

LEGALLY SPEAKING[®]

A quarterly newsletter for friends and clients of
MOORE & WOLFE, Attorneys at Law

WINTER, 2004

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.

INJURY VICTIMS: KNOW YOUR RIGHTS

HANDBOOK FOR MOTOR VEHICLE ACCIDENT VICTIMS IS FREE. Our publication *Motor Vehicle Accidents: A Victim's Handbook*-Alabama Edition has been recently updated. This free publication provides motor vehicle accident victims with a general overview of their legal rights. It includes a section on Insurance Coverages 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 decision.** Since its original publication in 1994, 25,000 copies of this important booklet have been printed and distributed. IF YOU HAVE BEEN INJURED IN AN ACCIDENT, PLEASE CALL 251 433-7766 FOR A COPY.

OTHER PUBLICATIONS AVAILABLE. In addition to the Motor Vehicle Accident Handbook, we also have a number of other legal publications and legal brochures available for consumers and injury victims.

RECOMMENDATION OF SERVICES

EIGHTY PERCENT OF OUR CLIENTS COME FROM YOUR RECOMMENDATION. At M&W we are very proud of the fact that the majority of our clients come to our office from the recommendation of former clients and people in the community who are familiar with our experience in representing injury victims. The attorneys at M&W have over 40 years of combined legal experience and have helped thousands of injury victims and their families. If you have a friend or family member with a legal question, please feel free to tell them to call our office. If they have been injured encourage them to schedule an appointment with one of our attorneys as soon as possible. CONSULTATIONS ARE FREE AND ATTORNEY FEES ARE ONLY PAID IF WE RECOVER COMPENSATION FOR THE VICTIM.

**LISTEN FOR THE MOORE & WOLFE
MORNING TRAFFIC REPORTS ON
WABB-FM 97.5 AND WABB-AM 1480**

FRIENDS DON'T LET FRIENDS HIRE TV LAWYERS

LACK OF STRICT REGULATION PUTS CONSUMERS AT RISK WHEN HIRING AN ATTORNEY FROM A TELEVISION COMMERCIAL. Many attorneys are now advertising on television for personal injury clients. Some of these attorneys are local and some do not even have offices in Alabama. The problem for consumers is that Alabama law does not strictly regulate attorney television advertisements. Actors are allowed to appear in place of the actual attorneys. Advertising companies can sell slick canned ads that provide no meaningful information to the consumer and some ads can be misleading.

Some TV commercials depict lawyers in a courtroom even though the lawyer may have never tried a personal injury case. Insurance companies know which lawyers have **real** courtroom experience and which ones don't.

Some TV ads try to lure injury victims with promises of great financial gain. Many times this leads to unreal expectations and eventual disappointment for the victim.

TV commercials are expensive and can create a financial drain on law firm resources. The skill to litigate a potential claim is important but equally important is having the financial resources to litigate a claim. Even a simple auto-negligence case can involve several thousand dollars in expenses to

This publication provided as a service of

Moore & Wolfe

Attorneys at Law

1252 Dauphin Street
Mobile, Alabama 36604

www.moore-wolfe.com

251 433-7766

*dedicated to protecting the rights of injury victims
and their families*

dedicated to protecting the rights of injury victims and their families

successfully litigate through trial. (Continued on page 2)

FRIENDS DON'T... continued from page 1. Lawyers or law firms who are spending large amounts of money for TV commercials may not have the long term financial resources to invest in a client's potential case. Also, some TV lawyers are now using excessive contingency fee contracts of 40% to 45% on routine negligence cases to cover the cost of advertising. [M&W fee on routine negligence cases is one-third (33 1/3%) which has been the standard fee for personal injury attorneys for over 35 years.]

WHAT THE CONSUMER SHOULD KNOW WHEN HIRING A PERSONAL INJURY ATTORNEY. While there are reputable and experienced attorneys who advertise on TV, it is clearly a situation of "buyer beware." Two key elements to consider when hiring an attorney are Trial Experience and Resources.

TRIAL EXPERIENCE. You should not be afraid to ask the lawyer about his or her trial experience in handling similar legal matters. The goal in handling a personal injury claim or case is to resolve the matter for a fair amount without having to subject the client to the stress, strain and uncertainty of a trial.

