

**LANGDON
& EMISON**

Newsletter

Fall 2021

What's Inside

Page 2 – Firm Settles
Defective Guardrail Case

Page 3 – Tire Defects

Page 4 – Bair Hugger,
Paraquat Update

Page 5 – Dangerous
Workplace Equipment

Page 6 – Child Seat Design
Flaws Investigated, Exposed

Page 8 – Dangerous
Consumer Products

Page 9 – The Latest Data on
Trucking Accidents

Page 10 – Premises Liability
Practice Tips

Page 11 – Negligent
Pharmacies Endanger
Americans' Health

Page 12 – Collision
Avoidance Technology
Practice Tips

Page 13 – Meet the Firm's
Newest Attorneys

Page 15 – News & Notes

Page 16 – L&E's National
Footprint



Defective Front Seats Pose Lethal Danger to Both Front and Rear Occupants

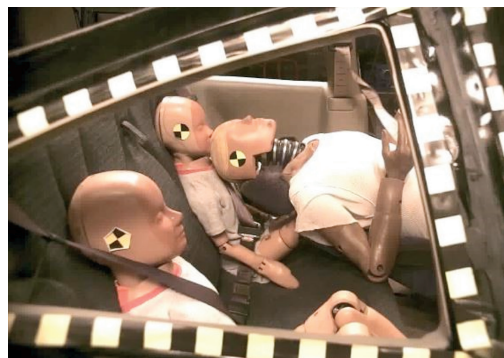
Front occupant seating systems are vital safety components in rear-end crashes. During an impact, the seatback should be designed to protect and contain the occupant in the front seat. In a seatback failure, the front seat collapses into the rear occupant space and allows the front occupant to jettison rearward. This dangerous hazard poses a lethal risk to both the front occupant and to anyone sitting in the rear seat.

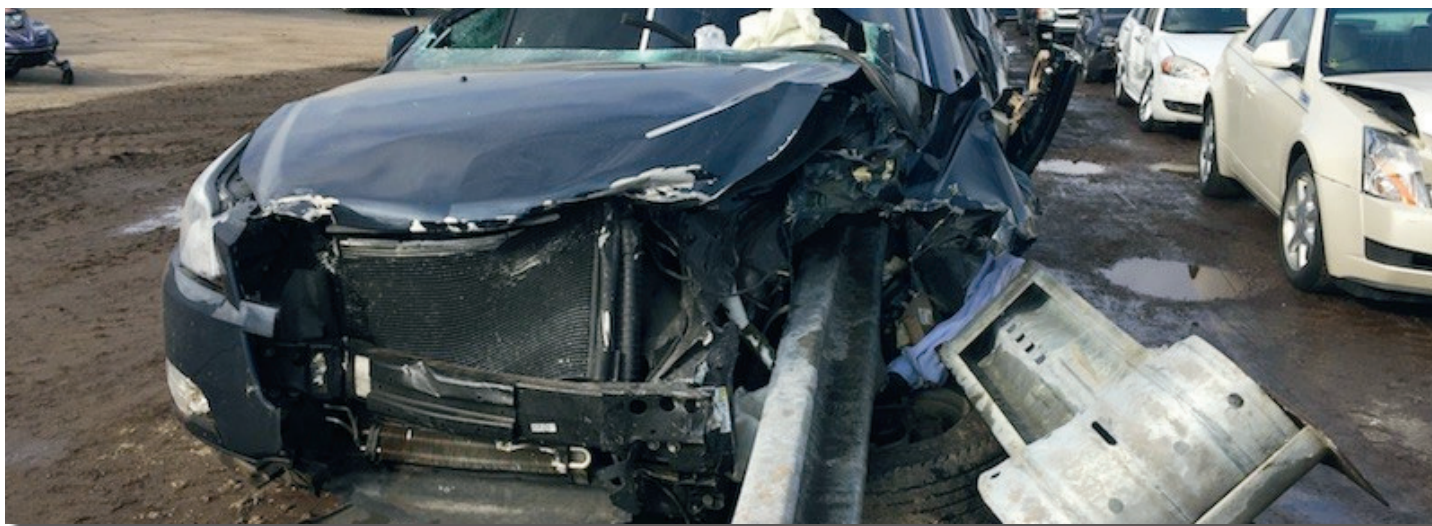
Decades of litigation and testing confirm defective seatbacks remain a danger in rear impacts, especially to children.

Biomechanical Factors

Sadly, when front occupants catapult rearward in a seatback failure, children sitting in the rear seat are common victims of severe traumatic brain injuries. In a recent case, two young children in the back received frontal skull and orbital fractures that resulted in severe traumatic brain injuries after both the front driver and passenger seat failed. Evidence of lacerations, contusions and injuries to the front occupants that may have been caused when contacting the rear occupants is also key evidence that the seatback failure caused the severe injuries to the rear occupants. A rear impact that results in a moderate or severe traumatic brain injury to a rear occupant should be evaluated for the front seat performance.

(Continued p.14)





Firm Obtains Successful Recovery for Illinois Woman in Defective Guardrail Lawsuit

In the latest successful result for Langdon & Emison's legal team litigating cases nationwide over guardrail defects, a confidential settlement was recently reached on behalf of an Illinois woman whose car was pierced by a guardrail, leading to the amputation of her leg. The firm has filed suit against Trinity Industries and other makers of defective guardrails nationwide.

In 2018, our client was driving her car when it departed the roadway and struck an ET-Plus end terminal, a Trinity product. When her car impacted the guardrail, the ET-Plus failed to properly extrude the guardrail, locking up the system and causing the w-beam guardrail to buckle. The exposed end of the w-beam guardrail struck our client's vehicle near the driver's wheel and penetrated into the passenger compartment.

The penetrating guardrail struck our client and causing damage to her left leg so severe that it required amputation. This settlement will allow her to resume her active life as a human resources professional, and to obtain the rehabilitative care that she will need.

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, as in this most recent case, which was settled in the summer of 2021.

There are still thousands of dangerous guardrail end terminals on U.S. roadways, and unfortunately, more people will be injured. If you are seeking co-counsel on a guardrail case, we have knowledge of the end terminal products and their defects; accident reconstruction experts; and other resources to help maximize your client's recovery.



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

Tire Failures & Defects

612

Fatalities in tire-related crashes in 2019

DATA SOURCE : NHTSA

Causes of Tread Separation

Tread belt separations are often reported as tire blowouts. When the tread and upper belt separate from the body of the tire, vehicle loss of control results, including rollovers that have resulted in serious injuries and fatalities.

IMPROPER DESIGN The tires oxidize because of oxygen permeation through the rubber surfaces, making the rubber brittle which causes separation between the layers.

IMPROPER MANUFACTURING PRACTICES

IMPROPER SELECTION OF RUBBER MATERIALS It is typically the type of rubber that is selected (one that doesn't resist oxygen permeation) that leads to failure.

INADEQUATE QUALITY CONTROL MEASURES

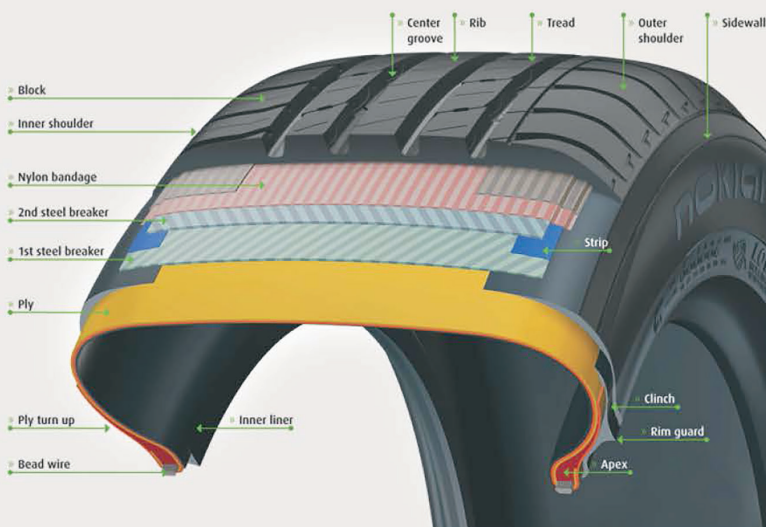
Improper Tire Installation

Failure to install tires in accordance with manufacturer and industry recommendations can lead to loss of control or premature failure of a tire, resulting in a crash.

11,000

Estimated number of car accidents caused by tire failures each year

DATA SOURCE : NHTSA



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Federal Appeals Court Reinstates 3M Multi-District Litigation Bair Hugger Suits

The U.S. Court of Appeals for the Eight Circuit reinstated nearly 6,000 lawsuits alleging patients developed severe infections from the 3M Bair Hugger warming system used during joint replacement surgeries. The appeals court ruled that testimony from plaintiffs' experts that the Bair Hugger can cause infection was incorrectly excluded under Daubert. The Eighth Circuit ruling also reversed the district court's grant of summary judgment to 3M and its Arizant Healthcare Inc. unit, which followed the order excluding experts' testimony.

Two of Langdon & Emison's Missouri state-court filed cases against 3M and others were remanded prior to the ruling, and our firm continued to litigate those cases pending the appeal of the MDL court's decision. We also continue to review new potential Bair Hugger claims for patients who suffered serious infections after joint replacement surgeries. To qualify, patients must have undergone hip or knee replacement surgery and suffered a deep joint infection within one year after surgery.

Popular Herbicide Linked to Parkinson's Disease

L&E Accepting Paraquat Cases Nationwide

Farmers and agricultural workers across the U.S. are filing lawsuits against Syngenta and Growmark, the manufacturers of Paraquat, alleging their long-term use and exposure to the herbicide caused them to develop Parkinson's Disease. Langdon & Emison is accepting cases nationwide on behalf of individuals who developed Parkinson's disease after exposure to Paraquat.

Paraquat is widely used throughout the world for weed and grass control. Despite mounting evidence linking Paraquat exposure to a higher risk of Parkinson's Disease, widespread use of the herbicide continues. Although manufacturers have known about the link between Paraquat and Parkinson's Disease, the herbicide has been distributed and sold without adequate warnings, even for certified applicators.

If you have a client who has been diagnosed with Parkinson's Disease after use of or exposure to Paraquat, we would be pleased to help evaluate your client's potential claim. For more information about Paraquat litigation, contact L&E partners Brett Emison or Tricia Campbell at 800-397-4910.





Identifying Cases Due to Heavy Equipment Failure

Industrial equipment is necessary to move heavy materials and to make many work environments efficient. We have litigated workplace accident cases nationwide, in which many of these pieces of equipment are found to be defective. According to the Occupational Safety and Health Administration (OSHA), some of the largest hazards for warehouse employees include cranes, dump trucks and conveyors.

991 Fatal
Construction Work
Injuries in a Year

- 2016 Bureau of Labor statistics

Cranes

Cranes are the #1 piece of heavy machinery for workplace accidents. In fact, the U.S Bureau of Labor Statistics recently reported that it has posed the most danger for the past two decades. Because of the imbalance of the crane itself, the accidental falling of the loads, or complete collapse, cranes can endanger and kill pedestrians as well.



Bulldozers and Construction Equipment

There are approximately 150,000 construction site accident injuries in the U.S. in an average year, according to the Bureau of Labor Statistics. Workers can get trapped beneath or inside bulldozers and get crushed by them if they roll over.

Dump Trucks

Among other potential defects, an electrical or mechanical fault in the machinery at any given time can cause the body of the dump truck to lose its elevated position, resulting in harm to anyone who is in the way – or those who might be trying to fix the fault.

Scaffolding and Ladders

Most workers don't think of ladders as machinery, but they are a vital piece of equipment if you must move and transport materials for shipping or receiving. Most falls happen while on ladders due to improper balance or protocol, but we have also found ladders and other workplace equipment to be improperly designed or manufactured.





Booster Seats Found to be Inadequately Designed, Deceptively Marketed

Last winter the Subcommittee on Economic and Consumer Policy released its findings from their investigation into concerns raised by parents and consumer advocates about the safety of child booster seats marketed in the United States. The Subcommittee concluded that lax federal regulation enables booster seat companies to mislead consumers about side-impact safety testing and get away with making unfair and deceptive size and weight recommendations that are not reasonably safe.

Child seat manufacturers have created their own weak testing conditions, which don't even involve an impact.

“Despite having regulatory authority over booster seats, the National Highway Traffic Safety Administration (NHTSA) has failed to regulate them in any meaningful way,” the report said. It has not set a 40-pound minimum for booster seats, and despite being directed by Congress 20 years ago, it has not created a side-impact testing standard. The Subcommittee recommends that NHTSA fulfill its duty to regulate booster seat safety to ensure that manufacturers don’t mislead parents or put children at risk in how they design and market their booster seats.

Fatalities with Booster Seats

Side-impact crashes accounted for an estimated 25% of vehicle collision fatalities for children under the age of 15 in 2018. Children who survive side-impact collisions often sustain serious injuries such as traumatic brain injury; concussion, neck injuries, or whiplash; broken bones in the face, hands, legs, arms, and ribs; and spinal cord injury or paralysis.

In February 2020, the Subcommittee obtained and analyzed documents and information from seven of the nation's largest booster seat manufacturers: Artsana (seller of Chicco brand), Baby Trend, Britax, Dorel, Evenflo, Graco, and KidsEmbrace. Their review included internal records detailing side-impact testing protocols; written results of side-impact tests; video tapes of side-impact tests; and internal communications regarding marketing, instructions and safety labeling.

The Subcommittee's investigation found that manufacturers of booster seats have endangered the lives of millions of American children and misled consumers about the safety of booster seats by failing to conduct appropriate side-impact testing, deceiving consumers with false and misleading statements and material omissions about their side-impact testing protocols, and unsafely recommending that children under 40 pounds and as light as 30 pounds can use booster seats.



Side-impact crashes accounted for an estimated 25% of vehicle collision fatalities for children under the age of 15.

Despite a decades-old expert consensus that booster seats are not safe for children under 40 pounds, five of the top manufacturers—Evenflo, Graco, Baby Trend, Artsana (Chicco) and KidsEmbrace—marketed booster seats for children as light as 30 pounds. And the report found that three manufacturers—Evenflo, Graco, and KidsEmbrace—deceptively market their booster seats as “side-impact tested.”

The manufacturers have created their own weak testing conditions, which don't even involve an impact. The tests do not measure occupant safety.

Instead, the manufacturers grade their booster seats' performance on a standard that it nearly impossible to fail. Evenflo gives its booster seat a passing grade every time a child test dummy does not fully eject and the seat itself does not physically break apart. Graco's self-designed standard also fails to test for occupant safety.

“Marketing booster seats as ‘side-impact tested,’ under these circumstances misleads consumers into believing that the booster seats passed meaningful impact tests, which they did not,” the report states. “It appears from simulations with test dummies that side-impact collisions would result in severe injuries to children.”

Common Consumer Products That Have Led to Serious Injuries



Many types of consumer products are the subject of product liability lawsuits because their design, manufacture or failure to warn causes serious injury or fatalities. Below is an overview of various consumer products our firm has evaluated and pursued for product liability claims.



Dolly Carts

Often these defective dolly's are equipped with plastic wheel hubs, rather than metal hubs, which make them much weaker and more prone to fail and explode during inflation.

Tree Stands

Tree stands can tumble due to structural failures of the stand, ladder or tree steps. Injuries often occur when hunters enter or leave the stand and ascend or descend the tree.



Safety Harnesses

Safety harnesses used to safely secure people at extreme heights are prone to fail if not manufactured properly, leaving people severely injured or worse.

Lawn Mowers

Lawn mowers are equipped with a dead-man's switch designed to stop the mower and disengage the cutting blade if the operator falls from the driver's seat; when that switch is defective, roll-overs occur.



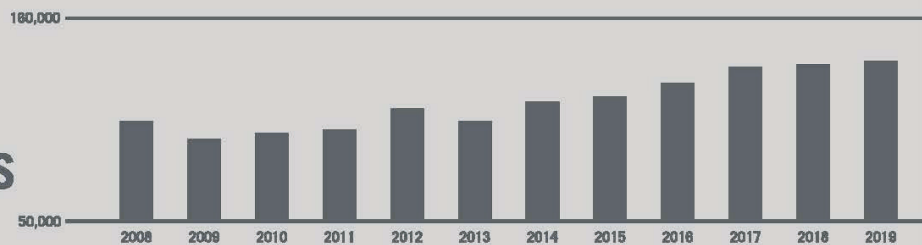
**When it matters,
we'll be there.**

LangdonEmison.com

COLLISION AVOIDANCE TECHNOLOGY IN TRUCK ACCIDENT CASES

5,005 people died in large-truck crashes in 2019. The number of deaths has increased 36% since 2010 (3,686 deaths).

