

LEGALLY SPEAKING[®]

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

SUMMER 2006

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.

RECOMMENDATION OF SERVICES

SATISFIED CLIENTS CONTINUE TO BE FIRM'S BEST "ADVERTISING." A review of statistics from 2005 and the first two quarters of 2006 shows 85% 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 mainly come from former clients, healthcare professionals and other attorneys. At Moore & Wolfe we truly appreciate the recommendation of our services. While our main area of practice continues to be personal injuries 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. If you have a friend or family member with a legal question, please encourage them to call our office. There is no charge for telephone consultations. 433-7766.

FREE INFORMATION FOR ACCIDENT VICTIMS

The fourth edition of *Motor Vehicle Accidents: A Victim's Handbook* has now been printed. The new edition includes updates on Alabama laws related to motor vehicle accidents and a new color scheme. "Besides updating the law, the new edition has been edited to make it more reader friendly," said Mark Wolfe. "The past editions have included a lot of legalese which we thought made it a little cumbersome to read," said Wolfe. The new color scheme incorporates the familiar green and white colors used by Moore & Wolfe on other publications and used on the law firm letterhead. Wolfe stated that, "The important thing for injury victims to know is that the publication is still free and that it contains very important information that injury victims should know before trying to settle their injury claims." Since its initial publication in 1994 over 45,000 copies have been published and the publication has been used as a text for seminars for law enforcement officers, healthcare providers and victim advocacy groups. In 2005, the publication received a National Award of Merit from Mothers Against Drunk Driving (MADD) for its continued warnings against the dangers of drinking and driving. If you have a friend or family member who has been injured in a motor vehicle accident, please encourage them to call 433-7766 for a free copy.



FRIENDS CAN GIVE BAD "LEGAL ADVICE"

CLAIMANT ALMOST DROPPED CLAIM BECAUSE A FRIEND TOLD HIM HE DID NOT HAVE A "VALID CLAIM." Steve Moore recently settled a personal injury claim for an auto-negligence victim who was told by a friend that he did not have a "legal claim." The friend was not a lawyer and his advice related to conclusions and information on the accident report. The adjuster for the at-fault driver had denied the claim and our client almost did not pursue the claim after his friend made his erroneous legal conclusion. In previous editions of *Legally Speaking* we have reported on adjusters giving bad legal advice and cautioned claimants from relying on legal advice from insurance adjusters who are not lawyers. This situation also calls us to remind readers that friends and family may unintentionally give bad legal advice. In this case had our client listened to his friend's advice he would have been out-of-pocket for several thousand dollars for medical bills and several weeks worth of lost wages. Media stories and stereotypes often make people reluctant to consult a personal injury attorney. Many times victims feel or believe that they will be perceived as being "greedy" if they talk with an attorney so they rely on advice from friends or family about critical legal issues. **Knowing your rights does not make you a greedy person.**

PUBLICATION BEGINS NINTH YEAR

The first edition of *Legally Speaking* was published on July 1, 1998 and the current format was adopted in the Spring of 2004. Over the past five years, the average monthly circulation is around 10,000. Since its inception, *Legally Speaking* has tried to focus on issues that are important to consumers and auto-negligence victims as well as provide information to M&W friends and clients about activities at the firm. Besides being mailed to 8000 friends and clients each quarter, numerous area businesses keep copies of *Legally Speaking* in their customer waiting areas.

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dedicated to protecting the rights of injury victims and their families

LEGALLY SPEAKING ON THE AIR!



Listen for *Legally Speaking* this quarter on 1480amWABB. July 14, July 28, August 11, August 25, September 8 and September 22. The show airs every other Friday from 7:30am to 8:00am and allows listeners to call in with legal questions and comments about our legal system. Mark Wolfe is the featured guest on the show hosted by Ron Frasier and Shane McBride. Morning Talk with Ron and Shane on 1480amWABB is Mobile's number one rated morning talk radio show and is on the air Monday through Friday from 6:00am to 10:00am. Visit the Ron and Shane web site at ronandshaneshow.com for more information on their top rated morning program.

