

LANGDON & EMISON

ATTORNEYS AT LAW

What You Need to Know

**Page 1 – Testosterone
Lawsuits Mounting
Nationwide**

**Page 2 – Truck Driver's
Nap Leads to Death**

**Page 3 – Dangers in
Highway Construction**

Page 4 – Flimsy Auto Seats

**Page 5 – Stryker Hips'
Health Risks**

**Page 6 – GM's Deadly
Ignition Switch Problem**

**Page 7 – Tragic Fires in
Survivable Crashes**

**Page 8 – Driver Fatigue in
Trucking Cases**

**Page 9 – TBI: Know it
When You See It**

**Page 10 – Actos: \$9 Billion
Verdict**

Page 11 – L&E News/Notes

Testosterone Gel Therapy: Treatment for Fictional Disease Causes Real Problems

Langdon & Emison accepting testosterone therapy referrals

At least one study showed nearly 10 percent of participants had a dangerously high increase in red blood cell production after starting testosterone therapy.

The makers of AndroGel and other leading testosterone therapies have aggressively marketed their products for unapproved, off-label use to treat a fictional disease: Low-T. In fact, the Low-T quiz provided by AndroGel for men to "self-diagnose" the disease was written out on a roll of toilet paper while its author sat in the bathroom. And it's a test designed so that everyone will fail.

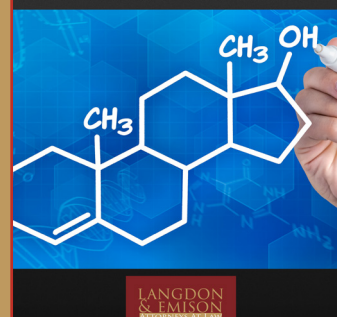
But unlike the phony disease these drugs are advertised to treat, the side effects are very real. There have been several studies linking testosterone gel therapies to substantially increased risk for heart attack, stroke, and other blood clotting side effects. At least one study showed nearly 10% of participants had a dangerously high increase in red blood cell production after starting testosterone therapy.

Testosterone therapy drugs are marketed under a number of brand names, including:

- AndroGel
- Axiron
- Androderm
- Bio-T-Gel
- Fortesta
- Striant
- Testim
- Testopel

