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### Door Still Open for GM Ignition Switch Cases

*L&E is Handling a Large Volume of Cases Nationwide*

Any attorney evaluating auto accidents involving General Motors vehicles should not rule out the possibility of an ignition switch claim. The U.S. Supreme Court's April ruling denied review of a lower-court ruling allowing personal injury claims arising before GM filed for bankruptcy in 2009, leaving the door wide open for hundreds of previously barred ignition switch claims.

Tips for evaluating a potential GM ignition switch case:

- Airbag nondeployment is critical to these claims.
- Do not be deterred by the statute of limitations; many states allow for tolling of the statute and have discovery rules that may save certain claims.

Any accident involving a GM vehicle should be screened for a GM ignition switch claim.

*See page 10 for a complete list of recalled GM vehicles.*



## How to Save Thousands on Record Requests

Start using Individual Access Requests and save thousands on Designated Record Sets. Our firm began using Individual Access Requests in 2016 and has saved more than \$100,000 on our clients' Protected Health Information. These requests are extremely simple with strict HIPAA guidelines that all covered entities must follow.

Description	Quantity	Unit Price	Amount
Basic Fee			69.88
Retrieval Fee			0.00
Per Page Copy (Paper) 1	9989	1.54	15,383.06
Per Page Copy (Paper) 2	10	0.00	0.00
Shipping			0.00
Invoice Adj Max Fee Exceeded			-15,369.92
Subtotal			83.12
Sales Tax			0.00
Invoice Total			83.12
Balance Due			83.12
Adjustment			-76.62

An Individual Access Request is a patient or first-party request. Patients can request their Designated Record Set and have it sent to a third-party designee for the same cost the covered entity would charge the patient for sending records directly to them. Here's how it works:

- Send a written request signed and dated by your client.
- Specify for whom the records are requested.
- Specify where the covered entity should send the records.

The covered entity must release the records within 30 days from receipt. Also, no more mailing requests! A covered entity cannot force an Individual Access Request to be mailed, hand delivered or requested via portal. Asking for electronic records on all Individual Access Requests will ensure a lower cost for records under the HITECH Act.

Remember, using an authorization indicates a covered entity is only permitted to release records. With an Individual Access Request, covered entities are required to release the records to whomever specified by the patient.





## Think Twice Before You Decline or Settle a PI Case

*Look at All Aspects of Big-Damage Cases, Even if There is Insufficient Insurance*

An unfortunate reality for people injured or killed in accidents is that defendants – individuals or commercial entities – sometimes carry only the minimum insurance required. When handling personal injury cases, explore all potential recovery avenues before declining or settling the case.

### **Auto Product Defects**

Every motor vehicle crash should be evaluated for a potential auto product defect. Signs that a product defect could be in play:

- A minor collision at residential speeds resulted in catastrophic injury or death.
- A single occupant is severely injured or killed while other occupants suffered minor or no injuries.
- A localized area of the vehicle failed such as a tire blowout or detread, roof crush or seat back failure.

Every motor vehicle case involving a serious injury or death should be evaluated for a product defect.

### **Trucking Accident Cases**

When suing a trucking company or driver with insufficient insurance, consider several theories of liability to recover more than the policy limits offer.

- Tire defects: detread or blow out.
- Under-ride: rear of trailer or the side of the trailer.
- Component failures from poor maintenance: brakes, tires, steering, etc.
- Fire originating from the semi-truck.
- Broker/shipper liability.





## Dolly Wheel Hubs Explode During Inflation

*Two Recent Cases Point to the Dangers of Plastic Wheel Hubs*



*Mark Emison*

Numerous consumer products continue to have plastic wheel hubs prone to explode with the force of a handgun when a tire is inflated.

Our law firm has received several cases involving severe injuries from hand truck wheel hubs that exploded during inflation. These products are not adequately tested, and the weaknesses in the plastic make the hubs vulnerable to explode when consumers use an air compressor.

### Common Injuries

- Dismembered fingers
- Permanent eye damage/blindness
- Lacerations
- Fractured teeth

### Recalled Products

Since 2001, at least eight consumer products and nearly 1.5 million units have been recalled due to the danger of exploding wheel hubs during inflation.

