

# LEGALLY SPEAKING<sup>®</sup>

A quarterly newsletter for friends and clients of  
*Boteler & Wolfe, Attorneys at Law*

SUMMER 2010

Alabama Bar Association rules require the following disclaimer: No representation is made that the quality of legal services to be provided is greater than the quality of legal services to be performed by other attorneys.

## NEW FIRM NAME - SAME GREAT SERVICE!

As you may have noticed or heard, our law firm name has changed to Boteler & Wolfe. Our attorneys, Mark, Knox and Karlos, are still here to help you and your family with questions about personal injury matters or other legal questions. Also all our employees are still here working hard to help provide our clients with the quality legal service you have come to expect from our attorneys. As in the past, we will continue to rely on the recommendation of our legal services by people such as you. We are also using this opportunity to update and improve our web site so that personal injury victims can have access to more information and resources. Our new domain is [www.botelerwolfe.com](http://www.botelerwolfe.com) and we hope you will visit our web site to see the improvements. Your continued support and recommendations will be truly appreciated.

## B&W E-MAIL ADDRESSES

Many of our clients are now using e-mail as a way to communicate with us about pending claims or cases or to ask questions about a legal matter. For your convenience here are our current e-mail addresses. (Old M&W e-mail addresses will also continue to work.)

Mark Wolfe:	<a href="mailto:mark@botelerwolfe.com">mark@botelerwolfe.com</a>
Knox Boteler:	<a href="mailto:knox@botelerwolfe.com">knox@botelerwolfe.com</a>
Karlos Finley:	<a href="mailto:karlos@botelerwolfe.com">karlos@botelerwolfe.com</a>

B&W Claims Dept.	<a href="mailto:laquetta@botelerwolfe.com">laquetta@botelerwolfe.com</a>
B&W Litigation Dept.	<a href="mailto:katrina@botelerwolfe.com">katrina@botelerwolfe.com</a>
B&W Administration:	<a href="mailto:tina@botelerwolfe.com">tina@botelerwolfe.com</a> , <a href="mailto:amy@botelerwolfe.com">amy@botelerwolfe.com</a>
Records Dept.	<a href="mailto:britney@botelerwolfe.com">britney@botelerwolfe.com</a>
Appointments:	<a href="mailto:jill@botelerwolfe.com">jill@botelerwolfe.com</a>

## THANK YOU FOR YOUR RECOMMENDATIONS

When the books closed on 2009, we determined that 40% of our new clients and new legal matters for the year came from the recommendations of our former clients or their family members. We truly appreciate the satisfaction and confidence reflected by your recommendation of our service. In fact community recommendations are the main way we get to help new clients with their legal matter. Besides recommendations from former clients, recommendations from other lawyers accounted for 29% of the new cases for 2009 and recommendations from area doctors and healthcare providers accounted for another 20%. We believe the fact that 89% of our new clients came to us from

someone's recommendation is a strong indicator of our commitment to provide the best legal service possible to those in need. Thank you again and please do not ever hesitate to tell a friend or family member to call us about a legal question or issue.

## BOTELER IN TOP 100!

B&W attorney Knox Boteler was recently inducted into the American Trial Lawyers Association's (ATLA) Top 100 trial attorneys in Alabama. The following is an excerpt from the ATLA web site: "*The Association* is a national organization composed of *The Top 100 Trial Lawyers* from each state. Membership is obtained through special invitation and is extended only to those attorneys who exemplify superior qualifications of leadership, reputation, influence, stature, and profile as a civil plaintiff trial lawyer." Knox becomes only the 10th lawyer from the South Alabama area to qualify for membership in this prestigious organization.



## OIL SPILL UPDATE

As the great oil spill looms off our shoreline, we continue to monitor BP's handling of the crisis. While BP American CEO Lamar McKay stated his company will pay "all legitimate claims" for economic damages, regardless of the expense, the Oil Pollution Act of 1990 (OPA) passed by Congress after the Exxon Valdez spill caps BP's exposure to economic damages at \$75 million dollars. BP has already admitted this limit will be exceeded by claimants. Within the last several days, bills were introduced in Congress that would increase the \$75 million cap. Senator Jeff Sessions (AL) has introduced one of those bills. To date, such attempts appear futile as the bills are facing opposition from big oil supporters.

