

LEGALLY SPEAKING.®

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

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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.

ATTORNEYS RECEIVE HIGHEST RATING _____

MOORE AND WOLFE LAWYERS RATED IN TOP 15% IN AMERICA. Steve Moore and Mark Wolfe each recently received AV ratings from the Martindale-Hubbell Peer Review Rating Service. The rating is a result of a confidential peer review by the members of the Mobile Bar Association. Martindale-Hubbell publishes a nationwide attorney and lawyer directory and is a division of LexisNexis. In the announcement notification, Martindale-Hubbell described the AV rating as follows: "The AV rating, which identifies a lawyer with very high to preeminent legal ability, is a reflection of your expertise, experience, integrity and overall professional excellence. Our ratings, established by attorneys for attorneys, clearly indicate you demonstrate the highest professional and ethical standards."

According to David Moyer of Martindale-Hubbell, "only 15% of lawyers in America ever receive an AV rating." He also said, "the rating system equally reviews legal skills related to the attorney's area of practice and ethics."

NEW WEB SITE UNDER CONSTRUCTION _____

A new and improved web site is currently under construction for Moore & Wolfe. "While we have been very pleased with our current web site, we feel it is time to update our site to be a little more consumer oriented", said M&W office manager Tina Hanley. She said the new web site will retain the www.moore-wolfe.com domain location and should be in place within the next four to six weeks. The new web page will mainly focus on improving consumer links and information for car accident victims. The current M&W web site will remain on-line until the new site is uploaded. The current M&W web site has been on line for almost seven years and has been viewed by more than 37,000 visitors.

IRC STUDY REPORTS THAT INJURIES OCCURRED IN 26.4% OF 2003 CAR ACCIDENTS _____

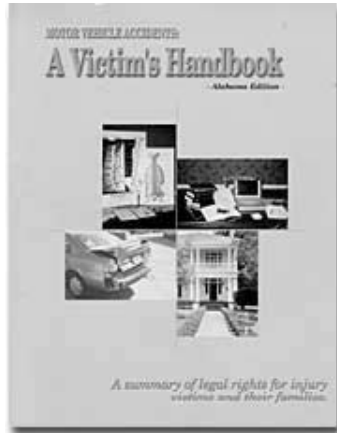
STUDY ALSO SHOWS THAT SERIOUS INJURIES FROM CAR ACCIDENTS ON THE DECLINE. The Insurance Research Council (IRC) recently concluded and published its study, Trends in Auto Injury Claims, 2004 Edition. The study of 2003 auto accident claims revealed that about one in four auto accidents resulted in a personal injury claim. The research also suggests that the seriousness of these personal injury claims has decreased in recent years. "Indicators such as extent of disability, days of restricted activity, and time lost from work tell us that auto accidents are producing fewer serious injuries", said Elizabeth A. Sprinkel, senior vice president of the IRC. She attributes the decline in serious injuries to the manufacture of safer cars and auto safety campaigns. According to past IRC studies the "one-in-four" injury to accident ratio has remained about the same since 1980. A review of similar reports from 1980 and 1995, and the current report, shows injuries occurring in an average of 24.6 % of all auto accidents.



dedicated to protecting the rights of injury victims and their families

HANDBOOK FOR MOTOR VEHICLE ACCIDENT VICTIMS IS FREE

This free publication provides motor vehicle accident victims with a general overview of their legal rights. It includes a section on Insurance coverage and provides important information on



how Insurance Companies view and handle claims. It also contains a section on Hiring an Attorney with important questions and considerations when making this important decision. Since its original publication in 1994, 25,000

copies of this informational booklet have been printed and distributed. IF YOU HAVE BEEN INJURED IN A MOTOR VEHICLE COLLISION, PLEASE CALL 251 433-7766 FOR A COPY.

FACT OR FICTION: AUTO INSURANCE PREMIUMS

A RECENT STUDY BY THE INSURANCE INFORMATION INSTITUTE PROVIDES INTERESTING FACTS AND STATISTICS ABOUT AUTO INSURANCE PREMIUMS IN AMERICA. The Insurance Information Institute recently published tables and statistics compiled from various sources including the National Association of Insurance Commissioners, Insurance Research Council, A.M. Best Company, Inc. and ISO (Insurance Service Organization) regarding auto insurance premiums. We've all heard the battle cry from the insurance industry: "frivolous personal injury claims and junk lawsuits are responsible for increased auto insurance premiums." Is that true? You decide.

Fact or Fiction? In the last ten years auto insurance premiums have increased by \$137.00. **Fact.** In 1993 the average expenditure nationwide for auto insurance was \$637.00. In 2002 this had increased to \$774.00. This is an increase of 21.5%! In fact auto insurance premium averages have increased every year since 1993 except for 1998 and 1999.