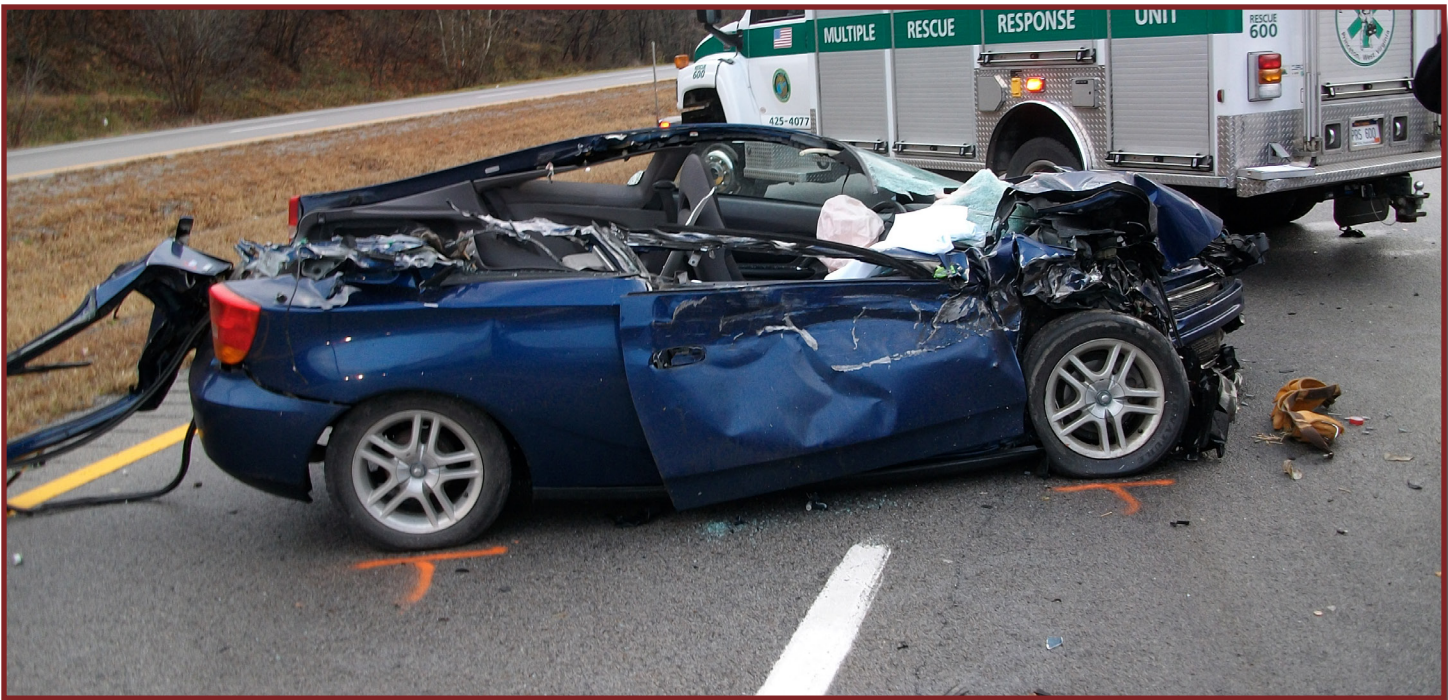
Langdon & Emison represents a number of clients injured by testosterone drugs and welcomes referral and co-counsel arrangements. Contact Brett Emison (brett@lelaw.com) or call (800) 397-4910 for a comprehensive case evaluation.

TESTOSTERONE THERAPY'S
LINK TO HEART ATTACK,
STROKE, AND DEATH:
WHAT YOU NEED TO KNOW



For in-depth analysis, download Langdon & Emison's free Testosterone Therapy e-book available now through Apple's iBook store or iTunes.





Driver Negligence Leads to Fatal Truck Wreck

Settlement obtained by Langdon & Emison in West Virginia case



Langdon & Emison obtained a significant settlement for the family of an 18 year-old client killed in a crash with a semi-truck in West Virginia. Bob Langdon and David Brose led the legal team in this matter.

The firm's client was killed when the car he was riding in collided with a tandem tractor-trailer parked along the right shoulder of U.S. Highway 460. The colliding vehicle under-rode the driver's side of the rear trailer of the tractor trailer, causing fatal injuries.

Bob and David demonstrated how the driver was negligent in where he decided to park, which was only a few feet off the fog line. They showed the driver could have moved the vehicle farther from the traveling lanes by placing the passenger side wheels on the adjacent gravel, which was key to proving the liability of the trucker and his employer. In addition, the

attorneys demonstrated the driver was further careless in his selection of the location to park the tractor-trailer, since it was parked immediately following a sharp left-hand curve on the highway. Bob and David argued that because of where the truck was parked, the traveling car could not readily recognize that the truck was parked in a hazardous location. Due to their successful track record of litigating these types of truck accident cases, the attorneys also knew the hazard warning flashers were not properly activated.



The firm was able to prove that the trucking company had failed to properly park the trailer along the side of a highway, which led to a fatal collision.

Negligent Sign Selection and Installation Poses Serious Threat to U.S. Drivers

Firm settles another significant case over negligent sign installation

This year the firm concluded another successful recovery for a client injured by improper highway construction. In this case, the firm's client, Jacob, was injured when his vehicle went into a grass median and struck a highway signpost that did not breakaway from his vehicle as intended because the device was installed backwards - in the opposite direction of highway traffic. In this case the sign post snapped down *towards* his vehicle, crushing the roof of Jacob's truck and paralyzing him.