Boteler & Wolfe is working toward the best solutions for our clients to overcome the caps to recover direct and indirect economic damages. In one case, a class action has been jointly filed with a law firm in Missouri on behalf of landowners in Baldwin County. If the landowners show that BP and other responsible parties have engaged in willful neglect, gross misconduct, or violations of safety rules, the \$75 million dollar cap will be defeated. Another alternative for victims to consider is a claims process established by the National Pollution Funds Center (NPFC). The NPFC is responsible for the administration of claims funded by the Oil Spill Liability Trust Fund (OSLTF). This fund allows for the payment of up to \$1 billion toward economic damages. Potential claimants that can utilize this

process include individuals, corporations, local governments, and many others. Potential claims that can be sought against the fund are real and personal property damage, removal costs, loss of profits and earning capacity, and loss of subsistence. While this alternative to litigation requires a claimant to first seek restitution from BP and other responsible parties through a claims procedure established by the companies, the administrative process may prove beneficial for certain classes of victims.

Regardless of the alternative a victim utilizes for restitution, BE PATIENT with the process. The responsible parties for the disaster will attempt to resolve claims quickly. Do not fall victim to the companies' strategies and ploys. Frankly, the environmental impact to our area will not be fully understood for some time. As always, we are available to answer any questions you or your family have regarding the spill. Please feel free to email me your questions at [knox@botelerwolfe.com](mailto:knox@botelerwolfe.com) or contact the office.

## AUTO-CRASHES INJURE THREE MILLION PEOPLE A YEAR

With 6.5 million motor vehicle collisions each year and 3 million injuries related to those collisions [National Highway Traffic Safety Administration report], chances are you, or someone you know, will need information about motor vehicle collisions and the variety of insurance claims related to car accidents. 1% of the American population is injured annually in a motor vehicle collision. This means out of every 100 people, 1 person will be hurt this year in a car accident. Most of these injuries, approximately 2 million, will be "soft-tissue" sprains and strains. Those relatively minor injuries will require medical care at an average of about \$4,700.00 and cause the average victim to lose 10 days from work.

## MASS TORT CLAIMS AND CASES: AS SEEN ON TV!

If you've been watching TV regularly over the last few years, you've no doubt seen countless TV ads by lawyers for various type cases, such as Vioxx, YAZ birth control and now most recently Toyota acceleration cases. These type cases are known as mass tort cases. Mass Tort litigation refers to issues in which a company or individual does harm to a large number of people or their property as a result of an action or product. Cases in this practice area range from defective products, such as pharmaceutical drugs and building products, to large "man-made" disasters such as plane crashes and chemical plant explosions. Many law firms are advertising for Mass Tort cases but many of these law firms are not actually handling the claims or litigation. It's important for the victim to hire an experienced law firm related to a particular claim or case. While B & W does not commonly practice in the area of mass tort litigation, the firm does assist many clients with locating experienced legal representation in this area. If you, or a friend or

family member, may have a mass tort claim, please contact Knox Boteler at B&W to discuss your case and for assistance in finding the right law firm for your particular claim or case. **There is no charge for consultations at B&W.** 433-7766, also toll free 1 866 975-7766 or visit our web site and blog for regular Mass Tort updates: [www.botelerwolfe.com](http://www.botelerwolfe.com).

## THINK YOUR INSURANCE COMPANY IS ON YOUR SIDE?

Recently B&W became involved in an Uninsured Motorist claim for a client. The client was reluctant to hire an attorney because he had been a life long customer of XXXX Insurance Company and was sure the company would be fair with him on his uninsured motorist claim. This perception changed when he caught a stalker-investigator from the insurance company following him around and photographing and videoing his activities. "This truly exemplifies the problem with insurance companies," said Mark Wolfe. "They'll do anything to try and save a few dollars on a claim, even put their life long customers under surveillance with stalker-investigators." A few years ago B&W had a similar situation where another insurance company also put their own customer under surveillance. The customer worked as a victim's advocate for the District Attorney's office. Shortly after she notified her insurance company of her claim, she began noticing a strange vehicle around her home and work. Because of the nature of her work in the area of violent crimes, this strange stalker vehicle obviously caused her great concern. At first the insurance company would not admit or deny the surveillance and it finally took a letter from B&W to get them to admit the stalker was one of their investigators. Mark Wolfe was involved in that matter and said, "[w]hat really bothered me was her claim was really not a big claim. The insurance company knew what her job was and they knew the kind of criminals that she had to deal with as a victim's advocate, yet they still chose to hire a stalker-investigator to follow her around. It really scared her but they didn't care because they were hoping to save a few dollars by 'catching' her doing something contrary to her doctor's instruction." So, do you really think your in *Good Hands*, or have the security of a *Good Neighbor*, or have someone *On Your Side*?