Fact or Fiction? The increase in auto insurance premiums is because more money is being paid out by insurance companies on personal injury claims. **Fiction.** The amount of money being paid by insurance companies on personal injury claims has remained constant for the last ten years. In 1994 the average payment on bodily injury claims was \$10,277. In 2003 the average payment on bodily injury claims was \$10,454. The ten year average for payments on bodily injury claims from 1994 to 2003 was \$9,886.80. This average reflects average bodily injury claim payments of less than \$10,000 in 1995, 1996, 1997, 1998, 1999 and 2000.

Fact or Fiction? Bodily injury claim payments are a lot more than property damage claim payments. **Fiction.** In 2003, \$42 of every \$100 in premiums went to pay for damage to cars. In that same year only \$18 of every \$100 in premiums went to pay injury claimants.

Fact or Fiction? From 1977 to 2002 the number of serious injury claims from auto accidents has dramatically increased. **Fiction.** According to the Insurance Research Council the percentage of claimants in the Experiencing Disability/Fatality category (the most serious injury category) has decreased from a high of about 60% in 1977 to an all time low of about 28% in 2002. Safer cars and safer drivers, including use of seatbelts, are the reason for this significant decrease in serious injury claims over the last 25 years.

Fact or Fiction? Auto insurance premiums in Alabama are very high because Alabama is "Tort Hell" according to the U.S. Chamber of Commerce and the Wall Street Journal. **Fiction.** While it is true that Alabama is called "Tort Hell" by pro-insurance groups such as the U.S. Chamber of Commerce and Alabama Voters Against Lawsuit Abuse, the fact is auto insurance premiums in Alabama are among the lowest in the country. In 2002 the average expenditure for auto insurance in Alabama was \$625.95. This ranked Alabama 40th on the list of auto insurance costs. New Jersey was the most expensive with an average cost of \$1,112.86 and North Dakota was lowest with an average cost of \$532.81. If Alabama was truly "Tort Hell" wouldn't we have the highest auto insurance premiums in the country?

Fact or Fiction? After payment of claims, administrative expenses, license fees, dividends, taxes, etc. auto insurance companies only make about 4% profit on premiums collected. **Fact.** But when you consider that companies like State Farm Mutual Group took in over \$30 billion in premiums, a 4% profit margin still means an annual profit of \$1.2 billion!

Please visit the Insurance Information Institute web site at www.iii.org/ to further review the above conclusions and statistics.

TRAFFIC SAFETY NEWS

Use Head Restraints Correctly. The Insurance Institute for Highway Safety reports that properly positioned head restraints can limit head movement (commonly known as whiplash) during a rear-impact crash. For accurate placement, the space between the back of your head and the front of the head restraint should be no more than four inches. Also, the restraint should be as high as your head's center of gravity, which is about three inches below the top of your head.

Biomechanics Critical In Understanding Dynamics of Car Crash Injuries. In a recent article, Mariusz Ziejewski, Ph.D identified three critical biomechanical factors related to analyzing car crash injuries. These are vehicle dynamics, human body dynamics and human body tolerances.

- Vehicle dynamics are a starting point and analysis includes severity of the collision, structure of the vehicle and duration of impact. Dr. Ziejewski states that damage severity, or lack thereof, alone does not prove or disprove injuries in a motor vehicle accident. He references various situations where property damage does not always correspond with the degree of injury.

- Human body dynamics includes an analysis of the force exerted on the body as a result of the collision and the occupant's physical characteristics. These include, body dimensions, seat position and body position at impact, age, gender (he references studies showing women are more susceptible to whiplash injuries than men) and the victim's overall physical condition.

- Human body tolerances (HTB's) attempt to identify how much force specific areas of the body can withstand without injury. These tolerance values will vary and usually include a broad spectrum. Therefore this type analysis is based upon average tolerance levels. As with property damage, using only HTB's to try and explain an injury is not advocated.

Dr. Ziejewski concludes that identifying the biomechanical risk factors is critical in understanding the trauma's severity and explaining how the trauma occurred.

Low Impact Accidents Can Cause Injuries. Biomechanical analysis of "low-impact" car accident reveals sufficient force to cause injury. In low speed impact situations, the failure of the vehicle to crush and absorb energy from the impact results in energy transference to the body of the occupants. Despite what insurance adjusters and skillful insurance defense lawyers claim, injuries do occur in some minor accidents that do not involve significant property damage. While most people are not injured in a "fender bender", biomechanical analysis shows that forces greater than average human body tolerances do occur in low speed accidents. These forces combined with the occupant's body dynamics and risk factors "provides direction in communicating why a specific low speed accident had certain severity", stated Dr. Ziejewski. Studies from various research institutes and agencies have found injuries requiring medical attention and medical care occur in 10 to 15 % of all "fender benders".