Jacob was driving home one night when an unidentified vehicle pulled out in front of his truck. He swerved to avoid collision which caused his truck to travel off the west side of the highway and strike a highway signpost located in the grass median. The firm's legal team, led by Bob Langdon, successfully argued that, had the signpost been properly selected and installed, it would have broken away as intended. Instead, it crushed the vehicle's roof. The firm settled the case for a confidential amount with the highway design consultant who selected the type and location of the sign post, the general contractor for the highway project and the signing subcontractor involved in the installation.



"This was another example of how deadly something as common as a road sign can be when it's not installed properly," said Bob Langdon, who has served as lead attorney in several highway construction cases throughout the Midwest. "This was an injury that could have easily been avoided, but sometimes proper steps in highway construction are skipped, and innocent drivers and passengers are the ones who pay the cost."



Highway signs can snap down on top of vehicles, instead of snapping back and away from a collision.

Firefighter's Benefits Wrongfully Withheld

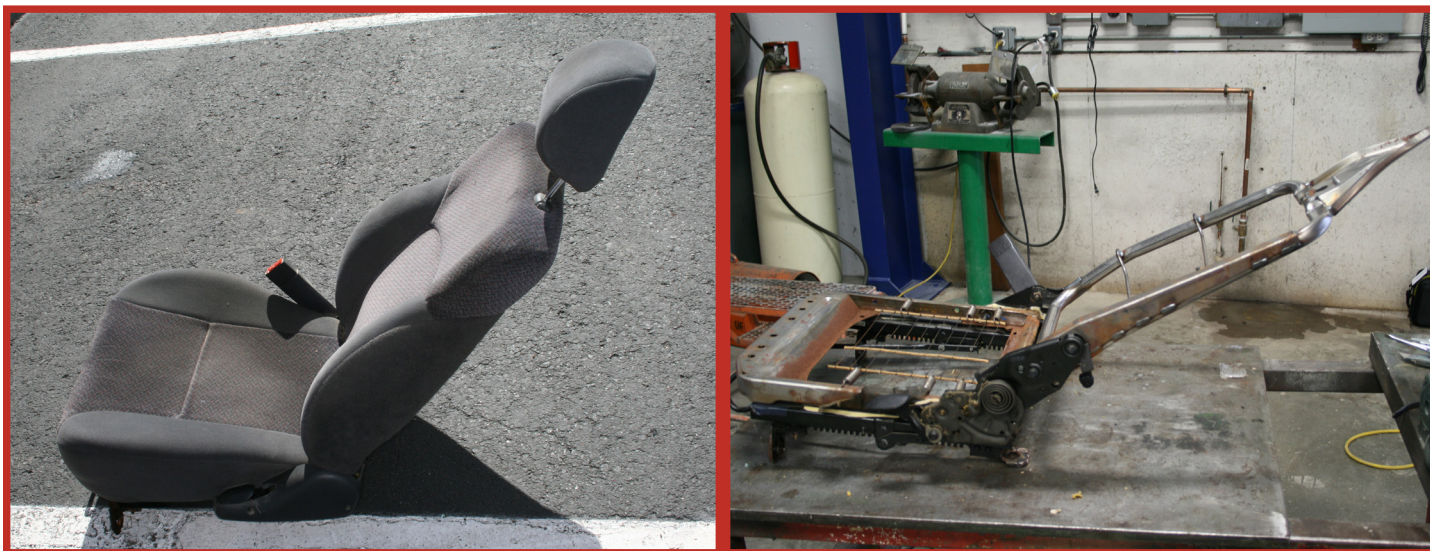
Firm works pro bono to obtain award for deceased firefighter's family



Working on a pro bono basis, Kent Emison secured a federal benefits payment of more than \$300,000 for the family of a firefighter killed in the line of duty earlier this year.

The firm's client in this matter was the family of Harold Hollingsworth, who was 47 at the time of his death. Hollingsworth was an assistant fire chief for the Fort Osage (Mo.) Fire Protection District who died on April 7, 2013, while rushing to a house fire in eastern Jackson County. It was raining, and Hollingsworth's vehicle skidded off the road and into a tree.