STATISTICS AND FACTS DON'T SUPPORT CLAIMS OF "LAWSUIT ABUSE"

FRIVOLOUS LAWSUITS AND LAWSUIT ABUSE CLAIMS ARE NOT SUPPORTED BY FACTS, YET MOST AMERICANS BELIEVE WE HAVE A CRISIS IN OUR CIVIL JUSTICE SYSTEM. For well over a decade, tort reform groups have pushed for more and more restrictions on the rights of individual consumers and negligence victims. "Lawsuit abuse" and "run away" jury awards continue to be cited as reasons to close the courthouse doors for consumers and injury victims and/or to limit their monetary recoveries in civil lawsuits. Yet did you know:

- The average jury award in Alabama for an auto-negligence victim is \$15,000 and for the most common auto-negligence injury, back and neck strain, the average jury verdict in Alabama is only \$7,000. 72% of all auto-negligence jury verdicts in Alabama are for less than \$50,000.00. [Source: *2006 Alabama Verdict Survey* published by Jury Verdict Research.]

- Personal injury awards in Alabama are \$15,000 below the national average. [Source: *2006 Alabama Verdict Survey* published by Jury Verdict Research.]

- Only 2% of trials are for personal injury lawsuits. [Source: Bureau of Justice Statistics Bulletin: *Federal Tort Trials and Verdicts* published 2005.]

- Criminal cases and business vs. business lawsuits, not personal injury cases, are responsible for overcrowding our court systems. Federal tort cases have declined 79% from 1985 to 2003, and State tort cases have declined 44% from 1992 to 2002. [Source: BJSB: *Federal Tort Trials and Verdicts* and National Center For State Courts: *Examining the Work of State Courts* published 2004.]

- "Tort reform does not reduce insurance premiums." American Insurance Association spokesman Dennis Kelly in an article published by the Chicago Tribune, Jan 3, 2005.

- Businesses file four times as many civil lawsuits as individuals and businesses that pay their lawyers an hourly fee are 69% more likely to be sanctioned for filing a frivolous lawsuit. [Source: Public Citizen Congress Watch, *Frequent Filers: Corporate Hypocrisy in Accessing the*

Courts published 2004.]

- "It is very rare that frivolous suits are brought against doctors. They are too expensive to bring." American Tort Reform Association general counsel Victor Schwartz in an article published in the LA Times, Oct. 22, 2004.

- The median damage award in State tort trials has declined 56% since 1992 and the largest jury awards in civil cases are consistently in business vs. business lawsuits which are not subject to tort reform caps on damages. [Source: Public Citizen, *id* and National Center For State Courts, *id.*]

- Over the last ten years auto insurance premiums have increased 21.5% yet the amount paid on bodily injury claims has remained the same. The majority of claim payments are for property damage claims not bodily injury claims. \$42 of every \$100 in premiums goes to pay property damage while only \$18 of every \$100 in premiums goes to pay bodily injury claims. [Source: Insurance Information Institute: *2005 Premium Statistical Compilation.*]

FAT CAT EXECUTIVES GET A 30% PAY INCREASE.

Pro-business and Tort Reform advocates like to blame "rich" Trial Lawyers for increasing the cost of products and services through a supposed "Litigation Tax." Yet, consider the following corporate salary information:

- Rick Wagoner, the Chairman and CEO of General Motors, received compensation totaling more than \$9.9 million in 2004, when he was leading GM into financial ruin.

- Edwin Crawford, the head of Caremark Rx, the nation's largest prescription management and pharmaceutical services business, took home more than \$17.3 million in 2005. No wonder American's are trying to buy prescription medication from Canada.

- William McGuire, CEO of United Health Group, Inc., made \$37.7 million in 2005. Do you think he's complaining about the high cost of healthcare?

- Lee Raymond, the head of Exxon made \$48.9 million in 2005, while Ray Irani, his counterpart at Occidental Petroleum, cleaned up with \$64.3 million. At \$3 per gallon they could buy almost 31,000,000 gallons of gas!

In 2005 the average CEO of a Standard & Poor 500 company earned \$11.8 million. This means these 500 executives were paid \$5.9 billion dollars in one year! **Their salaries in 2005 represented a 30% increase from 2004.** Maybe instead of trying to calculate a "litigation" tax, the U.S. Chamber of Commerce should calculate a "fat cat executive" tax. [Source: *2005 Trends in CEO Pay and Executive Pay Watch* published by the AFL-CIO, *Oil Executives Strike Gushers as Highest Paid*, Bloomberg.com and *Special Report: CEO Compensation* FORBES.COM]

So to summarize: Consumers and injury victims should continue to give up their rights to go to Court and limit the amount of damages they can recover so more and more businesses can sue each other without being subject to caps on damages and thereby help wealthy CEO's get another 30% pay increase. Now do you still wonder where tort reform groups such as Alabama Voters Against Lawsuit Abuse get all their money?

The social function of tort law is to reduce preventable injuries.