PEOPLE INJURED IN CRASHES WITH LARGE TRUCKS



NHTSA estimates that Electronic Stability Control has the potential to prevent or mitigate as many as **31,000** crashes involving large trucks each year, including up to **20%** of moderate-to-serious-injury large truck crashes and **11%** of fatal large truck crashes.

The combination of crash avoidance technologies and stability control could prevent or mitigate as many as **107,000** police-reported crashes each year, representing **28%** of all crashes involving large trucks. As many as **12,000** nonfatal injury large truck crashes and **835** fatal large truck crashes each year could be prevented or mitigated. – *IIHS study*



Practice Tip: Premises Liability Matters with Rental Property Owners

There are a variety of inexpensive resources available to work up a case against rental property owners such as the owner of an apartment complex or other housing units. Below are just a few tips to keep in mind.

Public Records and Media Reports

In a negligent security case against such a property, attorneys can establish a pattern of violent crime by requesting calls for service and other reports from law enforcement for an apartment complex, hotel, or other commercial property. A request for such records can be made under the Freedom of Information Act and/or your state's Sunshine Law to all administrative agencies and governmental subdivisions with supervisory authority over the defendant. Media reports are often publicly available and show prior instances and crime statistics. Such records can then be used to prove notice of danger and the property owner's failure to address it.

Regulations and Ordinances

In both negligent security and premise liability cases, one should review the federal and state regulations that govern the property. These can include U.S. Department of Housing and Urban Development (HUD) regulations that apply to Section 8 housing. In Section 8 housing cases, identify similar violations or occurrences that provided notice of danger to the housing's owner, manager or employees prior to your client being harmed. Also examine local ordinances to determine whether the condition of the property complies with applicable building codes.



A critical investigation is necessary to maximize recovery in a premises liability claim

Other sources for rules and standards are the trade organizations or voluntary crime prevention groups that many property owners belong to. Look at the safety guidelines and training materials for each such organization to see whether the property owner is following the rules as outlined in these documents. If not, during the deposition of the owner, ask about the standards and guidelines being important safety rules to follow and then get admissions about how they are not following them.

Our firm has successfully represented clients in a series of premises liability cases, against a wide range of defendants.



Pharmacy Errors Injure 1.5 Million People Each Year

Our firm has handled pharmacy negligence and medication error cases in many different venues, and it is estimated in *Institute of Medicine of the National Academies* data that approximately 1.5 million people each year are injured because of pharmacy errors and prescription drug defects.

Recent reports found that pharmacy employees at major drugstore chains said high levels of stress and unreasonable expectations have led them to make mistakes while filling prescriptions and to ignore some safety procedures.

Medication errors can occur at both the distribution and pharmacy levels. Outsourcing and poor quality control procedures can result in entire lots of medication bottles being recalled due to mislabeling.

Pharmacy errors often occur when an oral or written prescription is recorded or entered into the pharmacy's computer system erroneously. It is critical for attorneys to recognize the signs of potential medication error cases.

Litigating Medication Error Cases

In one of our medication error cases, a lot of 200,000 bottles labeled and distributed by Walmart as Clopidogrel was recalled because some bottles in the lot contained Simvastatin, a cholesterol-lowering statin.

Clopidogrel is a drug used to prevent heart attacks and strokes; the error was compounded by Walmart's failure to act quickly once the mislabeling was discovered. As a result, our client's mother suffered a fatal heart attack after Walmart discovered the error and two weeks before a letter was sent to notify her about it.

If you have a potential personal injury matter related to medication errors that you'd like to talk with us about, please contact us any time for a free case evaluation.



Outsourcing and poor quality control procedures can result in entire lots of medication bottles being recalled due to mislabeling.