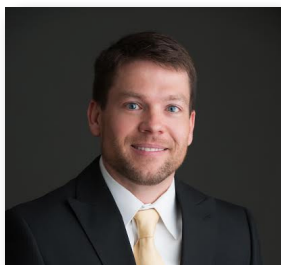
CPSC - Recall, Alert or Release No.	Manufacturer	Date	Application	No. of Units
01-203	Union Tools	7/20/2001	Hand Trucks	32,000
02-140	Ames True Temper	4/16/2002	Wheelbarrows	647,000
02-542	Sportman's Guide	5/30/2002	Big Red Wagon	1,000
07-003	MTD	10/5/2006	Snow Throwers	130,000
12025	Harper Trucks	10/27/2011	Hand Trucks	292,000
13-282	L.L. Bean	9/11/2013	Boat Carts	2,200
15-086	Cosco	2/25/2015	Hand Trucks	273,000
17-002	Gleason	10/6/2016	Hand Trucks	120,000
			<b>Total:</b>	<b>1,497,200</b>

*If you have a case involving injuries from a plastic wheel hub, we would be pleased to help you review it for a potential product defect.*



## Severe Injuries Can Happen Even in Minor Accidents

*L&E Resolves Difficult Trucking Accident Case in Rural Arkansas*



*David Brose*

Severe injuries do not result solely in high-speed collisions or crashes where a vehicle is totaled. In a recent case, our client's spine was severely injured in an accident where the impact speed was less than 5 mph, and the vehicle damage was essentially non-existent.

### **The Accident**

Our client was driving a sport utility vehicle (SUV) on an interstate in rural Arkansas, pulling a trailer with a golf cart when he was hit in the rear of the trailer by a tractor-trailer traveling behind him. Both vehicles were in a construction zone, with traffic merging to one lane.

The impact caused minimal damage to the front bumper of the tractor-trailer, and there were minor dents in the trailer pulled by our client's SUV. Our client had a long history of prior back injuries and spinal fusions. The collision exacerbated that condition, resulting in a revision and expansion of his prior fusions. Although he did not seek immediate medical treatment, he ultimately required a complete fusion of all of his cervical vertebrae.

Despite difficult facts, our attorneys successfully resolved the case on our client's behalf. The key to the case was to provide expert biomechanic testimony to show the forces in the collision subjected our client's vehicle to an amount of force greater than necessary to cause injury to the cervical spine, especially in a person with a prior injury to that area. We also demonstrated that our client's damages, including future medical care needs/costs, were far greater than the applicable policy limits.

*A picture does not always tell the whole story. Serious injuries can occur even in minor impacts.*





## Guardrails that Maim & Kill

### *Identifying Defective Guardrail Claims in Serious Injury & Death Cases*

Several guardrail end terminals have design defects that cause horrible injuries and fatalities, including:

- Trinity ET-Plus.
- X-Lite guardrails.

#### **Why the ET-Plus Fails**

Where guardrails are concerned, energy absorption means safety. In the late 1980s, energy-absorbing end terminals were developed to absorb the impact from a vehicle and allow it to “ride down” the crash without piercing or overturning the vehicle.

One of the most popular energy-absorbing end terminals was the ET-2000, manufactured by Trinity Industries. Despite having reasonably good results, Trinity chose to modify the ET-2000 end terminal to increase profits. The modified version – the ET-Plus – has caused drastic and deadly consequences.

#### **X-LITE Guardrail End Terminals**

The X-Lite end terminal is a redirective, gating end terminal manufactured by Barrier Systems, a Lindsay Transportation Solutions Company based in Rio Vista, Calif. The X-Lite is known to have a poor in-service performance record. It is no longer used by at least nine states, some of which have started replacing them amid safety concerns that arose from death and injury crashes.

Key elements to consider when evaluating a guardrail case:

- What part of the vehicle first hit the strike plate of the end terminal (e.g., side impact, frontal impact, frontal offset, front fender)
- Angle of impact
- Speed
- Size and weight of the striking vehicle

In an email, a Trinity executive told his superiors that modifying the ET-Plus end terminal would save the company \$2 per end terminal and \$50,000 per year.



## Navigating Complex Railroad Crossing Cases

### *Practice Tips from Recent Cases*

Though railroad crossing accidents inevitably result in catastrophic injuries or death, pursuing a case against the defendant railroad can be difficult. Below are some tips for handling railroad crossing cases:

- Brett Emison**
- Inspect and photograph the site as soon as possible after the crash. Send a preservation letter to the defendant railroad as soon as possible to preserve various items, including any videos from the locomotive(s) onboard recorders; internal reports regarding the incident; and records reflecting the train's speed and whether the train's whistle was blown as it approached the crossing.
  - Send a Sunshine/Freedom of Information Act request to the state in which the crossing exists, seeking all records regarding the crossing. This information can provide valuable insight into who is responsible for placing signage/warning devices at the crossing and can also yield prior communications between the state and the railroad about the crossing.
  - Pursue both common law claims and negligence per se claims based on applicable state statutes.
  - Sight obstructions are often a key factor in railroad crossing crashes. A driver cannot avoid a crash if he or she cannot see the train in time. Engage an accident reconstructionist to determine the necessary distance and time that the driver needed to see the train was approaching and stop the vehicle.

