



# BROOKS LAW FIRM

Personal Injury • Job Injuries • Product Liability

WINTER 2004/05

Brought to you by  
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## PRACTICE AREAS

- 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

## Season's Greetings!

May you and all those you love experience a wonderful holiday season. We hope that peace, happiness, and good health come to you and yours throughout the coming year.

We would also like to thank you for seeking out our legal services over the years and for referring your relatives, neighbors, and colleagues to us.

Brooks Law Firm

## Vioxx dangers

On September 30, 2004, Vioxx, an arthritis and acute-pain medication manufactured by Merck & Company, Inc., was withdrawn worldwide after results from an FDA-sponsored study entitled "Risk of Acute Myocardial Infarction and Sudden Cardiac Death With Use of Cox-2 Selective and Non-Selective NSAID" were revealed. The study examined whether there had been an increased rate of heart attacks or sudden cardiac deaths associated with the use of drugs such as Vioxx. Records of six million California patients were reviewed to determine whether there was an increased incidence of blood clot-instigated heart attacks and sudden cardiac deaths. The study showed that Vioxx use at doses greater than or equal to 25 mg per day increased the risk of an acute cardiac event by 315 percent. At lower Vioxx doses, risk also increased, though not as significantly.

In 2001, Merck had been criticized by the FDA for making false marketing statements about Vioxx. The product liability implications with respect to Merck's conduct concerning its marketing of Vioxx under these circumstances may be substantial.

However, there are statutes of limitations or other deadlines that could affect the successful assertion of rights arising from injuries or deaths caused by defective products. It would be wise for anyone who has personally experienced, or had a loved one experience, a heart attack, stroke, pulmonary embolism, arterial thrombosis, retinal artery occlusion, or similar problems after taking Vioxx to obtain legal advice as soon as possible. **Brooks Law Firm** filed its first lawsuit for Vioxx-related injury three years ago. Brooks Law Firm continues to review and accept cases for Vioxx-related injury.

*We know your rights.*



## Unaccompanied minors

Although most parents want to accompany their children traveling by air to vacations, summer camps, or boarding schools, situations may occur in which minors must fly alone.

Most airlines have established programs to help children travel by themselves efficiently and safely.

Parents also can take several steps:

✓ Book reservations early on airlines that agree to greet, escort, and monitor

children traveling alone. There may be additional fees.

✓ Inform your child on how to be safe at airports and on airlines. Tell them not to talk to strangers, to buckle their seat belts, and generally to be aware of their surroundings.

✓ For first flights, talk to your child about airports, airplanes, and what will happen on the trip. Instruct your child about how to use an airplane's bathroom, how to call an attendant, and what to do if lost or in an emergency.

✓ Prepare a carry-on bag for your child. Include a cell phone, phone contacts, medications, medical history, and other necessary documentation. Pack a familiar drink and snack as well as books or favorite electronic games.

✓ During check-in, give attendants instructions and other information, particularly the name and photo of the person who will meet the child upon debarkation. Request that an attendant walk the child to the aircraft.

✓ Remain at the airport until the plane is airborne.

✓ Confirm that your child arrived and was greeted at the destination.

### Travel problems

When an unaccompanied minor was allegedly molested by a fellow passenger during a flight, her mother sued for negligent supervision. Although the airline argued it had no duty to protect the child, the court permitted the parent to sue since the airline had assumed additional legal responsibility in creating and charging for a separate class of unaccompanied minor passengers.

## Trial by jury

Americans demonstrate their patriotism through military service, voting on Election Day, and serving on juries.

Our firm encourages all citizens to perform jury duty. Throughout our nation, courts are increasingly trying to make jury duty more effective and pleasant.

Many courts provide clearer jury instructions and permit jurors to take notes. Some states have raised the *per diem* pay. Others have set up a "one day, one trial" system that respects jurors' time.

Some Florida courts provide complimentary parking and child-care services.

A California city replaced the coin-operated coffee machines in juror waiting rooms with a centrally located gourmet coffee shop. Another California city operates a mystery-book library for jurors.

In New York's Nassau County, jurors can go online with complimentary wireless access for laptops and even sign up for mammograms or prostate screenings. There's also a blood-donation option.

## Litigation explosion?

### What litigation explosion?

Special-interest groups have been falsely decrying the existence of a "litigation explosion" for decades. They oppose the way citizen lawsuits and our civil justice system can serve as fair and fundamental checks on the power of businesses and governments.

To minimize accountability for wrongdoers' harmful conduct, special-interest groups and their highly paid lobbyists promote efforts to limit the legal rights of American families, claiming that too many lawsuits have led to excessive costs and delays. They just don't trust the American people.

But there is no litigation explosion.

