

# LEGALLY SPEAKING<sup>®</sup>

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

SUMMER 2007

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.

## M&W CHARITY WINE TASTING SET FOR OCTOBER 28<sup>TH</sup>

**USA Children's & Women's Hospital to be designated beneficiary for second annual event.** Every year the USA Children's & Women's Hospital provides critical care to over 30,000 South Alabama and Gulf Coast area children and women. The Evaluation Center is set up to serve the unique needs of children and women. The Wiseman Neonatal Intensive Care Unit is a Level III unit offering the most advanced care for premature and critically ill newborns. The facility also has the only Pediatric Intensive Care Unit for critically ill and injured children and features the areas only board certified pediatric critical care physicians. In addition, the facility has transport vehicles for premature newborns and critical care children. On June 3rd Mark Wolfe and his youngest daughter, Alli, were guests on the Children's Miracle Network Telethon which raises money for hospitals across the country that serve children. Alli had been a surgical patient at USA C&W Hospital in 2006 and spent several days in the facility recovering. They were interviewed by John Edd Thompson of FOX 10 TV about their experience.

The 2007 M&W Charity Wine Tasting will be on October 28 (Sunday) from 3:00 to 6:00 at the Bakery Café on Dauphin Street. As with last year's event, there will be a "best-bid" silent auction and numerous door prizes will be available. More information on tickets will be available in the Fall edition of Legally Speaking. Sponsorship packages are available. (For more information on sponsorship opportunities, please call Mark Wolfe (or e-mail him at [mwc2@moore-wolfe.com](mailto:mwc2@moore-wolfe.com)).

## CHILD ADVOCACY CENTER FUNDRAISER

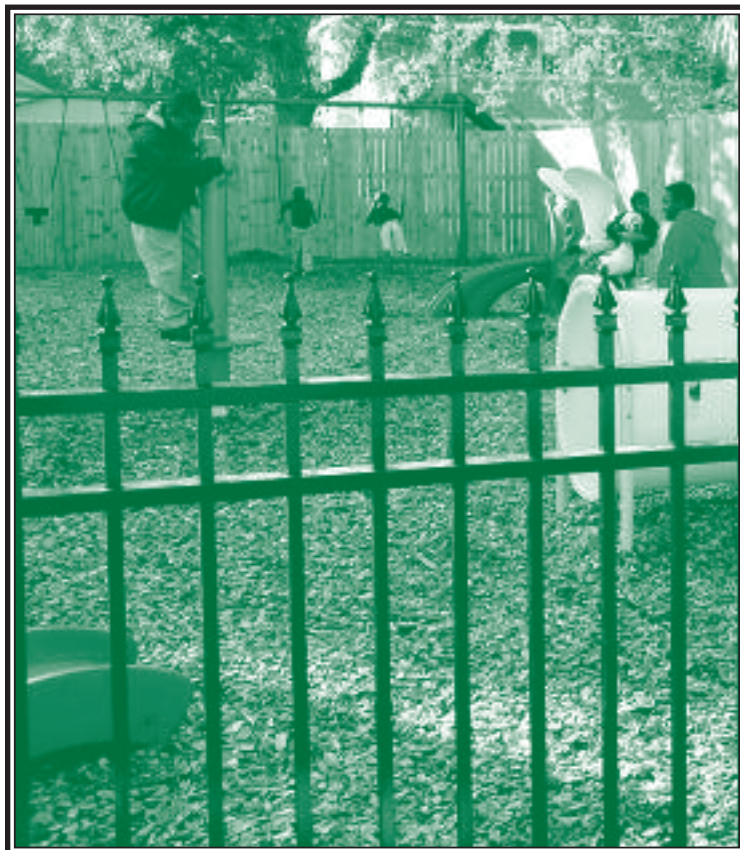
*M&W and Bonefish Grill team up to raise funds for Child Advocacy Center.* The Child Advocacy Center (CAC) in Mobile has helped thousands of child abuse victims in our area. For the past 5 years, M&W has been a regular supporter of fund raisers for the CAC. On June 11, M&W and Bonefish Grill sponsored Cheers for Children at Bonefish Grill on Airport Blvd. Wine and appetizers were served to the 150 guests and a variety of wines were sampled. The event raised \$6000.00 for the Child Advocacy Center.

