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GM Ordered to Produce Attorney Communications in Ignition Switch Cases

First ruling by U.S. Court requiring GM to compel documents shielded by New York MDL

A Missouri state court has ordered General Motors to produce communications between the automaker and attorneys from King & Spalding about the deadly ignition switch defect affecting millions of vehicles.

The ruling is the first by a U.S. court to require GM to compel documents that were shielded as attorney-client privilege in the New York multidistrict litigation (MDL).

The Missouri Circuit Court Judge presiding over the ignition switch lawsuits filed by Langdon & Emison appointed a special master to oversee discovery in the litigation. The ruling will allow the special master to conduct an in-camera review of the King & Spalding documents for which GM is asserting attorney-client privilege.

The first of four trials will begin March 27, 2017, in the city of St. Louis Circuit Court. Additional trials will take place in July and October of 2017 and January 2018.

Court finds that “*prima facie* evidence of a crime or fraud exists” by GM.



L&E Exposes Hidden Risks of RV Fuel Systems

L&E obtains \$5 million wrongful death settlement involving a tractor-trailer/RV collision

Recreational vehicles (RVs) comprise a large segment of what is known as incomplete, aftermarket or modified vehicles. According to industry research, more than 9 million U.S. households owned RVs in 2015 and sales continue to surge. In 2014, more than 356,000 vehicles were shipped nationwide, a 116 percent gain since 2009.

With the increasing use of these vehicles, litigation over design and manufacturing defects will continue to increase as well. Plaintiffs lawyers must be prepared to identify and prove defects in these vehicles.

Fuel System Defects

In our practice, we have identified a range of RV defects in cases involving structural and crashworthiness issues such as inadequate restraint systems and vehicle stability. But several recent cases have highlighted extremely dangerous fuel system defects that make post-collision fires an imminent danger and put unsuspecting travelers at risk of burning to death.

A common fuel system defect in RVs pertains to the routing of fuel lines. In some RVs, the fuel lines are routed without protection through the occupant compartment.

As in the photo above, some RVs are designed and manufactured with the fuel lines directly underneath the driver and within the frontal crush zone of the vehicle, leaving the fuel lines completely exposed and creating serious risk of post-collision fire.

RVs are often designed and assembled without proper engineering or testing. Every RV incident should be investigated for design and manufacturing defects.



Safety engineers have testified that there are safer alternative designs available to RV manufacturers that would drastically reduce the risk of a post-collision fuel-fed fire under the conditions of most accidents.

Contact Langdon & Emison

As RV sales continue to grow, so will injuries and deaths related to defects. If you have an RV case and would like help identifying manufacturers, industry standards and potential defects, contact our firm at 800-397-4910. We would be pleased to provide information essential to your case to ensure justice to those who are injured.

Deadly Collision at Dangerous Railroad Crossing



David Brose Michael Serra

On December 15, 2012, our client lost his life when a passenger train struck the rear passenger side of the 1997 Chevrolet Silverado he was driving at a railway crossing in a rural Missouri county. Photos taken at the scene within hours of the collision clearly showed why our client was unaware of the danger that awaited him.

The subject railroad crossing had been a safety concern for nearly four decades, with nine reported accidents and four resulting fatalities. On the day of our client's accident, overgrown bushes and shrubbery blocked his view of the crossbuck and stop sign as he approached the railroad crossing. Federal guidelines state that signs should be located to optimize visibility and care should be taken so that signs are not obscured by foliage.

Further, the subject railroad crossing constituted a skewed crossing with resulting limitations in sight distances. The recommended angle for railroad crossings is 90 degrees to allow the highest degree of visibility for motorists; however, the angle at the subject crossing is only 27 degrees.



Langdon & Emison's legal team successfully argued that the complex geometric configuration of this crossing, combined with the overgrowth of vegetation and high speed of approaching trains, were responsible for the accident that killed our client. David Brose and Michael Serra were lead attorneys on the case.