## TRAFFIC SAFETY NEWS

**SEVEN AUTO COLLISION FACTS TO THINK ABOUT.** Before you drive your car the next time think about these statistics.

- 1) There are approximately 6.5 million motor vehicle collisions per year. [National Highway Traffic Safety Administration (NHTSA)]
- 2) There are approximately 3 million people injured in motor vehicle collisions each year. [NHTSA. Injury is defined as needing medical care and or treatment.]
- 3) Of the approximately 3 million people injured each year, about 2 million will receive a neck injury. [Insurance Institute for Highway Safety.]

4) There are approximately 43,000 fatalities each year from motor vehicle collisions. [NHTSA- Fatality Analysis Reporting Services.]

5) Impaired drivers kill around 13,500 people each year. [NHTSA-FARS.] This accounts for almost 32% of all motor vehicle collision fatalities and means, on average, someone is killed by an impaired driver every 40 minutes.

6) Injury treatment for motor vehicle collision victims costs more than \$150 billion per year. [Center for Disease Control, 2005 study.]

7) There are approximately 2.6 million auto-injury claims processed by American insurance companies annually. [Insurance Services Offices, Inc.]

**Every time you operate your vehicle your well being, and the well being of those around you, is dependent on you being a safe, courteous and cooperative driver. Please drive carefully and wear your seat belt!**

### **ALABAMA CONSIDERS BAN ON TEXTING AND DRIVING**

From the Associated Press: A bill that would ban Alabama drivers from typing or sending text messages while driving has been stalled in a Senate committee for more than a month. The proposed legislation by Republican Rep. Jim McClendon of Springville passed the House 95-3 in January. But it hasn't made moved forward since then. In a survey before the session, 84 percent of House members responding said they support the bill, while 79 percent of senators backed it. McClendon said he's optimistic the bill can get a favorable vote in the Senate Judiciary Committee before the session ends in mid-April. If the bill passes, Alabama would become the 20th state to ban texting while driving. Some legislators say a texting ban would be hard to enforce. *[Editorial comment: Yes, such a law may be "hard" to enforce but that's a lame excuse not to enact a safety law that is designed to protect the public. MCW]*

### **NORTH DAKOTA & VERMONT WORST FOR UNDERAGE DRINKING**

In a recent web post, Mothers Against Drunk Driving (MADD) cited statistics from a study from 2006-2007 by the Substance Abuse and Mental Health Services Administration of the US Dept of Health that showed North Dakota and Vermont to be the two worst States in the US for underage drinking. In conjunction with March Madness of college basketball, MADD unveiled its "Sour Sixteen" campaign which reports the sixteen worst States for underage drinking. Besides North Dakota and Vermont the other States that made the list were: Ohio, Montana, New Hampshire, South Dakota, Massachusetts, Rhode Island, Wisconsin, Oregon, Wyoming, Kansas, Connecticut, Nebraska, Washington and New York.

### **AT THE FIRM**

**Boteler and Wolfe speak at CLE Program.** In April, Mark & Knox traveled to Atlantic City, New Jersey to speak at one of the largest continuing legal education seminars in the country. The Boardwalk Seminar is sponsored every year by the New Jersey Association of Justice and last year over 1100 personal injury and consumer advocate attorneys

attended the three day program. Mark and Knox worked together to do a presentation on the Effective Use of Timelines in Trial.

### **Boteler & Wolfe Raise over \$11,500 for area Charities.**

In October of last year, B&W held its 4th Annual Charity Wine Tasting. The beneficiary was Victory Health Partners which provides free or low cost medical care to people without health insurance. Over \$5,000 was raised at the event. Plans are already under way for the 2010 event! Remember the B&W Charity Wine Tasting is held on the last Sunday of October. In November of last year, B&W organized and presented a 6 hour "free" Continuing Legal Education seminar for local attorneys. Steve Moore coordinated and moderated the event which required a suggested donation to the Salvation Army's Neediest Family Campaign. Over 100 lawyers attended the seminar and over \$6,500.00 was raised for the beneficiary. Since B&W began doing specific charity events 5 years ago, the events or programs have raised over \$50,000.00 for local charities or community projects. These programs and projects are in addition to the wide variety of community and charity projects supported by the firm each year and by the B&W attorneys individually.