While it is true that most civil claims and cases settle without a trial, trial experience is critical when hiring a personal injury attorney. Insurance adjusters know and rate the experience level of the attorney representing a claimant. This is a factor in their evaluation of a claim. Some law firms that advertise on TV are nothing more than "claim factories" and their attorneys have very little, if any, courtroom experience.

Talk with people in the community about their recommendations. Many healthcare professionals have knowledge about the skill and experience of local attorneys.

RESOURCES. When hiring a personal injury attorney you should also consider the resources of that lawyer and law firm. This includes the financial resources necessary for the expenses of the claim or case and the general resources such as personnel and technology. A lawyer's commitment to having skilled and qualified support personnel is reflective of an attorney who wants the best for his or her client. Likewise attorneys who want to be efficient and effective for their clients utilize up to date technology and state of the art office equipment. Simply put, if the lawyer does not want to, or can not afford to, invest adequate resources into his or her own practice, what makes you think he or she will invest adequate resources in your claim or case?

Hiring a personal injury attorney is a very important decision. An injury victim should feel comfortable with their choice of attorneys and feel secure in their decision. If you have a friend or family member who needs a personal injury attorney, please share this article with them.

LEGALLY SPEAKING CIRCULATION TOPS 35,000 COPIES THIS QUARTER. Call 251 433-7766 to be added to our regular mailing list. Back-issues of Legally Speaking are on our web site: www.moore-wolfe.com

AT THE FIRM,

BOTELER AND WOLFE CERTIFIED AS TRIAL ADVOCATES. The National College of Advocacy has certified Knox Boteler and Mark Wolfe as *Trial Advocates* in conjunction with the institutions continuing legal education curriculum. Boteler and Wolfe received their certificates in November and the certification recognizes their completion of over 40 hours of litigation training through the National College of Advocacy.

WOLFE SPEAKS AT SOUTH ALABAMA TRIAL LAWYERS ASSOCIATION SEMINAR. On November 21, Mark Wolfe spoke to over 50 lawyers from the South Alabama area on "Constructing an Effective Opening Statement." Wolfe was one of six speakers to do a presentation at the seminar. He is a frequent speaker for statewide and regional Continuing Legal Education seminars and has over 75 hours of teaching credits. Most topics involve trial or litigation strategies and techniques.

MOORE MODERATES LUNCHEON FOR AREA HEALTHCARE PROFESSIONALS. On November 19, Steve Moore served as moderator for a legal update program for area healthcare professionals. The luncheon was held at Carrabas on Airport Blvd. and in addition to hearing from local attorneys on a variety of issues, the 35 attendees were addressed by Keynote Speaker, **Judge George Hardesty** of the Mobile County District Court. Judge Hardesty discussed the role of District Court in the Alabama Court system and the impact recent budget cuts may have on the operating efficiency of the District Court.

Also at the luncheon Judge Hardesty made known his intent to seek re-election to the bench in 2004. Before taking the bench, he was an Assistant District attorney in Mobile County for many years. At this point he has drawn no formal opposition. Judge Hardesty has been a fair judge and has run his courtroom in a professional and efficient manner. M&W endorses his re-election.

ONE TERM IS ENDING AND ANOTHER IS BEGINNING. Steve Moore was the 2003 Chairman for the South Alabama Trial Lawyers Association (SATLA). SATLA is a professional group of over 75 lawyers who primarily represent injury victims and consumers. Under Steve's tenure the organization had a very successful year and completed a variety of worthwhile projects. These included purchasing 50 bicycles for deserving children at the Prichard Boys and Girls Club and a substantial donation to the Salvation Army's Neediest Family Campaign. Knox Boteler has been selected for the 2004 SATLA Executive Committee and the organization will continue to comply with its mission statement:

*Lawyers from the community
helping people in our community.*

dedicated to protecting the rights of injury victims and their families

TWO CASES EXEMPLIFY CORPORATE GREED

Two recent cases clearly exemplify the problem of greed and avarice embedded in Corporate America. One of the cases was the Exxon/Mobil case tried in Alabama and the other is the ongoing criminal trial of former Tyco International CEO, Dennis Kozlowski.