Once every three hours, a train strikes a vehicle or pedestrian at a railroad crossing somewhere in the United States.



# Langdon & Emison Still Accepting Takata Airbag Claims

Although Takata Corp. filed for bankruptcy this summer, claims can still be made for injuries from these dangerous airbags.

- Bankruptcy claims against Takata
- Claims against the OEM manufacturers (Honda, GM, Ford, Nissan, other automakers)
- Claims against body shops or repair shops that install used Takata airbags

When evaluating a potential claim, look for airbag injuries from an overaggressive airbag deployment. Injuries can range from lacerations and bruising to facial fractures; to loss of one or both eyes. In addition, these airbags have killed numerous people.

## Common Injuries

- Facial, neck and chest lacerations, bruising
- Facial fractures
- Eye, vision loss

Millions of cars are still equipped with defective Takata airbags, and the recalls are proceeding very slowly. Unfortunately, Takata airbag injuries will continue to occur for many years.



# Finding Tire Claims in the Most Unlikely Places

*Firm Identifies Tire Defect Claim Through Co-Counsel Opportunity*



A single father and Gulf War veteran was killed when the concrete mixer he was driving suddenly went out of control and veered off the roadway, colliding with a bridge wall and ultimately rolling over as it traveled down an embankment. We worked as co-counsel with an attorney handling the workers' compensation claim, helping to evaluate the case for a potential product defect.

Our post-collision inspection determined a detread of the front right steer tire caused the loss of control and ensuing fatal accident. Though the subject tire had sufficient tread to be operated on the roadway, a critical flaw within the tire caused it to fail before it wore out: Its inner liner was woefully inadequate. In fact, the inner liner of the tire that failed was designed and

constructed only to the level of a passenger tire, despite carrying far greater loads and PSI.

Fortunately, proving the tire defect claim provided an additional avenue of recovery for the decedent's three young children.

## Signs a Tire Caused the Accident

- The tread (and often a portion of the underlying belt) tears away from the carcass of the tire
- Report of a "blowout"
- Sudden changes in the direction of travel of the vehicle
- Tire scuffs on the roadway or side of the vehicle



# Federal Judge Allows Plaintiffs' Experts Ahead of 3M Bair Hugger Trial

Plaintiffs will move forward with the 3M Bair Hugger trial in February after a federal judge's ruling denied defendant's motions to exclude plaintiffs' experts and motion for summary judgment.

The decision by Judge Joan Erickson of the U.S. District Court for the District of Minnesota sets the stage for the first bellwether trial in the multidistrict litigation, scheduled to begin Feb. 26.

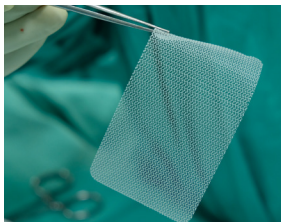
Hospitals around the country use the 3M warming blanket to maintain patients' normal body temperatures during knee and hip replacement surgeries. Thousands of U.S. patients allege the 3M Bair Hugger warming blanket causes deep joint infections by exposing the surgical site to contaminants from the operating room.

Langdon & Emison is representing patients nationwide in Bair Hugger litigation and is accepting new cases.

## L&E's Mass Tort Inventory

Langdon & Emison continues to expand its inventory of mass tort claims and evaluation of new torts. Our firm would be pleased to help you with your case or offer a co-counsel arrangement for qualifying cases.

### Current List of Pharmaceutical and Medical Device Injury Claims



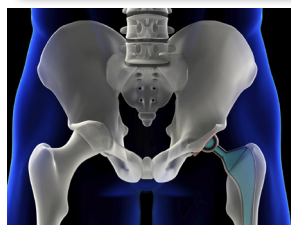
#### Hernia Mesh

Several brands of hernia mesh products have been associated with a high rate of failure. We are looking at cases where the person had hernia repair surgery and then had revision surgery or other complications.



#### 3M Bair Hugger Warming Blanket

Patients must have undergone a hip or knee replacement surgery and suffered a deep joint infection within one year after surgery.



#### Metal-on-Metal Hips

All-metal hip implants have been prone to fail early, requiring patients to undergo revision surgery.



#### Taxotere

Taxotere is a chemotherapy drug approved to treat breast cancer. The drug has been linked to permanent and disfiguring hair loss in breast cancer patients.