Under the federal Public Safety Officers Benefits Act, firefighters killed in the line of duty can receive benefits. Hollingsworth's family was initially denied benefits because the program, which is administered by a bureau of the U.S. Department of Justice, said the firefighter had been driving too fast for conditions. Kent represented Hollingsworth's widow, Allison, and the couple's two sons, Nathan and Matthew, in contesting the agency's decision. "We thought that it was extremely unfair to penalize his family when he was just trying to go to rescue people in a house fire," Kent said to media after the favorable result, which resulted in a \$328,613 benefits payment to the family.



Don't Miss Common Car Seat Defects in Auto Cases

Many auto seats are flimsy and can cause significant injury

We have identified lawn chairs – and even a chair made of cardboard – that would pass the federal standard.

A potential vehicle seat defect should be investigated any time there are significant injuries in an otherwise minor collision; however, these defects can be difficult to identify. In many crashes, the seat will deform and then rebound – or bounce back – and the seat will appear “normal.” In such cases, the defect may not be identified until after the seat padding has been removed and its frame is examined by an expert.

Reasons Seats Fail

Seat back failures occur for two primary reasons. First, the seat may not be constructed of robust materials. Most vehicle seats appear to have big, sturdy foundations. But when the seat is stripped of its cloth or leather and padding, it's often nothing more than some lightweight metal tubing. Government standards for seat back strength have not changed since the 1970s. Working with design experts across the country, Langdon & Emison has identified lawn chairs – and even a chair made of cardboard – that would pass the federal standard.

Second, the seat may have a weak link in the recliner mechanism. Some automakers have attempted to save money by using a single-side recliner plate rather than a dual-side recliner plate. If a single-side plate is used, the seat back can twist and collapse in even a very minor impact. Automakers and the seat manufacturers, themselves, have known about this danger for decades. In 1984, Ford Motor Co. found that reclining chairs can “twist on rear impact and form a funnel for front seat occupants to fly together toward the center of the rear of the car...”

Those at risk are not just the seat's occupant, but also children who are most often in the back seat of the vehicle. When the seat collapses backwards, it permits the occupant's head to strike whatever – or whomever – is behind the seat. Also, when a seat collapses rearward, shoulder belts anchored to the vehicle's frame will no longer protect and restrain the occupant. The occupant is unsecured and can be thrown into the rear seat. As one expert has said, “Either the seat or the body, the head or both are going to smack into whatever is sitting behind them. Most of the time, these days, that's going to be a child.”

Vehicle seat design played a key role in *Heco v. Johnson Controls*, which resulted in a record-setting \$43 million verdict Langdon & Emison obtained in Vermont.

Select L&E Verdicts in Auto Seat Cases

Kumar v. Toyota - \$59 million

Heco v. Mid-State Dodge, LLC, et al. - \$43 million

George v. Johnson Controls - \$8 million

Stryker Metal-on-Metal Hip Cases Begin to Settle

Company sets aside more than \$1 billion to settle claims



Stryker Corp. has begun settling claims involving its **Rejuvenate** and **ABGII** metal-on-metal hip implant devices and has said it could spend more than \$1 billion to resolve this litigation. Hundreds of these cases remain in litigation as approximately 20,000 of these recalled devices were implanted into unknowing patients across the country.

The Stryker settlements come after Johnson & Johnson subsidiary, DePuy Orthopaedics, announced a \$2.5 billion settlement involving its ASR metal-on-metal hips and after Biomet announced a \$56 million settlement to resolve a number of lawsuits involving its M2a-Magnum and M2a-38 metal-on-metal hip implants.

The Stryker devices, like other metal-on-metal hip implants, allow the metallic components to grind together and permit metal particles to leach into the surrounding tissue and be transported to other areas of the body. As *The New York Times* reported in 2011, the results are gruesome:

Stryker has said it could spend between \$700 million and \$1.13 billion to settle defective hip lawsuits.

“As surgeons here sliced through tissue surrounding a failed artificial hip in a 53 year-old man, they discovered what looked like a biological dead zone. There were matted strands of tissue stained gray and black; a large strip of muscle near the hip no longer contracted.”



A Stryker hip study recently published in the *Journal of the American Academy of Orthopedic Surgeons* confirmed that corrosion remains the chief culprit in the failure of these devices. (J Am Acad Orthop Surg 2012;20:214-222).

Problems with metal-on-metal hips from multiple manufacturers have gotten so bad that the FDA ordered an in-depth study of metal-on-metal artificial hip systems. These studies remain ongoing, though some manufacturers have elected to simply stop making the devices.

20,000 patients were implanted with these recalled devices.

Langdon & Emison represents clients across the country injured by Stryker hip implants and welcomes co-counsel arrangements. Contact Bob Langdon (bob@lelaw.com) or Brett Emison (brett@lelaw.com) or call (800) 397-4910 for a comprehensive case evaluation.

Stryker Hip Facts

Both the Rejuvenate and ABG II were recalled in July 2012.
Muscle, nerve and bone damage have resulted.
Metal fragments shed from the device and enter the blood stream.

GM Cost Cutting Kills

Company could have fixed ignition switch problem for 57 cents

Just recently, General Motors (GM) conceded it could have fixed its deadly ignition switch defect for fifty-seven cents but believed that cost did not “represent an acceptable business case” – meaning fifty-seven cents was just too costly to save lives. This kind of cost-benefit analysis turns people into commodities and values profits over safety.

Langdon & Emison built its nation-wide practice by taking on auto manufacturers. More than 20 years ago, Bob Langdon and Kent Emison were the first lawyers to get GM’s infamous “Ivey Memo” cost-benefit analysis into evidence, ultimately resulting in a 9-0 decision by the U.S. Supreme Court.

Ivey prepared the memo so managers could “figure out how much [GM] could spend on fuel-systems.” Ivey found that it would cost about \$8.59 per vehicle to protect the fuel system, but it could cost only \$2.40 per vehicle to settle wrongful death lawsuits arising from fuel system-related deaths. GM would save more than \$6 per vehicle by letting passengers burn to death rather than fixing the fuel system.

A cost-benefit analysis is designed to do one thing: value profits over people.



GM CEO, Mary Barra, told a congressional committee she found it “very disturbing” that GM rejected the ignition switch fix because of costs. Going back to the Ivey Memo, that’s just the way GM conducts its business. And now, after hiding the problem for nearly a decade, GM has finally been forced to recall millions of vehicles.

Vehicles recalled include:

- 2005-2010 Chevy Cobalt
- 2006-2011 Chevy HHR
- 2007-2010 Pontiac G5
- 2006-2010 Pontiac Solstice
- 2003-2007 Saturn Ion
- 2006-2011 Saturn Sky

More than 20 years ago, Langdon & Emison was the first firm in the country to get the infamous Ed Ivey value analysis admitted in evidence.

GM has said that it “will not shirk from [its] responsibilities” and “will do the right thing” for victims of this deadly problem. The company continues to seek protection from liability in other product defect litigation from its bankruptcy filing in 2009; however, as of publishing, GM has not sought bankruptcy protection against liability for personal injury or deaths resulting from the ignition switch defect.

Langdon & Emison represents clients across the country injured by the GM ignition switch problem and welcomes co-counsel arrangements. Contact Bob Langdon (bob@lelaw.com) or Brett Emison (brett@lelaw.com) or call (800) 397-4910 for a comprehensive case evaluation.



Post-Collision Vehicle Fires — How Do I Know If I Have A Case?



Sometimes a bolt securing the car's seat belt anchor can pierce the fuel tank.



