



BROOKS LAW FIRM

Personal Injury • Job Injuries • Product Liability

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- Auto/Truck Injuries
- Defective Construction
- Divorce/Family Law
- Environmental Law
- Negligence
- Personal Injury
- Pharmaceutical Litigation
- Probate
- Product Liability
- Property Damage
- Toxic Torts
- Wills
- Workers' Compensation
- Wrongful Death

LASIK SURGERY

LASIK (laser-assisted in situ keratomileusis) has been heavily marketed as a solution for poor vision. In LASIK, a small blade cuts into the eye's lens, known as the cornea, and a laser then thins the cornea. Unfortunately, possible long-term adverse side effects are not as well discussed. LASIK is not for everyone. Due to the large volume of patients treated in some clinics, patients who undergo the procedure may not be properly screened. Permanent damage to the patient's eyes may result.

Since the early 1990s, a complete pre-operative evaluation has been recommended to determine if a person is a good LASIK candidate. This evaluation should always include cornea-topography mapping, which shows the thickness of the cornea. Since the LASIK laser thins the cornea, an already thin cornea should

not be further thinned. If it is further thinned, then the cornea is unable to contain the intraocular pressure, and the eyeball becomes deformed. This condition is known as ectasia. Vision then worsens because the eye cannot focus.

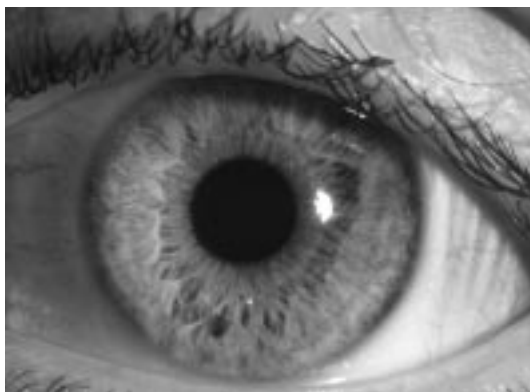
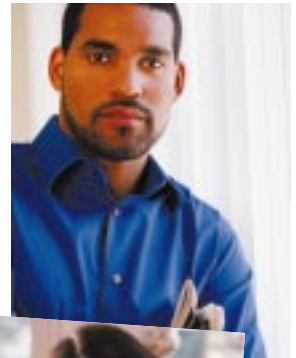
Furthermore, some of the older LASIK cutting blades were not able to perform as

advertised. The early cutting blades were not as precise as those being used now. Commonly reported problems are loss of night vision and hazy, unfocused vision.

There are no long-term studies on the effects of LASIK. The FDA does not require any long-term studies on the effects of a medical device. Furthermore, the short-term clinical studies provided to the FDA are performed and controlled by the manufacturers seeking marketing clearance for their devices. The devices, particularly those used before 1999, have received minimal FDA review.

Web sites that discuss problems associated with LASIK are as follows:

www.surgicaleyes.org
www.lasikinforcenter.net



We know your rights.

FRAUDULENT health insurance

Wrongdoers selling phony insurance plans are popping up everywhere. Their less-expensive coverage may look very appealing to Americans who lose coverage at work, experience rapidly escalating premiums, or cannot get coverage elsewhere.

Not only do scammers often lack licenses to sell insurance, they also

don't have sufficient reserves to cover payments. Their game is to pay smaller initial claims to solicit greater premiums from future policyholders. A study found that more than 100,000 scam-insurance-plan buyers have been

stuck with \$85 million in unpaid medical bills since 2001.

Experts offer the following warning signs to look for in potentially counterfeit health-coverage solicitations:

- Unbelievably low rates.
- No health prescreening requirement.
- Automatic preexisting-condition coverage.
- Promoted and endorsed by individuals allegedly representing labor unions or professional associations.
- Sales pitches that replace "insurance" with "benefits."

To check a plan's legitimacy, call our state's insurance commissioner's office for licensing, know the agent who will pay claims, and contact an attorney for counsel.