Dr. Ziejewski's article can be found in the Winter 2005 newsletter of the ATLA Motor Vehicle Collision & Premises Liability Section, page 3.

Eating and Using Cell Phones Most Common Distractions. Insure.com reports that eating while driving and talking on a cell phone while driving are the most common distractions for drivers. In a report on dangerous drivers, the online reporting company found that 77% of bad drivers frequently or occasionally talk on a cell phone while driving. They also report that 60% of bad drivers frequently eat or drink while driving.



AT THE FIRM

- The Carriage House addition to the M&W office is now complete. The two story structure behind the M&W office will add about 1000 square feet of additional work space. Besides several extra offices, the new structure will also have a small conference room located on the first floor.

- Effective use of technology helps us keep our fees stable. As reported in previous issues of Legally Speaking, more and more auto-injury attorneys are charging contingency fees of 40% or higher for auto-negligence cases. Our fee for auto-negligence cases has remained at one-third (33 1/3%) for over 15 years. At M&W we believe our commitment to effectively utilizing technology has allowed us to keep our fees stable while many of our peers increase their fees.

- New Data Management System on the way. Over the last several months we have been working with David Akridge to design and implement a new data management system for M&W. The new program works off the Microsoft Access platform and has been specifically designed for our law firm. The new data management program will better help us keep up with the over 8,000 clients, former clients and contacts in our data base. In addition this state-of-the-art data management system will make us more effective and efficient in handling our day to day tasks related to claim and litigation files.

- In conjunction with the implementation of our new data management program, M&W will be installing a new network server and upgrading all office computers. The M&W server was upgraded two years ago; however, a significant increase in memory capacity is needed to handle the new data management program as well as the increased number of computers working on the M&W network.

- M&W help sponsor SATLA Charity Golf Tournament. Once again this year, M&W will be sponsors for the South Alabama Trial Lawyers Association's Charity Golf Tournament. The tournament is named in honor of the late Judge Delano Palughi and funds raised from the tournament benefit area charities.

“DO I NEED AN ATTORNEY?” Consider these facts

Too many injury victims are “re-victimized” when, without legal representation, they try to deal with insurance adjusters. Adjusters are trained in how to discourage claimants from seeking legal advice. Insurance companies know they have an advantage when their adjusters are dealing with an unrepresented claimant. Consider these facts:

1. An insurance adjuster has no legal obligation to tell a claimant the amount of restitution actually owed. Furthermore, since the adjuster works for the insurance company he or she has a financial incentive to settle a claim as cheaply as possible.
2. In a third party liability claim, the adjuster works for the at-fault driver and not the claimant. That means the adjuster must try to protect the interest of its insured over the interest of the claimant.
3. An insurance adjuster can not offer legal advice to a claimant. This becomes critical when a claim involves aggravating circumstances such as DUI on the part of the at-fault driver, mitigating circumstances and/or complicated legal issues such as subrogation claims.
4. Consulting an attorney does not make a claimant a “greedy person.” Of all the tactics used by insurance adjusters to discourage claimants from seeking legal advice, this one is the most aggravating for us as personal injury attorneys. Adjusters know that most claimants are trusting people and are not looking to recover anything more than the fair restitution owed. They play on these two characteristics and say or imply that the claimant is “greedy” if he or she goes and gets an attorney. “Now Claimant John Doe, you don't seem like the kind of person that's going to run out and get you a lawyer.” What is so frustrating about this is that we have seen a number of situations where insurance adjusters use this technique to take advantage of a claimant. In short they use the good character of the claimant to their advantage and to the serious detriment of the claimant.
5. Insurance adjusters have access to legal advice on various issues which may affect the Company's exposure on a claim. Simply put, adjusters don't want a claimant to seek legal advice but the adjuster will get legal advice in a heartbeat if it means the company might be able to “save a buck or two.”
6. If it was not to their advantage, why would insurance companies spend so much time and money developing methods and programs to keep claimants from seeking legal advice? Why would they send adjusters to seminars on this topic? Why would Allstate take the time and energy to develop a brochure to discourage claimants from seeking legal advice?

The above facts clearly show that injury victims should know their legal rights and should not rely on the insurance adjuster to “do the right thing.” Protecting your rights and expecting an insurance company to pay the full amount of restitution owed does not make you a “greedy” person.



*Leaders in car accident
claims and litigation*

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