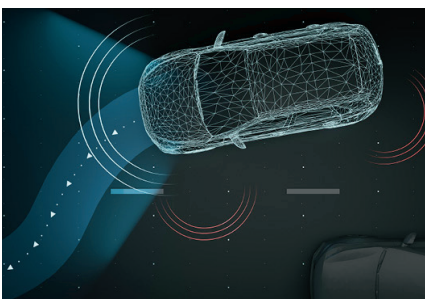


Collision Avoidance Technology Advances Pose Defects Affecting Cars, Trucks

Collision avoidance technology (CAT) allows trucks and cars to operate with warnings that alert them to potential collisions. Forward-crash prevention technology has advanced a great deal in most recent years. But the National Highway Traffic Safety Administration (NHTSA) has begun monitoring automatic crash prevention systems due to a number of accident reports. Many cars have safety technology, sensors and cameras that detect objects to avoid.

Avoiding rear-end collisions are a priority with the systems, though these safety features don't always function as intended. If drivers begin to rely on safety features that don't necessarily function properly, this can lead to fatal wrecks.

Lane-Departure Systems and lane-keeping assistance are a source of contention among car safety advocates. Sensors are meant to keep drivers safer by alerting them of nearby objects, but malfunctions can be devastating.



New technology is intended to avoid accidents, but when it is defective, lawsuits may be filed on behalf of injured plaintiffs. For the past 30 years we have been present for much of the new developments in automotive technology – in fact, many of the safety measures instituted by automakers are the result of civil litigation penalties that our work has brought about. If you have a potential auto defect that you'd like to talk about, we welcome the opportunity to have a no-obligation consultation about a potential case.



Many of the safety measures instituted by automakers are the result of civil litigation penalties resulting from plaintiffs' lawsuits.



This summer five new attorneys joined the team at Langdon & Emison. Pictured from left to right, those new additions are: Summer Davidson, Maggie Langdon, Sam Barnett, Danielle Rogers and Justin Watkins.

Meet L&E's Five Newest Associate Attorneys

Summer Davidson was a member of the City Attorney's office in Kansas City, Mo., where she represented the city in a variety of cases including tort litigation, workers' compensation, contract disputes, assault and battery, and tax. She focused her early career in family law, representing clients in dissolutions, modifications, child custody, and ex-parte actions. While at law school at the University of Alabama, Summer worked with the Capital Litigation Clinic, contributing pro bono work to a wide range of matters for clients including those imprisoned in Alabama penitentiaries.

Maggie Langdon joins the firm as associate attorney after a successful tenure at the Cass County Prosecutor's office in western Missouri. While a law student at the University of Kansas, Maggie launched a joint student chapter of the state trial lawyer associations of Missouri and Kansas, so that students interested in potential careers in plaintiff's law could learn more about the business and network with its practitioners.

Sam Barnett has served as lead counsel for personal injury, nursing home abuse, medical negligence, bad faith, and workers' compensation cases in his early career. In his previous firm he was directly responsible for all aspects of cases, including case generation and intake, client communication, retention of experts, mediation, discovery, and overall case strategy. As part of the Midwest Innocence Project, Sam has served as outside counsel for several issues, and volunteer counsel on substantive matters. He earned his J.D. at the University of Wisconsin.

Danielle Rogers joins the firm after having her own solo practice for six years. Before that, Danielle was first or second chair on nine felony jury trials while at the Ray County Prosecutor's office. She is a graduate of the University of Missouri-Kansas City School of Law, and will be focusing on contributing to the firm's mass torts division.

Justin Watkins has obtained substantial results for his clients in his early career, both in the Missouri State Public Defender System and working with a corporate defense firm before joining Langdon & Emison this past summer. As an Assistant Public Defender, Justin provided legal representation to indigent citizens accused of crimes. In this role he managed cases from inception to conclusion, and he acted as counsel in the role of first or second chair in criminal jury trials. He earned several honors for his work on the law review and with the mock trial team while enrolled at the John Marshall Law School in Chicago.

Defective Front Seats Pose Lethal Danger to Both Front and Rear Occupants

(Continued from p.1)

Front occupants in seatback failures risk severe spine and brain injuries in three common biomechanical scenarios. First, the front occupant may jettison into the rear and suffer brain or spine injuries from violently contacting a rear occupant or the rear seat.