Housing discrimination... ...and the elderly

As our nation grays, greater numbers of aging people may find themselves denied equal opportunity in obtaining housing.

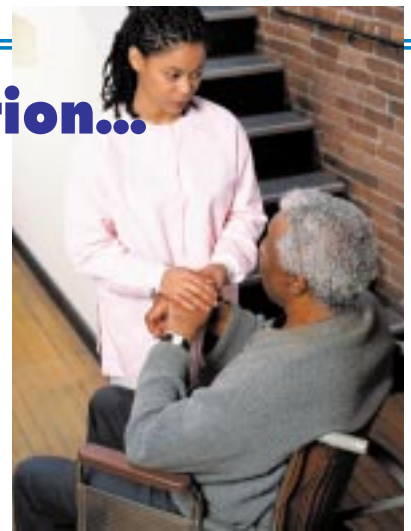
Housing discrimination against the elderly usually involves two factors. First is a perceived inability of an elderly person to live independently and to care for him- or herself and a property. The second consists of past, actual, or perceived disabilities that might make someone incapable of independent living.

If real-estate agents, rental agents, condominium associations, landlords, or even family members unlawfully deny the elderly equal opportunity to obtain housing in single-family homes, condominium communities, or rental communities, those harmed have recourse. Elderly people who have suffered discrimination are increasingly turning to the Fair Housing Act (FHA) of 1968 and the Americans with Disabilities Act (ADA) to obtain their fair rights to housing.

When a Texas couple was refused admission to a subsidized apartment complex on the basis of the husband's blindness and partial paralysis, the U.S. Department of Housing and Urban Development's FHA division determined that discrimination had occurred and took the apartment's owners to federal court. The court ruled that the FHA had the authority to bar discrimination against seniors with disabilities.

In a Florida case, an administrative law judge ruled on another FHA complaint. Here, the court agreed that a condominium association was required to make reasonable disability accommodations for a longtime resident who experienced a stroke that made him unable to walk.

Courts have also ruled that older residents are entitled to maintain service- or emotional-support animals as long as tenants reasonably comply with general tenancy obligations.



A reasonable housing accommodation for a senior can sometimes make the difference between living independently in a community or entering a care facility or nursing home. Seniors, or their children, who believe housing discrimination has occurred should consult legal counsel.



SEAT BELTS SAVE LIVES

No one ever plans on having an automobile accident. But everyone can plan to drive more safely and buckle seat belts.

Here are some statistics on how seat belts can save lives:

- Seat belts save nearly 10,000 drivers' and passengers' lives annually.
- Only seven in ten auto occupants in accidents are buckled up.
- Young males—age 16 to 25—are the least likely to buckle up and are the most likely to be involved in life-endangering accidents.
- Hospital costs for unbelted auto-crash victims are 50 percent higher than for those who buckle up.
- If 90 percent of passengers use their seat belts by 2005, the nation will likely see a 25 percent reduction in child fatalities in accidents.

PLEASE DRIVE SAFELY.

Workplace injuries... ...and equipment design

Thousands and thousands of American workers are injured on the job every day. In fact, according to the Bureau of Labor Statistics, 4.7 million nonfatal workplace injuries and illnesses were reported during 2002.

Many workplace injuries could be prevented if manufacturers designed machinery and other equipment with high safety standards in mind, and businesses required all machinery to be operated as instructed.

Worker fatality

When workers are injured by defectively designed equipment, our civil justice system offers recourse. Family members of a woman who suffered fatal injuries when a grinding wheel she was working on exploded brought suit. Their attorney alleged that the equipment's manufacturer failed to warn of design dangers and was further negligent in failing to include a protective guard on the equipment that would have prevented serious injury. The parties settled out of court.



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LEGAL DICTIONARY

Many clients find legal terms puzzling. From time to time, we offer some easy-to-understand definitions to help clear things up. This time, we'll look at legal terms associated with civil wrongs.