TRAFFIC SAFETY NEWS

MORE THAN 41,000 PEOPLE IN THE UNITED STATES DIE IN MOTOR VEHICLE CRASHES EACH YEAR. Crash injuries result in 500,000 hospitalizations and four million emergency department visits each year, according to the Center for Disease Control (CDC). The CDC characterizes motor vehicle crashes as preventable and estimates that 1,736,000 people will be injured in a motor vehicle crashes this year. The CDC estimates that these preventable crash injuries cost the United States \$150 billion each year. The CDC advocates that communities increase the proper use of child restraints and safety seats, increase the use of seatbelts and actively campaign to reduce the number of impaired drivers. Overall the CDC estimates that 50,000,000 Americans will be killed or injured in a preventable accident this year.

USE BOOSTER SEATS FOR CHILDREN. According to an article written by Dr. V.H. Reddy, President of the Alabama Chapter of the American Academy of Pediatrics, in 2003 twenty-three children ages four through eight were either killed or catastrophically injured in Alabama auto crashes. Dr. Reddy's article highlights the importance of using an appropriate child restraint system for children. His organization is lobbying for laws in Alabama which would require children under 4'9" to use a booster seat or a seat belt modification device to allow seat belts to better protect children. According to Dr Reddy, "Adult seat belts ride too high on a child's neck and can cause either neck or brain injuries; children who are under 4-foot-9 can slide under the seat belt, which can cause internal injuries; and some children can even roll out of the shoulder belt at an angle, putting tremendous pressure on the head and neck and even causing paralysis."

MORE INFORMATION ON CHILD PASSENGER SAFETY is available online at the web site of the American Academy of Pediatrics: www.aap.org/family/carseat-guide.htm. Also, you can find out about recalled child seats or booster seats by calling the Auto Safety Hot Line: 888 DASH-2-DOT (888 327-4236) or you can visit the National Highway Traffic Safety Administration (NHTSA) web site: www-odi.nhtsa.dot.gov/cars/problems/recalls/childseat.cfm.

DANGEROUS DRIVING DAYS. According to an article published on the Insurance.com web site, July 4th is the most dangerous driving day of the year with more fatal accidents happening on that day than any other throughout the year. The other most dangerous driving days are: July 3, December 23, August 3, January 1, August 6, August 4, August 12, July 2 and September 2. Saturday is the most dangerous driving day of the week followed by Sunday, Friday, Thursday, Monday, Wednesday and Tuesday.

NEWS FROM THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA).

- 55% of the people killed in traffic crashes in 2005 were not wearing seatbelts.
- Motorcycle crash fatalities increased by 7.7% in 2005.
- Traffic crashes cost society about \$820 per person per year.
- Alcohol related crash fatalities increased 1.7%.
- In Alabama alcohol related crash fatalities increased 6.8% from 2003 to 2004.
- Passenger car fatalities dropped 1.8% while light truck crash fatalities increased 4.3%.

NHTSA reports that seatbelt use is at an historic high of 82%, but of the 18% who do not use seatbelts a NHTSA study says

they are most likely to be young males living in a rural area or a pick-up truck driver. According to Acting Administrator Jacqueline Glassman, 48 million Americans still fail to buckle up. "It's an undisputable fact that safety belts help save lives. Still, millions of Americans aren't buckling up every time they are in a motor vehicle," said Glassman in announcing the 2006 "Click-It or Ticket" safety campaign.

THREE SECONDS IS ALL IT TAKES. Driver distraction is a factor in nearly 80% of all motor vehicle crashes according to a NHTSA and Virginia Tech Transportation Institute (VTTI) study. Nearly 80% of crashes and 65% of near crashes involved some form of driver inattention within three seconds before the event. Primary causes of driver inattention are distracting activities, such as cell phone use and drowsiness. The study monitored 100 vehicles as they drove 2 million miles over a year. The study also found:

- Drowsiness is a significant problem that increases a driver's risk of a crash or near-crash at least four times.
 - The most common distraction for drivers is the use of cell phones. However, the number of crashes and near-crashes attributable to dialing is nearly identical to the number associated with talking or listening.
 - Reaching for a moving object increases the risk of a crash by nearly 9 times.
 - Looking at a non-traffic related object outside the car increases the risk of crash by 3.7 times.
 - Applying make-up increases the risk of a crash 3 times as does manipulating a device such as a stereo, radio, MP3 player, etc.
- Previous NHTSA studies and reports also show eating and drinking while driving increases the risk of distraction and inattention and thereby increases the risk of a crash. The clear conclusion of this study is that drivers should limit their attempts to multi-task while driving.