Auto manufacturers have the knowledge and technology today to prevent almost all post-collision fuel-fed fires in survivable crashes. In fact, since 1972 they have acknowledged that passengers in cars should not be seriously injured or die from a fire in survivable crashes. Yet vehicle fires continue to severely injure and kill thousands of people every year. The National Fire Protection Association estimated in 2012 that an average of 152,300 auto fires occur in the U.S. each year, resulting in an average of four deaths every week.

Many people believe that if there is no hole in a fuel tank, then gasoline is not involved in causing the fire. While a fuel tank puncture is certainly a prime cause of vehicle fires, there are other causes as well, including filler neck defects; check valve defects; and siphoning defects. Each of these are described below.

Filler neck defects: If a filler neck is pulled out of a tank, there should be no fuel leak. Manufacturers have had the knowledge and ability to protect against fuel tank filler pipe failures for many years. One of these safety features involves “check valves.” Check valves come in many designs, but the purpose is to seal off the gas in the fuel tank thereby preventing leakage if the filler pipe becomes disengaged.

Fuel line/siphoning defect: If a fuel line is compromised in a crash, a lot of fuel can leak from the line, even if the engine is off. Siphoning is the flow of gasoline caused by pressure from the fuel tank. If there is a break in the fuel line below the fuel level in the tank, gravity will allow fuel to leak out.

Even if the break in the fuel line is above the fuel level, pressure in the tank will push the gas out of the line. Safety features have been available to the auto industry for more than 25 years to prevent siphoning. These components cost pennies, but are still not used in all vehicles.

Vehicle fires continue to be a major cause of serious injuries and deaths. Cases where the crash was “survivable” (i.e. one or more occupants survived or the cause of death was by fire) should be investigated for a potential fuel system defect. The vehicle must be preserved immediately if there is a potential fuel-fed car fire.



Driver Fatigue is a Deadly Issue

Determining whether fatigue played a role in causing a collision is a multi-faceted investigation and requires a familiarity with the causes and effects of fatigue, knowledge of the sources of evidence supporting fatigue, and the rules that serve to combat fatigue's role in causing accidents. Although laborious, this analysis can lead to additional claims and sources of recovery beyond simple driver negligence and vicarious liability, including claims of negligent retention, supervision and training, as well as independent negligent claims against the trucking company.

On average, truck drivers work 10-hour shifts.

- National Sleep Foundation's 2012 Sleep in America Poll

The Problem of Identifying the Fatigued Truck Driver

It should be no surprise that truck drivers are at great risk of fatigued driving when one considers what is known about restorative sleep and the causes of fatigue. The National Sleep Foundation's 2012 Sleep in America Poll, truck drivers were reported to work an average of 10-hour shifts, with the largest portion working shifts from 9 to 12 hours. Only 51% of truck drivers worked the same schedule each day, and only 27% worked the same number of hours each day. On average, truck drivers reported 51 hours spent working each week. Almost 40% of truck drivers reported that they rarely had a good night's sleep.

Identifying Evidence of Fatigue

Efforts to evaluate whether a truck driver was fatigued at the time of an accident should start at the time of initial case investigation. The easiest place to start is the accident report, which provides the time of day when the accident occurred. One should also consider the manner in which the accident happened, as the actions of the truck driver may be consistent with an individual experiencing microsleep or impaired reaction not otherwise explained.

In most fatality accidents, and oftentimes in crashes resulting in serious injury, a commercial motor vehicle examination will also occur. As part of this examination, a driver's record of duty status will be examined. If the driver has exceeded his hours of allowable driving or on-duty time, he will be issued a citation, which can be used as evidence of negligence. At the very least, the activities and work hours of the truck driver in the days leading up to the accident can be reconstructed.

As soon as the decision is made to pursue the case, an evidence preservation letter should be sent. Time is truly of the essence, as motor carriers/drivers are only required by law to keep records for a finite period of time. For example, the Federal Motor Carrier Safety Regulations impose an obligation on motor carriers to require every driver that it uses (regardless of the relationship) to maintain records of duty status.