Tort

This is behavior or an act that one person negligently or intentionally performs which harms another person physically, monetarily, or in some other way. Torts commonly involve assaults, auto accidents, defamation, fraud, malpractice, and premises liability. The injured person has the right to sue for damages.

Tortfeasor

A tortfeasor is a person who commits the act that harms another person.

Tort of Another Doctrine

This generally accepted convention permits a plaintiff to obtain reasonable compensation for attorney's fees they have paid to sue a tortfeasor or third party.



SECRET settlements

Secrecy and gag orders in our state and federal courts undermine every American's right to know. Since the mid 1970s, defendants in civil litigation, as a condition of settlement, have sought to keep out of the public's eye important information that should emerge from litigation.

For instance, over the past 20 years, secret settlements have been reached to conceal very important information about sexual abuse of children by clergy, injuries from medical malpractice, automobiles that flip over or explode in accidents, and medical procedures and products that endanger health.

This insidious practice also affects Americans' perceptions of their courts and our justice system. "Protective Orders" close off the nation's courts, which are supposed to be institutions open to public scrutiny and review. "Sealed Court Files" deny a presumption of openness and honesty to court proceedings. "Confidentiality Agreements" undermine the public's respect for the courts and justice. And "Secret Agreements" increase the likelihood of additional litigation to find the truth.

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Brooks Law Firm has earned an AV rating in the *Martindale-Hubbell® Law Directory* for our legal capabilities and devotion to professional ethics. Since Martindale-Hubbell bases assessments on surveys of members of the bar and of judges, we take pride in our colleagues' recognizing and respecting the quality of our legal work.

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The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

Auto "black boxes"

If you own a new car heavily dependent on onboard mini-computer systems, you may very well have a "black box" beneath your front seat. Check your owner's manual.

Manufacturers install black-box event data recorders (EDRs) to improve design, performance, and driver and passenger safety. EDRs can record data on speed, braking, direction, seat-belt use, air-bag deployment, antilock-brake applications, cruise-control use, and other information. Data are recorded and erased in five- to ten-second loops and stored if an accident occurs.

Although EDR data are usually proprietary to the auto manufacturer, motorists should be concerned that information obtained from the mini-computers can be used against them in accident cases. Law-enforcement authorities and insurance investigators can download EDR data to verify or contradict driver courtroom testimony.

Privacy rights activists question the ownership and use of the data, particularly with self-incrimination issues. California passed legislation giving drivers greater control over it.

Please contact our office for more information.

BOOK REVIEW

An Air That Kills

by David McCumber and Andrew Schneider

America's tragic asbestos story has been told in bits and pieces by many observers over many years. Now, for the first time, *An Air That Kills*, a new book written by veteran investigative journalists David McCumber and Andrew Schneider, puts it all together in frightening detail. Schneider is a two-time investigative-reporting Pulitzer Prize winner.

An Air That Kills is about Libby, Montana, site of a vermiculite mine owned and operated until 1990 by W. R. Grace.

Company executives knew that the vermiculite from this mine was contaminated with poisonous asbestos fibers, but concealed how dangerous exposure could be to their own mine employees. Some entire families were poisoned.

McCumber and Schneider explain how Grace further failed to warn the town's citizens that simply living in Libby was dangerous. Executives also never told the thousands of companies nationwide which purchased the contaminated vermiculite that it was extremely toxic.

In the end, Libby's residents used our legal system to hold W. R. Grace accountable for its actions. Hundreds of thousands of other asbestos victims have achieved the same goal.

An Air That Kills will play a vital role in our national debate over how to compensate asbestos victims, who were injured through no fault of their own, while holding accountable the companies that injured them and the insurance companies that helped with the coverup. In light of what happened to the unsuspecting citizens of Libby, Montana, this book will compel our senators and representatives to consider their votes carefully. It will also make them wonder if there might be a Libby lurking in their own states.