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## CENTRAL PRESBYTERIAN CHURCH COMPLETES PLAYGROUND

*Playground built with funds raised by M&W.* Central Presbyterian Church (CPC) recently finished construction of a community playground on property located between their complex and the M&W office complex. The playground is open to neighbourhood children as well as the children whose parents are beneficiaries of the Inter-Faith Hospitality Network. The playground is also used by children who participate in the various summer programs offered by CPC. The majority of funds for this community project came from two fund raisers sponsored by M&W in 2006. In February of 2006, M&W presented a legal /medical seminar for area and statewide healthcare providers. The 100 attendees of the seminar were not charged for the 6 hour continuing education seminar but were asked to make a contribution to the CPC Playground Fund. Then in October, M&W held its first Charity Wine Tasting at the Bakery Café on Dauphin Street. The two fund raisers provided \$20,000 for the construction of the playground.



*Area children enjoy new playground at CPC.*

## COMPUTER VALUATION PROGRAMS UNFAIR TO VICTIMS

Mainstream media is beginning to expose the insurance industries secrets about the valuation software programs used by most major insurance carriers in auto-negligence injury claims. These programs make the injury claim adjuster little more than a data input clerk. It has been reported that 80% of liability insurance companies are using some form of valuation software when adjusting and trying to settle injury claims. A recent segment on CNN's Anderson Cooper 360 and an article in Money magazine reveal that the problem with these programs is that they are subject to manipulation by the company using them and some are based upon incorrect medical assumptions about motor vehicle accident injuries. Just as unfair is that most insurance companies using these programs keep the criteria of the programs secret so that claimants (and their lawyers and doctors) are unaware of how a claim needs to be formatted and/or documented so that the claimant receives full credit. Simply put, they use technicalities and incorrect medical assumptions as an excuse to discount the value of legitimate claims. Most of the time adjusters have very little latitude to deviate from the computer generated "value" when trying to settle a claim. Recent reports and articles about these programs also show that adjusters receive very little training on how to use these programs and companies often "teach" their adjusters to deviate from the procedures and guidelines found in the training manuals for these programs. The most widely used software system is a program called Colossus, which is licensed by Computer Science Corporation (CSC). With the wide spread use of these programs, it is important for auto-negligence victims to have an attorney who is familiar with these type programs and who understands how they work and how auto-negligence claims should be presented to insure the claimant receives proper credit for all aspects of his or her claim.

### Moore & Wolfe Have Exclusive Rights to **IMPACTforms™**.

To better present auto-negligence claims for their clients, M&W has acquired the rights for the use of **IMPACTforms™** in the south Alabama area. These forms have been designed to supplement a claimant's medical records and are designed to be compatible with the valuation software programs used by many insurance companies. "We reviewed a variety of software programs and forms for lawyers and doctors and we felt these forms and their related protocol would best compliment our current claim presentation process," said Steve Moore. According to Steve, the biggest problem the firm faced when trying to decide what service or program to use was the fact that while there were only four main valuation software programs available for insurance companies, each insurance company can tune or calibrate the

program for so many variables and technicalities that there is no perfectly compatible program for lawyers and doctors. He went on to say, "based upon our research into this issue, we believe these new forms will best compliment our goal of helping our clients recover the full amount of restitution owed under the law."

## CONSUMER ALERT: ADJUSTER FAILS TO DISCLOSE ALL COVERAGE

After he was slammed by an uninsured drunk driver who fled the accident scene, a new client of M&W consulted with his own insurance company to see what coverage he had available for his injuries and missed time from work. The adjuster informed him that all he had available was \$1000.00 in medical payment coverage. Uncertain about how he was going to recover his lost wages and additional medical expenses, he consulted with Steve Moore. Steve reviewed his policy information and explained to him that he also had Uninsured Motorist coverage available. "Uninsured motorist coverage is mandatory in Alabama unless specifically rejected in writing," said Steve. He also said, "it [uninsured motorist coverage] covers injury claims for medical bills and lost wages, as well as general damages, yet most people do not even realize they have it." In Alabama, insurance adjusters are under no obligation to tell claimants, even their own insureds, what coverage may be available for a certain situation. "When you're dealing with someone else's insurance, you kind of expect that the adjuster may not be forthcoming, but when you're dealing with your own insurance, most people assume their insurance company will try to help them. But that's just not the case," said Steve.