KEY TO THE CASE

In deposition testimony, the railroad company's own corporate representative admitted the crossbuck and stop sign were not visible at the crossing on the day of the accident.

Negligent Construction Sign Placement Causes Serious Accident

In June 2014, our client was driving his 2001 Honda Valkyrie motorcycle eastbound on a two-lane roadway in a rural area. Suddenly, he was struck by a Ford F-150 truck that was exiting from a local McDonald's restaurant, causing him to skid and come to rest on the shoulder of the roadway.

The driver of the striking vehicle could not see our client because of a large "Road Work Ahead" sign negligently placed on the west side of the McDonald's exit. As a result of the collision, our client sustained serious injuries that permanently affect his daily life.

The construction company – on its own accord – placed a large construction sign in direct violation of the Traffic Control Plan. The plan stated "construction vehicles parked along streets and construction signs shall not restrict sight distance for vehicles exiting to streets or any drives."



When accidents occur in construction zones, determine whether the placement of traffic control devices violated national standards and project-specific plans.

Moreover, the placement of the subject construction sign was in violation of the Manual on Uniform Traffic Control Devices, which states that all temporary traffic control devices "shall be no less than .03 m (1 ft) above the traveled way."

Our legal team successfully showed the subject sign did not comply with the national height requirements. Langdon & Emison was pleased to obtain a confidential settlement on behalf of our client.



Maximizing Results in Section 8 Housing Cases

Practical Tips Gained from Recent Settlements

Section 8 housing, or “affordable housing” complexes, are subsidized by the federal government and governed by U.S. Housing & Urban Development (HUD) regulations. The regulations require housing complexes to be “decent, safe, sanitary and in good repair” (24 CFR 5. 703), yet people are being injured in these places.

Cases involving Section 8 housing are worth investigating, particularly if a catastrophic injury has occurred. These cases can involve large corporations that provide incredibly substandard services, often resulting in serious injury to residents, even death.

Thorough understanding and investigation of Section 8 housing are key to maximizing recovery in a Section 8 housing premises liability claim.

Types of Claims

Section 8 housing cases can present a variety of premises liability claims involving different theories of recovery. Claims can include: inadequate security leading to injuries from battery, sexual assault or gunshots; failure to maintain critical equipment such as emergency call-for-aid systems or fire detectors; failure to maintain a safe and sound structure; and other claims.

Inspections of affordable housing complexes typically are not carried out by government employees; rather, they are performed by independent contractors who bid for the jobs. As a result, issues such as inadequate security or inoperable equipment may go unresolved for years either by the owner’s willful neglect or negligent monitoring of third-party inspectors.

Litigation Tips

Based on recent experience, the following three tips can help maximize results in Section 8 housing cases:

1. Determine that the housing in question is, in fact, Section 8 housing – that is, privately owned housing funded under Section 8 of the Housing Act of 1937 rented to qualifying individuals at a highly discounted rate (e.g., people with very low income; people with disabilities; and older adults).
2. Carefully review the numerous Section 8 housing regulations to determine what regulations, if any, were violated.
3. Identify similar violations or occurrences that provided notice of danger to the housing’s owner, manager or employees prior to the plaintiff being harmed.

Langdon & Emison recently obtained substantial recoveries for its clients utilizing these steps in cases involving Section 8 housing complexes. For assistance evaluating premises liability claims involving Section 8 housing, contact our firm at 800-397-4910.



Bad Faith: When Insurance Companies Fail to Protect the Insured

Bad faith claims provide an opportunity to maximize your client's recovery

Insurance companies have an obligation to protect the people they insure and consider their interests when handling claims. Far too often, insurance companies put their own interests ahead of those they insure, leaving their customers vulnerable to financial ruin through a judgment in excess of the insurance policy limits.

When an insurance company fails to protect the interests of its insured, tort victims making a claim against the insured may have the opportunity to recover in excess of the insurer's policy limits. Langdon & Emison can help attorneys navigate the complexities of insurance bad faith claims, thereby maximizing a client's recovery.

