1. **CAPITOL OBSERVATIONS**

**TREMENDOUS RESULT IN FIRST PHASE OF TVA COAL ASH SPILL LITIGATION**

U.S. District Judge Thomas Varlan issued a ruling on August 23rd in favor of the Plaintiffs who are seeking to hold the Tennessee Valley Authority accountable for its wrongdoing that resulted in the largest coal ash spill in U.S. history. Judge Varlan found that TVA is responsible for the failure of its coal ash storage and containment pond, which ruptured on December 22, 2008 near Kingston, Tenn. When the containment pond ruptured, the resulting tsunami of coal ash waste literally knocked homes from their foundations and contaminated the Emory and Clinch rivers. The dike failure resulted in more than 1 billion gallons of ash sludge enveloping the surrounding community. This ruling was a tremendous victory for the property owners in a most important case.

Judge Varlan, in his ruling, found that TVA did not build the holding ponds according to plan; did not train its inspectors how to inspect the stability of the dikes, and did not properly maintain the facility to prevent the failure of the dikes. The ruling will allow Plaintiffs’ claims of negligence, trespass and private nuisance to proceed to Phase II proceedings to determine damages. Our firm and the other law firms making up the trial team represent over 600 property owners whose property and way of life have been adversely impacted by the spill. The trial team was made up David Byrne and Brantley Fry from Beasley Allen; Elizabeth Alexander of Lieff Cabraser from Nashville, Tenn.; Gary Davis of Davis and Whitlock from Hot Springs, N.C.; Jeff Freedman and Matt Conn from the Birmingham firm of Friedman Leak; Paul Brandes of Villari, Brandes and Gianonne in Conshohocken, Pa.; and Joanne McLaren from the New York firm of Weitz and Luxenberg. This was a tremendous team effort by the lawyers on behalf of the property owners. Their respective staff members also did excellent work in getting this monumental case ready for trial.

As a government corporation, TVA has certain immunity, but this ruling shows that not even the Federal government is above reproach when its actions—or inactions in this case—result in a massive disaster that changed the face of an entire community. Cleanup efforts have been ongoing since the spill and are expected to cost around $1.2 billion. The cleanup has turned the once-tranquil Watts Bar Lake community into a massive construction site. The EPA and TVA held public meetings as recently as this August to determine how to deal with 500,000 cubic yards of coal ash that remain on the Emory and Clinch river bottoms to this day.

The Environmental Protection Agency has described the spill as “one of the worst environmental disasters of its kind.” To put things in perspective with another recent environmental catastrophe, the BP oil spill released more than 200 million gallons of oil into the Gulf of Mexico over the course of nearly five months. The TVA coal ash spill released more than a billion gallons of toxic sludge over 300 acres in East Tennessee within the course of minutes. Toxic sludge from the coal ash containment pond contains arsenic, lead, mercury and other heavy metals. We look forward to phase II when damages for each Plaintiff will be proved. If you need additional information on this subject, contact Rhon Jones or Brantley Fry in our office at 800-898-2034 or by email at Rhon.Jones@beasleyallen.com or Brantley.Fry@beasleyallen.com.

**A YES VOTE RECOMMENDED IN ALABAMA ON SEPTEMBER 18TH**

The people of Alabama will vote this month on a proposal to transfer $145 million a year for three years from the Alabama Trust Fund to the state’s General Fund. As some of our readers may already know, this Trust Fund, which has been erroneously referred to as a state savings account, comes from the state’s royalties from offshore natural gas drilling leases in Alabama waters. The use of the Trust Fund is designated for specific purposes. The referendum also would alter the distribution formula from the Trust Fund. The General Fund would get an extra $52 million next fiscal year under the proposed distribution formula.

Lawmakers passed a $1.6 billion General Fund budget for the next fiscal year “betting” on the amendment’s passage. If it fails, state agencies would have $197.8 million—or 11.8%—less to spend than lawmakers budgeted. This would result in deep spending cuts in General Fund programs, including Medicaid, and would hurt the people of Alabama very badly. Sadly, Medicaid is already grossly underfunded and must have additional revenues from some source to survive. State Health Officer Don Williamson has said that the state’s Medicaid program is facing an “uncontrolled train wreck” if the amendment fails. In that event, Dr. Williamson sees a $100 million shortfall at the minimum.

Budgeting by the Legislature—depending on a “bet” for needed revenues—is not good fiscal policy. It’s time for those in control to face reality, find a way to provide the revenues badly needed for the General Fund agencies, and put our state on solid fiscal ground. The last time we had a tax increase in Alabama was in 1982 when George Wallace was Governor and that was a modest increase in the gas tax. Since that time, the Legislature has refused to deal responsibly with our state’s fiscal problems. The proverbial “old can” has been kicked down the road for decades and now here we go again.

---

**IN THIS ISSUE**

| I. | Capitol Observations ............. 2 |
| II. | A Report On The Gulf Coast Disaster . . 3 |
| III. | Purely Political News & Views .... 5 |
| IV. | Legislative Happenings ............. 6 |
| V. | Court Watch ...................... 7 |
| VI. | The National Scene ............... 8 |
| VII. | The Corporate World .............. 8 |
| VIII. | Congressional Update ............ 10 |
| IX. | Product Liability Update .......... 11 |
| X. | Mass Torts Update ................ 14 |
| XI. | Business Litigation ............... 17 |
| XII. | An Update On Securities Litigation 17 |
| XIII. | Insurance and Finance Update ...... 18 |
| XIV. | Employment and FLSA Litigation .... 19 |
| XV. | Premises Liability Update ......... 20 |
| XVI. | Workplace Hazards ................. 21 |
| XVII. | Transportation .................. 21 |
| XVIII. | Nursing Home Update ............. 23 |
| XIX. | Healthcare Issues ................. 24 |
| XX. | The Consumer Corner ............... 25 |
| XXI. | Recalls Update .................... 29 |
| XXII. | Firm Activities .................. 34 |
| XXIII. | Special Recognitions ............. 36 |
| XXIV. | Favorite Bible Verses ............. 37 |
| XXV. | Closing Observations .......... .... 37 |
| XXVI. | Parting Words ..................... 38 |
But realizing that people—not the politicians—will be hurt badly if this Amendment fails to pass, I am going to vote yes. The immediate needs, especially in Medicaid, are too great to do otherwise. Another factor weighing in favor of voting for the Amendment is the fact that Governor Bentley recently promised that the money would eventually be paid back into the Fund. I have found Governor Bentley to be a “straight shooter” and a man of his word. I believe he will make sure the money is repaid to the Trust Fund. I encourage all Alabamians to turn out to vote on September 18th and to vote yes on this Amendment.

THE ATTACK ON PUBLIC BROADCASTING IS WIDESPREAD

Some politicians, mostly Republicans, don’t seem to like public television, public radio and just about any nationally promoted arts-and-humanities program that is not under their control. This attack on public, as opposed to commercial, media has been particular prevalent in the South. The following will give you some indication of how the various segments of public broadcasting, both television and radio, have fared in state Legislative bodies.

- Alabama, Mississippi, South Carolina and Virginia cut approximately 40% of their state public broadcasting budgets.

- Georgia, Louisiana and North Carolina cut approximately 20%.

- In South Carolina, Republican Gov. Nikki Haley proposed eliminating the entire appropriation for public television, only to face a GOP Legislature-led “open rebellion” that saved South Carolina Educational TV, but reduced its budget significantly.

- Florida Republican Gov. Rick Scott’s efforts to eliminate state support for public TV also were blocked by that state’s Republican-dominated Legislature. He then vetoed the measure that preserved some funding and continued his quest to kill the appropriation altogether.

Even though all of these states are having financial problems, it’s evident that public broadcasting has been hit extremely hard in their budgets. I believe public broadcasting—which should be independent and free from political pressure—is important and most must be protected from the politicians to the extent possible.

Source: Associated Press

ALABAMA SCHOOLS SHOULD PULL THE PLUG ON CHANNEL ONE

A Boston-based nonprofit group has asked Alabama School Superintendent Tommy Bice to suspend the use of Channel One programming in Alabama schools. This reopens a debate over whether the 12-minute broadcast aimed at teenagers is appropriate. The group, Campaign for a Commercial-Free Childhood, asserts that the Channel One television news program—shown in more than 300 Alabama schools—has limited educational value, its commercials are nothing more than plugs for the latest movie or movie star, and the Channel One website promotes other websites with inappropriate and even sexual content.

Channel One is a television news program—along with commercials—targeted toward teenagers. It is offered to schools, along with the hardware and television equipment to receive it. But in return for the “gifts,” the schools must agree to show a daily 12-minute program that includes news, feature stories and two minutes of commercials. In my opinion, Channel One has no place in our schools. I have seen some of what is being shown and it’s highly offensive and most inappropriate.

Opponents argue that free TVs and what they say is “soft news” content doesn’t contribute to classroom instruction and in fact takes instructional class time away. Students in schools that honor their contract of showing the broadcasts on at least 90% of school days will spend 32 hours a year watching Channel One. The letter asks Superintendent Bice to reconsider allowing Channel One broadcasts to be shown in Alabama classrooms, and states that the programming is of limited educational value anyway. The decision to contract with Channel One is left up to local school systems. I understand it’s shown in 332 schools in Alabama. I believe the harm from Channel One greatly outweighs the benefits. The sooner it is removed from the classrooms in Alabama, the better for both students and teachers.

Source: AL.com

MOST OF ALABAMA’S IMMIGRATION LAW STRUCK DOWN BY APPEALS COURT

The three-member panel of the Eleventh Circuit Court of Appeals struck down various provisions of Alabama’s ill-vised immigration law last month. Because of my work load, I have not had the time to read the opinion in detail, but I plan to do so. But based on what I have read and been told, the opinion can’t be good news for the lawyers representing the state. The cost, confusion and excessive burden placed on the state and on local governments made this politically-motivated law a waste of taxpayers’ badly-needed money and put Alabama in the news for months, but not in a positive way. With all of the critically serious problems facing our state, setting out on a Don Quixote-like mission made little sense to me at the time and makes even less today. But maybe we can now get down to dealing with the real issues that face all Alabamians. That should be the order of the day for all concerned since there are lots of issues to deal with in government at every level.

II.

A REPORT ON THE GULF COAST DISASTER

ALL BUSINESSES IN THE GULF STATES COULD HAVE A CLAIM FOR DAMAGES IN THE COURT-SUPERVISED SETTLEMENT

All businesses in the affected Gulf Coast states have potential claims arising from the 2010 disaster in the Gulf. Simply put, any business in the affected Gulf Coast region could have a claim based upon the oil spill settlement. To qualify in the settlement, the majority of businesses need only show that their gross revenues for three consecutive months between May and December 2010 diminished 15% as compared to the same months in either 2008, 2009, or the average of 2007-2009, and that they increased by 10% for the same months in 2011. Importantly, outside of what the settlement’s methodologies require, a business is not required to draw a connection between the oil spill and their drop in revenues.

It’s also important to note that unless a business has signed a final release with BP, it does not matter whether the business participated in the BP claims process, the Gulf Coast Claims Facility, or filed a lawsuit in the New Orleans Federal Court. Neither of those events are required for a business to now have a right to file a claim. All qualifying businesses that can show damages within the settlement’s framework will be entitled to compensation.

Our firm has over 50 lawyers, in-house consultants and staff working full time on these claims for our clients. Aside from interpreting and explaining the 1,200 page settlement document, we work closely with
trained financial professionals in preparing, and if necessary, arguing, our clients’ claims in the settlement. Importantly, a claimant who accepts a payment in the settlement will have a limited time to bring in all of their other covered claims. Otherwise, those covered claims will be lost forever. We are finding that a business or professional that has a business claim, such as a doctor who owns a doctor’s office, may also own a beachfront condo, which would also be a property claim under the settlement. Those are two separate claims. It’s very important to get professional advice on how to proceed with claims covered by the settlement. It should be noted that there is no aggregate cap on the amount of the settlement fund.

Lawyers and staff in our firm continue to review hundreds of business claims each week. If you have any questions about a potential claim or the settlement, contact either Rhon Jones, John Tomlinson, Parker Miller, Chris Boutwell, or Sandra Walters at 800-898-2034 or by email at Rhon.Jones@beasleyallen.com, John.Tomlinson@beasleyallen.com, Parker.Miller@beasleyallen.com, Chris.Boutwell@beasleyallen.com or Sandra.Walters@beasleyallen.com.

**Gulf Coast Fishermen Have A Limited Time To Bring Their Claims**

As part of the court-administered settlement, seafood harvesters are guaranteed to receive a total of $2.3 billion in compensation as a result of the Deepwater Horizon oil spill. However, those harvesters, which include shrimpers, oystermen, crabbers, fin fishermen, or other harvesters such as clam farmers, only have a limited time to bring their claims. The seafood bar date is set to occur within 30 days of District Court approval of the settlement. Considering the Court will likely rule within a month of the November 8, 2012 fairness hearing, the bar date will likely occur around January 2013.

Seafood harvesters that have not opted out of the settlement and fail to bring their claims before the bar date will lose all rights to recover oil spill compensation. After the bar date occurs, a third party neutral will assess whether any funds remain of the $2.3 billion in guaranteed compensation. If funds are left over, we anticipate that the neutral will order a second distribution of money to those qualifying in the settlement. Because of the fund’s size and the sheer number of seafood harvesters that have already accepted a final settlement in the GCCF, we believe a second distribution of compensation to qualifying harvesters is a real possibility.

Seafood harvesters can have significant claims in the settlement, and we are working hard to file claims on their behalf. Parker Miller heads up the firm’s commercial seafood harvesting group. If you have any questions about commercial harvester claims, contact Parker at 800-898-2034 or by email at Parker.Miller@beasleyallen.com.

**USE OF OIL SPILL DISPERSENT CONCERNS ABOUT DAMAGE TO GULF Ecosystem**

At the time of the spill, BP drew tremendous criticism from both the federal government and Gulf scientists for using chemical dispersants Corexit 9500 and Corexit EC 9527, largely because of the Nalco chemicals’ high toxicity as compared to other dispersant products. In addition, the EPA became concerned that BP was using too much dispersant, and demanded BP take steps to limit dispersant use. In the end, BP’s application of dispersant was unprecedented—no other company had ever applied dispersant at such depths or at such a high volume. Today, new studies are beginning to surface that raise concern over the impact the dispersants may have on the Gulf’s ecosystem.

A study published in the online science journal PloS One by Alice Ortmann showed that dispersants and dispersed oil “significantly reduced” the growth of phytoplankton and ciliates—essentially, fish food. The study used water from Mobile Bay, and placed the water in 55-gallon drums. Thereafter, researchers added oil, dispersant or both to the drums in the same proportions found in the oil spill. The results were shocking. Drums that held dispersant or dispersed oil showed a significant drop in life forms, while plankton organisms increased in numbers in just oily water. “In those tanks, all of the energy seems to get trapped in the bacterial side,” said Ms. Ortmann. “There were lots of bacteria left but no bigger things. It’s like the middle part of the food web is taken away.”

Brian Crother, a biology professor at Southeastern Louisiana University, called the findings scary, but limited, because the experiments only spanned five days. He observed: “If these guys are on the money, they have pointed to something really disastrous happening in the Gulf.” Michael Crosby, a senior vice president for research at Mote Marine Laboratory in Sarasota, Fla., believes that the study was extremely well done. He said that if they would “go a couple of steps beyond their findings, I think we’re going to see these things happening and it’s going to take years for them to be seen.” Garret Graves, chairman of the Coastal Protection and Restoration Authority of Louisiana, says that they are still reviewing the study. He did say, however, that Louisiana “can say that the use of dispersants in the volume and conditions under which they were applied was unprecedented.”

Gulf States and the U.S. Government continue to perform their own studies to assess environmental damage caused by the spill as part of the Natural Resource Damage Assessment process. Of particular concern to scientists are the alarming occurrences of dolphin die-offs, which have been occurring with regularity since the oil spill occurred in 2010. Based on all we have learned during the litigation, we are greatly concerned over BP’s use of the chemicals mentioned above. We will continue to monitor this issue as more information becomes available. If you have any questions, contact Parker Miller at 800-898-2034 or by email Parker.Miller@beasleyallen.com.

**JO BONNER STILL BELIEVES KENNETH FEINBERG WAS A “COLOSSAL FAILURE”**

I doubt Rep. Jo Bonner will be sending Ken Feinberg’s new book *Who Gets What* to his Christmas gift list this year. As we have mentioned, the Mobile Republican was highly critical of how Feinberg handled the so-called “compensation fund” for BP. It was Bonner’s belief that Feinberg was slow in handling claims and that he paid too little on claims. Feinberg hit back in his book, writing that Rep. Bonner “led the way” among his critics and accusing him and other elected officials of political grandstanding. I totally disagree with the accusation about grandstanding. I believe Rep. Bonner was merely standing up for BP’s victims and that’s certainly not a bad thing to do. But I will concede that Feinberg knows lots about the art of grandstanding.

According to Rep. Bonner, the book won’t change Feinberg’s “bitter legacy” on the Gulf Coast. He added that he hadn’t read the book and had no plans to do so. Rep. Bonner also added that had Feinberg kept his promises, he would have had a best seller on the Gulf Coast. Instead, Feinberg, according to Rep. Bonner, “will be remembered in South Alabama for being the architect of a colossal failure.”

Source: AL.com
Government Finalizes Safety Rules For Offshore Drilling

Government regulators have issued a final set of safety rules for offshore drilling. This is a follow up to the series of emergency measures put in place after the 2010 BP oil spill. The 137-page rule was released last month by the Interior Department. Hopefully the new rules will be enough to prevent another catastrophe such as the explosion on the Deepwater Horizon rig that killed 11 people and caused 200 million gallons (757 million liters) of oil to leak into the Gulf of Mexico.

I haven’t read the rules, but understand the safety measures are to make sure oil flow can be stopped if there are problems. The rules deal with how the wells are designed, and also how the cement and barriers used to secure them are tested. I was told that the rules also require that blowout preventers, which failed in the 2010 disaster, be independently tested by a third party to ensure they are capable of cutting off the flow of oil. Jim Watson, director of the Bureau of Safety and Environmental Enforcement, said in a statement:

“Today’s action builds on the lessons learned from the Deepwater Horizon tragedy and is part of the administration’s all-of-the-above energy strategy to expand safe and responsible development of America’s domestic energy resources.”

It was reported that the biggest change to the interim rules deals with industry standards that were broadly referenced as part of the rules. Industry groups, including the American Petroleum Institute, claim the rules were confusing and could introduce new risk into the system. The interim rules apparently will make mandatory some measures that the industry had made voluntary. The result was that some measures appeared to conflict with each other. The revised rules released on August 15th restored the industry’s distinction between “should” and “must,” and that’s a good thing.

According to the Interior Department, the final rules will cost the industry about $131 million annually to comply, or about $53 million less than the emergency rules. Among the changes, the Department trimmed by about $86 million its estimate for how much it will cost to test remotely-operated underwater vehicles, such as those that provided video feeds of oil spilling into the Gulf in 2010. Both the oil industry, environmental groups and safety groups are looking at the rules. Based on what happened in the Gulf of Mexico, safety must be an absolute top priority. That includes a strong inspection system.

Offshore drilling has become highly politicized, pitting those concerned about the practice’s safety against those who argue for increased domestic energy production. President Barack Obama issued a moratorium on offshore drilling in the wake of the BP spill, but reversed it months later when the emergency rules were put in place. More than 750 permits for offshore drilling activities have been approved since the Deepwater Horizon spill. I favor offshore drilling, but have seen first-hand why tough regulation is an absolute necessity.

Source: Claims Journal

Oil Companies Are Hiding The True Risks Of Deepwater Drilling From Investors

Oil and gas companies are doing a terrible job of disclosing climate and deepwater drilling risks, even in light of the tragic Gulf of Mexico oil spill, according to a report released last month. Based on our firm’s experiences with the industry, that came as no surprise to me. The report says that while companies are making extensive capital investments related to climate change and deepwater drilling, they are generally failing to adequately disclose the associated risks in a manner consistent with SEC rules. Neither does this meet growing investor expectations. This report was co-authored by Boston-based investor coalition Ceres and advisory firm David Gardner & Associates.

The report evaluated SEC filings for the ten largest US-listed oil and gas companies—Apache, BP, Chevron, ConocoPhillips, Eni, ExxonMobil, Marathon, Shell, Suncor and Total—not of which received an excellent rating in the report. Jim Coburn, senior manager of investor programs for Ceres, said they “didn’t find any of the disclosure really valuable enough to help investors understand the risks.” BP, Eni and Suncor provided relatively better climate risk disclosure than other companies reviewed, while the report said Apache and ExxonMobil provided the lowest quality disclosure. The ten companies were rated in five categories for drilling risk:

- safety and environmental statistics;
- drilling risk management;
- spill response;
- safety R&D; and
- corporate governance on drilling.

In spite of the 2010 Deepwater Horizon disaster, according to the report, disclosure on drilling and safety remained weak overall, even for drilling risk management and spill response plans. This type of disclosure is critical. It seems rather elementary to say that it’s important for the oil and gas companies to communicate with their investors. Investors should be given adequate disclosure of all risks so they can evaluate their investments.

Source: Associated Press

III. PURELY POLITICAL NEWS & VIEWS

Tea Party Forces VP Choice By Romney

Gov. Romney surprised most political observers, including a good number in his own party, when he selected Rep. Paul Ryan as his running mate. I am convinced that the Wisconsin lawmaker was forced on Romney by the Koch Brothers and their Tea Party brethren. I doubt that many folks know much at all about Paul Ryan. Based on what I have read and have been told, it certainly appears that Romney and Ryan are the perfect “Dream Team” for the Tea Party and the one percenters in this country. But the team will be bad for the rest of America.

Rep. Ryan has been on the public payroll in Washington since he was 22 years old. He could certainly be labeled a Washington insider. As independents and non-Tea Party Republicans learn more about Ryan’s record in Congress, I believe they will realize just how bad his selection was for the vast majority of Americans. Ryan’s Congressional record and also his plans for the future will be fair game during this election. Since the future of our democracy is on the line, we had better learn all we can about the candidates who ask for our vote. Here are a few things for all of us to consider about Ryan:

• Rep. Ryan’s proposed budget, which has been adopted by Gov. Romney, would cripple the economy. He would slash spending deeply, which would not only slow job growth, but shock the economy.

• The Ryan economic plan, according to estimates, would cost America one million jobs in the first year.

• More than 4 million jobs would be lost by the end of 2014.

• The Ryan plan will kill Medicare. He would replace Medicare with vouchers.
for retirees to purchase insurance, eliminating the guarantee of health care for seniors. They would be put at the mercy of the private insurance industry, which would get a huge windfall. That could amount to a cost increase of more than $5,900 by 2050, leaving many seniors broke or without the health care they need. Ryan would also raise the age of eligibility to 67.

- Rep. Ryan would rob the middle class to line the pockets of the rich. His tax plan is like Romney’s plan, which has been labeled Robin Hood in reverse. Ryan wants to cut taxes by $4.6 trillion over the next decade, but only for corporations and the rich. This would give families earning more than $1 million a year a $500,000 tax cut. And to pay for these cuts, Ryan would raise taxes on middle- and lower-income households and butcher social service programs that help middle- and working-class Americans.

- The Wisconsin lawmaker would dismantle Social Security. Ryan is on record as agreeing with Rick Perry’s view that Social Security is a “Ponzi scheme.” He also is on record as supporting George W. Bush’s disastrous proposal to privatize Social Security.

- Rep. Ryan wants to eliminate Pell Grants for more than one million low-income students. His budget plan cuts the Pell Grant program by $200 billion over the next 10 years.

- Ryan would give $40 billion in subsidies to Big Oil. His budget includes oil tax breaks worth $40 billion, while cutting “billions of dollars from investments to develop alternative fuels and clean energy technologies that would serve as substitutes for oil.” Some believe that Ryan—like Romney—is owned by the powerful oil lobby.

- He voted against the Hate Crimes Prevention Act, which President Obama signed into law in 2009.

- Ryan supported the stimulus package called TARP and all of the Bush legislative proposals that the Tea Party says are bad for our nation.

- Rep. Ryan voted for two wars that are being fought and financed on borrowed money.

- I believe that Rep. Ryan voted for the Bush Administration’s plan, put together by the drug manufacturers (Medicare Part D), that created a $17 billion unfunded liability.

- Rep. Ryan is closely tied to the Koch Brothers. Not surprisingly, these billionaire oil-baron’s are some of Ryan’s biggest political contributors. And their company, Koch industries, is Ryan’s biggest energy-related donor. The company’s PAC and affiliated individuals have already given him $65,500 in donations that can be tracked.

- For many years, Rep. Ryan devoted himself to Ayn Rand’s philosophy of “selfishness as a virtue.” I suspect his following the Rand rules will be discussed fully as the campaign progresses.

If there was ever any doubt that Mitt Romney has a plan that would be disastrous for America—he made it clear as a bell when he picked Paul Ryan as his running mate. He is now locked into the Ryan budget, which if adopted, would virtually destroy the middle-class and push the poor even further down the economic and social ladders. Personally, I believe the dream team of Romney and Ryan is bad for America. I also believe that once the American people find out everything this team stands for and proposes, it will result in the team’s loss at the polls in November. Their loss will be America’s gain!

**Romney Hood And His Merry Men**

I heard it mentioned recently that Gov. Romney is sort of like a modern day “Robin Hood” with his own small band of merry men. That assessment struck me as very weird, especially considering his history and his current positions. But it only took me a few minutes to figure out that Gov. Romney actually has things in reverse. I couldn’t imagine the former Massachusetts Governor—in spite of his “liberal past”—doing anything now that would be considered hurtful to the Koch Brothers, Shelton Alderman, and others who are bankrolling his campaign. The new Romney Hood is owned by a very small but select group—the one percent of the U.S. population making up the super rich. Neither could I ever picture Gov. Romney doing anything to help either the middle-class or the poor.

In fact, Romney Hood is truly Robin Hood in reverse. His tax plan robs from the middle-class and the poor and gives to the super rich. On this front, Romney Hood would put the original Robin Hood to shame. That’s because, if Gov. Romney were to be elected resident he would be doing a much better job of robbing from those who fall in the 99% and giving the booty to the one percent. I believe that the American people are figuring out that Gov. Romney is not suited to be President of the United States for a number of valid reasons, one being his neglect of the middle-class and his utter disdain for the poor, and another is his being owned lock, stock and barrel by the one percent. This country would be in deep and irreversible trouble in the event Romney Hood and his small band of super-rich merry men take over our government.

**IV. LEGISLATIVE HAPPENINGS**

**SUIT FILED TO BLOCK GENERAL FUND BUDGET FROM TAKING EFFECT**

Former state Sen. John Rice of Auburn has filed suit in an effort to block next year’s $1.68 billion General Fund budget from taking effect. John claims that the budget violates Alabama law which requires that state budgets be balanced. It’s alleged in the complaint that “the Alabama constitution prohibits this reckless and irresponsible budget.” The lawsuit, which was filed in Montgomery County Circuit Court, was assigned to Judge Truman Hobbs. At press time, no hearing had been set by the court.

The lawsuit asks the court to block state officials named in the suit, Gov. Robert Bentley, state Finance Director Marquita Davis and state comptroller Thomas White, from spending money under the General Fund for the 2013 fiscal year, which starts October 1st. Lawmakers passed the budget in May, counting on voters on September 18th to approve an amendment to the state constitution. We discussed that at length in an earlier section of the Report. The amendment would transfer to the General Fund $145.8 million in each of the next three fiscal years from the Alabama Trust Fund.

Montgomery lawyer Mark Montiel, a former circuit judge and also a former legal advisor to Gov. Guy Hunt, is representing John in this suit. Mark said in an interview that state law requires a state budget’s estimated revenues and spending to match up at the time the budget is passed. He claims that counting on revenues not yet approved by voters, revenues that might not be approved by voters, violates the law. Mark said that the law in Alabama “... requires that the budget, when passed, be balanced.”

Mark said he hoped Gov. Bentley would call legislators into special session to pass a new General Fund budget. But the Gover-
nor’s press secretary, Jennifer Ardis, in reply, had this to say:

_The lawsuit has no merit. Gov. Bentley is working to save taxpayer dollars. This lawsuit will only waste taxpayer dollars._

While this lawsuit came as a surprise, it will certainly draw attention to the September 18th Amendment vote. That will have an effect one way or the other on potential voters.

Sources: Associated Press and Birmingham News

**Lawmakers File Lawsuit Over Redistricting Plan**

African-American lawmakers in Alabama have filed suit to stop the legislative redistricting plans passed by the Alabama Legislature. The suit was filed in U.S. District Court in Montgomery by the Alabama Legislative Black Caucus, the Alabama Association of Black County Officials, and individual black elected officials. These folks are convinced that the maps of the districts for the Alabama House of Representatives and Alabama Senate are unconstitutional. They also say the plans unnecessarily cross county lines, pack in black voters, and minimize the voice of white Democrats.

The lawmakers are seeking an order that will not only invalidate legislative district maps drawn by the Republican supermajority, but require state lawmakers to redraw them. The Plaintiffs are not asking the court to approve a specific plan. Redrawing the district lines is required every ten years following a Census. The districts would become effective with the November 18th Amendment vote that year would run based on the proposed districts. James Blacksher, a Birmingham lawyer, is representing the Plaintiffs in the lawsuit. I believe he has a better than even chance of success. The suit will definitely be watched closely.

Source: Montgomery Advertiser

**V. COURT WATCH**

**Corporate Dollars Fuel Judicial Races In America**

A report released last month by the Center for American Progress concludes that Corporate America has taken over the state courts. That’s where 95% of all legal disputes are heard. The report says justice is influenced by massive campaign contributions to judicial candidates. It was noted that an overwhelming majority of donations to state judgeship campaigns now come from corporations and lobbyists. For example, a 2011 report from the Brennan Center for Justice found that just three pro-business groups donated nearly 13 times as much as the entire labor movement during 2010 state judicial elections.

The recent study concluded that the rising amount of money spent in state elections has allowed companies to back prospective judges with pro-business records. This has, according to the report, created a pattern of rulings in favor of cutting costs at the expense of giving Americans “a fair trial.” In 2010, candidates running for judicial positions in six states that also held elections in 1990 took in $5.7 million, according to the National Institute on Money in State Politics. In 1990, candidates in those same states were only able to raise $2.5 million.

Tom Perriello, president and chief executive officer of the Center for American Progress Action Fund, stated: “The groups that are spending money don’t care, they just want the judge that will go their way.” As part of the report, the Center compiled a list of more than 400 cases from 2000 to 2010 in the six states that had the biggest influx of money in judicial elections. The Center found judges in 71% of those cases ruled for corporations, suggesting a correlation between campaign spending and favorable rulings for donors. The report concluded:

_The high courts that have seen the most campaign spending are much more likely to rule in favor of big businesses and against individuals who have been injured, scammed or subjected to discrimination._

Montana Supreme Court Justice James Nelson, who participated in a forum sponsored by the Center for American Progress last month, said money in judicial elections was “corrosive and distortive.” He added:

_As long as I think our national philosophy and economy is dominated by the free-market concept… I don’t think anything is sacrosanct. The best way to promote that philosophy is to control everything, and the best way to control everything is through money._

A 2002 study of voters and state judges found that both groups (nine in ten voters and eight in ten state judges) were concerned about special interest groups buying advertisements in an effort to shape state judicial elections. The need for “principled” people to run for judicial positions was stressed. Many believe the influence of money has kept lots of good and qualified people out of judicial races in a number of states.

As we have mentioned repeatedly, the U.S. Supreme Court in 2010 decided the _Citizens United_ case, the effect of which removed limits on corporate campaign contributions. The decision has been challenged a number of times, but the Supreme Court has upheld the ruling, arguing corporations spending money in politics doesn’t cause corruption or the appearance of corruption. Recently, the Court voted to strike down a 100-year-old Montana law that banned companies from contributing to political campaigns, citing the _Citizens United_ decision.

In Alabama, we saw much less money spent in elections for slots on the Alabama Supreme Court in this year’s elections. In my opinion, that is a very good thing. It is my hope that the Legislature will see fit to pass some meaningful judicial campaign reform legislation next year. I believe the people of Alabama want change in that area of concern.

Source: WSFA News

**Perhaps The Tide Will Turn For The Better In Judicial Elections**

Thirty-two states will be holding contested elections or retention votes for judges on their highest courts this year. Those include what are described as an “ideological battle” in Florida and a “highly partisan” one in North Carolina. These elections and others are providing uncomfortable lessons about why judges on the highest courts should be appointed rather than elected. Judicial elections in recent years gave a backdrop to the current races. The _New York Times_ observed recently that “elections turn judges into politicians, and the need to raise money to finance ever more expensive campaigns makes the judiciary more vulnerable to improper influence by donors.” The Times said that “special interests, like the casino, energy and hospital industries and others,” have been heavily involved in judicial elections. The newspaper pointed out that on occasion, the donors “find their ways around disclosure rules and exert their influence through independent expenditures, reducing race after race into a contest of slogans.”

In six states where spending has been especially heavy—Alabama, Illinois, Michigan, Ohio, Pennsylvania and Texas—the _Times_ pointed out that “the harm to justice is well documented.” It was noted that from
Karl Rove in my state of Alabama to the Tea Party and the Koch Brothers’ Americans for Prosperity in Wisconsin, “some of the most aggressive conservative shapers of American politics today have helped push state courts to the right.” The Times stated further:

While individual judges may not sell their votes outright, political donors have an interest in electing judges who support their point of view: Businesses and their surrogates have deep pockets to contribute to campaigns, giving them tremendous sway in the elections. With almost 40% of the spending in elections for top state courts in 2009-10 coming from lawyers, lobbyists and business interests, according to the Brennan Center for Justice, it is not surprising that candidates who favor business are getting elected as top-court judges or that they are taking legal positions that businesses favor. State courts decide 95% of the country’s legal cases. They are damaged by money-soaked elections. The evidence mounts that top state judges should be picked and appointed through merit selection, not elected.

I believe that if the American people were polled they would favor judges being appointed. Perhaps the time has come for that to happen. But if that’s not the case, at least it’s time to control spending in judicial races. There is no way to justify huge sums of money being poured into judicial races. There is no way to justify huge sums.

There would be no tenure and no pension for members of Congress. A member would collect a salary while in office and receive no pay when they are no longer in office.

Members of Congress (past, present & future) would participate in Social Security. All funds in the Congressional retirement fund would move to the Social Security system immediately. All future funds would flow into the Social Security system, and members of Congress would participate with the American people. The fund couldn’t be used for any other purpose.

Members of Congress could purchase their own retirement plan, just as all Americans do.

Members would no longer vote themselves a pay raise. Congressional pay would rise by the lower of CPI or 3%.

Members of Congress would lose their current health care system and have to participate in the same health care system as the American people.

Congress must equally abide by all laws it imposes on the American people.

All contracts with past and present members of Congress would be void effective January, 1, 2013. The American people did not make these contracts. Members of Congress made all these contracts for themselves.

Serving in Congress is an honor, not a career. The Founding Fathers envisioned citizen legislators. Buffett believes our legislators should serve their terms, then go home and back to a real job. While much of the above seems radical, maybe its being proposed is what it will take to wake up Congress. The Buffett proposal has no chance of passage since it would have to first go through Congress before going to the people for a vote. But if the American people rise up and demand change—and that change being one that would take the big corporate money out of Congressional races—something good would have to happen in Congress. While it might not be the “Buffett plan,” I believe it would be good for the 99% of Americans.

Source: New York Times

VI.
THE NATIONAL SCENE

WARREN BUFFETT’S PLAN FOR CONGRESS WOULD BE GOOD FOR AMERICA

Warren Buffett has a proposed amendment that he believes—if adopted—would cure Congress’ fiscal problems. In a recent interview with CNBC, Buffett offered one of the best quotes about the debt ceiling that I have heard when he said he “could end the deficit in five minutes.” He told CNBC that “you just pass a law that says that anytime there is a deficit of more than 3% of GDP, all sitting members of Congress are ineligible for re-election.” While that seems drastic and not something that members of Congress would “touch with a ten-foot pole,” it would guarantee a balanced budget. The Buffett plan, labeled the Congressional Reform Act of 2011, would do the following:

- The Buffett plan, labeled the Congressional Reform Act of 2011, would do the following:
  - Munificent that businesses favor are getting elected as top-court judges or that they are taking legal positions that businesses favor. State courts decide 95% of the country’s legal cases. They are damaged by money-soaked elections.
  - The evidence mounts that top state judges should be picked and appointed through merit selection, not elected.

Corporate Crime Is Widespread And On The Increase

Anybody who has kept up with the news over the past few months already knows that the big banks, drug companies, oil companies, and other corporations have all been hit with record fines. Corporate rule-breaking is clearly on the increase with some knowledgeable persons even saying that it’s “booming.” Considering the tremendous increases, it’s rather difficult to understand why all we have seen so far is that companies are paying huge fines to the federal government. There have been very few criminal prosecutions.

The Economist Magazine has called for tougher sanctions against corporate crime, saying in a recent editorial that “[a]t the moment, it seems, some corporate crimes pay handsomely.” But so far, to my knowledge, none of our political leaders in Washington have called for tougher sanctions for corporations that break the law, not even for repeat offenders. Maybe a good place to start if Congress wants to reform Wall Street, would be to bring back Glass-Steagall. That would be a very good thing for the American people.

Pfizer Agrees To Pay $26 Million To Settle Foreign Bribery Claims

Pfizer Inc. has agreed to pay $26.3 million to the U.S. Securities and Exchange Commission as part of a settlement with the U.S. government. This comes after a probe into the drugmaker’s use of illegal payments to win business overseas. The company also entered a deferred prosecution agreement with the Department of Justice. I am not sure if there was a financial settlement with the DOJ but hopefully there was.

The settlement is part of a broad crackdown on bribery by multinational companies in foreign countries that has affected several of the world’s top pharmaceutical companies. The agreement resolves issues dating back to 2004 relating to improper payments to officials by Pfizer units in Russia, Bulgaria, Croatia, Kazakhstan, Serbia, Czech Republic, China and Italy. The 1977 Foreign Corrupt Practices Act makes it illegal for U.S. companies and foreign firms whose stock is traded in the United States to bribe foreign officials to win or retain business. The Drug Enforcement Administration, the Internal Revenue Service and the Federal Trade Commission are also involved in the settlement.
United States to bribe government officials in foreign countries.
Source: Huffington Post

Wells Fargo Pays $6.6 Million To Settle SEC Charges Over Mortgages

Wells Fargo’s brokerage firm has agreed to pay $6.58 million to settle federal civil charges that it failed to adequately inform investors about the risks tied to mortgage securities it sold. According to the Securities and Exchange Commission, Minneapolis-based Wells Fargo Brokerage Services improperly sold the high-risk investments to cities and towns, nonprofit institutions, and other investors in 2007. This was when the housing bust was under way. The firm, now called Wells Fargo Securities and based in Charlotte, will pay a $6.5 million civil fine and $81.571 million in restitution plus interest in the settlement.

A former firm vice president, Shawn McMurtry, also agreed to settle the charges. He will pay a $25,000 civil fine and will be suspended for six months from the securities industry. As is usually the case, neither San Francisco-based Wells Fargo, the fourth-largest U.S. bank by assets, nor McMurtry admitted or denied wrongdoing. According to a Wells Fargo spokesman, the brokerage firm was “completely revamped” after Wells Fargo acquired Wachovia in a merger in December 2008. I am not exactly sure how the huge bank defines “revamping,” but hopefully it includes following the law.

The settlement was the SEC’s latest enforcement action related to the financial crisis since it began a broad investigation in late 2008 into the actions of Wall Street banks and other financial firms. In a major SEC case, Goldman Sachs agreed in July 2010 to pay $550 million to settle charges of misleading buyers of a complex mortgage investment. JPMorgan Chase resolved similar charges in June 2011 and paid $153.6 million. Citigroup agreed to pay $285 million to settle similar charges, though that settlement was struck down by a federal judge last November.

Source: USA Today

Standard Chartered Bank To Pay $340 Million To Settle New York Charges

Standard Chartered Bank will pay $340 million to settle charges that the bank “schemed with the government of Iran and hid from regulators roughly 60,000 secret transactions, involving at least $250 billion, and reaping SCB hundreds of millions of dollars in fees.” Last month the New York State Department of Financial Services (DFS) charged that Standard Chartered’s actions “left the U.S. financial system vulnerable to terrorists, weapons dealers, drug kingpins and corrupt regimes, and deprived law enforcement investigators of crucial information used to track all manner of criminal activity.”

Interestingly, the bank “strongly rejected” allegations that it improperly processed $250 billion of transactions for Iranians. But under the settlement, the bank admitted that the conduct at issue “involved transactions of at least $250 billion.” As part of the settlement, the bank “will install a monitor for a term of at least two years who will report directly to DFS and who will evaluate the money-laundering risk controls in the New York branch and implementation of appropriate corrective measures.” DFS examiners will be placed on site at the bank. The settlement was a victory for DFS Superintendent Benjamin Lawsky, who had been criticized for bringing a case that relied on an “overbroad” interpretation of law. Instead of criticism, I believe this man should be commended for his action.

Source: Corporate Crime Reporter

FTC Approves $22.5 Million Google Settlement Over Safari

We wrote last month about Google’s agreement to settle with the government which would require approval by the Federal Trade Commission. Well the Commission has now approved the settlement. Google Inc. will pay the civil penalty of $22.5 million to settle charges that it manipulated search results to favor its own products. Google said then it would not misrepresent its privacy policies.

Google also faces potential sanctions from other governments. It is being investigated by the European Union to determine if the company complies with Europe’s stricter privacy laws. The top search engine provider is also the subject of a wide-ranging antitrust investigation by the FTC and European regulators over accusations that it manipulated search results to favor its own products. Google said the investigation was prompted by a 2009 help center web page that predated a change in Apple’s cookie-handling policy. A Google spokeswoman said in a statement that the company has “now changed that page and taken steps to remove the ad cookies, which collected no personal information, from Apple’s browsers.”

Source: Claims Journal

Company Formerly Called Blackwater To Pay Sanctions Fine

You will recall in previous issues that we wrote about the military contractor formerly known as Blackwater Worldwide and nothing good was ever written. That outfit, which had very good political connections during the Bush years, made a fortune doing business with the U.S. Government. The company, now known as Academi LLC, has agreed to pay a fine from $5 million to $7.5 million for trying to operate in Sudan in violation of trade sanctions and for other arms-trade breaches. The settlement includes an acknowledgement of the wrongful conduct by the company, which is now under new ownership. Known for contracts designed to help protect U.S. government employees abroad, the company drew harsh international scrutiny for shootings and other conduct in Iraq. The company said in a statement last month that it wants to resolve past issues and move on.

Source: MSNBC

Corporations Spread The Wealth To Politicians

Over the past several years we have reported on huge corporations that violated the law, paid large fines, and kept right on “trucking” without missing a beat. Surely the fact that Corporate America pours millions into political campaigns couldn’t be a factor in influencing how the government deals with corporate wrongdoers. But let’s consider the current spending by some companies. Ten corporations

have already funneled over $18 million to Democrats and Republicans into 2012 political campaigns. That information comes from a report in a recent print edition of the Corporate Crime Reporter. Interestingly, these ten corporations gave $12,213 million to Republicans and $6,230 million to Democrats.

According to Russell Mokhiber, editor of the Corporate Crime Reporter, “[t]en out of the current top 100 donors to the 2012 political campaign have pled guilty to crimes.” The Reporter reviewed the contributions made by the companies and organizations on the Center for Responsive Politics list of the top 100 donors to the 2012 campaign. According to Mokhiber, only companies were included on the list that have had pled “guilty to criminal offenses.” The top ten corporate donors that have pled guilty and paid fines and which have donated to 2012 political campaigns are:

- Honeywell pled guilty to environmental crimes in 2011 and paid $2.449 million;
- Lockheed pled guilty in a bribery case in 1995 and paid $2.192 million;
- Blue Cross Blue Shield BCBS Illinois pled guilty to Medicare fraud in 1998 and paid $2.186 million;
- Boeing pled guilty in a secrets case in 1989 and paid $2.010 million;
- General Electric pled guilty to fraud and bribery in 1992 and paid $1.885 million;
- Northrop pled guilty to procurement fraud in 1990 and paid $1.840 million;
- Koch Industries Koch Petroleum unit pled guilty to environmental crimes in 1992 and paid $1.612 million;
- Raytheon pled guilty in a secrets case in 1990 and paid $1.466 million;
- Pfizer pled guilty to price fixing in 1999 and paid $1.367 million; and
- Exxon pled guilty in the Valdez oil spill disaster in 1991 and paid $1.326 million which was far too little.

I wonder: How many of these corporations have had contracts with the U.S. Government? I also wonder how the bosses at the companies feel about government regulation. My final question is: How can politicians take money legally from companies that commit wrongdoing and pay fines?

When individual wrongdoers give political contributions, both Democrats and Republicans “are forced to give the money back,” according to Mokhiber. Most recently, President Obama’s campaign gave back a $35,800 campaign contribution made by Shervin Neman. Neman was accused by the Securities and Exchange Commission of engaging in a Ponzi scheme. When it became known that he had been accused of running a Ponzi scheme, President Obama’s campaign was forced to give the money back. But even though the ten corporations listed in the CCR Report pled guilty to some pretty bad conduct, the politicians were able to keep their money. Both parties take big bucks from these corporations and then run—without shame—to the bank. Why aren’t they forced to give the money back? Maybe they shouldn’t have to—what do you think?

Source: Corporate Crime Reporter

**Government Joins False Claims Suit Against Gallup**

The Justice Department has joined a lawsuit against The Gallup Organization alleging the polling company filed false claims on contracts with the U.S. Mint, the State Department and other government agencies. A fired Gallup employee, Michael Lindley, who became a whistle-blower, alleges in the lawsuit that he discovered shortly after going to work for the polling company that it had engaged in widespread fraud against the government. Honored as “Rookie of the Year” at Gallup in 2009, Lindley says he was fired six months later when he told colleagues that if the company didn’t report overbilling practices to the government, he would do so himself.

His lawsuit, filed nearly three years ago and unsealed last month in federal court, says Gallup routinely submitted inflated cost estimates which enabled the company to reap huge profits from its government business. In addition to its polling work, Gallup provides consulting services to government, corporate and other clients around the world. The Justice Department said it was stepping into the case with respect to Gallup’s contracts with the Mint and the State Department.

According to the lawsuit, on a $2 million-a-year sole-source contract with the Mint, Gallup inflated the number of hours required to complete the work, usually by a multiple of two or three times the number justified by historical experience. Gallup was hired to conduct market research for the sale of newly-issued coins. The State Department work involved the U.S. Passport Agency. During negotiations on a $25 million sole-source contract, Gallup allegedly submitted detailed budgets with vastly inflated hours on the time to complete the work for the agency. Gallup was hired to conduct surveys to predict the level of passport applications stemming from changes in border laws governing travel to Mexico and Canada.

Separately, it’s alleged that Gallup exercised undue influence over the award process on a $15 million contract with the Army’s Joint Contracting Command in Iraq. The lawsuit alleges that Gallup wrote the request for proposal so the Army’s contracting officer issued and that the proposal was written so the contract could be awarded only to a company with characteristics that were unique to Gallup. In a $10 million contract with a Health and Human Services Department agency, Gallup allegedly shifted costs from some of its fixed-price government contracts to a cost-plus contract with the Substance Abuse and Mental Health Services Administration. In a $2 million-a-year contract with the National Highway Traffic Safety Administration, a Gallup executive allegedly submitted inflated estimates of the hours required to complete various tasks, inflating the contract price. All of these are very serious allegations. We will watch the case as it heads toward a trial.

Source: Claims Journal

**VIII. CONGRESSIONAL UPDATE**

**Congress Goes Home Leaving Lots Of Work Undone In Washington**

Every poll that has been run recently indicates clearly that Congress has a record low approval rating. Many observers believe Congress’ performance matches its approval rating, which has been described as “abyssal.” When lawmakers headed home last month for a five-week break, they left a long list of unfinished work with little to show for the past 18 months. Little, that is, except for an unacceptable level of dissatisfaction among the public. Polling data shows that nearly 80% of Americans are unhappy with Congress. The Republican-controlled House and Democratic-led Senate have set record lows for production and record highs for dysfunction. That’s something folks back home will not soon forget.

It appears the American people are fed up with the highly partisan actions in both the House and Senate. This partisanship—combined with election-year politics—has resulted in Congress failing to take up and pass some badly-needed legislation. Some of
the issues that have been largely, if not totally, ignored include:

- Budgets that are required to be passed have not been passed.
- Some $110 billion in automatic, across-the-board cuts are due to hit military and domestic programs on January 2nd, yet no bipartisan solution appears to be in sight or even under discussion by the leadership in Congress.
- Tax cuts for the middle-class have failed to pass, while GOP leaders insist on giving massive tax cuts to the super rich.
- The badly-needed Farm Bill hasn’t passed.
- Legislation to help a drought-stricken nation, which is so badly needed, has failed to pass.
- Climate change has been totally ignored with many in Congress denying its existence.
- The U.S. Postal Service faces uncertainty about its solvency, but nothing has been done in either the House or Senate to remedy the problem.
- Student loans are in trouble with nothing being done by Congress.
- Campaign Finance Reform legislation has been put on the back burner.

This sort of standoff is what happens when a bitterly divided government mixes with election-year politics to throw sand in the gears of official Washington. It certainly appears that the Tea Party-dominated House has been the real villain in this sorry state of affairs but the Senate has to share some of the blame. The sad part of that is the leadership of the House doesn’t seem to care. It was reported that only 151 laws have been enacted in 19 months, and more than two dozen of those were to rename post offices and courthouses, or add members to the Smithsonian board. By comparison, the previous Congress enacted 383 laws with President Barack Obama in the White House and Democrats controlling Capitol Hill. Even in 2007-08, when Republican Bush was President and Democrats ran Congress, 460 laws were enacted.

A poll last month by CBS News and The New York Times found Congress with a 12% approval rating and 79% disapproval score. Lawmakers will return this month for what promises to be an abbreviated pre-election session with two main items of business. Most important is a six-month spending bill to keep the government running through March and prevent any possibility of a politically-explosive government shutdown before the election. Not one of the 13 must-pass spending bills has passed and the new budget year begins October 1st.

The Treasury Department has said the government’s borrowing limit will be reached near the end of 2012, but it has the ability to shift money to buy a few months reprieve to give the next Congress time to act. That puts the likely deadline for the borrowing authority on a collision course with the expiration of the temporary spending bill to keep the government operating through March. Clearly, this is not the way things are supposed to work. Hopefully, the folks back home will tell members of Congress to go back to Washington, work together for a change and get something done!

Source: Theday.com

THE SEQUESTRATION NIGHTMARE MAY BECOME A REALITY

I have been amazed over the course of this year at how little concern there has been about the looming disaster that we face as a result of concessions won by Tea Party members of Congress in last year’s debt ceiling debate. I wonder how many folks have ever heard of the terms “sequester” or “sequestration”? My guess is very few. I doubt that very many of the folks who do know about sequestration understand how it will work and the consequences. Consider the following observations, which came from an editorial in the Anniston Star:

Since most people don’t know what the term sequestration means and don’t associate it with the federal budget or an array of services they rely on in their daily lives—services that are about to be seriously and dangerously disrupted—there has been little in the media on the subject.

Of the people who do know what sequestration means, most of those are under the misimpression that it is so ridiculous that it would never be allowed to happen.

Of the people who know what sequestration is, and also are aware that it is a real possibility sequestration could take place, most of them have no inkling of how potentially dangerous and disruptive it will be.

Having said all of that, the reality is that the public’s level of knowledge is about to change. The deep across-the-board cuts required by the debt ceiling law passed last August will become dramatically more topical in the weeks ahead as one sector of the economy after another begins to realize that the federal government will be forced to make these automatic cuts on January 2nd if a budget isn’t passed.

Can this Congress act in time to avert serious harm? It could, but will it? If sequestration becomes a reality, it will be a fiscal disaster and the American people will suffer beyond measure. It appears Congress doesn’t plan to even be around Washington very much between now and the November elections. With a fiscal disaster looming, that’s irresponsible. Sadly, the Republican leadership in Congress obviously believes disastrous results of any sort will hurt President Obama in his reelection bid. Hopefully, the American people will demand that both the Republican leadership in the House and the Democratic leadership in the Senate will work with the Obama Administration and avoid sequestration!

Source: Anniston Star

IX.
PRODUCT LIABILITY UPDATE

MACHINE GUARDING CASE SETTLED

Kendall Dunson, a lawyer in our firm’s Personal Injury / Products Liability Section, recently settled a negligent installation/assembly case against a Tennessee corporation, Mid-South Mechanical Sealant (Mid-South). Our client was employed locally at Databank Services (Databank), a company traditionally involved in the documents storage business. But Databank decided in 2005 to evolve into thermoforming. As you may know, thermoforming products use shredded paper to create products similar to egg cartons. Databank purchased two used thermoforming machines from a company in Virginia. These machines had been dormant for approximately five years. Databank hired Mid-South to assemble and install the machinery at Databank’s facility.

On May 15, 2009, one of the thermoforming machines experienced a jam. As he was trained to do, our client entered the machine to clear the jam. While in the process of clearing the jam, a platen moved and entrapped his hand, crushing and burning his right hand for approximately twenty minutes. When he was finally freed from the machine, his right hand was crushed and burned so severely that he no longer has use of his hand.

More often than not, cases dealing with a failure to properly guard a machine hazard
are filed against the machine designer/manufacturer. In this case, however, we filed suit against the entity that assembled and installed the machinery. The thermoforming machine was equipped with interlocked guard doors that cut power to the machine when the doors were opened. Mid-South failed to properly connect this very important safety device.

The testimony in the case established that Mid-South not only failed to properly connect the interlocks, but it also failed to conduct a safety review of the design and failed to address safety in any regard. The evidence also revealed that Mid-South had never, before this particular project, assembled or installed any industrial machinery. Mid-South was engaged in the business of selling pumps and seals. Mid-South’s inexperience in assembling and installing industrial machinery was the direct cause of the company failing to adequately assemble and install the subject machinery.

Kendall and his staff hired a consultant who has a background in engineering and specific experience in assembling and installing industrial machinery. The consultant opined that Mid-South had a responsibility to:

- conduct a safety review;
- ensure that existing safety devices were connected and properly working; and
- add any necessary devices to ensure the safety of the operator.

The interlocking doors would have cut power to the machine anytime the doors were opened. Furthermore, a press block would have prevented the device from entrapping our client’s hand had the device been incorporated into the design. Because Mid-South had no experience in this field, it failed to satisfy any of these responsibilities. In a nutshell, Mid-South accepted the responsibility to perform a task for which it failed to satisfy any of these responsibilities.

The Blair robe was defective and unreasonably dangerous because its loose fitting design and fiber content caused it to ignite easily and burn rapidly and intensely. The robe provided no protection to the wearer even from tiny open flames or heat sources because it was so flammable and difficult to extinguish.

Blair began selling its “cotton chenille” robe in 2003 and sold over 172,000 of its chenille robes between 2003 and 2008. It’s the most flammable general-approved garment ever sold. The robe, which has been recalled, is associated with at least ten deaths, 70 injuries and over 400 catch-on-fire incidents. Eight of the death victims were elderly women who were cooking at their stoves when their robes ignited.

This tragic case demonstrates what can happen when a corporation places its profits over safety. Blair selected A-One, a company located in Pakistan, to make the robe because it was cheaper to outsource the robe overseas. Blair chose A-One to make the robe despite its knowledge that A-One had a history of making chenille products for Blair which were dangerous, extremely flammable and which failed flammability testing. In addition, Blair did relatively nothing to assure that A-One employed any quality control measures back in Pakistan.

Further, Blair never performed even one flammability test on a finished robe prior to putting the robes on the market. Instead, Blair adopted a policy that it would only require what is known in the garment industry as a “FFA § 1610 test” to be performed overseas on the raw fabric before the manufacturing process, but not afterwards. This is a test that is so minimal in assessing the flammability of clothing, that even common newspaper will pass the test. In other words, if you take a piece of newspaper, put it in a 1610 test device, test it, the newspaper will pass and be considered safe for garment flammability purposes. That should shock the consuming public.

The first time Blair ever conducted the minimum flammability test on a finished robe was after it started receiving complaints from customers that the robes were causing burn injuries. In March 2009, Blair ordered that flammability testing be performed on samples from eight of the robes in Blair’s possession. The testing was done by SGS, a reputable independent testing laboratory chosen by Blair. Those test results showed that six out of the eight robes “failed” the minimum 1610 test. The results also showed that after the manufacturing process, the robe samples burned four times faster than the raw materials which had been tested overseas. Blair had no explanation for this. It was only after receiving these test results that Blair decided to initiate the recall and stop selling the cotton chenille robe.

Blair defended Rick’s case by arguing that the recall was a mistake—that the testing facility misinterpreted the test and wrongly determined that the robe failed Federal Standards. However, Blair did admit that the robe ignited and burned at an alarmingly rapid rate. The truth is Blair had no legitimate defense in this tragic case. The case was pending in a federal court in Alabama when it settled just two weeks before the scheduled trial date. The terms of the settlement are confidential at the request of Blair. Rick did a very good job for his client in this case. We hope Blair learned a lesson on marketing and safety in this case.

**NEW BLACK-BOX STANDARDS ADVANCE AUTO SAFETY**

Popularly known as “black boxes,” event data recorders (EDRs) have helped investigators solve the mysteries of airplane crashes for decades. But despite their presence in cars since the mid 1990s, EDRs haven’t been as helpful in cars, because different automakers collect different data and use different systems to retrieve it. Now that’s about to change, following a ruling by the National Highway Traffic Safety Administration (NHTSA) due to take effect October 1, 2012.

The ruling will standardize the data collected by the black boxes, clarify who owns the data, how it can be retrieved, and who can retrieve it. The issue came to light during the Toyota unintended acceleration crisis when Congressional hearings revealed that the company had only one computer in the United States that could read data from these recorders.

The NHTSA ruling does not mandate EDRs in vehicles, but it paves the way to making them mandatory in a future ruling. But most cars already have EDRs of some sort. The significance of this measure is that the ruling specifies what data such devices should collect, as well as provide guidelines for how it can be accessed. The data must include:

- The crash force in forward and side directions.

**Flammable Clothing Case Settles**

Rick Morrison, a lawyer in our firm who handles product liability claims, settled a case for a client whose mother died tragically of thermal burns when the Blair cotton chenille robe she was wearing caught fire while she was cooking at her stove. The victim was preparing her breakfast when the sleeve of the robe came in close proximity with the stove’s gas flame and ignited within less than a second and proceeded to burn rapidly and intensely. In fact, the Blair robe burned almost completely off of her body.

The Blair robe was defective and unreasonably dangerous because its loose fitting design and fiber content caused it to ignite easily and burn rapidly and intensely. The robe provided no protection to the wearer even from tiny open flames or heat sources because it was so flammable and difficult to extinguish.

Blair began selling its “cotton chenille” robe in 2003 and sold over 172,000 of its chenille robes between 2003 and 2008. It’s the most flammable general-approved garment ever sold. The robe, which has been recalled, is associated with at least ten deaths, 70 injuries and over 400 catch-on-fire incidents. Eight of the death victims were elderly women who were cooking at their stoves when their robes ignited.

This tragic case demonstrates what can happen when a corporation places its profits over safety. Blair selected A-One, a company located in Pakistan, to make the robe because it was cheaper to outsource the robe overseas. Blair chose A-One to make the robe despite its knowledge that A-One had a history of making chenille products for Blair which were dangerous, extremely flammable and which failed flammability testing. In addition, Blair did relatively nothing to assure that A-One employed any quality control measures back in Pakistan.

Further, Blair never performed even one flammability test on a finished robe prior to putting the robes on the market. Instead, Blair adopted a policy that it would only require what is known in the garment industry as a “FFA § 1610 test” to be performed overseas on the raw fabric before the manufacturing process, but not afterwards. This is a test that is so minimal in assessing the flammability of clothing, that even common newspaper will pass the test. In other words, if you take a piece of newspaper, put it in a 1610 test device, test it, the newspaper will pass and be considered safe for garment flammability purposes. That should shock the consuming public.

The first time Blair ever conducted the minimum flammability test on a finished robe was after it started receiving complaints from customers that the robes were causing burn injuries. In March 2009, Blair ordered that flammability testing be performed on samples from eight of the robes in Blair’s possession. The testing was done by SGS, a reputable independent testing laboratory chosen by Blair. Those test results showed that six out of the eight robes “failed” the minimum 1610 test. The results also showed that after the manufacturing process, the robe samples burned four times faster than the raw materials which had been tested overseas. Blair had no explanation for this. It was only after receiving these test results that Blair decided to initiate the recall and stop selling the cotton chenille robe.

Blair defended Rick’s case by arguing that the recall was a mistake—that the testing facility misinterpreted the test and wrongly determined that the robe failed Federal Standards. However, Blair did admit that the robe ignited and burned at an alarmingly rapid rate. The truth is Blair had no legitimate defense in this tragic case. The case was pending in a federal court in Alabama when it settled just two weeks before the scheduled trial date. The terms of the settlement are confidential at the request of Blair. Rick did a very good job for his client in this case. We hope Blair learned a lesson on marketing and safety in this case.
• The duration of the crash event.
• Indicated vehicle speed.
• Accelerator position.
• Engine rpm.
• Brake application and anti-lock brake activation.
• Steering wheel angle.
• Stability control engagement.
• Vehicle roll angle, in case of a roll over.
• Number of times the vehicle has been started.
• Driver and front-passenger seatbelt engagement, and pretensioner or force-limiter engagement.
• Air bag deployment, speed and faults for all air bags.
• Front seat positions.
• Occupant size.
• Number of crashes (one or more impacts during the final crash event).

Privacy experts have expressed concern over the release of such data, which is often used in court cases to prove fault in an accident. States have different laws governing the release of the data. Consumers Union, the advocacy arm of Consumer Reports, believes black-box data should be standardized, so accident investigators can use it to improve the safety of future vehicles and crashes. We have spoken to persons with trauma centers who say that the data, in individual cases, would be invaluable in diagnosing injuries of the accident victims. We also believe that the owners of the cars should own the data, and we have concerns over the privacy implications of its use. Overall, the NHTSA ruling represents a step forward in improving auto safety, one that’s forward in improving auto safety, one that’s

F-22 RAPTOR LAWSUIT SETTLED

Defense contractors have settled a wrongful death lawsuit brought by the widow of an F-22 pilot who contended that flaws in the aircraft contributed to the crash that killed her husband in 2010. Terms of the settlement are confidential and have not been disclosed. Anna Haney sued Lockheed Martin, Boeing, Honeywell International and Pratt and Whitney after her husband’s death, alleging that the stealth fighter was “unreasonably defective.” It was alleged further that the fighter’s oxygen-supply system did not supply enough air to pilot Jeff Haney during a Nov. 16, 2010, training flight that ended in a fiery crash in remote Alaska.

The settlement came two weeks after Air Force investigators announced a breakthrough of sorts in determining the cause of oxygen-supply problems in the cockpit going back to last year. This has been an issue that proved embarrassing to the service, which touts the Raptor as its top-of-the-line fighter.

An Important BTsI Case In Texas

A Texas state court has approved a $3.3 million settlement against a used car dealership which sold a defective vehicle. Back in 2010, Chassey Bates was visiting her parents along with her three young sons, ages six, four and three weeks old. The children were put in the family’s minivan and the older children were told to get “buckled up” so they could go home. One of the boys in the van got the car keys from his mother’s purse, started the van, and placed the vehicle in drive. The engine started and the van lurched forward, striking Chassey and her infant son. That child died from his injuries. Chassey suffered a broken leg, fractured vertebrae and other serious injuries. Her medical bills totaled approximately $250,000. Chassey’s mother, father and children witnessed the events surrounding this tragedy.

Chassey, along with her husband, mother, father and children, sued the car dealership at why a small number of F-22 pilots complained of dizziness or light-headed feelings, which are symptoms of oxygen deprivation. The aircraft was returned to flight in September even though the Air Force had not determined the problem’s root cause. In May, the Raptor made national headlines when two Virginia Air National Guard pilots from Langley went public with their concerns, telling CBS’ “60 Minutes” they were uncomfortable flying the aircraft. That sparked a bi-partisan investigation by Democratic Sen. Mark Warner of Virginia and Republican House member Adam Kinzinger of Illinois.

Less than two weeks after the “60 Minutes” episode, Defense Secretary Leon Panetta ordered additional safety measures, including a stepped-up schedule for installing an automated backup oxygen system on the Raptor. Lockheed has received a $19 million contract to begin this work. The breakthrough announcement came Aug. 1 when the Air Force said the aircraft’s onboard oxygen-generating system wasn’t the source of the problem, nor were toxins leaking into the air supply, which had been another theory. Rather, they said the problem stemmed from a pressurized vest that inflated at the wrong time and restricted pilots’ breathing, along with a connection valve that had been designed with older F-15s and F-16s in mind, not the higher-performing F-22. John Gagliano, a lawyer with the Wolk law firm in Philadelphia, represented the Plaintiff and he did a very good job in a most interesting case.

Source: Dailypress.com

Auto Safety Should Never Be Optional

Our firm is preparing to try a very important product liability case in Nashville, Tenn., later this year. Our client, who was employed as part of the housekeeping staff at Vanderbilt Hospital, was driving her 2005 Mitsubishi Eclipse on the way to work one evening when she was involved in a wreck. As she turned left through an intersection, another vehicle failed to stop at a red light and struck our client’s car directly in the driver’s door. Although she was wearing her seatbelt and was obeying all traffic laws, our client was seriously and permanently injured. Experts and doctors all agree that while emergency surgeries at Vanderbilt saved her life, she continues to suffer with permanent injuries.

As we began investigating this case, we learned that the owners manual for our client’s car discusses how an available driver side side-impact airbag offers supplemental crash protection in side impact crashes such as the one she suffered. However, we also learned that Mitsubishi manufactured our client’s car without a side-impact airbag.

Although it was aware of the benefits that side airbags offer to occupants in a crash, Mitsubishi made a decision to make side airbags optional equipment in the 2003 Eclipse. Unfortunately, our client purchased her Eclipse used and did not have the choice of selecting an optional airbag. Because manufacturers have long been aware of the protection that side airbags offer, it’s inexcusable to design and develop such protection and then only offer it as an option. Our experts are prepared to testify that side airbag protection was available and feasible for our client’s Eclipse and that an airbag would have lessened the forces and injuries she suffered in her crash. Mike Andrews is the lawyer from our firm handling this case. We will keep you updated on this very important case as it progresses through the system.

Source: JereBeasleyReport.com
that sold the minivan, as well as the vehicle’s manufacturer, alleging strict product liability and negligence. Among other things, they claimed that the dealership which sold the vehicle had disabled an important safety feature on the van. The disabled safety feature, a brake transmission shift interlock (BTSI), prevents vehicles from being put into gear unintentionally. Specifically, the BTSI prevents children, and others, from putting a vehicle into gear without depressing the brake pedal.

During discovery, the lawyers for the family found out that the safety feature had been disabled when a GPS device was installed on the minivan by the used car dealership which sold the minivan. Interestingly, the GPS device was installed so the car dealership could locate and repossess the vehicle in the event of non-payment.

The Plaintiffs claimed damages for wrongful death, medical injuries for Chassey and bystander claims for her mother, father and young children. The parties settled for $3.3 million with the used car dealership, MCMC Auto Group, Ltd. The case was filed in a Texas state court. Todd Ramsey and Jim Mitchell, lawyers with the Payne Mitchell Law Group in Dallas, and Jason Franklin, also a lawyer from Dallas, represented the family and they did a good job.

**Respirator Manufacturers May Be Liable For Asbestos Exposure**

The Washington Supreme Court has ruled that the manufacturers of respirators may be liable for failing to warn a shipyard worker of the risk of exposure to asbestos dust while cleaning the devices. A shipyard tool keeper was responsible for cleaning the equipment used by workers, including respirators manufactured by the Defendants. The respirators were worn to filter various contaminants from the air, including asbestos.

The Plaintiff, who suffered from mesothelioma, alleged that the manufacturers had a duty to warn of the dangers of asbestos exposure when cleaning the used respirators and filters. The state’s intermediate appellate court dismissed the suit, holding that the manufacturers had no duty to warn the Plaintiff. But the Supreme Court reversed that ruling.

Although the Defendants did not manufacture the asbestos, they “manufactured the very products that posed the risk to [the Plaintiff] of asbestos exposure,” the Court said. The respirators were specifically designed to and intended to filter contaminants from the air breathed by the wearer, including asbestos, the Court noted, and they were also designed to be reused in contaminated environments. The Court wrote:

> In order to reuse them as they were intended to be reused, the asbestos had to be removed. … The defendants were clearly in the chain of distribution of these products—respirators that necessarily and purposefully accumulated asbestos in them when they functioned exactly as they were planned to function. It does not matter that the respirator manufacturers were not in the chain of distribution of products containing asbestos when manufactured.

This decision is good for workers and makes it clear that companies such as these Defendants, which don’t actually manufacture the asbestos, also have legal responsibility to victims hurt by asbestos.

Source: Lawyers USA Online

**Settlement In Metal Bat Lawsuit**

A lawsuit has been settled for $14.5 million which involved Little League Baseball, very young players and metal bats. The case arose when a young pitcher suffered brain damage after he was struck by a line drive hit from a metal bat. As a trial date was approaching in the case, the Defendants, including the manufacturer of the Louisville Slugger bat, the retailer that sold it and Little League Baseball, in combination, agreed to the settlement. The family of Steven Domalewski, who was 12 when he was hit in the chest by a batted ball in 2006, had filed the lawsuit. The blow stopped Steven’s heart and left him with severe brain damage due to oxygen deprivation. The settlement, according to a life plan for him, is expected to cover the care that Steven, who is now 18, will need for the rest of his life.

The lawsuit contended that the metal bat wasn’t sufficiently tested and that its marketing violated the Consumer Fraud Act. I have never believed that metal bats should be allowed in Little League Baseball or in any games where young children are involved. Ernest Fronzuto, a lawyer in Woodland Park, N.J., represented the family and did a good job in this case.

Source: ABAJournal.com

**X. MASS TORTS UPDATE**

**AN UPDATE ON ACTIVITY IN THE MASS TORTS SECTION**

As we have written previously, Andy Birchfield heads up the Mass Torts Section in our firm and Melissa Prickett serves as the Section Administrator. Currently, we have 21 lawyers and 69 staff personnel in the section and they have all been very busy. From time to time, I feel that giving a summary covering some of the Section’s current activities would be useful to our readers. I will now attempt to do just that and hopefully some, if not all, of the information will be of interest. Lawyers and staff in Mass Torts are currently investigating and/or litigating the following:

**Actos®**

The FDA has approved updated warning labels for Actos, a prescription medication used to treat Type 2 diabetes. The updated label states that Actos usage for more than one year may cause bladder cancer. Actos, manufactured by Takeda, has been under FDA review since September 2010. In June 2011, the FDA issued a warning for Actos, while at the same time, drug regulators in France and Germany suspended use of the drug. We are currently investigating claims involving usage of Actos, Actoplus Met, Actoplus Met XR, Duetact and bladder cancer. More will be mentioned about Actos below.

Lawyer: Roger Smith
Primary Staff Contact: April Worley

**Transvaginal Mesh**

The FDA has issued an updated safety communication warning doctors, health care professionals and patients that the placement of surgical mesh through the vagina to treat pelvic organ prolapse and stress urinary incontinence may present greater risk for the patient than other non-mesh procedures. This is also called transvaginal mesh. According to the FDA, reported complications from the transvaginal placement of the mesh include erosion of the mesh into the vaginal tissue, organ perforation, pain, infec-
tion, painful intercourse and urinary and fecal incontinence. Often women require surgery to remove the mesh. In some cases, this can require multiple procedures without successfully removing all of the mesh. Currently, we are investigating cases involving mesh manufactured by American Medical Systems, Bard, Boston Scientific, Caldera, and Johnson & Johnson.

Lawyers: Chad Cook and Leigh O’Dell
Primary Staff Contacts: Tabitha Dean, Melisa Bruner and Kim Owen

**ANTIDEPRESSANTS**

SSRI-antidepressants such as Celexa, Lexapro, Luvox, Paxil, Prozac and Zoloft are prescribed to treat depression. Studies over the last several years have shown an increased risk of heart birth defects in children born to mothers who took SSRI-antidepressants in the first trimester. Most of the cardiac defects observed in these studies were atrial or ventricular septal defects, conditions in which the wall between the right and left sides of the heart does not completely develop. We are currently investigating claims of birth defects involving children whose mothers were taking an SSRI, Wellbutrin or Effexor during pregnancy.

Lawyer: Roger Smith
Primary Staff Contact: Linda Reynolds

**PRADAXA®**

Approved by the FDA in October 2010, Pradaxa (Dabigatran) is marketed by Boehringer Ingelheim Pharmaceuticals, Inc., to reduce the risk of strokes and blood clots in people who have atrial fibrillation, a common heart rhythm abnormality. Pradaxa is in a class of anticoagulant medications known as “blood thinners.” Pradaxa is a direct thrombin inhibitor. It prevents the formation of blood clots by counteracting the effects of thrombin, which is responsible for clotting. Boehringer Ingelheim Pharmaceuticals markets Pradaxa as the preferred blood thinner. According to Boehringer, it is easier to dose, requires less monitoring, and is more effective at preventing clots compared to Warfarin (Coumadin). However, unlike Warfarin, Pradaxa’s anticoagulation effect cannot be reversed with vitamin K, significantly increasing the odds that a bleeding event will turn fatal.

To date, there have been significant numbers of fatal bleeds reported to the FDA. The lack of a reversal agent is believed to be the cause of the significant number of bleeding-related adverse events. While various reports have linked 260 bleeding deaths to Pradaxa, Boehringer, in an official statement on November 2, 2011, linked about 50 bleeding deaths to Pradaxa, which Boehringer asserted is consistent with expectations from the Pradaxa clinical trials. Earlier this year, the FDA required Boehringer to modify the Pradaxa warning label to reflect the lack of a reversal agent, which, amazingly, had not been included in the original warnings. The FDA is currently evaluating the reports of bleeding deaths and investigating whether the rate of severe bleeding reports is higher than what was seen in the Pradaxa clinical trials. At this point, there is no black box warning for Pradaxa.

We are currently investigating claims of GI bleeding, hemorrhagic strokes or any other serious or fatal bleeding involving Pradaxa.

Lawyer: Roger Smith
Primary Staff Contacts: April Worley and Linda Reynolds

**METAL-ON-METAL HIP REPLACEMENT**

The FDA has ordered a review of all metal-on-metal hip implants due to mounting patient complaints. Problems with the metal-on-metal devices include loosening, fracturing and dislocating of the device caused by inflammation in the joint space. We are investigating all cases involving metal-on-metal hip implants, including the DePuy Orthopaedics ASR XL Acetabular System and the DePuy ASR Hip Resurfacing System, recalled in August 2010; the Smith & Nephew R3 Acetabular System, recalled in June 2012; the Stryker Rejuvenate and ABG II modular-neck stems, recalled in July 2012; the DePuy Pinnacle, the Zimmer Durom Cup, the Wright Conserve, and the Biomet M2A and M2A-Magnum hip replacement systems, which have not been recalled. Reported problems include pain, swelling and problems walking.

Lawyers: Navan Ward and Melissa Prickett
Primary Staff Contacts: Janet Welch and Donna Puckett

**FOSAMAX®**

Fosamax® (alendronate sodium), manufactured by Merck, is in a class of drugs called bisphosphonates. Fosamax® is commonly used in tablet form to prevent and treat osteoporosis in postmenopausal women. Recently the Journal of Oral and Maxillofacial Sur- gons reported a link between bisphosphonates and a serious bone disease called Osteonecrosis of the Jaw (ONJ). Osteonecrosis is a disfiguring and disabling condition of the jaw bone that causes infection and rotting of the jaw bone. Typical presentation of Osteonecrosis is pain, soft-tissue swelling and infection, loosening of teeth, drainage, and exposed bone. Symptoms may occur spontaneously, or at the site of previous tooth extraction. Recently, Fosamax has been linked to low-energy femur fractures in people taking Fosamax for three or more years.

Lawyers: Chad Cook, Leigh O’Dell and Russ Abney
Primary Staff Contact: Tabitha Dean

**GARDASIL®**

Gardasil, manufactured by Merck Sharp & Dohme Co., is aggressively marketed as a vaccine that prevents cervical cancer. In fact, it is a vaccine to prevent four types of the sexually transmitted disease, HPV (human papillomavirus). Gardasil is said to protect against four types of HPV, two of which are associated with cervical cancer. These two types of HPV are present in only 3.2% of the cases. At this time, Gardasil has not been proven to prevent cervical cancer. Scientific data indicates that the vaccine may not last longer than five years, if that long. The drug is indicated for young women and men from the age of nine years old up to 26 years old, though the vaccine is primarily given to girls.

The Vaccine Adverse Event Reporting System has over 21,000 reports of adverse events related to the administration of this vaccine including more than 90 deaths. Serious adverse events include multiple sclerosis, blindness, Guillain-Barré Syndrome, lupus, rheumatoid arthritis, paralysis, blood clots and death. The vaccine is recommended for young girls in their early teens. Parents should proceed with caution before allowing their daughters (and sons) to be vaccinated. We are currently investigating cases with doc-
First, we go back to Philadelphia for our next
set. If you need additional information on
future claims of this kind for amounts
large in the Zoloft MDL. We are highly pleased with the
progress being made in the Zoloft MDL.

More On The Actos Litigation
As mentioned above, lawyers in our Mass
Torts Section are currently investigating and
filing claims on behalf of individuals who
have been diagnosed with bladder cancer
following long-term exposure to Actos. Actos is a multi-million dollar diabetes drug
manufactured by Takeda, a Japanese pharma-
caceutical company, with U.S. operations
headquartered in Illinois. Actos is currently
marketed as a stand-alone drug, Actos, or in
combination form, Actoplus Met (Actos plus
Metformin), Actoplus Met XR (Actos plus
Metformin extended release), and Duetact
(Actos plus glimepiride).

Hundreds of Actos lawsuits have been
filed in the Actos MDL, which is pending
before the Honorable Rebecca Doherty in
the Western District of Louisiana. Judge
Doherty recently issued a scheduling order
setting out litigation deadlines for Plaintiffs
and Defendants as well as tentative dates for
the start of the first two Actos bladder
cancer trials.

If you would like for us to review a poten-
tial claim, or if you have any questions
regarding the Actos litigation, contact Roger
Smith or Linda Reynolds if you have a claim.

Yaz and Yasmin are oral contraceptives that
contain drospirenone, a synthetic progestin.
Drospirenone causes a greater risk of blood
clots than similar ingredients used in other
types of birth control pills.

Recent studies confirm that taking Yaz and Yasmin can cause pulmonary embolism,
deep vein thrombosis, and other clotting
injuries including heart attacks and strokes.
The drug company failed to warn that users of
Yaz and Yasmin were much more likely to
suffer these injuries than users of older, less
expensive birth control pills. To date, Bayer
said it has resolved 1,877 cases for $402.6
million on a case-by-case basis. Of the more
than 12,000 remaining suits, Bayer told
investors it is currently settling only those
alleging blood clot injuries, which it said
numbered about 6,000.

In April, the Food and Drug Administra-
tion released a safety announcement that
drospirenone-containing birth control pills
like Yaz and Yasmin may be associated with a
higher risk of blood clots than progestin-
containing pills. Bayer said the remaining
lawsuits will cost the company an estimated
$1.2 billion. That would be the case if they
settle for roughly the same amount prior set-
ments have averaged. The company
wrote:

On the assumption that the number of
lawsuits will continue to decline and that we will be able to settle
future claims of this kind for amounts
similar on average to those agreed to
date and based on the information
currently available, we believe that
we have made appropriate provisions
for most of the cases we consider to be
worthy of settlement with these
accounting measures and the now
exhausted insurance coverage.

Bayer did not disclose its plans regarding the
remaining 6,000 suits alleging injuries
other than blood clots. Federal litigation
against the company is currently consoli-
dated as an MDL in the Southern District of
Illinois for pretrial proceedings. Our firm
currently has 121 suits pending in the Court of
Common Pleas, Philadelphia, Pa., in the
mass tort/complex litigation division. If you
need additional information concerning Yaz
and Yasmin, contact Roger Smith, a lawyer
in our Mass Torts Section, at 800-898-2034
or by email at Roger.Smith@beasleyallen.com.
XI.
BUSINESS
LITIGATION

SPYKER SUES GENERAL MOTORS FOR $3 BILLION

Spyker, the Dutch supercar firm and owner of Saab, filed suit against General Motors last month. In the lawsuit, Spyker claims GM forced Saab into bankruptcy and interfered with a potential deal with Chinese investors that could have saved the company. Spyker is suing on behalf of Saab, assuming legal costs in exchange for a significant proportion of any potential award. The amount being sought is $3 billion. Saab went into bankruptcy in December 2011. The lawsuit also says GM interference prevented an agreement with Chinese investor Zhejiang Youngman Lotus Automobile Co. Ltd., which would have allowed Saab to restructure. Spyker alleges that GM’s motivation was to avoid competition with Saab in the Chinese market.

GM owned all or part of Saab from 1990 until 2010, before selling it to Spyker. As you may know, Saab is now in receivership. In a statement, Spyker CEO Victor Muller had this to say:

“Ever since we were forced to file for Saab Automobile’s bankruptcy in December of last year, we have worked relentlessly on the preparation for this lawsuit which seeks to compensate Spyker and Saab for the massive damages we have incurred as a result of GM’s unlawful actions. We owe it to our stakeholders and ourselves that justice is done, and we will pursue this lawsuit with the same tenacity and perseverance that we bad when we tirelessly worked to save Saab Automobile, until GM destroyed those efforts and deliberately drove Saab Automobile into bankruptcy.”

Source: MSN.com

MONSANTO WINS PATENT SUIT AGAINST DUPOUNT IN GENETICALLY MODIFIED SEED CASE

Monsanto, the world’s largest seed company, has won a $1 billion victory over DuPont, its archrival, in a lawsuit concerning patents in the agricultural seed market. The victory, which dealt with genetically modified seeds that allow crops to tolerate weed killer, should have little immediate impact in that lucrative marketplace, according to reports. But it underscores Monsanto’s dominance over popular seed technology and could slow DuPont’s advance, analysts said. Apparently, the old products are being replaced with new technology. That's true the verdict may not affect either company in the short term. The jury, after a three-week trial in St. Louis, took less than an hour to find in favor of Monsanto, which claimed in the suit that DuPont and its agricultural crop subsidiary DuPont Pioneer Hi-bred International, violated a 2002 licensing agreement.

That agreement gave DuPont the right to use Monsanto’s glyphosate-tolerant Roundup Ready trait, a wildly popular technology. But it said DuPont did not have the right to stack that with other traits. Monsanto said DuPont did not have the right to stack that with other traits. DuPont claims that Monsanto acted fraudulently in obtaining the patent and thus rendered it invalid.

DuPont says it will appeal the verdict. Besides appealing this verdict, DuPont is pursuing a separate patent misuse case and antitrust claims against Monsanto. A trial on those issues is set for September 2013. Monsanto maintained in the current case that DuPont willfully violated its patent because its own technology was failing. Monsanto introduced its Roundup Ready technology in 1996 in soybeans. The Roundup Ready trait makes crops tolerant of Roundup, or glyphosate-based, herbicide. Monsanto licenses Roundup Ready technology for corn, alfalfa, cotton, canola, and sugar beets. Monsanto filed suit against DuPont and Pioneer in May 2009 alleging the unlicensed use of the trait.

Both companies hold strong positions in the U.S. seed industry and have been racing each other and other competitors to develop improved crops through genetic modifications and other means. Monsanto's patent on Roundup Ready soybeans expires in 2014 and both Monsanto and DuPont have fresh versions of the technology rolling out. Monsanto's Genuity Roundup Ready 2 Yield soybeans are up against Pioneer Y Series soybeans, which are built upon the original Roundup Ready technology. The case is is in Re: Monsanto Co vs E.I. Du Pont De Nemours, U.S. District Court, Eastern District of Missouri, No. 09-00686.

Source: Insurance Journal

FEDERAL COURT JURY RULES IN APPLE’S FAVOR

Jurors in a federal court awarded $1.05 billion last month to Apple and against Samsung Electronics. This was a landmark patent trial resulting in a sweeping victory for Apple against Samsung. The jury found the Korean company had infringed on several Apple features and design patents. The $1.05 billion in damages could be tripled because the jury also decided the Korean firm had acted willfully. Apple intends to seek sales bans against Samsung mobile products, which Samsung will oppose. This care promises to re-set the competitive balance in the industry.

Source: itweb.co.za

XII.
AN UPDATE ON SECURITIES LITIGATION

COUNTDOWN TO DODD-FRANK

The Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) published final rules on August 13th in the Federal Register defining a “swap.” We now know that swap exposure at major institutions like Lehman Brothers and AIG were a major factor in the 2007-2009 financial crisis. The CFTC’s defining what a swap is, and more importantly what is excluded from that definition, starts the countdown to the effective dates and compliance dates of the Final Rules for Dodd-Frank. For the most part, the effective and compliance dates will be 60 days from the definition publication with two exceptions that will take effect 180 days from publication.

Now that the definition is final, the CFTC must implement a swaps clearinghouse. End users, with certain exceptions, are required to route their trades through independent clearinghouses. A clearinghouse creates a transparent trail for a trade and is backed by a default fund so that a transaction is completed even if one part of a deal goes under. This transparency should give more stability to the market. If you need more information on this matter, contact Scarlett Tuley at
800-898-2034 or by email at Scarlette.Tuley@beasleyallen.com.

**THE TENTH ANNIVERSARY OF SARBANES-OXLEY**

In 2002 Congress passed the Sarbanes-Oxley Act in response to an irate public bilked by the Enron, WorldCom and Tyco accounting scandals. It is hard to determine if SOX has been a success, mainly because its benefits are hard to quantify. There certainly have been scandals and failures, but no book-cooking failures on the scale we saw 11 years ago. Proponents of Sarbanes-Oxley point to the creation of the Public Company Accounting Oversight Board (PCAOB), the requirement that CEO’s and CFO’s certify their company’s financial statement, and giving board of directors more powers in terms of overseeing financial audit functions as all benefits to the public.

Detractors find fault with the great expense associated with compliance with the internal control mandates of Section 404, greatly increased audit costs, and claim that SOX discourages IPOs, especially of smaller companies. In the wake of the Facebook IPO debacle, one could argue that a chilling effect on IPOs might not be a bad thing.

All in all, most lawyers and analysts say that Sarbanes-Oxley is working. It has made public-company financial reporting more reliable and instilled tougher internal controls and higher standards on accountants. It is also hard to say if SOX or a protracted down economy is really to blame for fewer IPOs. If you would like more information on this subject, contact Scarlette Tuley, a lawyer in our firm who handles securities litigation, at 800-898-2034 or by email at Scarlette.Tuley@beasleyallen.com.

**XIII. INSURANCE AND FINANCE UPDATE**

**NON–PROFIT INSURANCE COMPANY IN ALABAMA RAKES IN LARGE PROFITS**

Blue Cross Blue Shield of Alabama, hereinafter referred to as BC/BS, brought in $4.1 billion dollars of revenue during 2011—more than several of the state’s largest publicly traded companies. I was shocked to learn that BC/BS has accumulated total assets of $2.4 billion dollars by the end of 2011 with $1.8 billion easily converted to cash. Additionally, the company has a surplus account of $991 million that BC/BS refers to as “unassigned funds.” Despite going through the worst recession since the Great Depression, BC/BS is doing extremely well. In fact, it would be hard to imagine how it could be doing any better.

None of BC/BS’s financial success has “trickled down” to the average Alabamian. The rates of employer workplace plans have risen an average of 6.2% for the past five years for small business owners with fewer than 50 employees. The average BC/BS policyholder has seen double-digit rate increases at a time where BC/BS has benefited financially and accumulated a record surplus. That’s rather hard to understand and even harder to justify.

BC/BS is technically one of 45 local state chapters each of which is a member of the BC/BS Association. The BC/BS Association has consistently lobbied politicians across the political spectrum in order to make it harder to penalize companies for defrauding the American taxpayer. Since 1993, local Blue Cross/Blue Shield chapters have paid $340 million dollars to the federal government to settle Medicare fraud charges alone. Political contributions from the Association have increased greatly since the recent passage of healthcare reform and the Supreme Court’s decision in *Citizens United*. In 2011, the BC/BS Association spent nearly $22 million dollars on lobbying alone. It has hired 131 lobbyists and spent millions of dollars in contributions to candidates and members of Congress, regardless of political affiliation.

Although the federal government has been able to settle with the BC/BS Association for hundreds of millions of dollars over allegations of Medicare fraud and false claims, Alabama currently doesn’t have the necessary legislative tools to fully protect the state. Alabama is not immune to healthcare fraud, government contractor fraud, and many other forms of fraud committed against state government. Unfortunately, however, unlike many sister states in the Union, Alabama does not have a State False Claims Act to empower whistleblowers to stand up and recover millions of dollars the state loses in fraud over the years.

As we have written on numerous occasions, the federal False Claims Act allows whistleblowers to file a cause of action to recover money that has been falsely paid to government contractors and healthcare providers. An Alabama False Claims Act would empower state whistleblowers to recover money that is falsely paid out by the state to those who wish to profit on the backs of Alabama’s taxpayers. As all Alabamians know, our state is suffering through a financial crisis and would benefit from every dollar that it can save or recover. A State False Claims Act would allow private whistleblowers to assist the State Attorney General’s Office in recovering money that has been illegally paid to corrupt healthcare providers and state contractors.

One has to wonder what BC/BS does with all of this “extra” money that it has accumulated in its $991 million surplus. It certainly doesn’t reduce insurance rates for folks with their policies. BC/BS has no incentive to reduce rates since it has a virtual monopoly in Alabama. The American Medical Association found that Alabama has the least competitive market for medical insurance, with BC/BS having a strangle hold with its market share at 90%. Several federal antitrust cases have been filed against BC/BS, but without a great deal of success thus far.

The Alabama Legislature needs to give Alabamians some relief by reforming the State Antitrust Act. The current State Antitrust Act is an outdated law that restricts its application to antitrust violations that occur completely within the state. Any hint of interstate commerce precludes Alabama’s Act from being effective. The vast majority of states with antitrust laws allow the laws to apply so long as the interstate commerce occurred in state. The State Legislature has the power and ability to reform Alabama’s Antitrust Act and gave it the teeth required to prevent monopolies in Alabama.

BC/BS seems interested in one thing and that’s accumulating money and lots of it. For some reason I have great difficulty understanding how a non-profit can be so profitable. As a non-profit, the company has a duty to maximize every dollar it receives to reduce the burden that Alabamians face each and every day in their healthcare costs. The State Legislature must act in order to empower Alabama citizens with the ability to stop monopolies and companies profiteering from taxpayer’s money in our state. Our legislators should do the right thing and pass both a reformed State Antitrust Act and a brand new State False Claims Act in the 2013 Legislative session.

If you have any information regarding antitrust violations including but not limited to: tying arrangements, price fixing, anti-competitive agreements, and/or attempted monopolization, contact Andrew Brashier, a lawyer in the Consumer Fraud Section of our firm, at Andrew.Brashier@beasleyallen.com or by phone 800-898-2034. Andrew is currently investigating violations of the federal False Claims Act. If you have information involving False Claims Act that need to
be submitted to the federal government, you can also contact Andrew.

Sources: AL.com and opensecrets.org

**MORE ON THE LIBOR RATE FIXING SCANDAL**

Last month, we gave an overview of the recent Libor scandal which involves the world’s largest banks conspiring to fraudulently rig the London Interbank Offered Rate (Libor)—the primary financial benchmark that underpins approximately $550 trillion in loans, securities, and derivatives worldwide. Barclays Bank was the first domino to fall, having been fined an unprecedented $453 million by the Department of Justice and other authorities as the result of lengthy criminal investigations. And that appears to be the tip of the iceberg as 17 of the 24 largest banks are currently under investigation for intentionally manipulating the Libor, as well as the Euribor (Euro Interbank Offered Rate). Those pending investigations and the ensuing litigation are likely to reveal the most catastrophic banking fraud in history.

The disastrous effects of this scandal are staggering because the majority of our global financial market is tied to Libor and/or Euribor. Ominously, the insurance industry is already predicting record levels of exposure to financial institutions, particularly investment banks. Senior Vice-President and Chief Underwriting Officer for Torus Insurance, Jeff Grange, recently stated that Errors and Omissions coverage for investment banking “is very limited as the market just won’t take it; there have been too many scandals, even before 2008.” Going further, Grange said that there is already a “very thin capacity for financial institutions, and now there will be even less.” Grange predicts a least “three waves” of potential litigation:

- Claims against senior officers and directors for breaching their duty of care by allowing their banks to participate in the rate-fixing scheme;
- Claims by shareholders of the banks who participated in the fraud; and
- Claims by anyone adversely affected by the Libor/Euribor interest rate being fraudulently manipulated.

Again, the number of potential claimants is almost beyond measure as “literally millions of trades, contracts and other agreements” are tied to Libor/Euribor rates. If you have any information on the Libor rates scandal or believe that you have been impacted by the scandal, please contact Chad Stewart at Chad.Stewart@beasleyallen.com, Archie Grubb at Archie.Grubb@beasleyallen.com or Andrew Brashier at Andrew.Brashier@beasleyallen.com.

Source: Insurance Journal

**$15.3 MILLION RETURNED TO HOSPITALS AND DOCTORS IN OKLAHOMA**

Health care providers across Oklahoma started receiving checks last month worth more than $15.3 million. The funds are actual damages owed by the defunct AmCare Health Plans of Oklahoma Inc., a health maintenance organization (HMO). Oklahoma Insurance Commissioner John D. Doak had this to say:

*This is great news for Oklahoma hospitals and medical providers. They were left holding the bag when this company failed to pay hundreds of claims. Now, finally, these claims will be paid in full. AmCare had no intention of paying its claims. This was a purely financial move on their part and we won’t stand for it. I refuse to let Oklahoma taxpayers foot the bill for companies’ mistakes.*

Oklahoma, Texas and Louisiana filed suit against AmCare Health Plans after it was placed in receivership in 2003. The company had stopped its operations in Oklahoma on Oct. 1, 2002. Investigators found AmCare was manipulating its financial records by moving assets back and forth between sister companies in an attempt to appear solvent. The payments, administered through the Oklahoma Receivership Office, will complete principal payments to the affected providers. In 2006, the Oklahoma Insurance Department successfully petitioned the court for an early distribution of approximately $8.8 million.

Source: Insurance Journal

**JURY AWARDS LIFEGUARD $3.5 MILLION FOR HARASSMENT AND RETALIATION**

A federal court jury in the District of Columbia has awarded $3.5 million to a former public pool lifeguard who says she was sexually harassed by a supervisor. Carmen Jean-Baptiste was fired from her job at the Takoma Aquatic Center in 2006 after reporting the alleged harassment to multiple supervisors. She says the firing, which included sexually suggestive comments, came in retaliation for her complaints. The jury returned the verdict in U.S. District Court in Washington. Jurors also presented the trial judge with a set of recommendations, including that the D.C. Department of Parks and Recreation review its sexual harassment policies for employees and train them on preventing the problem and better responding to a complaint.

Source: Washington Post

**XIV. EMPLOYMENT AND FLSA LITIGATION**

**LABOR BOARD SIDES WITH WORKERS ON CLASS AND COLLECTIVE ARBITRATION**

Earlier this year, the National Labor Relations Board ruled that employers could not prevent workers from filing work-related claims as a class or collective action, essentially prohibiting agreements that require employees to settle disputes through individual arbitration. In the labor board’s opinion, a worker’s right to engage in concerted action with other workers for mutual aid or protection overrides a ban on class or collective claims in an arbitration agreement. The action involved a former superintendent of D.R. Horton, Inc. who alleged that the company misclassified him and others as exempt from the protections afforded by the Fair Labor Standards Act of 1938. The company argued that the employment agreement entered into with the employee prohibited collective actions.

The labor board’s decision came on the heels of AT&T Mobility LLC v. Concepcion, a 5-4 U.S. Supreme Court opinion invalidating a California rule that declared class-action waivers unconscionable. But unlike the rule at issue in Concepcion, the labor board concluded that its decision did not conflict with the Federal Arbitration Act or undermine its pro-arbitration policy. Courts have reached different conclusions on the persuasiveness of the labor board’s decision in D.R. Horton, Inc. with some perceiving a conflict with Concepcion and others noting that courts must give considerable deference to the labor board’s decisions. But the decision offers workers a fighting chance to assert work-related claims collectively despite the existence of an arbitration agreement prohibiting it. If you would like more information on this subject, contact Brad Smelser, a lawyer in our firm, at 800-898-2034 or by email at Brad.Smelser@beasleyallen.com.
Another Alcohol-Related Lawsuit Filed

A lawsuit has been filed against a bar owner, Yassine Enterprises, by the family of a former University of Texas soccer player who was severely injured in a vehicle-pedestrian collision back in February. The family of Kylie Doniak alleged in its lawsuit that Yassine’s bar Fuel, and Vice, owned by another company, overserved alcohol to 22-year-old Nicholas Ray Colunga. According to police investigators, Colunga drove his car while intoxicated and hit Ms. Doniak, who was left with severe physical and brain injuries after the crash.

Fuel and other clubs owned by Yassine Enterprises have been closed since late March, when owner and President Mike Yassine was jailed—along with eight associates—on federal drug, money laundering and weapons charges. Ms. Doniak’s parents, Lori and Dave Doniak, filed the civil suit seeking damages from Yassine Enterprises. They accuse the two bars of serving alcohol to Colunga despite his obvious intoxication. He had been drinking, according to the lawsuit, from about 11:50 p.m. on February 20th until about 2 a.m. He was served alcohol at both the Fuel and Vice bars during that time. Colunga was allowed to drive away in a car in an intoxicated condition.

It is further alleged that as Colunga approached an intersection in his car, he ran a red light and slammed into Doniak and two of her friends. Colunga fled the scene in his car and was chased down by a motorcyclist who restrained him until police officers arrived. Ms. Doniak “struggled for life” for three weeks in a hospital in coma. After coming out of the coma, she underwent extensive physical therapy, but was left permanently disabled. She has little short-term memory, has trouble communicating and requires additional surgery.

Suzanne Kaplan, a lawyer with Slack & Davis, a Dallas, Texas, firm represents the Doniak family in the case. This case is just another example of why drinking and driving a vehicle don’t mix. Those who serve alcohol to an intoxicated person must have responsibility for their actions and be held accountable.

Source: Statesman.com

Lawsuit Arising Out Of A 2010 Death Settled

A wrongful death case was settled recently that involved a party held at a private residence in Midway, N.C. Those who planned the party may have originally had a good purpose in mind, but the end result was anything but good. The party was to celebrate the graduation of the daughter of the homeowner, Katherine Pritchard. The party was hosted by Ms. Pritchard and her son, John. Both Ms. Pritchard and her son knew that liquor would be served to underage persons at the party. In fact, they bought or paid for the liquor. It was reported that wide-spread drug use was allowed at the party. From all accounts, there was no supervision of activities at the party which included “drinking games” of all sorts.

Shelby Chism, a teenager and an invited guest at the party, was killed after she had left the party in a car with friends. There had been arguments that included Shelby and others at the party. There were also numerous threats of violence by several of the youngsters. It was pretty obvious that things got totally out of hand that night. Shelby was hit by a 25 pound paving stone that was thrown through the window of her vehicle by Michael Craven, one of the party-goers who had been drinking heavily. Shelby was severely injured and died later in the hospital.

Shelby’s family filed suit against Katherine Pritchard, the homeowner, her son John and Michael Craver, the boy who threw the stone. Several others who were at the party were also sued. The settlement, which is confidential, was made by the Pritchards and Michael Craver. This case is a prime example of what can happen when adults allow parties that involve alcohol use by teenagers to be held at their homes. The death of Shelby Chism resulted from such a party that evolved into a drunken brawl.

Young people who attend parties in a private home are entitled to have a safe environment, unlike this one. This party was attended by about 50 youngsters and, as previously mentioned, there was no supervision of any kind. In fact, Ms. Pritchard was said to have gone to bed, leaving the party at her home going full blast. This is a prime example of poor judgment, bordering on stupidity, resulting in the death of a young person.

John Vermitsky, a lawyer with Morrow Porter Vermitsky & Fowler, located in Winston-Salem, N.C., represented the Chism family and he did a good job in their case.

Source: The-Dispatch.com

XVI.

Workplace Hazards

$3 Million Verdict For Ohio Family In Asbestos Case

A jury in Delaware has awarded $2.86 million to an Ohio family in an asbestos lawsuit against a New York mining company. The award was to the family of Michael Galliher, who died from mesothelioma, an aggressive cancer caused by exposure to asbestos fibers. The award against RT Vanderbilt is the largest asbestos verdict against a single Defendant in Delaware in

Source: The-Dispatch.com

Richmond Residents Take Action Against After Chevron Refinery Fire

Nine people have sued Chevron Corp. over the refinery fire in California that sent thousands to hospitals with respiratory issues and contributed to higher gasoline prices on the West Coast. The lawsuit claims Chevron was grossly negligent in its handling of refinery maintenance as well as emergency response to the blaze in Richmond, which is near San Francisco. The suit was filed last month in state court. More Plaintiffs will most likely join the lawsuit. In fact, a class-action lawsuit is likely to be filed against Chevron.

Source: Associated Press

Tremendous Appellate Win In Hawaii In Case Against McDonald’s

The Ninth Circuit Court of Appeals has affirmed a jury verdict of $5.67 million in a case in Hawaii against Greyn of Maui, LLC. The Defendant was doing business as McDonald’s Dairy Road. The Plaintiff in the case was severely injured when she fell in the eating establishment. The appeals court said the district court neither erred in providing, nor in formulating, the “mode of operation” premises liability instruction to the jury. Hawaii premises liability law permits the instruction in cases such as this one, where a proprietor’s self-service food operation involves a reasonably foreseeable risk of remnant food and grease buildup on floors. This is the largest verdict ever in Hawaii. The appeals court refused to reduce the amount of the jury’s award. Mike Cruise, a lawyer with Leavitt, Yamane & Soldner, located in Honolulu, represented the Plaintiff and he did a very good job in this case.

Source: Associated Press

Source: The-Dispatch.com

The-Dispatch.com

20

www.BeasleyAllen.com
more than a decade. Galliher was diagnosed with pleural mesothelioma in August 2010. He died six months later at age 62.

Galliher used a talc powder contaminated with asbestos fibers to dust large molds of sinks, bathtubs and other ceramic fixtures while working at Crane Plumbing Fixtures Factory for nearly 40 years. The asbestos fibers came from a mine in Gouverneur, N.Y., owned and operated by RT Vanderbilt, a mining and manufacturing company that sells more than 60 categories of minerals and chemicals used in more than 800 products.

Expert testimony was introduced at trial to link Galliher’s exposure to the asbestos-laced talc dust to his cancer. The theory of liability was that RT Vanderbilt sold its talc without adequate safety warnings. Alton-based law firm Simmons Browder Gianaris Angelides & Barnerd Simmons attorneys Randy Cohn, Conrad Metcalf and Bill Kohlburn represented Galliher’s family against RT Vanderbilt Inc.

Source: Bizjournals.com

MSHA ISSUES 177 CITATIONS IN MINE INSPECTION BLITZ

Federal regulators have issued 177 citations, 22 orders and one safeguard during the latest round of monthly impact inspections. According to the U.S. Mine Safety and Health Administration a coal mine in Kentucky was effectively shut down for eight days while problems found during a June 21 inspection were corrected. Inspectors issued 19 citations and 12 withdrawal orders to Bleidoe Coal Corp.’s Abner Branch Rider Mine in Leslie County, Ky. Inspectors found accumulations of coal dust and hydraulic oil, an improperly working methane monitor and other violations.

It was reported that Tunnel LLC’s Tunnel Ridge Mine in Ohio County, W.Va., received 29 citations and five unwarrantable failure orders. Violations included failure to conduct methane tests. The inspections began in 2010 after the Upper Big Branch mine explosion killed 29 coal miners in West Virginia.

Source: Claims Journal

SETTLEMENT IN ARKANSAS BUTTERBALL LAWSUIT

Butterball LLC has agreed to settle a class-action lawsuit brought by current and former employees of the company’s turkey-processing plants in Huntsville, AL and Ozark, Ark. The $425,000 settlement calls for the lead Plaintiffs in the lawsuit to receive $6,000 each and for 19 others in the action to receive $1,000 each. The settlement would resolve separate lawsuits filed in 2008 and 2010 that alleged the workers were not paid for time spent preparing for work. A hearing on the settlement, which requires court approval, is scheduled for Nov. 5 in U.S. District Court in Little Rock.

Source: Claims Journal

XVII.
TRANSPORTATION

ALABAMA BANS TEXTING WHILE DRIVING

In the past decade, cellphones have become increasingly available to the general public in the United States. Currently, over 88% of adults own cellphones. The average age at which an American receives his or her first cellphone has plummeted down to 11.6 years old. As cellphone use has increased, we have seen a startling rise in distracted driving accidents. Text messaging accounts for the majority of distracted driving incidents. Texting is now being blamed for over 6,000 fatalities per year. It now accounts for 25% of all motor vehicle crashes, and is the number one distraction for American teenagers.

When compared to other obvious things not to do, studies suggest that texting ranks as one of the most perilous driving activities. For example, a recent study at Virginia Tech reveals that the dangers of texting while driving outweigh the dangers of driving while intoxicated. On average, drivers who text messaged were around six times more likely to be involved in an accident than drivers who were legally intoxicated. In a separate study conducted by Car and Driver Magazine, the reaction times of texting drivers were shown to be significantly slower than drivers who were legally drunk.

Overall, NHTSA states that individuals who text while driving are 23 times more likely to have an accident that those who do not text. The obvious dangers of texting while driving are highlighted by the recent bans many states have placed on the practice. Currently, 39 states have completely banned the act of texting while driving. Most recently, on August 1, 2012, Alabama banned texting while driving. Individuals caught texting while driving in Alabama will be given a $25 fine, which increases $25 upon each subsequent offense. After the third offense, a driver’s license may be suspended. In addition, a driver gets two points put on his driving record for each offense, which could increase his or her insurance rate.

The number of car crashes related to text messaging continues to climb every year, despite the bans many states have enacted. What remains to be seen is whether the new laws will have any long-term effect, and if the obvious repercussions of text messaging while driving, now both legal and physical, will be able to separate Americans from their growing dependence on electronic mobile devices. Hopefully, educational programs—combined with the legislative efforts—will make folks realize that distracted drivers create a huge hazard that puts others on our highways at great risk of death or serious injury.

Sources: http://www.distraction.gov/; NHTSA.gov

SETTLEMENT IN TEXT-MESSAGING LAWSUIT

A New Jersey couple, each of whom lost a leg when their motorcycle was struck by a teenager who was driving and texting, have settled their lawsuit against him. The $500,000 settlement amount for David and Linda Kubert was the maximum limit of the liability insurance policy covering Kyle Best, the driver. David Kubert had his left leg torn off above the knee in the September 2009 wreck. His wife later had her left leg amputated. The couple, who now live in Florida, are struggling financially because Mr. Kubert can’t work and his wife hasn’t returned to her job.

The couple will appeal a ruling by the trial judge that Best’s girlfriend, who had sent him the text message to which he was replying, couldn’t be held liable for the crash. It was argued by the Plaintiffs, in what is believed to be the first case of its kind in the country, that text messages Shannon Colonna sent to Best played a role in the crash. It was contended that Ms. Colonna should have known that Best was driving and texting her at the time. While Ms. Colonna was not physically present at the wreck, it was argued she was “electronically present.”

But Ms. Colonna’s lawyer successfully argued that she had no control over when or how Best would read and respond to her message. She testified in her deposition that she didn’t know Best was driving his car at the time. Best has pleaded guilty to distracted driving, admitting he was using his cellphone and acknowledging a series of text messages he exchanged with Ms. Colonna around the time of the accident. Records show Best responded to a text from her seconds before calling emergency services. Best was ordered to speak to 14 high schools about the dangers of texting and driving.
driving and will have to pay about $775 in fines, but his driver’s license was not suspended. Stephen Weinstein, a lawyer from Morristown, New Jersey, represented the Plaintiff in this case and he did a very good job. It will be interestingly to see how his appeal turns out as to the claim against the other party who was texting.

Source: Fox News

**Driver Fatigue Factor In Fatal Virginia Bus Crash**

The National Transportation Safety Board says driver fatigue and several other factors, including a lack of safety oversight, likely caused a Virginia bus crash that killed four people and injured dozens more. The five-member board said the bus driver, Kin Yiu Cheung, had limited opportunities for quality sleep in the day leading up to the May 31, 2011, crash on an Interstate near Richmond. The crash occurred when the bus bound from Greensboro, N.C., to New York hit an embankment and overturned shortly before 5 a.m. with 58 passengers on board. The board said the four fatalities resulted from injuries suffered when the bus’s roof collapsed. There also were no passenger seatbelts.

The low-fare bus company, Charlotte, N.C.-based Sky Express Inc., failed to have adequate safety policies in place. Ineffective government oversight also allowed the company to operate despite various safety violations, according to the board. Deborah Hersman, the board’s chairman, observed:

*It wasn’t just the bus driver asleep at the wheel. The crash that we are here to discuss today should never have happened. It was entirely preventable. Those travelers were failed at three levels: by the driver, by the operator and by the regulator.*

The findings come as government safety officials increased their efforts to improve safety of curbside bus operators, a thriving industry based on cheap fares. A federal report last year found that the industry has a fatal accident rate seven times higher than other types of interstate bus operators. Some of the companies use a variety of schemes to thwart safety enforcement. Government safety officials closed down more than two dozen curbside bus operations for safety violations. The companies were ferrying passengers in the busy East Coast transportation corridor between New York and Florida. This was the largest single federal crackdown on the industry.

Investigators said that Cheung had a maximum possibility of 6.5 hours of sleep before the accident occurred. Investigators also found that energy drinks, coffee and even talking on his cell phone weren’t enough to keep the driver awake. The driver has acknowledged falling asleep at the wheel. He faces four counts of involuntary manslaughter at a trial set for November. Dispatcher Zhao Jian Chen is set to face the same charges in October.

According to the Board, Transportation Department officials were in the process of shutting down the company at the time of the crash, but had given the company an extra ten days to appeal an unsatisfactory safety rating. A timeline released by the Department indicated that without the extension, Sky Express would have ceased operations the weekend before the crash. Following the crash, officials shut down the bus line and then issued a cease-and-desist order against the company after it said it was trying to sell tickets under other names.

In response to the crash findings, the Board has recommended programs and regulatory changes aimed at reducing driver fatigue, and also recommended improved safety standards for passenger buses such as better roof strength and passenger restraints. The Board has previously expressed concern about the prevalence of operator fatigue, as well as other safety issues, in all modes of transportation, including the motor coach industry, which transports more than 700 million passengers a year in the U.S.—roughly the same as the domestic airlines. Ms. Hersman had this to say:

*It almost feels like it’s Groundhog Day here. We’ve all been here before, we’ve all talked about these bad carriers that need to be taken off the road. For the operators, the carrot didn’t work. And for the regulators, I think they need a bigger stick.*

Trucking companies like the one described above must be properly regulated. The performance by the regulatory agency in this case was awful. Folks on our highways were put at risk because of the horrendous safety practices and the sub-standard regulatory efforts.

Source: Claims Journal

**Jury Awards $6.72 Million Verdict In 2008 Multi-Vehicle Crash**

A jury awarded $6.72 million last month in a case arising out of a 2008 multi-vehicle crash in Orange County, Calif. The state was found to be partially at fault in the case. One driver was severely injured and a young father was killed in the crash. The estate of Modesto Palanox-Munoz, then 26, was awarded $4 million. The jurors found William Clifford, the driver of the tractor-trailer that rear-ended a vehicle, causing a chain reaction collision, 70% liable. The state Department of Transportation was found to be 30% at fault.

The crash occurred during rush hour traffic at about 7:00 a.m. on an interstate highway on September 4, 2008. David Tremper, a Texas resident, was severely injured when his car was forced off the highway and into a bridge abutment. He was awarded $2.7 million by the jury. Trial testimony revealed that a service patrol operator for the state DOT, whose job was to spot debris and keep the highway clear of obstructions, had parked his vehicle partially on the shoulder and partially in the right lane of the highway. Debris, which was described as a four-foot muffler and tailpipe or a drive shaft, was scattered across the center and left lanes of the highway. The DOT truck had positioned itself in the only open lane of traffic.

Source: Insurance Journal

**Jury Returns $117 Million Verdict In Ambulance Wreck Case**

A Louisiana jury awarded a verdict of $117 million last month in a case against Acadian Ambulance Service. The Plaintiff, Whitney Lacey, was left paralyzed and brain-damaged when the ambulance she was in crashed into a sugar-cane truck on the way to a hospital in December 2010. Ms. Lacey was seven months pregnant when she called for an ambulance. Acadian took full responsibility for the wreck, but will appeal other issues. Ms. Lacey had a baby born by cesarean section while she was in a coma. The 22-year-old woman was unconscious for three months, and could not talk when she regained consciousness.

Ms. Lacey has now regained some speech, but according to reports, has a long way to go. She can move only one arm and trial testimony indicated she will need 24-hour care for the rest of her life. The jury found that $2.7 million should go for the baby’s health care costs with $114.3 million allotted for Ms. Lacey’s health care costs over the next 50 years. The suit was filed in Iberville Parish district court. Testimony revealed that the ambulance driver, Michael Averette, crashed into the truck when he bent to pick up a GPS device from the floor. Tony Clayton, with Clayton, Fruge & Ward, a Baton Rouge firm, along with Kurt Arnold from Arnold & Itkin, a firm in Houston, Texas, represented Ms. Lacey. They did a very good job in this case.

Source: Claims Journal

It was entirely preventable. Those travelers were failed at three levels: by the driver, by the operator and by the regulator.
As the traffic moved to avoid hitting the DOT truck, as well as the debris, the tractor-trailer driven by Clifford, first hit Tremper's car, then hit the car in which Palafox-Munoz was a back-seat passenger, pushing that vehicle into a Bobcat truck engine. The jury found the DOT driver to be unfamiliar with the Department's training manual. He was also found to have "re-routed traffic in an unsafe way." The public was given inadequate advance warning of the need to switch lanes. Marisa Bellair of the New Haven, Conn. law firm of Lynch, Traub, Keefe and Errante represented the Palafox-Munoz family. Timothy Pothin, a lawyer with Stratton Faxon, also located in New Haven, represented David Tremper. Each of these lawyers did a very good job for their respective clients. The state has said it will appeal.

Source: NHRegister.com

FAMILY SETTLES WRONGFUL DEATH LAWSUIT FOR $5.1 MILLION

The family of a man who was struck and killed by a Megabus in Chicago in 2010 has settled its lawsuit for $5.1 million. On Feb. 23, 2010, Wes Krueger, 64, was in the crosswalk crossing a street when a left-turning Megabus struck him and dragged him 30 feet before stopping. Krueger died soon thereafter in a local hospital. Krueger is survived by a wife and two adult sons, and several grandchildren. It appears the bus driver simply didn’t see the pedestrian in the crosswalk. No failures in bus maintenance or driver training which could have contributed to the crash were proved at trial. Daniel M. Kotin, a lawyer with the Chicago firm of Corboy & Demetro, represented the family and he did a very good job for them.

Source: Lawyers USA Online

XVIII. NURSING HOME UPDATE

BED SORES IN NURSING HOMES CAUSE SERIOUS PROBLEMS

One of the most difficult decisions a family can ever make is whether to place a family member in a long-term care facility, such as a nursing home. As our population ages, more and more families are having to make this decision. Once the decision is made, all of us expect our family member to be provided with adequate care. Many nursing homes face understaffing issues, apathy among staff members, or have to deal with untrained or undertrained staff members to care for the patients in their facility.

Because of the concerns about adequate care in some facilities, it is imperative that the care of the loved one be followed on a routine basis. The family member can often-times spot problems and avert more serious problems by simply observing the patient. One of the most common issues that arise in nursing homes is decubitus ulcers, known as bedsores or pressure ulcers. Decubitus ulcers commonly appear on the feet, backs and buttocks of patients who may be required to spend hours in bed.

When family members visit their loved ones at long-term care facilities, it is important to note if the patient is in the same or a similar position on each visit. For bedbound patients, it is important that the nursing staff turn or rotate the patient to a different position every two hours. For patients with diabetes, skin wounds, or other serious health conditions which might compromise the skin, verifying that the patient is being turned every two hours becomes even more critical. Also, massaging of the skin can promote healthy blood flow and decrease the risk of bedsores.

It is also very important that the patient’s bed covers and diapers be changed frequently. Patients who are allowed to lie or sit in their own waste or urine are at a much higher risk of developing decubitus ulcers. Adequate hydration and nutrition are also imperative to maintaining quality skin care. Patients who do not receive adequate fluids or who are not fed appropriate amounts in a timely manner tend to be much more likely to develop bedsores.

It is also extremely important that the greatest pressure points for an immobile patient, such as where the bones are located (such as ankles, hips, and the like), be properly padded or cushioned. The absence of adequate padding can increase skin problems and the development of bedsores. Many nursing homes use gel mattresses or mattresses with air circulation, but something as simple as a pillow under the knees can be beneficial to reduce the risk of bedsores.

Once a patient develops bedsores, curing the bedsores can be very difficult and, in some cases, a long-term and seemingly impossible fight. In most cases, the patient’s wounds should be cleaned and dressed routinely by a nurse who is properly trained in wound care. The patient may also need to be on antibiotics and other medications. We recommend that family members closely monitor their loved ones, which may include having a nurse to assist with moving the patient for you to inspect the skin in places most likely to develop bedsores. If there are red or irritated spots seen, these spots must be given immediate attention to alleviate the possibility of decubitus ulcers forming.

In some of the cases our firm has reviewed, the bedsores have evolved to such an extent that bone can actually be seen. Bedsores greatly increase the risks of bacterial infection, and can lead to sepsis and other potentially deadly conditions. Lawyers in our firm continue to review cases involving possible nursing home abuse or neglect. Feel free to call on us with any questions.

You can contact Ben Locklar, a lawyer in our Personal Injury Section, at 800-898-2054 or by email at Ben.Locklar@beasleyallen.com.

COURT RULES THAT NURSING HOME CAN ENFORCE ARBITRATION CLAUSE

The 11th Circuit Court of Appeals has held that a nursing home can enforce an arbitration clause signed by a patient upon admission when her estate later sued for wrongful death. The 11th Circuit reversed a judgment in the case. The patient was admitted to a nursing home in Alabama after suffering a major heart attack. At the time of her admission, the patient signed a contract requiring the arbitration of “all claims or disputes” that she or the executor of her future estate might have against the nursing home. Shortly after being admitted, the patient suffered another heart attack and died.

The executor of the patient’s estate sued the nursing home for wrongful death. The executor contended he was not bound by the arbitration clause because he was not a party to the agreement. But the 11th Circuit held that the executor was required to arbitrate the wrongful death suit under applicable Alabama law. The Court, in its opinion, said:

The holdings of the Alabama Supreme Court’s majority opinions in [three similar wrongful death cases] establish the rule that an executor suing a nursing home for wrongful death is bound by an arbitration agreement that binds the decedent. It is undisputed that the decedent in our case, like the decedents in [those cases], was bound by the arbitration agreement with the nursing home. For that reason, the agreement that [the patient] signed binds the executor of her estate to arbitrate the wrongful
This decision is not good for families of residents in nursing homes. Neither is it good for the actual residents since it protects bad conduct. The effect of this decision will deny justice to folks who themselves are hurt or who have had loved ones who died because of a nursing home’s wrongdoing. The case is U.S. Court of Appeals, 11th Circuit, Entrekin v. Internal Medicine Associates of Dothan, No. 11-10750. Aug. 9, 2012. Lawyers USA No. 993-3423.

Source: Lawyers USA Online

**SETTLEMENT COMES AFTER VERDICT RETURNED IN NURSING HOME CASE IN CALIFORNIA**

A case was settled after the first phase of the trial of a nursing home case in California. The jury had returned a $1,844,400 verdict in San Mateo County Superior Court against Mills-Peninsula Health Services in the first phase. The case, which involved serious injuries to a nursing home resident, took 12 days to try. The jury found clear and convincing evidence of elder abuse in the case. As a result, the Plaintiff was entitled to attorney's fees. The jury also found malice, oppression or fraud which is required in California for punitive damages. That required jurors to determine punitive damages in a second phase of the trial. But a confidential settlement was reached by the parties before the case ever got to the punitive phase.

Pauline Gogol, an 85-year-old woman, was seriously injured while she was a resident of a nursing home operated by Mills Peninsula Health Services Inc. Her injury, which resulted either from a fall or a drop, was “undocumented” by the nursing home staff. The woman's injury was left untreated until a family member discovered it during a visit to the facility. At the time of her injury, Ms. Gogol was recovering and rehabilitating from a total hip replacement that had been performed last year. Prior to the hip replacement, Ms. Gogol had lived independently in a condo in San Mateo. The case was brought by a guardian ad litem, Jennifer Gogol, and involved allegations of elder abuse and negligence on the part of Defendant Mills Peninsula Health Services Inc., doing business as Mills Peninsula Skilled Nursing. The Defendant cross-complained against two outside companies, MGA Healthcare and Relief Nursing Services, which had been hired by the Defendant to provide “sitters” to watch residents.

Ms. Gogol suffered in the fall a hip dislocation and fracture to her recently-replaced right hip. As a result of the incident, she had to undergo emergency surgery, which left her in a wheelchair and without a hip for four months. The lawyers proved there was an undocumented fall and then a cover-up by the Defendant. But the Defendant contended there was no fall or cover up and that the injury was an “expected post-surgical outcome” due to the resident’s “frail condition.” The jury obviously didn’t buy that defense and ruled for Ms. Gogol.

Anne Marie Murphy, Brian M. Schnarr, and Niall P. McCarthy, all lawyers with Cotchet, Pittre & McCarthy, located in Burlingame, Calif., represented the Plaintiff on behalf of Ms. Gogol. They did a very good job in a most difficult case. There were no witnesses to the fall and the undocumented fall had to be proved by way of information in records and by Ms. Gogol’s doctor. Since the case dealt with elder laws, the case was put on the fast track under California law.

**XIX. HEALTHCARE ISSUES**

**ISRAEL HAS A GREAT HEALTH CARE SYSTEM**

The nation of Israel has been a great friend to the United States over the years. Many politicians like to point this out and with justification. Some even mention Israel’s excellent healthcare system. Perhaps we should look at that healthcare system, especially since Israel is celebrating its 17th anniversary of reforms of its system. Interestingly, this is a program that the right side of the U.S. political spectrum would label as “socialist.” That’s because Israel covers all its citizens by way of government-supported HMOs and participation is mandatory. The costs are covered by taxpayers. A 2011 Health Affairs article credited “strong governmental influence” that has “direct operational control over a large population of total health-care expenditures, through a range of mechanisms, including caps on hospital revenue and national contracts with salaried physicians.” That’s most interesting to say the least.

The system in Israel appears to be working very well. Per-capita spending on health care in Israel ($2,200 annually) is far less than in the United States ($8,400). In another comparison, Israel ranks fourth in the world in life expectancy, while the United States comes in down at 36th. Americans can only dream of a health-care system with results like those in Israel. Maybe “Obamacare” isn’t so hard after all. I believe the Obama Administration did the best it could to bring about healthcare reform, considering the strong lobby in Congress against total reform. At least it was a start in the right direction.

The Affordable Care Act, passed in 2010, has been subjected to fierce attacks from the right. Opponents hit it with vicious smears, outrageous lies and all the demagoguery they could muster. Most neglected to mention that major portions of the law were lifted from reforms adopted in Massachusetts by then-Gov. Romney. Unfortunately, President Obama failed to sell or even explain the reform and the public never got the real truth. Now at long last, a vigorous defense of a plan that seeks to both cover more Americans and lower healthcare costs is being presented to the American people. Maybe we should go another step and adopt the system in place in Israel.

Even though Gov. Romney, while in Israel, slamming Obamacare and bragged on Israel’s healthcare system, he apparently didn’t know anything at all about Israel’s system. Perhaps Romney’s remarks are a subtle shift from the candidate who has disowned his own health-care reforms in Massachusetts in order to appease the Tea Party Republicans. The question remains: Does Romney prefer Israel’s single-payer “socialist” plan to Obama’s more modest reforms? But in his defense, Romney probably has no idea what sort of system Israel has when it comes to healthcare.

**NEW HEALTH PROTECTIONS FOR WOMEN ARE NOW IN PLACE**

The first of August was a gold-medal day for women’s health in this country. It marked the beginning of new health insurance benefits for women under the Affordable Care Act. New protections that went into effect offer great preventative services with no co-pay. They include annual well-woman visits and cancer screening, breast-feeding supplies and support, HIV/STD screening and, in most plans, family planning with contraception and sterilization. I am somewhat surprised that there was very little media attention given to this matter. It seems to be most significant for women and families across the U.S.
LUXURY CARS LAG IN FRONTAL CRASH SAFETY

Only three of 11 midsize luxury and near-luxury cars evaluated by the Insurance Institute for Highway Safety earned good or acceptable ratings in the insurance industry's latest tests designed to help consumers pick the safest vehicles. The Acura TL and Volvo S60 earned good ratings, while the Infiniti G earned acceptable in the Institute's new small overlap frontal crash test. The Acura TSX, BMW 3 series, Lincoln MKZ and Volkswagen CC earned marginal ratings. The Mercedes-Benz C-Class, Lexus IS 250/350, Audi A4 and Lexus ES 350 earned poor. All of these cars are 2012 models.

Small overlap crashes accounted for nearly a quarter of the frontal crashes involving serious or fatal injury to front seat occupants, according to IIHS. The Institute plans to test non-luxury models next. It will incorporate results of this new test in its overall safety ratings in the future. In the test, 25% of a car's front end on the driver side strikes a five-foot-tall rigid barrier at 40 mph. A 50th percentile male Hybrid III dummy is belted in the driver seat. The test is designed to replicate what happens when the front corner of a car collides with another vehicle or an object like a tree or utility pole. Institute President Adrian Lund said:

Nearly every new car performs well in other frontal crash tests conducted by the Institute and the federal government, but we still see more than 10,000 deaths in frontal crashes each year. Small overlap crashes are a major source of these fatalities. This new test program is based on years of analyzing real-world frontal crashes and then replicating them in our crash test facility to determine how people are being seriously injured and how cars can be designed to protect them better. We think this is the next step in improving frontal crash protection.

Small overlap crashes primarily affect a car's outer edges, which aren't well protected by crush-zone structures. Crash forces go directly into the front wheel, suspension system and firewall. It's not uncommon for the wheel to be forced rearward into the footwell, contributing to even more intrusion into the occupant compartment, resulting in serious leg and foot injuries.

Source: Insurance Journal

CHRYSLER TO FIX DEFECT IN 1,000 V-6 ENGINES

The trade publication Automotive News has reported that a small percentage of Chrysler-built 3.6-liter V-6 engines—also known as the Pentastar V-6—have defective cylinder heads. A cylinder head feeds and exhausts air from the engine block as well as delivers fuel to the cylinders and covers the combustion chamber. Chrysler has designed a new cylinder head and is replacing the unit on select vehicles that have experienced the problem. This affects about 1,300 new Chrysler, Dodge, Jeep and Ram brand vehicles.

The cylinder head problem first cropped up in June, when several dealerships reported that some V-6-equipped Chryslers were experiencing early cylinder head failure, according to Allpar, a Chrysler enthusiast site. On an Allpar forum, some owners of new Chrysler vehicles have reported experiencing cylinder misfirings, check-engine light illumination and stalling after just 3,000 miles, presumably related to the defective cylinder head. On the forum, the cylinder head problem was most reported on the 2012 Jeep Wrangler, which received the new Pentastar V-6 for the model year. The Pentastar is Chrysler's only V-6 engine for its 2012 cars and crossovers.

Currently, there is a 3.7-liter V-6 on the 2012 Ram 1500 and 2012 Jeep Liberty, but the Pentastar is coming to both models for the 2013 model year, according to Allpar. The V-6 has a rare cylinder head design in which the exhaust passages merge into a single outlet, whereas most engines have multiple exhaust passages in the head, according to Automotive News. It was reported by Automotive News that Chrysler has more than 500 new service requests per week for cylinder head replacements.

It appears that demand for new cylinder heads is increasing so fast that Chrysler can't keep up with it. Currently there is a backlog of about 1,300 vehicles, according to Automotive News. The problem has been discovered in about 7,500 Chrysler V-6s, and there could be more, the publication reports. Chrysler is giving owners free rentals while it fixes the defective motors. Thus far Chrysler has declined to describe to Automotive News the full nature of the cylinder head problem or its method of fixing the issue. But it appears the cylinder head fix will be covered by each new vehicle's powertrain warranty.

Source: USA Today

FORD SUING DANA OVER PART INVOLVED IN RECALLS

Ford Motor Co. has filed suit against auto supplier Dana Corp. for allegedly providing faulty vehicle frames. According to Ford, Dana's frames were to blame for a recall in 2011 of more than 425,000 Windstar minivans. Ford recalled the vans in cold-weather states after it found that road salt caused them to corrode and break. Dana has denied responsibility for the problem. Ford filed the lawsuit last month seeking reimbursement from Dana. Ford hasn't said how much it spent to recall and repair the minivans. Interestingly, in spite of the lawsuit Ford continues to buy parts from Dana.

Source: Claims Journal

REUMOFAN DIET SUPPLEMENTS LINKED TO BLEEDING AND DEATHS

The Food and Drug Administration has warned consumers not to use Reumofan dietary supplements. This warning came after the FDA received reports of bleeding, stroke and death among people taking the pills. Reumofan Plus and Reumofan Plus Premium are marketed as natural remedies for arthritis and muscle pain. But the FDA says the products actually contain several prescription drugs. A chemical analysis by the FDA found that Reumofan Plus contains three drugs, including the muscle relaxant methocarbomal and the anti-inflammatory drug dexamethasone.

These drugs can interact with other medications, causing life-threatening side effects in some patients. The FDA first warned consumers about the products in June, but says now that complications have continued to be reported. Reumofan products are manufactured in Mexico by Riger Naturals and sold in the U.S. at retail shops and over the Internet.

Source: MSNBC

FDA WARNS CLINIC ABOUT LAP BAND MARKETING

The Food and Drug Administration has issued another warning letter to a clinic marketing lap band surgery. According to the FDA, Los Angeles-based LapBand VIP is using false and misleading billboards and television commercials to promote the
surgery. During a surgical procedure, the lap band is placed around the upper part of a patient's stomach to create a pouch, which limits the amount of food that can be eaten at one time.

But LapBand VIP's ads fail to provide any information about the potential health risks of the procedure or possible surgical complications. Those risks include abdominal pain, vomiting, nausea, difficulty swallowing and death, according to the FDA. Further, the agency noted that the lap band results in a drastic change in eating habits, which the advertisements also fail to mention. For example, the text of one television commercial reads:

> My weight made me feel like I couldn't participate in activities with my friends and family. When my doctor told me that I could actually die because of my weight, [sic] That's when I made my decision to change my life and I called LapBand VIP. LapBand VIP brought out the best in me. After LapBand VIP I can now ride my Quad, walk my dog and play golf with the best of them. Make the change today call LapBand VIP.

The FDA also found fault with the company's billboards, one of which read: "LAP-BAND VIP.COM. 800.561.9000. PPO INSURANCE VERIFICATION." The billboard included "a photo of a thin woman," with the caption: "Tiffany LOST OVER 100 LBS. INSURANCE VERIFICATION." The billboard over its marketing of the lap band procedure. Last December, the FDA sent similar letters to eight surgical centers and a marketing company, cautioning recipients about their misleading advertisements for gastric lap band procedures. Some of the recipients of the letters have been Defendants in lawsuits, some of which involved both false advertising and wrongful death.

**JOHNSON & JOHNSON TO REMOVE CANCER CAUSING CHEMICALS**

Johnson & Johnson, makers of Aveeno, Neutrogena, and Johnson’s Baby Shampoo, will be removing carcinogens and other toxic chemicals from its baby and adult products globally. Lisa Archer, director of the Campaign for Safe Cosmetics at the Breast Cancer Fund, a co-founder of the campaign, stated:

> This is a major victory for public health. We applaud Johnson & Johnson for its leadership in committing to remove cancer-causing chemicals from its products. We will be vigilant in making sure it meets its commitments and will continue to encourage it to remove other ingredients of concern. And we call on other cosmetics giants—Avon, Estee Lauder, L’Oreal, Proctor & Gamble and Unilever—to meet or beat J&J’s commitments and signal they take consumer safety as seriously as their competitor.

As always, we encourage consumers to seek out the safest products for their families and support companies that are avoiding chemicals of concern.

The Campaign for Safe Cosmetics has launched a national campaign challenging L’Oreal (Maybelline, Garnier, Kiehl’s, The Body Shop, Softsheen-Carson), Procter & Gamble (CoverGirl, Pantene, Secret, Old Spice), Estee Lauder (Clinique, MAC, Prescriptives), Avon, and Unilever (Dove, Pond’s, St. Ives, Axe) to follow J&J’s lead and commit to removing carcinogens and other harmful chemicals from cosmetics and specify a timeline for removal. Johnson & Johnson, one of the largest companies in the world, told those with the Campaign that it will reformulate its hundreds of cosmetics and personal care products in all the markets it serves in 57 countries around the world.

J&J has confirmed to the Campaign that it has set an internal target date of reformulating adult products by the end of 2015, and it will use safe alternatives when reformulating. According to the campaign, Johnson & Johnson will:

- reduce 1,4 dioctane to a maximum of ten parts per million in adult products,
- phase out formaldehyde-releasers in adult products,
- limit parabens in adult products to methyl-, ethyl- and propyl-
- complete phase-out of triclosan from all products,
- phase out Diethyl Phthalate (DEP) from all products (no other phthalates are currently used), and
- phase out polycyclic musks, animal derived ingredients, tagates, rose crystal and diacetyl from fragrances.

“While J&J still has work to do, we support its efforts and will keep working with the company to make improvements,” said Erin Switalski, executive director at Women’s Voices for the Earth, a co-founder of the Campaign for Safe Cosmetics. She said:

> In addition to being a real win for public health, we believe that these commitments will bode well for J&J’s bottom line, too. Consumers are simply looking for the safest products out there.

The Safe Cosmetics Act of 2011, currently circulating in Congress, will phase out chemicals linked to cancer and reproductive harm; implement a strong safety standard designed to protect children, pregnant women and workers; require full disclosure of ingredients; and give FDA the authority to recall dangerous products. Nneka Leiba, senior analyst with Environmental Working Group, a co-founder of the Campaign for Safe Cosmetics, observed:

> The action by Johnson and Johnson is another example of a company responding to their customers and the public interest community. Unfortunately, not every company will take similar steps to protect consumers from potentially toxic ingredients. That is why we need Congress and the cosmetics industry to support the Safe Cosmetics Act that will require substances be safe for human health before being used in the products we all use every day.

It’s good to see a company—even though it took a very long time and lots of outside pressure—do the right thing. The lesson to be learned from this story is that if we get involved—stay involved—and don’t give up—good things will eventually happen.

Source: Corporate Crime Reporter

www.BeasleyAllen.com
Judge Gives Tentative Approval To $40 Million Skechers Settlement

A federal judge has tentatively approved a $40 million settlement between Skechers USA Inc. and consumers who bought the toning shoes after company ads made unfounded claims that the footwear would help people lose weight and strengthen muscles. An undetermined number of people will be able to get a maximum repayment for their purchases:

- up to $80 per pair of Shape-Ups;
- $84 per pair of Resistance Runner shoes;
- up to $54 per pair of Padded Sole Shoes; and
- $40 per pair for Tone-Ups.

The agreement came three months after Manhattan Beach, Calif.-based Skechers reached a settlement agreement with the Federal Trade Commission over the advertisements for the shoes. That settlement was related to a broader agreement that resolves a multi-state investigation led by the Attorneys General from Tennessee and Ohio and involving more than 40 states. Skechers will provide an additional $5 million to the states. The settlement involves more than 70 lawsuits from across the country that were consolidated in federal court in Louisville, Ky.

U.S. District Judge Thomas B. Russell has set a fairness hearing to finalize the settlement for March 19. That hearing will be held after the settlement is advertised and consumers who qualify for compensation have an opportunity to object to the terms and opt out of participating, if they so choose. The settlement grew out of a series of ads Skechers aired featuring celebrity endorsers such as Kim Kardashian and Brooke Burke, with claims that the shoes could help people lose weight and strengthen their butt, leg and stomach muscles.

Skechers billed its Shape-ups as a fitness tool designed to promote weight loss and tone muscles with the shoe’s curved “rocker” or rolling bottom—saying it provides natural instability and causes the consumer to “use more energy with every step.” Shape-ups cost about $100 and are sold at retailers nationwide. Ads for the Resistance Runner shoes claimed people who wear them could increase “muscle activation” by up to 85% for posture-related muscles and 71% for one of the muscles in the buttocks.

Judge Russell ordered that attorneys’ fees can’t be paid from the $40 million settlement fund set aside for consumers. Instead $5 million will be paid by Skechers and put in a separate funds to be used as attorneys’ fees. It’s unknown how many people are in the settlement class because some people may have bought more than one pair of shoes. Judge Russell wrote, concerning the settlement, in his order:

Not only is this agreement in the range of possible solutions, it is likely the best resolution that class members could receive absent receipt of the product actually marketed to them.

A settlement with the FTC bars Skechers from running the ads in the future. The Federal Trade Commission settled similar charges with Reebok last year over its Easy-Tone walking shoes and RunTone running shoes. That $25 million agreement also provided customer refunds. Tim Blood, a San Diego-based lawyer with Blood, Hurst & O’Reardon, represented the class in the Skechers’ case.

Source: ABC News

Netflix Settles Class Action Consumer Privacy Suit

Netflix is a provider of on-demand internet streaming media as well as DVD-by-mail services, with approximately 23.6 million subscribers in the United States and over 26 million subscribers worldwide. It has been reported that Netflix saves the viewing history of its users, along with their personal information in order to offer TV and movie suggestions to its customers. However, Netflix was accused of keeping and sharing that information long after its customers dropped out of the service, despite the Video Privacy Protection Act of 1988, which makes it illegal to share an individual’s video viewing history.

On January 26, 2011, six Plaintiffs brought a putative class action in the United States District Court for the Northern District of California against Netflix alleging, among other things, that Netflix violated the Video Privacy Protection Act. The lawsuit alleges that Netflix kept records of TV and videos watched by its customers for at least two years after the customers canceled their Netflix subscriptions. The Plaintiffs allege that Netflix unlawfully retained and disclosed information about the movies and TV shows that its current and former subscribers viewed.

As part of the settlement, Netflix has agreed to change its data retention policies so it will no longer link customers with their rental histories after one year of canceled service. Netflix has agreed to separate Entertainment Content Viewing Histories (the movies and TV shows that Netflix customers watched) from customer identifica-

Clothes Dryer Fires Cause $35 Million in Property Losses

An estimated 2,900 clothes-dryer fires in residential buildings are reported to U.S. fire departments each year and cause an estimated $55 million in property losses, according to a new report by the U.S. Fire Administration (USFA). The report, *Clothes Dryer Fires in Residential Buildings*, examines characteristics of clothes dryer fires in residential buildings. The report by USFA’s National Fire Data Center, was based on 2008 to 2010 data from the National Fire Incident Reporting System (NFIRS). According to the report, damaging fires can occur if clothes dryers are not properly installed or maintained. Eighty-four percent of clothes dryer fires took place in residential buildings.

The report noted that lint, a highly combustible material, can accumulate both in the dryer and in the dryer vent. Accumulated lint leads to reduced airflow and poses a fire hazard. Reduced airflow can also occur when foam-backed rugs or athletic shoes are placed in dryers. Another hazard can occur if small birds or other animals nest in dryer exhaust vents. A compromised vent will not exhaust properly, possibly resulting in overheating and/or fire. According to the report, clothes dryer fire incidence in residential buildings was higher in the fall and winter months, peaking in January at 11%. The report said that:

- Failure to clean (34%) was the leading factor contributing to the ignition of clothes dryer fires in residential buildings;
- Dust, fiber, and lint (28%) and clothing not on a person (27%) were, by far, the leading items first ignited in clothes dryer fires in residential buildings;
- Fifty-four percent of clothes dryer fires in residential buildings were confined to the object of origin.

I suspect many of our readers will be surprised at the extent of damage from these fires as well as their frequency. I know that I was.

Source: *Claims Journal*

**Some Basic Recommendations on Electrical Safety**

Over the years I have learned that lots of folks know very little about electricity and not enough about safety when dealing with electricity. I will mention some things about overhead power lines. First, and this is basic, we should be very careful in relation to overhead power lines. The placement of different types of overhead lines on poles is governed by the National Electric Safety Code. Electric supply lines are placed in the upper area of the pole. Lines carrying the highest amount of energy or highest voltage are placed near the top of the pole with lower voltage lines placed below. Often a shield or static wire is strung above these lines to protect them from a lightning strike. Below the electric supply lines is a neutral space that separates the electric supply space from the communications space. This area protects communication workers from higher energy lines. The communication space consists of telephone, cable TV, fiber, and signal lines.

OSHA provides the following safety tips concerning overhead lines and equipment:

- Electric hazards can cause burns, shocks and electrocution which results in death.
- Assume that all overhead wires are energized at lethal voltages.
- Never assume that a wire is safe to touch even if it is down or appears to be insulated.
- Never touch a fallen overhead power line.
- Call the electric utility company to report fallen electrical lines.
- Stay at least ten feet (three meters) away from overhead wires during cleanup and other activities.
- If working at heights or handling long objects, survey the area before starting work for the presence of overhead wires.
- If an overhead wire falls across your vehicle while you are driving, stay inside the vehicle and continue to drive away from the line. But if the engine stalls, do not leave your vehicle. Warn people not to touch the vehicle or the wire. You should call or ask someone to call the local electric utility company and emergency services.

There also some recommendations for persons who are required to work around electricity. Some of them are just plain common sense, but need to be mentioned.

- Never operate electrical equipment while you are standing in water.
- Never repair electrical cords or equipment unless qualified and authorized.
- Have a qualified electrician inspect electrical equipment that has gotten wet before energizing it.
- If working in damp locations, inspect electrical cords and equipment to ensure that they are in good condition and free of defects, and use a ground-fault circuit interrupter (GFCI).
- Finally, never forget this—you must always use extreme caution when working near electricity.

It is my hope that these recommendations will make you aware of the dangers of electricity and help you avoid serious problems.

Source: Robson Forensic

**Chase Bank May Have Violated Fair Credit Act**

The 9th Circuit Court of Appeals has ruled that Chase Bank may be liable for a false-reporting violation under the Fair Credit Reporting Act based on its allegedly inade-
quate responses to a report of identity theft. The appeals court reversed a summary judgment entered by the district court. The Plaintiff’s identity was stolen by a hospital worker when he received medical treatment. Subsequently, the Plaintiff learned that the identity thief opened an account in his name with Chase Bank. The Plaintiff notified Chase, but instead of deleting the account, the bank allegedly continued to report the fraudulent account as lost or stolen. In addition, Chase allegedly failed to block reporting of the account, despite receiving a “block notice communication” from credit agency TransUnion.

The Plaintiff had sued Chase under the Fair Credit Reporting Act. The 9th Circuit held that Chase’s duties under the Act were triggered by the block notice from TransUnion. Moreover, the Court concluded that a jury issue existed as to whether Chase violated the Act by reporting the fraudulent account as lost or stolen. In reaching this conclusion, the Court explained that, under the Act, an item on a credit report can be “incomplete or inaccurate” because it is “patently incorrect,” or because it is misleading in a manner that can be expected to adversely affect credit decisions. The Court said in its opinion:

Although we have never squarely addressed the issue, our precedent suggests that, at the very least, information that is inaccurate on its face, is patently incorrect. A jury may well find that reporting the fraudulently opened account as a lost or stolen account belonging to [the plaintiff] was untrue or facially inaccurate.

This appears to be a very good decision and should put all banks on notice that this type of conduct won’t be tolerated. With identity theft being such a huge problem, banks must protect their customers to the fullest extent possible. The case is Drew v. Equifax in the U.S. