



JUSTICE FOR ALL

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Justice for All is published by the law offices of Benjamin W. Glass, III, & Associates. It is for informational purposes only and no legal advice is intended. Each case is different and you are invited to discuss your legal question with Mr. Glass at no initial cost.

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The Ford/Firestone recall and our tort system

In the past decade, more than 145 people died and over 300 more were seriously injured in Ford Explorer rollovers caused by Firestone tire failures. As the two corporations wage legal and public relations battles to see who is more responsible, and as elected officials and government regulators call for investigations into its causes, the rest of us are left to come to some conclusions about the Ford/Firestone tragedies.

Weak regulatory bodies

Understaffed and without sufficient authority, the National Highway Traffic Safety Administration had no way to identify or track safety-related problems until the car makers and suppliers chose to tell them about it. That happened only after Ford and Firestone were repeatedly sued, and the subsequent recall occurred too late to save enough lives. The media weren't privy to the problem early enough, either.

Secrecy kills

Ford and Firestone were able to postpone public scrutiny of the problem by withholding consumer complaints about the problems and forbidding plaintiffs and their lawyers from revealing anything about their lawsuits, and by sealing court records and documents following settlements.

Punitive damages work

In the absence of real criminal penalties, punishment in the form of punitive economic sanctions from juries of fair-minded people serve as a highly effective way of sending warnings to corporations and encouraging them to avoid inappropriate and egregious wrongdoing.

America's tort system delivers

Only an unfettered civil justice system can identify hazards, hold people and companies accountable for creating dangers, compensate those harmed, and prevent others from being harmed.

When we hear people talk about the need for tort "reform," remind them about Firestone and Ford. Such "reform" would protect the companies from the families they hurt.

The work of lawyers

The first lawsuits were filed in 1992, serving notice to Ford and Firestone that others knew about the problem. Over the decade, victims' lawyers unearthed and worked to expose documents—which Ford and Firestone fought to keep secret—that are now being used to warn drivers around the world of the defective tires.

Our civil justice system

America's civil justice system is forcing Ford and Firestone to compensate those who were injured by the companies' irresponsible behavior. Settlements paid by the companies have already helped devastated victims to get their lives back in order and have given them a measure of justice.

An early start

Before journalists wrote about it, before NHTSA investigated it, and before Congress was concerned about it, our civil justice system was working to unveil the truth about the tread separation tragedies.

Protecting the future.

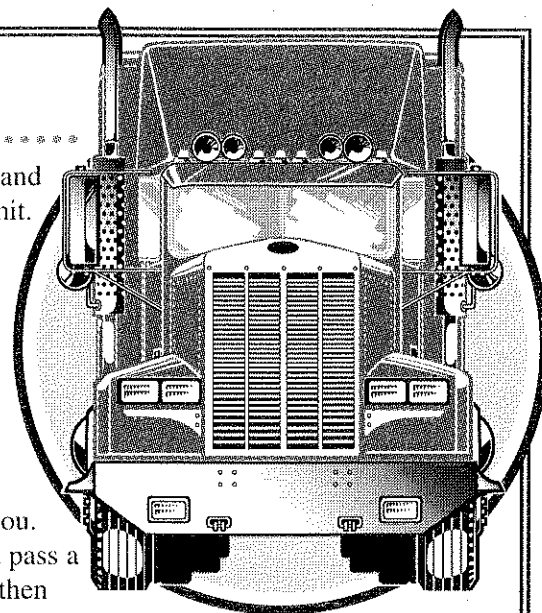
BIG TRUCK SAFETY

According to its 1998 annual report, U.S. Department of Transportation records show that more than 5,300 people died on America's roads in crashes involving large trucks. When cars and big trucks collide, automobile drivers and passengers suffer 98 percent of fatalities.

Trucks are big, up to 60 feet long and weighing up to 120,000 lbs., so they can't maneuver or stop as quickly as cars, making them very dangerous. Further, truck drivers face incredible pressure to make long-distance deliveries as fast as they can. As a result, driver fatigue and lack of sleep contribute significantly to crashes and driver deaths. A study showed that nearly three out of five drivers violated rules regarding how many hours they could drive each day, with many drivers falsifying mileage log books to conceal their time on the road.

When you drive on highways, here are several ways to protect yourself and your passengers.

- Wear seat belts and drive the speed limit.
- Avoid truckers' blind spots. Don't tailgate or drive on a truck's right side. If you can't see the driver in the truck's rear-view mirror, the trucker can't see you.
- When you must pass a truck, signal first, then drive on the left and leave lots of room before getting back into your lane.
- Keep your distance from trucks, and pull over when trucks merge on to highways in front of you.
- Be alert to trucks that pull off to register at weigh stations or get into truck lanes on hills.
- If you drive slowly on multi-lane highways, stick to the right lane and use flashers so that trucks can pass you in other lanes.
- Slow down when visibility or weather conditions require it.



FOR YOUR SAFETY Recalled product roundup

Here are some recently recalled products you may have at home or at work.

- ✓ **Binding Corp.** has recalled 3,000 paper shredders. Owners could lift the paper shredder lid, which lacks a protective shield, while it is running and suffer cuts or amputations of finger tips from spinning blades.
- ✓ **Small Beginnings, Inc.**, has recalled 16,000 baby pacifiers that failed U.S. Consumer Product Safety Commission testing standards and can choke infants.
- ✓ **Lifetime Hoan Corp.** recalled 132,000 fondue sets to replace alcohol burners that can produce high flames beyond the pot, or tip over and burn diners.
- ✓ **Kent International, Inc., and Kash 'N Gold, Ltd.**, recalled nearly 100,000 Kent Kickin' Mini-Scooters lightweight scooters. Handles can loosen from the steering column when securing clamps are not tight and injure riders.
- ✓ **Cosco, Inc.**, has called back about one million Options 5 High Chairs, whose seats can separate from the frame in the reclining position and cause head, face, and bodily injuries to infants.
- ✓ **American Honda Motor Company, Inc.**, recalled 22,000 off-road motorcycles. Two handlebar bolts can break, causing the rider to lose control and become injured.

Your rights in truck accidents

- CASE 1:** After a driver was severely injured in a crash with a cement truck, her lawyer sued the driver's employer for negligence. The cement company settled when the attorney demonstrated that the company's high-pressure delivery policies provided an incentive for its drivers to drive aggressively to maximize their compensation.
- CASE 2:** A husband sued a trucking company after his wife died in a fiery accident involving one of their vehicles. The firm settled when his lawyer proved that the truck's driver had violated federal motor carrier safety regulations by driving more than 18 hours without eight consecutive hours off at the time of the accident.
- CASE 3:** Several passengers were severely injured when their car collided with a truck that had jack-knifed while trying to back up to a missed exit. The plaintiff's lawyer sued on their behalf, alleging trainee-driver negligence for improperly backing up, failing to adequately train a new driver, and not having a policy that required the truck's owner, who was in the cab, to stay awake and supervise his trainee-driver.

Verdict against Allstate insured

In May, a Fairfax jury awarded \$165,000 to one of our clients for injuries she received in an automobile accident. She had been hit, and suffered serious foot injuries, when the defendant crossed the center line of a residential street. The defendant was not paying attention because she was trying to fix her shoe that had fallen off.

This case is important because it shows that some insurance companies refuse to settle even the strongest cases against them. This case also shows, once again, why you should check your own automobile insurance policy right now and see if you have enough of the right coverage.

Before trial, the insurance company admitted that the defendant was at fault. Allstate sent our client to a well-known local orthopedist for an independent medical examination. He completely agreed with the client's doctor about the nature and extent of her injuries. (She had foot surgery that resulted in three pins being inserted

into her foot to repair a bad fracture/dislocation. She had a 30 percent permanent disability of her foot and is in constant pain.)

Our client had \$18,300 of past medical bills and about \$27,000 in future costs for anti-arthritis medication. Despite the fact that there was no real dispute about the facts, Allstate refused to offer more than \$50,000 prior to trial.

The defendant had only \$100,000 of insurance. This is too low. Fortunately, our client (as we have advised all of our readers on many occasions) had \$300,000 of underinsured motorist protection. This type and amount of insurance provides protection to you when a careless driver has low limits of insurance.

We offered to accept the \$100,000 maximum coverage from Allstate, but they refused to budge. The jury, after a one-day trial, awarded \$165,000. Allstate immediately paid the entire amount of the judgment.

CASES WE ARE CURRENTLY WORKING ON...

Here is a sample of the kinds of cases we are currently handling:

- A 51-year-old female presented to the emergency room at a local U.S. Military Hospital on a holiday morning. She complained of feeling "terrible." She was seen by a doctor who does contract medical care for the government. She did not know that he did his medical school training outside the country. At the emergency room, her temperature was taken and determined to be over 104 degrees. Her lungs had sounds that indicated she had an infection, yet the doctor made a diagnosis of "back sprain." She was discharged, only to be admitted several days later to Arlington Hospital, where she spent several weeks on life support, recovering from a dangerous lung infection. We allege that our client needed to be hospitalized and given antibiotics on the day that she first went to the military hospital.

- A ten-year-old cystic fibrosis patient went to Fairfax Hospital for a routine procedure. While she was there, we allege that a hospital intern changed a medication order without consulting with the attending physician. After that, her condition changed for the worse, yet no nurse or resident called the attending physician to notify

him of these changes. Overnight, her bowel ruptured and she became septic. Unfortunately, she died several weeks later. The attending physician has already given a deposition in which he criticizes the care that the child received from the intern, the residents, and the nurses. This case will go to trial in October.

- A gentleman went to a local surgical center for removal of a peri-anal cyst. His doctor ordered antibiotics but the hospital never gave them. Unfortunately, he developed necrotizing fasciitis (flesh-eating bacteria) of his buttocks and spent several weeks at the Medical College of Virginia burn unit, where he underwent many surgeries to repair his wounds.

- A man went to Northern Virginia Community Hospital for a routine operation to replace his failing hip. He had had many surgeries in the past without any problem with anesthesia. This time, the anesthesiologist punctured his esophagus, nearly killing him. He spent many months in the hospital and many more months at home, feeding himself with a feeding tube. This case is filed in the federal court and will go to trial later this year.

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TAX MALPRACTICE

Representing Individuals Against Insurance Companies, Corporations, and the Government

Thank you for your referrals

Many of our past and current clients, as well as readers of this newsletter, have referred cases to us. We are reviewing approximately 250 new medical malpractice cases per year. We also handle serious automobile and truck accident cases, and all types of insurance disputes.

If we cannot handle a case, we can refer you to someone who may be able to help you. Even if your case is outside our area of practice, call us. We can usually help you locate an attorney with experience in the type of case that you have.

What we have been doing

In April, Mr. Glass argued another case in the Supreme Court of Virginia. This was a medical malpractice case in which the doctor claimed that the patient did not give a full and complete medical history when he first came under the doctor's care. We claimed that the doctor did not ask the right questions and that it was the doctor's duty to get a correct history, because the doctor is the expert. The doctor blamed the patient's loss of his kidneys on the patient's failure to tell him about several episodes of blood in the urine in the past. On June 8, the Supreme Court awarded our client a new trial, holding that he could not be held responsible for the doctor's failure to diagnose his disease.

Dean Robinson settled a large automobile accident case. Our client came over the crest of a hill, only to find that a construction company had parked one of its loaders right in the middle of the road. She did not have time to stop and ran into the vehicle, injuring her legs. Mr. Robinson settled the case the week before trial for \$85,000.

Mr. Glass continues to speak to other attorneys at continuing legal education seminars. In April, he moderated a panel discussion on "Ethics and the Internet" at the Virginia Trial Lawyers Annual Convention at The Homestead. In May, he lectured at the VTLA Annual May Tort Seminar. Mr. Glass also had an article published by the *VTLA Journal* this spring.

Telemarketing scams

Americans lose \$40 billion to telemarketing fraud annually. Here are three common scams.

Prize offers

Someone calls. "You've won a FREE prize!" The catch is that you must pay shipping charges, confirm with a credit card number, or provide your social security number. Hang up. There's usually no prize and someone will charge merchandise using your credit and name.

Pay-per-call international telephone numbers

You'll receive an urgent message to call 809-555-5555 because you've won a prize or a relative has had an auto accident. You may get an e-mail to call 809-111-1111 about money you owe. Don't return the call to this area code, because it's a pay-per-call line, like a 900 number. You may be billed \$25 or more.

Recovery scams

Once you fall for a scam, confederates of the original scammer may call you, assuring that you can get your money back by answering some questions and then submitting a recovery fee. Unfortunately, scammers sound really earnest and many fall for this one.