Common Bad Faith Scenarios

Three common insurance bad faith situations arise when an insurance company (1) denies a tort victim's offer to settle within policy limits, which exposes the insured to an excess judgment; (2) denies coverage outright and refuses to defend the insured; or (3) chooses to defend under a reservation of rights wherein the insurer defends the insured but may later deny coverage.

Bad faith claims can be complex and usually involve multiple steps. When representing the tort victim, it is good practice to make clear and specific demands within applicable policy limits and to leave the demand open for at least 30 days. If the insured/tortfeasor has personal counsel, it is helpful to keep the personal counsel informed of the claim and the insured/tortfeasor's exposure to excess liability.

In the context of bad faith, some states allow the tortfeasor/insured to enter into an agreement with the tort victim to limit recovery to certain assets (e.g., \$537,065, RSMo). Typically, the tort victim agrees not to pursue the insured/tortfeasor's personal assets and to limit recovery to insurance proceeds and equitable garnishment claims against the insurance company after a judgment is entered.



These agreements can be very effective tools. If done correctly, facts and findings from an underlying judgment entered into pursuant to an agreement with the tortfeasor/insurer may be binding on the insurance company in a later action due to collateral estoppel.



Company Held Responsible for Hiring Rapist as Independent Vacuum Dealer

Firm earns recovery for clients sexually assaulted, raped by Kirby vacuum peddler

Langdon & Emison successfully resolved a complex case involving the negligent hiring and management of a Kirby vacuum salesman with a lengthy criminal record and history of rape.

Partners Michael W. Manners and J. Kent Emison represented a number of women who were victimized by John Fields, a contract employee for The Kirby Company. The legal team showed Kirby knew about Fields' history of violence against women, yet employed him for three decades to work with female staff and go into the homes of customers who were primarily women.

A Pattern of Criminal Behavior

Other than periods when he was incarcerated, Fields worked his entire adult life selling Kirby vacuums, from 1980 to 2013. He was an extraordinary salesman for Kirby; for example, while the average Kirby salesman sells approximately three vacuums per 10 demonstrations, Fields would on average sell 12 vacuums per 10 demonstrations.

While an exceptional salesman, Fields had a substantial criminal record that included domestic battery, assault and kidnapping, among other felonies. He also had eight wives and moved frequently during his employment with Kirby.

After avoiding jail time for crimes committed in the 80s and 90s, Fields went to jail in 2000 and 2001 for beating his seventh wife. In August 2001, seven months after getting out of jail, Fields applied to become a factory distributor for Kirby.

During the application process, Fields consistently lied about his criminal record. According to the legal team, Kirby's own background check revealed the jail time he served for beating his wife. Yet, Kirby approved Fields as a Factory Distributor in January of 2003. (*Continued p. 14*)



KEY TO THE CASE

L&E's legal team successfully argued that a negligent hiring claim extends to independent contractors and that an employer has a duty to select a skilled and competent contractor.



Tire Failures and Vehicle Rollovers: A Deadly Combination

Factors to consider when a tire failure is the culprit of an accident

Old, aged or used tires – as well as tires with design and manufacturing defects – are common causes of tire failures. When evaluating an auto accident case, it's important to look for tire defects as a potential cause of the accident and source of recovery.

Tire failures that occur at highway speeds often result in vehicle rollovers, and the consequences for drivers can be grave. The infamous Ford/Firestone litigation showed how a tire problem could become a crisis for both the tire manufacturer and the automaker. In these types of cases, it's important to look for possible defects in the design and manufacturing of the tire and in the overall design of the vehicle.

Every accident involving a tire failure or vehicle rollover should be evaluated for tire and vehicle design defects.