- Since 1992, lawsuit filings have declined by nine percent.
- Automobile lawsuit filings, which make up the majority of all tort (or personal injury) claims, have fallen 14 percent since the early 1990s.
- Medical malpractice filings per 100,000 persons have dropped one percent.
- In 22 of the 30 states that the National Center for State Courts examined, population-adjusted lawsuit filings declined from 1992 to 2001. The average change in tort filings across all 30 states was a 15 percent decrease.
- The Department of Justice's Bureau of Justice Statistics reported that the number of civil trials decreased by 47 percent between 1992 and 2001.
- The median inflation-adjusted award in all lawsuits dropped 56 percent between 1992 and 2001 to \$28,000.



# Con artists and the elderly

Con artists view some seniors as easy prey in their schemes to steal money. American Association of Retired Persons surveys show that more than half of telemarketing-fraud victims are age 50 or older. Other sources claim that more than 14,000 illegitimate telemarketers steal at least \$40 billion from unwary older—and younger—consumers annually.

The most common scams include calls about phony prize notifications, bad-credit clearance offers, fraudulent home inspections and repairs, expensive buyers clubs, deceptive investments, unnecessary and unwanted phone service subscription “slamming,” and others. Some seniors fall for scams claiming the ability to recapture money from the same scammers who took their money the first time.

To be safe from fraud, law-enforcement authorities often offer these guidelines:

- Never pay up-front fees for prizes or offers.



- Refuse to make payments by wire or through private couriers.
- Always ask for detailed, printed information on any offer.
- Do not release Social Security or credit-card numbers to unknown persons.
- Donate only to known charities.
- If a deal sounds too good to be true, it is.

## Life insurance scam

An elderly couple's insurance agent allegedly promoted a life insurance policy that would provide a \$5 million death payment and other benefits. After the couple pledged \$700,000 in personal assets to collateralize the premium loan, the premium lender demanded an unexpected \$35,000 first-year premium payment, threatening foreclosure on the collateral. When the couple sued for negligence, fraud, securities fraud, and statutory elder abuse, the agent and lender settled before the case went to court.



# Auto accident FRAUD

Auto accident fraud—accidents perpetrated by crime rings—drives everyone's car insurance premiums up. Insurance-industry experts estimate that criminals who plan auto accidents, claim false injuries, and even set up fake health clinics steal hundreds of millions of dollars in insurance payments every year.

Deliberate accidents are so well planned, they even have names:

**Swoop and squat**—A driver is cut off by a braking car and hits it in the rear. Passengers pretend to be injured.

**Drive down**—A driver waves another to enter the traffic flow, then rams and blames him or her.

**Sideswipe**—One car's driver intentionally strikes another car in two-lane turns at intersections.

**Shady helpers**—An “eyewitness,” an accomplice, suggests that the victim patronize a complicit body shop, physician, or lawyer following an accident.

## Protect yourself

Law-enforcement and insurance professionals encourage drivers to be alert to planned accidents and to follow these steps:

1. Distance your vehicle from others.
2. Call the police right away and get the officers' names and badge numbers. Obtain a police report.
3. Write down all the details of any accident—car make and year, tag number, registration, driver's license, phone number, accident description...everything.
4. Write down the names, addresses, and phone numbers of all passengers. Someone not there may claim to have been present. Note if anyone seems seriously injured.
5. Seek medical help if you are injured.
6. Talk to legal counsel.



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### **Our Martindale-Hubbell rating**

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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## **TORT REFORM**

Tort law holds companies and persons responsible for damage and injury they cause. "Tort reform" is an effort to influence legislators on the state and national levels to restrict citizens' access to recovery for damage or injury caused to them.

"Tort reform" is always an issue when the stock market loses value. When insurance companies lose their investments, they make up the difference with premium increases. The insurance companies then blame the tort system and trial lawyers. This same scenario, with resulting tort reform, occurred in the 1970s and 1980s. Most recently, insurance companies have lost investments in many companies, including Enron, and suffered huge losses created by the 9/11 attacks.

The Georgia legislature will consider *Senate Bill #3* in 2005. Although primarily focused on medical malpractice litigation, the proposed reforms also will affect other personal injury and property damage litigation. The facts do not support the need for restricting citizens' rights.

Two studies on litigation in both urban and rural Georgia have been published by professors at the University of Georgia. The rate of litigation has remained constant for decades, with little difference between numbers of lawsuits filed in urban and rural Georgia. Additionally, jury verdicts have remained constant when adjusted for inflation.

Texas passed a \$250,000 cap on general damages last year, but insurance premiums did not decrease. An insurance-industry memo obtained by the Texas Department of Insurance shows that the damages cap will not create decreased premiums. Only compensation to the most seriously injured citizens will be decreased. Please contact your legislators and urge them to vote against tort reform.



## **Congratulations...**

...to **Claire Cornwell-Williams**, who has been appointed as judge to Recorders Court of Chatham County. Claire has been with **Brooks Law Firm** for eight years. We wish her the best.

## **Malpractice**

According to *The Wall Street Journal*, in 2002, 68 percent of all medical malpractice suits were dismissed or dropped, 27 percent were settled, 4 percent were ruled for the doctor, and 1 percent went in favor of patients.