, juries rarely award punitive damages. Only 3 of every 100 juries hearing personal injury cases ever award punitive damages. Furthermore, when juries grant punitive damages, the amounts jurors award tend to be small. In fact, the U.S. Department of Justice reports a decreasing trend in payout amounts for personal injury cases. Between 1992 and 2001, the median payment for personal injury cases dropped 56 percent, to \$28,000.

Parents should turn off the engine and remove the keys whenever a child is left in a vehicle.



Car power-window safety

Some auto power-window controllers can harm or kill children.

For the sake of safety, parents should check whether a child can place a foot, knee, elbow, or hand on any power-window controller and unknowingly raise a window. The windows may injure or choke a child leaning out the window. According to www.vehicleinjuries.com, seven children died from electric car windows in 2004.

New National Highway Traffic Safety Administration regulations requiring safer window switches in all new cars should help, but won't go fully into effect until 2008. New switches must be pulled up to raise the window. The problem is that even many newer cars have nonrecessed, door-mounted toggle or rocker controllers that can close the window when a child presses down on them.

For safety, parents should turn off the engine and remove the keys whenever a child is left in a vehicle.

Window entrapment

The federal government and child-advocacy groups pressured manufacturers into designing safer power-window switches, but not before tragedies occurred and the courts intervened. A child became entrapped in a car window that had a toggle-type switch and suffered brain damage from oxygen deprivation. After his guardian sued the car manufacturer for defective switch design, the parties settled to cover the child's medical expenses, life-care costs, and loss of future earnings.

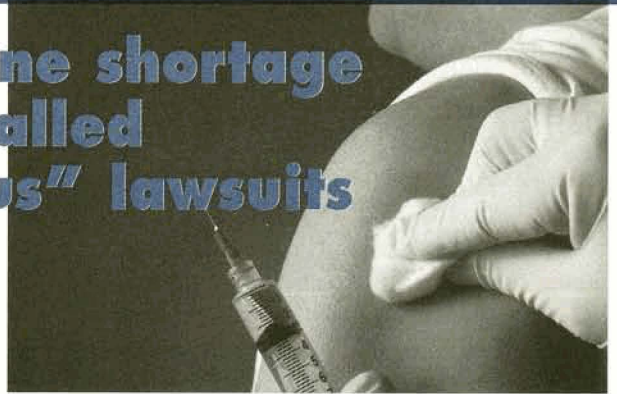
FOR YOUR SAFETY

Recalled product roundup

Here are some recently recalled products you may have in your home or at work:

- ✓ **Philips PC Peripherals** has recalled 15,000 Hewlett-Packard (HP) L2035 Flat Panel Monitors. Incorrectly installed back-panel ground clips can electrically shock users.
- ✓ **Wal-Mart Stores, Inc.**, has asked buyers to return 600,000 **GE Oval and Double Dish Slow Cookers**, which have handles on bases that may break, spill hot food, and burn consumers.
- ✓ **Royal Appliance** has recalled 20,000 Dirt Devil® Sweeper Vac™ vacuum cleaners. The vacuum's rotors can lock and overheat, causing smoke and fire hazards.
- ✓ **Swing-N-Slide® Corp.** asked consumers to return 72,000 extra-duty and heavy-duty swing seats with defective seat-attachment grommets, which can break and injure users.
- ✓ **American Suzuki Motor Corp.** recalled 27,000 2004-2005 Eiger and Vinson ATVs. Incorrectly mounted fuel tanks can leak and burn riders.

Flu vaccine shortage and so-called "frivolous" lawsuits



This past fall and winter, some advocates of limiting Americans' legal rights blamed "frivolous"

lawsuits for the flu vaccine shortage the nation experienced.

The blame was a fabrication—just plain false. Here's why.

There have been very few lawsuits against flu vaccine manufacturers. A comprehensive search from 1980 to the present found only seven reported cases based on flu vaccine injuries.

Flu vaccine manufacturing is very risky *not because of lawsuits, but because of economic risk*. Very few pharmaceutical manufacturers remain in the business because...

- competing is expensive. Demand varies since new vaccines must be developed annually to deal with changing virus strains.
- flu vaccine technology is time-consuming, labor-intensive, and expensive, requiring investment of hundreds of millions of dollars.
- there is little incentive to compete. No single U.S. government agency is responsible for ensuring an adequate vaccine supply. The production, sale, and distribution of flu vaccines are handled almost entirely by pharmaceutical companies.
- quality-control expenses and safety regulations are a big deterrent.

And, now that there is a surplus of flu vaccine, no one is *crediting* the civil justice system.

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Asbestosis lawsuits

One of the claims corporate defendants make is that American courts are clogged with lawsuits from workers who are not sick, delaying compensation for victims who need the money.

The following letter to the editor appeared in the October 2, 2004, *St. Louis Post-Dispatch*.

To the editor

I read with interest the series on lung cancer due to asbestosis. I lost my father two years ago to lung cancer due to asbestosis. I wonder if the same people who feel this asbestos settlement money is given away like free kittens at an animal shelter will have a different viewpoint when, 10 or 20 years from now, their family member dies a miserable death brought on by the actions of these big-business, profit-only companies. [Name withheld]

Preventable medical errors

A 2004 hospital study of 37 million patient records conducted by HealthGrades[®] showed that an average of 195,000 people in the United States died due to potentially *preventable*, in-hospital medical errors in each of the years 2000, 2001, and 2002.

HealthGrades is a health-care quality-monitoring company. The 2004 report nearly doubled the estimated number of deaths from medical errors found by the 1999 Institute of Medicine's (IOM) report "To Err is Human," with an associated cost to society of \$17–29 billion per year.

IOM's study was based on data from three states, and another study looked at 7.5 million patient records from 28 states over one year. HealthGrades' study, by contrast, looked at three years of Medicare data in all 50 states and Washington, D.C. This Medicare population represented approximately 45 percent of all hospital admissions (excluding obstetric patients) in the United States from 2000 to 2002.



Buying a home Inspections

Q: Why should a buyer have an inspection?

A: A professional firm can assess a property's strengths and weaknesses in two to three hours. Inspectors look closely at the soundness of a home's foundation, structural elements, and roof. They also will evaluate the electrical, plumbing, heating, air conditioning, and other mechanical systems.

Q: What does the firm report?

A: Select an inspection firm that will provide buyers with a thorough, well-organized, and detailed written report. Also, ask for clear descriptions of problems, why they occurred, and what repairs need to be made to correct them.

Q: What if there's a problem an inspector fails to discover?

A: An attorney can help. When their home became uninhabitable because previous owners had built a false basement wall to conceal a crumbling foundation, the buyers engaged an attorney. A jury verdict awarded the buyers compensatory damages to repair the foundation, and punitive damages for fraud.