### Recalled GM Vehicles

In 2014, GM recalled more than 2 million vehicles with defective ignition switches, which can slip from the run position and cause vehicles to stall and disable safety features including airbags. Below is a complete list of recalled vehicles.

#### Buick

- LaCrosse, 2005-2009
- Lucerne, 2006-2011
- Regal LS & GS, 2005

#### Cadillac

- CTS, 2003-2013
- CTS, 2014 (some)
- Deville, 2000-2005
- DTS, 2006-2011
- SRX, 2004-2006

#### Chevrolet

- Camaro, 2010-2014
- Caprice, 2011-2013
- Cobalt, 2005-2010
- HHR, 2006-2011
- Impala, 2000-2014
- Malibu, 1997-2006, 2008-2009
- Malibu Maxx, 2004-2006
- Monte Carlo, 2000-2007

#### Daewoo

- G2X, 2008-2009

#### Oldsmobile

- Alero, 1999-2004
- Intrigue, 1998-2002

#### Pontiac

- G5, 2003-2010
- G5/Pursuit, 2005-2007
- G6, 2004-2006
- G8, 2008-2009
- Grand Am, 1999-2005
- Grand Prix, 2004-2008
- Solstice, 2006-2010

#### Saturn

- Aura, 2008-2009
- Ion, 2003-2007
- Sky, 2007-2010
- Vue, 2002-2004



## News and Notes



### 20th Anniversary of Baker v. GM SCOTUS Argument Recognized

A news piece recognizing the 20th anniversary of the U.S. Supreme Court argument in Baker v. General Motors aired on several broadcast affiliates nationwide, highlighting this precedential case and its impact on consumer safety. Baker was a Langdon & Emison victory described as influential in law because it provided an answer to the question of whether expert testimony could be called upon from former employees. The news piece can be viewed on the Defective Vehicles Case Results page on the firm's website.

### L&E Attorneys to Lead 2018 Brain Injury Seminar



*Kent Emison Mark Emison*

Langdon & Emison partners Kent Emison and Mark Emison will chair and moderate the legal-specific pre-conference sessions at the 31st Annual Conference on Legal Issues in Brain Injury, March 14-17, 2018, in Houston, Tex. The conference is hosted by the North American Brain Injury Society and features an all-star cast of top trial attorneys and medical experts who will present a broad array of practical information covering the latest issues and developments in brain injury litigation.



*Bob Langdon*

### Bob Langdon Presents at AIEG Trucking Seminar

L&E partner Bob Langdon was a featured speaker at the Attorneys Information Exchange Group (AIEG) 2017 Trucking Seminar, Nov. 9-10 in Chicago. Bob spoke to roughly 125 trial attorneys about voir dire strategies and best practices for selecting juries. AIEG is a national organization dedicated to fostering information sharing and collaboration among member attorneys for the benefit of clients who have been affected by dangerous and defective products.

### L&E Staff, Attorneys Complete Another Competitive Running Year



On October 21, Langdon & Emison attorneys and staff members participated in the Kansas City Marathon, running distances of 3.1 miles, 6.2 miles and 26.2 miles. This year's race proceeds benefited Team World Vision, bringing clean water all over the world, and other local charities that cover everything from children's health to assisting military veterans. Team members also competed in 2017 events in Nevada, Kansas, California, Iowa, Florida and Nebraska. Congrats to this year's team and best of luck on the running circuit in 2018!



## More than \$25 Million Paid to Co-Counsel

In the past three years, Langdon & Emison has paid more than \$25 million to co-counsel in personal injury cases nationwide. We plan to grow that amount with successful representations in 2018, and we welcome the chance to collaborate with you on any potential personal injury case.

Case examples highlighting our firm's success in personal injury litigation:

- \$59 million jury verdict, Reclined Seat Case, *Kumar v. Toyota*
- \$43.1 million jury verdict, Seat Defect Case, *Heco v. Midstate Dodge LLC*
- \$26.4 million jury verdict, Fuel-Fed Fire Case, *Wasilik v. Ford*
- \$23.4 million jury verdict, Rollover/Tire Detread Case, *Castillo v. Ford*
- \$16.9 million jury verdict, Reclined Seat Case, *Martin v. Ford*
- \$12.5 million jury verdict, Fuel Tank Puncture Case, *Mathes v. Ford*
- \$11.3 million U.S. Supreme Court opinion, Fuel-Fed Fire Case, *Baker v. GM*

*If we can be helpful, please reach us via the contact information below.  
We hope you have a great 2018.*



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