In the Exxon/Mobil case, the giant energy company was caught trying to take questionable "business deductions" related to the operation of gas wells. These deductions reduced the amount of royalties paid to the state of Alabama under the lease agreement. Of the hundreds of questionable deductions claimed by Exxon/Mobil one truly stood out as blatantly dishonest. Exxon/Mobil had claimed \$64,000 in expense deductions for a "corporate picnic" to Biloxi, MS for upper level management personnel.

In the Kozlowski trial, jurors recently saw a video from the former CEO's \$2 Million birthday bash for his wife. The lavish and decadent party was held on the Italian island of Sardinia. Our own local hero, Jimmy Buffett was flown in to play the bash for 75 guests. Prosecutors contend that over half of the cost of this party was paid for by corporate money and as such represents a theft from shareholders. Prosecutors also contend that this is just one example of how Kozlowski looted hundreds of millions of dollars from Tyco and its shareholders for his own personal gain.

Over the last several years we have witnessed time and time again the dishonest and unethical behavior of some of the worlds largest corporations. Yet regulations on these large corporations continue to be reduced or minimized. In addition many of these same corporations support and advocate tort-reform laws which will make it even harder for them to be held accountable for wrong doing via the civil justice system.

Insurance Adjusters Are Not Attorneys

ACCIDENT VICTIMS CAN RECEIVE BAD "LEGAL" ADVICE FROM ADJUSTERS. Over the last few years we have seen an increase in problems associated with insurance adjusters giving legal advice to claimants. Most insurance adjusters in Alabama are not law school

The Alabama Department of Insurance (long recognized as one of the weakest Consumer protection agencies in the Country) has now authorized auto-insurance companies in Alabama to exclude liability coverage for punitive damages. Some companies such as Farmers Insurance Group have already begun modifying policies to exclude this type of liability coverage. Punitive damage liability claims often arise from gross negligence or wanton conduct such as excessive speeding or driving under the influence of alcohol. Many consumers do not even know their policy has been changed to reduce their liability coverage. [We have seen no evidence that these companies reduced premiums in conjunction with this reduction

graduates or licensed attorneys yet they summarily decide complicated legal issues. In some instances they even give legal advice or commentary. This is not just a problem in Alabama. In the July 2002 edition of **Legally Speaking** we reported on a case out of Washington where an adjuster was sued for legal malpractice related to bad advice she gave a claimant. In that case the Washington Supreme Court held that the adjuster, who was not a licensed attorney or a law school graduate, was liable for legal malpractice because of improper legal advice she gave to a claimant. Recently, we became involved in a claim where the victim's Medicare/Medicaid rights were about to be adversely effected because the insurance adjuster handling his claim did not know the various rules and regulations regarding Medicare benefits and a liability settlement. The adjuster was going to pay the claimants benefits directly to Medicare which would have waived his right to claim a "hardship exclusion" for repayment under the law. Besides allowing for a waiver of repayment in certain cases of hardship, the Federal law also authorizes the establishment of Special Needs Trusts for victims. These SNT's allow a victim to keep a portion of their liability settlement without having to forego future Medicare benefits. In addition to the above error, the adjuster had paid some of the claimants benefits to the hospital even though the hospital had already accepted payment of Medicare benefits. **We have seen similar errors when liability adjusters attempt to re-pay a claimant's health insurance company.**

What causes us additional concern is the fact that many insurance adjusters are trained and encouraged to keep injury claimants from seeking legal advice. The insurance industry continues to perpetuate the idea that "only greedy people" go see an attorney. The truth is that insurance claims can be complex and involve a variety of legal issues. A claimant who relies on an insurance adjuster to correctly and appropriately evaluate these complex legal issues is at risk of not recovering the full amount of benefits available.

CONSUMER ALERT: Some Auto-Insurance Companies Reduce Coverage

in coverage.] Check with your agent today to see if your Company has modified your policy. We would encourage you to consider switching to a company that does not limit your liability coverage. If your policy does exclude punitive damages then you need to be extremely careful when driving and be extra cautious when allowing someone to use your car. Their reckless behavior could put your personal assets at risk.

PLEASE BE A SAFE AND COOPERATIVE DRIVER