SPEAKING OF CELL PHONES. The 2005 National Occupant Protection Use Survey conducted by NHTSA reports that at any given daylight moment 974,000 vehicles on the road are being driven by someone on a hand-held phone. This translates into an estimated 10% of drivers during a typical daylight moment are using some type of phone, whether hand-held or hands-free. The study also showed a 2% increase from 2004 in young drivers age 16-24 using cell phones while driving.

TOUGH DRIVING LAWS FOR TEENS REDUCES FATALITIES. A NHTSA study recently revealed that teen drivers in States with tough restrictions on teen drivers are 20% less likely to be involved in a fatal crash. The study focused on restrictions and limitations for teen drivers by State and rated the restricted or graduated licensing programs as Good, Fair, Marginal or Poor. The study rated Alabama's graduated or restricted licensing program as Fair.

RELAX, DON'T BE AN AGGRESSIVE DRIVER. While driving do you:

- Express Frustration?
- Fail to Pay Attention?
- Tailgate?
- Make Frequent Lane Changes?
- Run Red Lights?
- Speed?

If so, you may be driving too aggressively. NHTSA recommends that drivers relax and avoid placing too much stress on themselves while driving. Give other drivers the benefit of the doubt regarding their behavior and try to focus on being a cooperative driver. Be courteous.



AT THE FIRM

M&W Provide Car Seat Safety Brochure Free. The publication, *Car Safety Seats: A Guide for Families 2006* from the American Academy of Pediatrics is now available free from M&W. This publication provides important safety information on infant car seats, child car seats and booster seats. If you want to be sure that you are using a child restraint system properly, this publication can help. Please call 251 433-7766 for a free copy.



M&W ATTORNEYS SPEAK AT SEMINAR FOR SENIORS ON AUTO-INSURANCE ISSUES. Steve Moore and Mark Wolfe were recently guest speakers for a seminar for senior citizens on auto-insurance. The forty-five minute presentation covered the various types of insurance coverage contained in a policy along with information on how various coverage provisions worked. The seminar was held at the Mary Abbie Berg Senior Center and M&W provided free handouts to those in attendance.

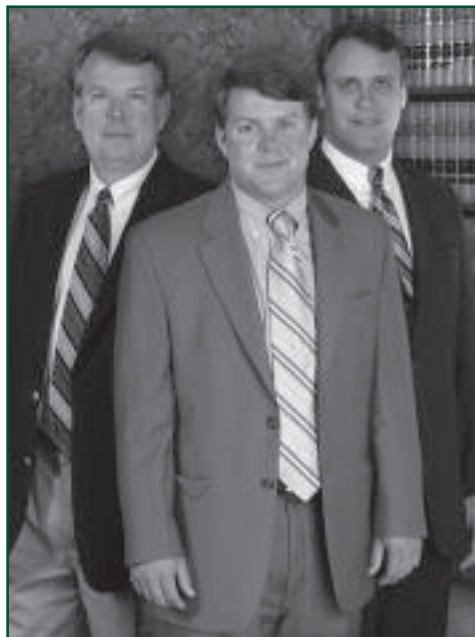
Community Giving. Last quarter charitable activities continued to be an important outreach to our community. At M&W we believe that being active in our community is an important part of our law firm's identity. At M&W doing good work for our community is just as important to us as doing good work for a client. The following programs and/or organizations received contributions from M&W last quarter:

- South Alabama Trial Lawyers Association - 7th Annual Charity Golf Tournament.
- 2nd Annual NOBLE Scholarship Fundraiser.
- The Elijah House Ministries.
- Boys and Girls Clubs of South Alabama.
- Little Sisters of the Poor – Corporate Sponsors for Charity Golf Tournament.
- Mobile Police Officers Association.
- Newness of Life Outreach Center.
- Mission of Hope.

The South Alabama Trial Lawyers Association (SATLA) raised over \$4000.00 for local charities with its recent golf tournament. Steve Moore currently serves as the co-chairman for SATLA and Knox Boteler is on the SATLA Executive Committee. Since its inception in 1998, SATLA has raised and donated over \$65,000 for local charities and consumer protection programs.



M&W WEB SITE HAS MORE INFORMATION FOR AUTO-NEGLIGENCE VICTIMS. In addition to providing auto-negligence victims with a free handbook, the M&W web site (www.moore-wolfe.com) also has additional information. Topics include how insurance adjusters handle claims, how to go about selecting a personal injury attorney, information about property damage claims and many other accident related articles. The web site also has over 100 links to other auto-accident related sites.



Leaders in car accident claims and litigation

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