



BROOKS LAW FIRM

Personal Injury • Job Injuries • Product Liability

SUMMER 2007

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



Product liability

There's *good* product liability news. Federal product liability lawsuits fell 14 percent in 2005, and the number is expected to drop another 16 percent for 2006. Recalls and consumer pressure seem to be making products safer.

However, there's also *bad* product liability news. In mid-2006, the Consumer Product Safety Commission (CPSC) weakened rules specifying when companies must report potentially dangerous products. Product-safety watchers say that CPSC's changes will grant manufacturers deniability when negligently designed or manufactured hazardous products result in serious injury or even death.

The rule relaxation eliminates a key incentive for corporations to act responsibly and represents a backwards step in the effort to protect the American public. Former Association of Trial Lawyers of America* president Ken Suggs said that the regulation change would "provide less consistent reporting guidance, increasing the likelihood that product defects known to manufacturers, distributors, or retailers will not be disclosed to the Commission and the public."

**Now known as the American Association for Justice.*

FDA puts Americans at risk

In 2006, the Food and Drug Administration (FDA) used a secret back door to issue a new federal ruling that protects negligent drug manufacturers, eliminates state drug-safety protections, and affects a majority of medication-safety cases.

The rule's preamble states the FDA's position. Drug manufacturers that put dangerous drugs on the market should be immune from liability if the drug's warning label and literature meet a minimum federal standard. The rule stands even if the pharmaceutical manufacturer fails to clearly warn doctors and patients that a drug may be dangerous.

Remember that this rule would apply to a medication such as Vioxx, which an FDA scientist acknowledged has killed as many as 55,000 Americans.

The liability protections were not in the original, publicly circulated draft of the proposed rule. Rather, as the FDA admitted at a later press conference, the new liability provisions—

added behind the scenes, after the agency consulted with the drug industry—were announced as part of the final rule without ever being made subject to public comment or any review process.

The new rule represents a fundamental rollback of drug safety. Under previous law, a drug company that met a minimum federal standard—but still acted negligently in failing to warn patients about a drug's dangers, resulting in harm to some patients—could be held accountable under state law.

The FDA's position on the 2006 rule is that the negligent company would not be held accountable if it met the revised federal standard.



Ken Suggs, former president of the Association of Trial Lawyers of America* (ATLA), said, "The fact that the drug industry can get the FDA to rewrite the rules so that CEOs can escape accountability for putting dangerous and deadly drugs on the market is the scariest example yet of how much control these big corporations have over our political process."

**Now known as the American Association for Justice.*

We take your family's safety and security personally.

Racial discrimination

America's civil justice system is often the last recourse for those seeking to protect their civil rights and stop discrimination.

Throughout the 1990s, San Francisco's Interstate Brands Corporation (IBC) bakery, makers of Wonder® Bread and Hostess® snack pastries, discriminated against its African-American employees. Management refused to promote African-Americans to supervisory positions, gave poorly maintained vehicles to African-American drivers, and set aside restrooms and lunchrooms meant only for whites. IBC also denied or refused to investigate racial bias and harassment claims.

When two dozen African-American employees filed a lawsuit in 2000, IBC filed 21 motions to dismiss their case as frivolous. A judge and jury awarded a \$121 million verdict, the largest in the history of racial-discrimination cases, sending a message to corporate America that racism in the workplace would not be tolerated.

Workplace discrimination

Over 26,700 workplace racial-discrimination complaints were filed with the Equal Employment Opportunity Commission in 2005. Twenty-six percent of African-Americans report being subjected to workplace discrimination.

®Registered trademark
Interstate Brands Corporation



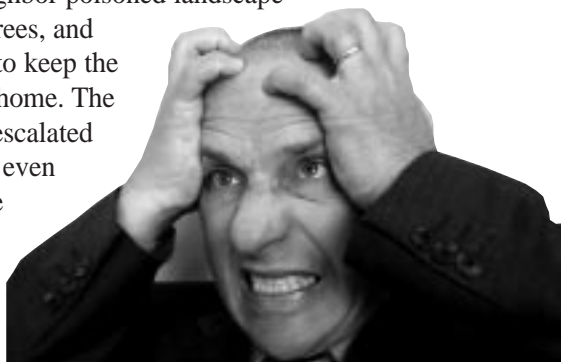
Warring neighbors

Most minor disagreements about noise or trespass between neighbors can be handled with a face-to-face negotiation, a handshake, and a smile. Sometimes, though, a community's mediation center can help if neighbors seriously dispute trespass or property damage. However, when clashes become rancorous, our civil justice system can provide remedy.

A very angry neighbor

A California resident filed suit against a neighbor whose crusade was to intimidate the plaintiff into fleeing from the neighborhood. The resident's

attorney showed that the angry neighbor poisoned landscape planting, chain-sawed shrubs and trees, and sabotaged door and window locks to keep the plaintiff from getting into his own home. The angry neighbor's behavior further escalated to painting graffiti on a garage and even attempting arson. At trial, the judge awarded damages to the plaintiff, but the parties agreed to a higher settlement during the punitive-damages portion of the trial.



Client service Guiding values

Our pledge to each client is always to do our best every time you call on us for legal assistance.