### **Boteler Attends Trucking Litigation Conference.**

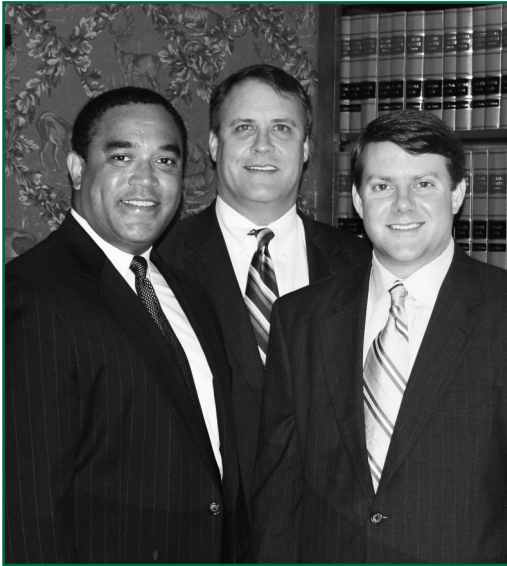
In February, Knox attended a special one day conference in New Orleans on trucking litigation. The conference was sponsored by the American Association of Justice Trucking Litigation Group (AAJ-TLG) and was only open to a few select attorneys who represent injury victims in crashes involving 18-wheelers. Knox has been a member of the AAJ-TLG for several years and was invited to join because of his litigation experience involving 18-wheeler crashes.

### **Wolfe Joins Power Surge 100!**

Power Surge 100 is a local affiliation of Christian businessmen and community leaders who join together to benefit area faith based programs. The organization gives one grant a year from the combined contributions of each member. Last year's beneficiary was Youth Reach-Gulf Coast who received a \$60,000 grant to help this home for troubled teenage boys begin a step towards self-sufficiency. The grant money is going to be used to implement agri-business programs at the facility including the breeding and raising of cattle. If you would like more information about this group, please e-mail Mark at [mark@botelerwolfe.com](mailto:mark@botelerwolfe.com).

### **Finley Elected President of Area Bar Association.**

In March, Karlos was elected as the President of the Vernon Z. Crawford Bay Area Bar Association (Crawford Bar Assoc). This local organization of African-American attorneys is named after the esteemed civil rights attorney and civic leader, Vernon Z. Crawford who passed away in 1986. In addition to his election as President of the Crawford Bar Assoc, Karlos has been busy with many other community projects over the last few months. He continues to work passionately for Constitutional Reform in Alabama and was the moderator and a panelist for



*Leaders in car accident  
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discussion following the screening of the movie *Open Secret*. The documentary film portrays the real events surrounding the opening session of the 1901 Alabama Constitutional Convention. Almost all of the shocking dialogue in the film came verbatim from convention transcripts kept at the time.

**Wolfe to Speak at National Convention of Lawyers.** In July, Mark will be traveling to Vancouver, British Columbia to speak at the American Association of Justice (AAJ) annual meeting and convention. The annual convention is primarily for attorneys who represent injury victims and consumers. Mark will be speaking on Practice Management with an emphasis on technology and marketing. Program coordinator, attorney William Friedlander of New York, said, "Mark's knowledge of the key areas of practice management: technology, client communication and marketing, make him a great asset to our program." In addition to being a member of several prestigious national organizations related to his litigation and trial skills, Mark is also a member of the Legal Marketing Association, a non-profit organization of over 3000 marketing professionals.

**Law Article on Jury Nullification Published.** The AAJ Motor Vehicle Section Newsletter, recently published an article written by Mark Wolfe. The article was titled *Overcoming Jury Nullification in Civil Trials*. When juries reach outside the evidence presented at trial to reach a verdict or conclusion that is commonly called jury nullification. Wolfe's article included one of the more common jury nullification issues faced by injury victims. "We often hear from jurors after a trial that when considering the amount of compensation the victim should receive, one or two of the jurors would always bring up the issue of insurance premiums for everybody. That is they would argue, 'this will make our insurance rates go up.' Yet that's not in evidence for the juries consideration and even worse, it's not even factually true or accurate," said Wolfe. This publication in a national forum, is the tenth article on litigation strategies or practice management that Mark has had published in the last ten years.

## B&W CAN HELP WITH DISABILITY CLAIMS

Have you or a friend or family member been denied Social Security Disability benefits? Statistically most people are denied their initial disability claim because of the complex filing requirements and procedures. An attorney can help with the appeal and at B&W we may be able to help you recover benefits. We charge no fee unless benefits are recovered and there is no fee for a consultation. Call today. 251 433-7766 or 1 866 975-7766 or e-mail us at [knox@botelerwolfe.com](mailto:knox@botelerwolfe.com)