To read more about driver fatigue in truck accident cases, visit the [Trucking Accidents](http://TruckingAccidents.LangdonEmison.com) page online at LangdonEmison.com, where you will find an in-depth article on the subject and more.

Identifying the Invisible Injury

How to spot and prove a Traumatic Brain Injury



While a traumatic brain injury can be an acute and recognizable event, it is often very different and can go undiagnosed for months. Unlike a broken neck or arm, a traumatic brain injury is not apparent to the casual observer and usually requires the use of expert witnesses and enhanced medical technology, including Diffusion Tensor Imaging, to illustrate the existence and extent of the brain damage. Thus, a traumatic brain injury is often referred to as the “invisible” injury.

Further, since our brain helps define who we are, the consequences of a brain injury can affect all aspects of our lives, including our personality and cognitive abilities.

Importantly, neither a blow to the head nor a loss of consciousness are required to suffer a brain injury. The Plaintiff will often look “normal” after the event and have no bruises or scars. While the Plaintiff may seem just a little dazed and confused, many first responders and medical personnel will not record any head injury or provide the necessary medical treatment. However, the Plaintiff could be suffering from a brain injury caused by a flexion/extension or acceleration/deceleration of the head and neck. During this rapid movement, the brain can undergo a “shearing” event when it impacts rough portions of the skull. The damage occurs at the microscopic level and is often not detectable with traditional CT scans or MRIs. Thus, the Plaintiff may never go to the hospital or may be sent home with a minimal diagnosis. However, in the months following the injury, the Plaintiff may seem dazed, confused, angry or just a little “off.” Often it is a family member or even counsel who will first notice the signs of brain damage. Further, proving the extent of the damage requires the use of many experts, including neuroradiologists, neuropsychologists, and neurologists, as well as developing good “before and after” witnesses and gathering important premorbid documentation.

Through the use of experts, including neuroradiologists, neuropsychologists and neurologists, Langdon & Emison has been able to prove microscopic changes in the brain and the devastating consequences of a traumatic brain injury.

Symptoms:

- Cognitive deficits including difficulties with attention, memory, confusion, concentration, headaches and nausea.
- Difficulty speaking or being understood; speaking in a slurred or very slow (or fast) manner.
- Difficulties with interpretation of touch, temperature, movement or limb position.
- Partial or total loss of vision or hearing; altered sense of smell or taste.
- Seizures.
- Physical changes like regulation of body temperature, sleep disorders or chronic pain.

What to Look For:

- Witnesses describe the plaintiff as being “dazed or confused” at the scene.
- Plaintiff has a loss of memory of the events immediately before or after.
- Altered Glasgow Coma Scale, which should normally be 15.
- Bruises, cuts and bumps on the head and face (but not required).
- Rapid acceleration and deceleration movement of the head.

Important Tips:

- Does *not* require a loss of consciousness.
- Does *not* require a direct blow to the head.



Actos Bladder Cancer Trial: \$9 Billion Verdict

A Louisiana jury awarded \$9 billion in punitive damages on top of \$1.5 million in compensatory damages to plaintiff Terrance Allen after finding that Actos – a popular diabetes medication – caused bladder cancer.

A critical issue in the 34-day trial was evidence that Japanese drug maker Takeda destroyed or lost critical documents from high-level employees and sales representatives that discussed Actos' link to bladder cancer. As the Court itself described: "The breadth of Takeda leadership, whose files have been lost, deleted or destroyed is, in and of itself, disturbing."

Jury awards \$9 billion Actos verdict after finding drug maker destroyed documents.

This most recent verdict was the fourth Actos trial tried to verdict. There have been two prior verdicts for plaintiffs in California and Maryland (though the results were later overturned), and there has been one defense verdict in Las Vegas. A fifth Actos trial began in Cook County, Ill., (Chicago) in mid-April. There remain about 3,000 Actos lawsuits pending in the federal Multi-District Litigation in the Western District of Louisiana and in consolidated litigation in Cook County, Ill.

3,000 Actos bladder cancer lawsuits across the country are still pending in consolidated litigation.

Though Actos is a popular diabetes drug, studies have now confirmed that it increases the risk for bladder cancer. A French study found that a cumulative dose taken longer than one year led to a substantial increase in bladder cancer, particularly in men. Actos' link to bladder cancer has been confirmed in a number of other studies, including research published in the *British Medical Journal*. In 2011, the FDA issued a safety advisory warning the public that taking Actos for more than one year may be associated with an increased risk of bladder cancer.

The total number of potential Actos cases is not a small one. Takeda Pharmaceutical Company is Japan's largest pharmaceutical corporation, having existed for over 230 years. Takeda markets its products in more than 100 countries worldwide, with its U.S. subsidiaries based in Deerfield, Ill. Actos is Takeda's most successful product, representing just more than a quarter of Takeda's total revenue, with annual sales reported in recent years as high as almost \$5 billion.

Langdon & Emison continues to represent clients injured by Actos and welcomes co-counsel arrangements. Contact Brett Emison (brett@lelaw.com) or call (800) 397-4910 for a comprehensive case evaluation.

News and Notes

Michael Manners Receives the Theodore McMillian Judicial Excellence Award



Langdon & Emison Partner Michael W. Manners received the Theodore McMillian Judicial Excellence Award at the Missouri Bar's annual meeting. This prestigious honor is given annually by the Missouri Bar Association to a judge who has set an example of judicial excellence by leadership in the advancement of justice; has provided outstanding public and community service to the people of Missouri; who are persons of the highest character, integrity and honor; and who inspire other members of the judiciary to similar noble purpose.

Before joining the firm this past fall as a partner, Mike served for 13 years as a trial judge in the 16th Judicial Circuit in Jackson County, Mo. During his tenure on the bench, he oversaw nearly 170 jury trials and served as a special judge for the Missouri Supreme Court on numerous occasions. Mike received the 2012 Joseph

E. Stevens, Jr. Aspire to Excellence Award from the Kansas City Metropolitan Bar Association.



Lindsey Scarcello Joins Langdon & Emison as an Associate

Lindsey Scarcello has joined the firm as an associate attorney. Lindsey received her law degree from the University of Missouri – Kansas City School of Law, where she was awarded a Second Century Scholarship for academic excellence. She also received the Robert C. Byrd and Bright Flight scholarships. During law school, Lindsey completed two prestigious clerkships at the appellate court level and in federal district court.



Phyllis Norman Appointed to 16th Circuit Judicial Review Committee

Langdon & Emison attorney Phyllis Norman was appointed this spring by the Board of Governors of the Missouri Bar to the Judicial Performance Evaluation Committee for the 16th Circuit. She will serve a six-year term beginning with this summer's Annual Meeting for the Missouri Bar. The group's ultimate goal is to contribute to citizens' available knowledge for the judicial ballot.

The committee's responsibilities will include collecting information on judicial performance, releasing summary evaluations and recommendations for dissemination to the public, and recommending whether a judge should be retained and providing reasons for the retention recommendation. Committee members are asked to evaluate judicial performance based on performance standards, to include whether the judge is deciding cases based on established facts and applicable law, explaining decisions clearly, and deciding cases promptly.

WHAT'S INSIDE

THE PROBLEM WITH FLIMSY CAR SEATS

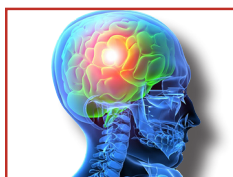


FUEL-FED FIRES CAUSING DEATH IN SURVIVABLE CRASHES



INCREASED FAILURE RATE IN METAL-ON-METAL HIPS

FATIGUED TRUCKERS CAN CAUSE DEATH



HOW TO IDENTIFY TRAUMATIC BRAIN INJURY

ACTOS: \$9 BILLION VERDICT



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