Here are several guiding values that our firm holds dear:

Client interest—

Whether we are representing someone injured in an auto accident or managing complicated commercial matters, we always focus on the best interests of our clients.

Flexibility—

Our years of counsel and trial experience tell us when it may be best for a client to litigate or to settle.

Forward thinking—

Anticipating what may happen next in each phase of a case and constantly foreseeing the final step—a trial—help us stay ahead of the curve.

Hard work—

Diligence, to us, means committing all of our experience, creativity, and energy to each client's case

Hope—

Clients often ask for our assistance after they have tried several other approaches that failed to deliver results.

Passion—

We will struggle on behalf of the little guy facing powerful adversaries.

We hope that the quality of our service always pleases you.

Caution!

Online resume scams

Identity thieves are at it again. This time, they're defrauding online job seekers.

Wrongdoers troll services such as GettingHired.com, Jobs.AOL.com, Monster.com, and others, looking for information such as names, addresses, phones, and more to build false identities. They even post fake job ads in the hope of getting applicants to return Social Security, credit card, and even banking account numbers.

Protect yourself

- Use the "hide information" option on job-site postings, if possible.
- Never provide your SSN.
- Even information such as eye or hair color or marital status can be used to establish a false driver's-license identity.

Anticipate outcomes

- Your current employer may locate your posted resume.
- Employment recruiters may contact you.
- You may get spammed with computer viruses.



FOR YOUR SAFETY

Recalled product roundup

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

- ✓ **Scubapro®, USA**, has requested scuba divers to return 48,500 Scubapro® MK 20 First Stage Regulators. Overtightening the yoke or din retainer during annual servicing may result in regulator stress cracks and failure, posing a drowning hazard.
- ✓ **Wal-Mart Stores, Inc.**, has asked buyers to return 165,000 Home Trends Wood Footstools, which can collapse and harm consumers.
- ✓ **DeWalt Industrial Tool Company** has voluntarily recalled 97,000 framing saws and 37,000 circular saws. The lower blade guard may fail to close, leaving the blade exposed and presenting a laceration hazard.
- ✓ **Atico International USA, Inc.**, recalled 54,000 Espresso Express™ Espresso Makers with faulty heating elements that can separate from bases and burn users.
- ✓ **Black & Decker, Inc.**, is recalling 272,000 Black & Decker BV4000 Type 1 Blower/Vacs with a loose cord connection that can overheat and cause burns or a fire.
- ✓ **Weil-McLain** recalled 16,000 Weil-McLain Ultra Series Gas Boilers with incorrect installation instructions. Connecting boilers to LP gas without installing a propane conversion kit may result in carbon monoxide poisoning.

Contingency legal fees

Study refutes critics' claims

Opponents of America's civil justice system often claim that when trial attorneys represent clients on the basis of contingent fees—handling claims in exchange for a percentage of the recoveries clients receive—excessive and frivolous lawsuits result.

Critics commonly argue that contingency-fee caps will resolve their alleged problem. However, a study by two economics professors, Alexander Tabarrok and Eric Helland, has found quite the opposite. The professors analyzed completed cases in 16 states—8 states with caps and 8 states without caps—and reported that contingent fees...

- provide lawyers with strong stimulus to preview cases carefully and eliminate frivolous petitions.
- motivate attorneys to work hard to win fair cases for plaintiffs.
- enhance court access for low-income plaintiffs who can't afford lawsuits and who do not pay legal fees if they lose.
- help spread the cost of risk since contingency-fee legal counsel is a business endeavor that trial attorneys take on voluntarily.



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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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.

The faces of medical malpractice

Jessie Geyer was seven when she became a victim of medical malpractice.

After she awakened with a high fever and unable to walk, Jessie's mother took her to their pediatrician, who told her to rush Jessie to an emergency room.

There, an attending doctor examined Jessie and diagnosed her as having the flu, telling her family that Jessie's blood culture had come back clean. The family went home, but that night, Jessie went into septic shock and died.

Her death resulted from an easily treatable, common bacterial infection. Yet the hospital failed to perform a simple blood-culture test that would have shown what caused Jessie's illness. More disturbing, the attending doctor who treated Jessie lied about having performed the culture.

Jessie's parents searched for a year to find a lawyer who would take their case, because the California Medical Injury Compensation Reform Act (MICRA) makes pursuing and investigating medical malpractice cases prohibitively expensive.

"We didn't have a cause of death. I couldn't get an answer from the doctors. I asked them, I tried. I had to get the medical records. I called an attorney, and that's when I found out about the MICRA law. And I made it my crusade to try and change it and get the word out...."

The Geysers are now awaiting trial.



**Jessie
Geyer**



Property-owner negligence

When innocent persons suffer any kind of serious injuries because of property owners' negligence, an attorney familiar with premises liability can help victims obtain compensation for medical bills, lost wages, pain and suffering, and other damages.

An experienced personal injury lawyer can evaluate an incident, communicate with property owners, negotiate with insurers, locate experts to testify on a plaintiff's behalf, if necessary, and present the case at trial.

An elevator attack

A city apartment-building tenant entering an elevator was shot by a mugger four times. He sustained one wound to his head. When he sued, his attorney claimed the building's owner was aware that locks on doors were constantly broken. Although the owner claimed broken locks were irrelevant since the assailant followed the plaintiff into the building, parties settled on the trial's third day.