Second, as a front occupant “ramps” rearward on the seat, the spine may hyperextend over the top of the seatback or headrest. Third, an initial rear-end impact may leave a front occupant out of position in the seat and vulnerable to be thrown around within the vehicle in subsequent impacts.

To determine the mechanism of injury, it is important to identify deformation to the seat and evidence of occupant contact with other structures. A biomechanics expert can use the physical evidence, mechanism of the seatback failure, and evidence of injuries to determine to the forces that ultimately caused severe injuries to your clients.

Calls for Change

Federal standards for seatback strength have not changed since the 1960s. The present rearward standard, FMVSS 207,



is a pull test of an unoccupied seat that lawn and banquet

chairs can pass. The standard is woefully inadequate and does not reflect how a seat will perform dynamically in the real world.

For decades, safety advocates have called to increase front seat standards and to require manufacturers to complete dynamic testing of seats occupied by a crash dummy to better measure how seats will perform in rear impacts. Auto manufacturers have strongly

opposed these changes.

Recently, a bill has been proposed to force manufacturers to improve seat safety. The Modernizing Seat Back Safety Bill honorarily lists two of our firm’s past clients as victims of defective seatbacks.



The risk of injury to children is increased due to passengers in the rear seat being trapped or crushed by the weight of the front passenger seat and its occupant. A number of automobile manufacturers have issued recalls due to defective seat backs.

Screen for Seat Back Failure Cases

- Clients with spinal and/or severe TBIs
- Collapsed front seats
- Seatback position may be moved after the crash
- Talk to scene witnesses about seat position

News and Notes

In The U.S. Personal Injury Litigation Webinar Series, L&E Offers Educational Programs to Trial Lawyers, Law Students Nationwide



Langdon & Emison attorneys collaborated with law schools and state trial lawyer associations in the past year, on a series of webinars for law students and developing trial lawyers. Topics covered in this series include an in-depth look at various auto product defects, trends in truck accident litigation, and trial advocacy tips for attorneys newer to the art of trying cases. To receive a free boxed set copy of “*The U.S. Personal Injury Litigation Webinar Series*,” please contact us at (800) 397-4910.

Mark Emison, Bob Langdon, and Alex Thrasher Work Pro Bono to Exonerate Innocent Man



Michael Politte

Michael Politte was 14 years old when he woke to the smell of smoke and found his mother murdered and set on fire in their home. He was wrongfully convicted for his mother’s murder based on flawed scientific evidence. The only alleged physical evidence prosecution used to connect Michael to this crime - the presence of gasoline on his shoes - has now been proven false. After Michael has been falsely imprisoned for almost 23 years, the State admitted the evidence was false. It has been scientifically proven that the chemicals the State presented as gasoline on Michael’s shoes at trial was in fact an aromatic solvent used in the manufacture of tennis shoes. On August 22, 2021, L&E along with the Midwest Innocence Project and MacArthur Justice Center filed a writ of habeas corpus petition in an effort to exonerate Michael. Partner Mark Emison has worked pro bono on this case since 2014.

Bob Langdon Named a Missouri Icon



Bob Langdon

As part of this year’s ICON Awards program from Missouri Lawyers Media, Bob Langdon was a member of this prestigious class of attorneys. This honor aims to select the top lawyers in the state who have achieved notable and sustained success and leadership both within and beyond the field of law.

The ICON Awards were launched in 2018 and are presented to distinguished men and women attorneys in recognition of their exemplary careers and longstanding commitment to the Missouri legal community. Whether active or retired, honorees must hold or have held a senior position with significant decision-making authority for their firm or organization. Bob has been recognized as one of the top personal injury litigators in the country, having successfully tried cases from coast-to-coast on behalf of plaintiffs. He has served in leadership roles in several bar associations, and is a graduate of the University of Missouri – Columbia School of Law. He lives in Parkville, Mo., with his wife and children.

Langdon & Emison attorneys currently are working on personal injury cases from coast-to-coast. We would love to talk with you about your potential case.

When it matters, we'll be there.



**LANGDON
& EMISON**

Let us help maximize compensation for your clients.

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