Tire Failure Factors

Unfortunately, design and manufacturing defects are often hidden until the moment a tire actually fails. A number of factors can cause a tire blow-out or detread, including but not limited to:

- **Age of the tire.** All tires deteriorate with age; older tires have a much higher risk of failure than newer tires with similar wear and tread depth.
- **Design/manufacturing defects.** Poor design and construction of critical components, such as the inner liner, can allow air flow to permeate the internal tire structure and cause oxidation of the rubber components, making them brittle and susceptible to tread separation. Poor manufacturing and placement of the belt plies also can lead to premature failure.

Design Flaws that Cause Vehicle Rollovers

While tire failures can cause a vehicle to rollover, do not rule out the possibility of faulty vehicle design. When evaluating a case involving a tire failure and rollover, consider two types of design flaws as additional sources of recovery:

- **Roof design.** To increase profits, automakers routinely cut costs on materials used to construct the roof, making them more likely to crush occupants in a rollover.
- **Suspension design.** Electronic Stability Control is an existing technology that minimizes loss of control and could prevent most rollovers yet is not installed in many vehicles.

For more than 30 years, Langdon & Emison has litigated high-profile cases involving defective tires, vehicle rollovers and other auto product defects. To work with us, contact our firm at 800-397-4910.





Spotting a Product Liability Claim: Do I Have a Case?

Lawyers should screen every auto accident case with a significant injury for auto product defects.

It is easy for attorneys to overlook product liability cases, particularly when they focus on liability issues during the initial case evaluation. Beyond asking who caused an auto accident, an attorney must also ask: Who is responsible for the client's injuries? The answers to these two questions are not always the same.

Auto defects can cause a person to sustain more serious or severe injuries than would otherwise have occurred due to the defective design or manufacture of the vehicle. Under these circumstances, the entities responsible for the vehicle make up and production may be liable for all or a portion of a person's injuries, regardless of whether they caused the accident.

Evaluating a Products Case

In an auto crash case with severe injuries or deaths, lawyers must evaluate the case for potential product liability claims. Key first steps after you get the initial call:

- Consider the possibility of enhanced injuries early in the investigation process.
- Immediately secure and protect the product so it can be examined later.
- Ensure the condition of the vehicle was documented accurately at the time of the accident.
- Gather vital components of the investigation: photographs of the accident scene, witness statements regarding issues such as seat belt usage or the manner of a rollover.



Identifying a Product Defect

There are four general areas to look at when trying to determine if an auto product defect contributed to an occupant's injury or death:

- Minor collisions at residential speeds result in catastrophic injury or death.
- A single occupant is severely injured or killed while other occupants suffer only minor (or no) injuries.
- Failure of, or severe damage to, a localized area of the vehicle such as a roof crush or seatback failure.
- Seat-belted occupants are seriously injured or ejected from the vehicle.

Look for Brett Emison's article on identifying auto product defect cases in the November issue of AAJ's *Trial* magazine.

If you have a potential product liability case, we would be pleased to review your case; steer you toward the right experts; or help in any way.

Screening for an Auto Product Defect

Any time there is a serious injury or death in an auto accident, first determine if there is an auto product defect. For help, contact Langdon & Emison at **800-397-4910** and we will be happy to review your case for a potential defect. Below are a few of the most common defects we have seen in more than 30 years of practice.

Car seat: During a crash, seat backs can collapse inward, or seats can collapse backward, or cargo can hurl from the trunk/hatch area.

In 2013, the firm obtained a \$43.1 million verdict on behalf of a Vermont woman who was paralyzed due to a defective seat back.

Roof crush: Roof crushes can lead to catastrophic injury or death.

Airbags: Takata airbags, for example, have injured and killed hundreds of people.

Gas tanks/fuel systems: Fuel systems should not fail in otherwise survivable crashes.

Seat belts. Defective seatbelts can injure or kill people even when worn properly.

Rollover/stability: Rollover crashes cause more injuries and deaths than any other type of crash.

Tires: Defective tires can cause tire blowouts and tread separation. If you have a tire failure, you have a potential case.

During the past three years, our firm has paid out nearly \$20 million in co-counsel fees to referring firms that trust our work and the integrity with which we do it.

Overcoming Courtroom Hurdles to Prove Traumatic Brain Injury

Effective strategies for demonstrating TBI to juries

Mild Traumatic Brain Injury (mTBI) has been called a silent epidemic. A common myth is that mTBI victims quickly recover from their injuries. Despite a growing body of research that has shown mTBI injuries are not, in fact, “mild,” it can be difficult to demonstrate the long-term problems many mTBI victims suffer.

Our litigation practice is limited almost exclusively to clients who have suffered catastrophic injuries – including a wide range of TBI severity. Below we discuss common hurdles we encounter when presenting evidence of mTBI to juries and strategies to overcome those hurdles.

Hurdle 1: A High-Functioning Plaintiff

In a recent trial, we represented a decorated Marine who was a helicopter pilot and war college instructor.

Our client suffered an mTBI in an auto accident caused by the defendant driver. The defense strongly contested the brain injury and our lost earnings capacity claim because our client continued instructing after the crash. To counter:

- We focused on the precision required to be a helicopter pilot and how our client’s deficits prevented him from ever piloting a helicopter again. The key is to show how high-functioning clients compensate for their injuries and how those injuries impact their daily lives.

Hurdle 2: Negative Diagnostic Tests

Often times, CT scans only identify brain bleeds or fractures; however, a negative scan does not rule out TBI. In fact, mTBI is typically associated with normal structural neuroimaging findings. Defense counsel will focus on normal brain imaging scans that did not diagnose a brain injury. Combat this defense with:

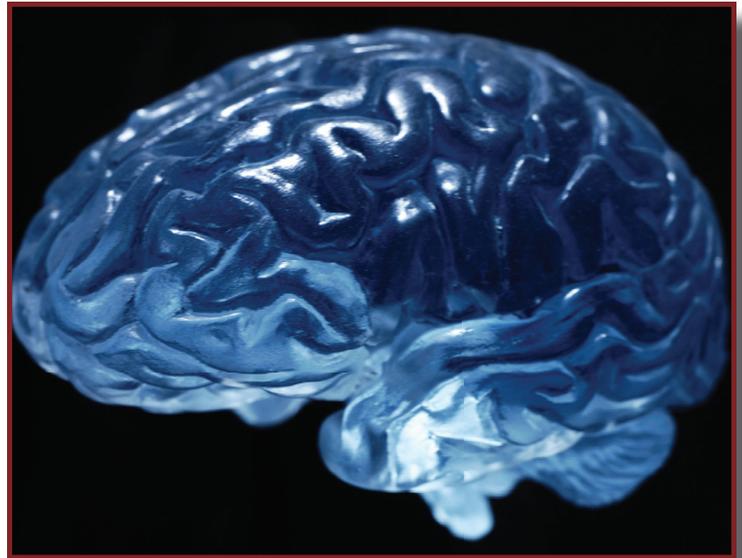
- Lay witnesses, including family, friends and co-workers who can describe how the plaintiff changed after the crash.
- An expert biomechanic who can explain how the force of the crash caused a brain injury.

Hurdle 3: Inconsistent Records on Loss of Consciousness

A client is often a poor historian for loss of consciousness (LOC). Even in cases where a witness testifies an LOC occurred, the defense will dispute the claim if medical records are inconsistent. To counter, build the case from the beginning:

- Obtain written statements from the first witnesses on scene.
- Contact EMT and emergency personnel early. They may confirm that negative LOC simply means they did not personally witness LOC. Ask them to explain the timeline from receiving the call to arrival on scene to document a possible delay in assessing LOC.

Mild TBI’s status as a “silent epidemic” is not only a substantial barrier to patients receiving necessary care, it is also a barrier to mTBI victims receiving justice in the courtroom.



TBI Cases: What to Look For

- Changes observed by friends and family
- Cuts or bruises on head
- Rapid acceleration or deceleration forces
- Changes in personality



Think Twice Before Declining a Conspicuity Case

How Lack of Visibility Can Work in Your Client's Favor in a Trucking Accident Case

Sometimes conspicuity theories can be combined with negligent driving claims, as was the case in a recent lawsuit our firm settled for a substantial recovery.

You get a call from a potential client who ran into a tractor-trailer or pulled out in front of the truck and the crash report shows your client was at fault. Sounds like a “dog” of a case, right? Before you decline the case or concede that the client is completely at fault, look into a “conspicuity” theory.

Conspicuity can mean the client could not properly see the semi-truck or trailer at nighttime or in limited visibility conditions; or that the semi-truck was illegally parked and obscured your client's view. Several studies and federal conspicuity regulations often turn these “bad” cases into viable claims that can end with good results for your clients.

Conspicuity Studies and Regulations

Studies conducted for more than three decades have concluded that nighttime crashes involving tractor-trailers were more severe because drivers did not see the trucks at all, misjudged the distance or perceived the truck's location too late. One study confirmed that retroreflective tape and other visibility materials reduce rear impacts and save lives.

In the early 1990s, the federal government, through the Federal Motor Carrier Safety Regulations, adopted conspicuity requirements for commercial vehicles and trailers manufactured after December 1, 1993. These regulations:

- Allow tractor-trailers to use either reflex reflectors or red and white reflective tape.
- Codify requirements for the placement and size of lamps and reflectors.
- Outline procedures for parking on a roadway or shoulder.

If your client crashed into a commercial vehicle, particularly at night, evaluate the case for conspicuity claims and investigate factors that may have limited your client's visibility.

Theories of Liability in Conspicuity Cases

- Did the motor carrier allow dirt and mud to accumulate on the reflective material and diminish its effectiveness?
- Did the operator use corrosive chemicals to wash the reflective tape, which causes the tape to fade, wear and lose its reflectivity?
- Did the truck driver follow federal, state and local rules for stopping on a highway or the shoulder of a highway?
- Did the truck driver obscure your client's vision by parking too close to an intersection, stop sign or fire department?

Langdon & Emison Continues to Evaluate Bair Hugger Claims

Defective warming blankets expose surgical patients to serious infections

Langdon & Emison is reviewing potential lawsuits involving a warming blanket – used in 80 percent of U.S. hospitals – that has been linked to severe joint infections patients suffered after knee or hip surgery. The lawsuits allege the Bair Hugger warming blanket, produced by 3M Company, exposed patients to contaminated air from the operating room, causing MRSA, sepsis and other serious infections.

What is a 3M Bair Hugger warming blanket?

The 3M Bair Hugger is a forced air warming blanket that helps maintain patients' normal body temperatures during hip and knee replacement surgeries. The system works by forcing warm air through a hose into a special blanket that is draped over the patient.

What is the problem with the 3M Bair Hugger?

The 3M Bair Hugger system allows warm air to accumulate and escape below the surgical table and can cause contaminants, such as bacteria, to become airborne. It can also create a current that deposits bacteria from the operating floor back into the blanket and the surgical site.

During surgery, the warm air passes over the patient's skin, escapes from the sides of the warming blanket, dips into the dirty air near the floor and then rises, along with any bacteria it might be carrying into the surgical site. As a result, patients have a greater risk of developing a post-surgical infection such as MRSA, sepsis or deep joint infections.

Anyone with a serious infection following hip or knee replacement surgery that took place between 2009 to the present should be evaluated for a Bair Hugger claim.



Big Verdict in J&J Talc Cancer Case Signals More Lawsuits Ahead

Langdon & Emison is accepting potential claims involving ovarian cancer from talc use

Despite knowing studies linked talc to ovarian cancer, J&J hid the results and distributed misleading information to deceive the public.

Langdon & Emison is reviewing potential lawsuits on behalf of women who developed ovarian cancer after using talcum powder on a daily or weekly basis during a four-year period or longer.

Two recent lawsuits against Johnson & Johnson yielded \$72 million and \$55 million verdicts, respectively in favor of plaintiffs who developed ovarian cancer after using the company's Baby Powder and Shower to Shower products for more than 35 years.

Talc is a moisture-absorbing mineral widely used in cosmetics and personal care products such as talcum powder. At least 23 medical studies conducted as early as 1971 have linked talc to ovarian cancer; in 2006, the World Health Organization classified genital talc as a carcinogen.

St. Louis juries in two separate trials found against J&J counts, including negligence, conspiracy and failure to warn consumers about the link between talc and cancer.

Talc was originally implicated as a possible ovarian carcinogen because of its chemical similarity to asbestos. The American Cancer Society contends there is a 30 to 40 percent increased risk of ovarian cancer associated with regular talc use.



Zofran Lawsuits Continue to Grow Across the United States



Zofran lawsuits are mounting in U.S. courts across the country, alleging Zofran use during pregnancy caused children to be born with a number of birth defects.

Zofran is a prescription drug approved by the U.S. Food and Drug Administration to treat patients who experience nausea and vomiting from surgery or chemotherapy and radiation treatments; however, doctors have increasingly prescribed Zofran “off-label” to treat extreme morning sickness during the first trimester of pregnancy.

Zofran is not approved for use during pregnancy, but by 2013, more than 1 million pregnant women per year were using Zofran. In the last decade, Zofran has been used more commonly to treat symptoms of severe morning sickness such as uncontrollable vomiting requiring hospitalization, severe dehydration and weight loss, nutritional deficiencies and other symptoms that pose serious risks to both mother and fetus.

Recent studies have linked a number of birth defects to Zofran, including but not limited to:

- Heart defects, including heart murmur or hole in the heart.
- Cleft lip or cleft palate.

If you have a potential claim involving a birth defect that may have been caused by Zofran use during pregnancy, contact Langdon & Emison for a free case evaluation at 800-397-4910.

At the height of its use in 2005, Zofran enjoyed close to a 99 percent market share among morning sickness drugs.

Taxotere: Widely Used Breast Cancer Drug Linked to Permanent Hair Loss in Women



Taxotere, a widely used breast cancer drug, has been linked to permanent hair loss in women. Langdon & Emison is currently accepting Taxotere cases nationwide.

In 2005, Taxotere’s manufacturer (Sanofi) told the European Medicines Agency (the European equivalent of the FDA) that it found permanent hair loss in 9.2 percent of

Taxotere patients. **This was Sanofi’s own study.** In Canada, the British Columbia Agency Cancer Drug Manual for Taxotere stated that “[c]ases of poor hair re-growth and/or persistent hair loss have been reported. Reports suggest some patients may experience prolonged hair loss... possibly irreversibly.”

Breast cancer survivors with hair loss persisting longer than six months after treatment should have their case reviewed for a potential Taxotere claim.

Taxotere can lead to permanently disfiguring hair loss that is not easily hidden or masked. These injuries have a severe impact, both physically and mentally, on breast cancer survivors.

While Sanofi warned of permanent hair loss in Europe, there was no warning about permanent hair loss for U.S. patients from 1999 through December 2015.

Early evidence shows that Sanofi misrepresented the effectiveness of Taxotere and hid problems about permanent hair loss to increase its market share and profits.

Settlement for Hiring Convicted Rapist as Independent Vacuum Dealer *(Continued from p. 1)*



In June 2003, Fields was arrested for felony assault and forcible rape of his eighth wife and was convicted of all charges the following July. Fields was sentenced to 10 years in prison and paroled in January 2012.

Upon Fields' release, a factory distributor in Ohio warned Kirby's headquarters that Fields was ready to resume his Kirby career and was dangerous, having spent nine years in prison for rape.

A corporate officer spoke with Fields about his rape conviction and informed Fields that Kirby would no longer associate with him; however, Kirby headquarters chose not to warn its Factory Distributors about hiring him – just as it had done in similar situations in the past.

A Negligent and Failed Hiring Process

Kirby's marketing is done through a network of 450 Factory Distributors who work as independent contractors that often recruit independent dealers for door-to-door sales. Most sales are made through independent dealers who work with other dealers on traveling sales teams.

Kirby's Vice President of Business Compliance admitted he would deem it 100 percent unacceptable to allow a convicted felon and rapist, like Fields, to work with other Kirby salespeople.

Fields knew a Kirby Division Supervisor, Dave Wallace, whose territory included Missouri and was known by Kirby to retain people with criminal records. Wallace introduced Fields to a Kirby distributor in Lee's Summit, Mo., and recommended him as a good salesman, despite knowing about his rape conviction. During the first meeting Fields told the distributor he had been convicted of rape, but he was hired as a dealer anyway.

Once hired, Fields began a nine-month string of sexual assaults against female sales associates that only ended when he was once again arrested and convicted of sexually assaulting one of his victims.

Fields was released from prison again in February of 2015. Shortly before the case was scheduled to go to trial, our legal team discovered that Fields was living in southwest Missouri and once again selling Kirby vacuum cleaners door to door. When confronted with this evidence, Kirby admitted it had taken no legal action to stop Fields from selling its products. After the case settled, Kirby obtained an injunction to prevent Fields from selling Kirby vacuums, something that never would have happened without this litigation.



Our legal team successfully argued that Kirby owed a duty to take special precautions to prevent the peculiar risk of harm posed to female customers and staff by hiring a convicted felon and registered sex offender.

News and Notes

L&E Attorneys Present at Conferences, Law Schools

Langdon & Emison attorneys have dedicated their time to presenting at legal conferences and law schools during the past several months. Presentation topics included:



- Negligent Hiring in Trucking Accident Cases
- Technology in the Courtroom
- Experts: Finding Them, Working with Them & Managing Costs
- Proving TBI: Courtroom Hurdles
- Enhancing Recovery Through a Products Case
- Avoiding Ethical Pitfalls in Litigation & the Digital Landscape

L&E's Pro Bono Efforts Featured on MTV Series



Mark Emison

Langdon & Emison is honored to be working alongside the Midwest Innocence Project (MIP) on the wrongful conviction case of MIP client Michael Politte. The case is one of three featured in MTV's docu-series, "Unlocking the Truth," which airs every Wednesday at 10 p.m. CDT. Politte was 14 years old when he was arrested for the murder of his mother, Rita Politte. He is serving a life sentence in a Missouri prison. Langdon & Emison attorney Mark Emison is working in collaboration with MIP on this body of litigation. The firm routinely provides pro bono services in partnership with MIP and other law firms on wrongful conviction cases and other types of litigation.

L&E Supports Children in Need of School Supplies



Langdon & Emison was pleased to give a donation to the Community Services League (CSL) of Independence, Mo., to support their mission of providing school supplies to children in need. In addition, L&E staff members spent a Saturday in July stuffing backpacks with school supplies for students. CSL is a nonprofit organization dedicated to providing immediate assistance to people in need and identifying solutions that can help them become economically stable. In 2016, CSL expects to provide more than 3,000 Jackson County children with school supplies.

L&E Attorneys Honored by Best Lawyers in America



Four Langdon & Emison partners have been named to the annual directory of Best Lawyers in America© 2017. J. Kent Emison, Brett A. Emison and Michael Manners were honored in the category of Product Liability Litigation – Plaintiffs. Robert Langdon, J. Kent Emison and Michael Manners were recognized in the field of Personal Injury Litigation – Plaintiffs. Robert Langdon was also named to the Best Lawyers® roster for Railroad Law. Congratulations to our attorneys for this prestigious honor. Photo (L-R): Brett A. Emison, J. Kent Emison, Robert Langdon, Michael Manners



Firm Sues Kirby Company for Negligent Hiring



Faulty Fuel System in RV Explosion



Spotting a Product Liability Claim



Conspicuity in Trucking Accident Cases



Strategies for Proving TBI to Juries



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