In a similar incident, Mark Wolfe encountered a situation where an adjuster tried to deny the full value of a property damage claim sighting an incorrect legal conclusion as grounds for the diminished offer. The adjuster, who was not an attorney or a law school graduate, had incorrectly interpreted a rather complex indemnity clause in a contract. He tried to use his incorrect legal conclusion as justification for offering fifty cents on the dollar of the property damage claim. The claimant consulted with Mark and the adjuster soon increased his offer. This incident highlights a growing trend seen by the attorneys at M&W of incorrect legal information or conclusions reached by adjusters. In general, there is no direct restriction or prohibition regarding adjusters providing legal advice to claimants or reaching legal conclusions. Since the claimant is not paying for the advice or legal conclusion, the adjusters are not "practicing law." In Alabama, claimants and adjusters are considered adversaries and therefore no duty exists for the adjuster to be candid with the claimant. Yet many claimants do not understand this and often rely on the adjuster's legal opinions and/or conclusions when settling a claim. "It's not really a situation of adjusters intentionally misleading claimants, although we have seen a few instances of that, but rather the problem is really that the adjuster

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*Consumer alert continued...*

doesn't know the law," said Mark. He said, "We've seen situations where adjusters have given claimants bad legal advice in a range of areas including statute of limitations, subrogation and coverage applications." Based upon the volume of mistakes we have seen, and given that many people resolve their injury claims without consulting an attorney, there are probably hundreds of people in our area who have settled a claim based upon incorrect or inaccurate legal work by the adjuster," said Mark. Consumers should realize when their claim is being handled by an adjuster in another state, the adjuster is probably a regional adjuster responsible for handling claims in more than one state. Laws vary from state to state and it is very difficult for an adjuster to keep up with all the important legal issues in each state. "I think the increased use of regional adjusters has definitely contributed to this problem," Mark said.

## TOLL FREE LEGAL HELPLINE FOR SENIORS

The Ala. Dept. of Senior Services has now set up a toll free helpline for seniors with legal questions. The Alabama Elder Law Helpline will help senior citizens with issues related to wills, trusts, and financial counseling. The phone line, 1 866 456-3959 is open to people age 60 and older from 8:00am to 8:00pm Mon. – Fri. and 9:00am until noon on Saturdays. Legal Services of Alabama will staff the Helpline with an attorney and paralegal.

## TRAFFIC SAFETY NEWS

**Limiting the number of passengers increases safety for teen drivers.** A recent report by the AAA Foundation for Traffic Safety reveals that for every teen passenger in the car with a teen driver, the risk of a crash increases fifty percent.

**450,000 Defective Tires to be Recalled.** The Wall Street Journal recently reported the National Highway Traffic Safety Administration (NHTSA) is trying to recall a large number of tires manufactured in China because the tires in question do not comply with U.S. safety standards. At least one fatal accident has been attributed to the defective tires according to the Journal report. The tires in question were sold as replacement tires and not as original equipment. The tires in question were made for use on SUV's, pick-up trucks and other light utility vehicles. The tires were sold under the brand names: Westlake, Telluride, Compass and YKS. The safety requirement that is missing from the tires is one that reduces or eliminates tread separation. NHTSA reports that recalling the tires in question may be difficult because the U.S. importer of the tires claims it does not have the money to support the recall notice and it says the Chinese manufacturer has not provided enough information to properly identify and locate the defective tires.

**At Least Two Million People a Year Receive Neck Injuries in Rear-End Accidents.** The Insurance Institute for Highway Safety recently estimated that neck injuries from rear-end accidents account for two million insurance claims per year. The number does not reflect injuries where no insurance claim is made because of lack of insurance or for other

reasons. The estimate was made in conjunction with on-going crash tests for vehicle protection against neck injuries. In years past, head restraints have been commonly called "head rests" but the Institute reports that the head restraint is an integral part of occupant protection. The head restraint in your vehicle should be properly positioned to minimize the common whiplash injuries associated with a rear end accident. The Institute reports the head restraint should extend at least as high as the top of your ears and be placed close to the back of the head.

**Traffic Accident Deaths Continue to Rise in Alabama.** A recent report from the Associated Press indicated that over 1200 people died in car crashes in Alabama in 2006. This number was the highest in Alabama since 1973. The report indicates that the final numbers may even approach the 1971 record of 1251 deaths. The Alabama Department of Public Safety reports a significant increase in deaths on rural roads and in motorcycle crashes last year as compared to 2005.

**Consumer safety group sites three areas for improvement in Alabama traffic safety laws.** The Advocates for Highway and Auto Safety, comprised of consumer groups, health and safety groups and insurance companies, has recommended that Alabama law makers look at putting greater restrictions on teen drivers, increase the age for mandatory use of booster seats and adopt an aggravated DUI law. The group suggests that teen drivers be required to have 30 -50 hours of supervised driving in addition to driver's education, ban teen driving from 10 p.m. until 5 a.m. (current Alabama law is midnight until 6 a.m.) and restrict the number of passengers to one (current law allows for four passengers). They also advocate that booster seats should be mandatory for children up until age 8 instead of 6. Finally, the group has urged that Alabama enact tougher DUI penalties for drivers who have a blood/alcohol level of 0.15 or higher.

## WE'D LIKE TO HELP YOUR FAMILY AND FRIENDS

A review of statistics from 2006 reveals that over 91% of the new claims and cases in our office came directly from recommendations of people in our community who are familiar with our firm. These recommendations were from former clients, healthcare professionals and other attorneys. 47.9% of the new claims and cases came from recommendations of former clients and 43.3% came from healthcare professionals and attorneys. At Moore & Wolfe we truly appreciate the recommendation of our services. While our main area of practice continues to focus on personal injury claims related to auto-negligence, we strive to provide assistance and guidance to all people referred to our firm even if they have legal questions outside of our primary area of practice. There is no charge for telephone consultations. 433-7766.

## LEGALLY SPEAKING BEGINS TENTH YEAR

In July of 1998, the first edition of Legally Speaking was mailed to about 300 friends and clients of Steve Moore & Mark Wolfe. Since that time the distribution has grown to about 10,000 newsletters per quarter. Regular topics have included, consumer awareness articles about insurance coverage and auto-injury claims, traffic safety information, product recall notices, general safety information and information about M&W. The newsletter has been published continuously each quarter and has been in its present format since March of 2004. "As a law firm, our goal is to help people and I would like to think our continued emphasis on safety, especially traffic safety, has made a difference for this community," said Mark Wolfe the editor of Legally Speaking.

## AT THE FIRM

- M&W will be a sponsor for the South Alabama Trial Lawyers Association (SATLA) annual charity golf tournament. The tournament is in its seventh year and raises funds for Little Sisters of the Poor and additional area charities. The tournament is named in honor of the late Judge Delano Palughi who was a founding member of SATLA and an active supporter of the organization. The tournament has raised over \$35,000 for area charities.

- Mark Wolfe has article published. The summer edition of the Alabama Association of Justice Journal published an article written by Wolfe on Alabama's Collateral Source Rule and various statutes and cases related to its application. The collateral source rule is a long standing principal of Alabama law that does not allow a negligent party to escape responsibility simply because the victim may have received payment from another source. In recent years, the collateral source rule has been diminished by pro-business and pro-insurance legislation. In addition, judicial interpretation of those statutes often further diminishes the effectiveness of this legal principal for victims.

- M&W sponsor summer Art Camp. The firm was a lead sponsor for the Creative Arts Camp held at Central Presbyterian Church in June. Over 100 area children participated in this three day camp that featured photography, painting, writing and woodworking. Steve Moore's wife Denise was one of the program's organizers and their son Chase served as a camp counselor.

- The following organizations received financial contributions from M&W last quarter:

- MBA Young Lawyers Division
- Cottage Hill Baptist Church – Missionary Program in Russia
- Mobile Police Association
- USA Children's & Women's Hospital

- M&W Distribute Car Seat Safety Brochures. For the second year in a row, M&W is providing free to the public a Car Seat Safety brochure published by the American Academy of Pediatric Physicians. The 2007 brochure has been distributed to area daycare facilities.



*Leaders in car accident claims and litigation*

## LEGALLY SPEAKING®

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***...or current resident.***

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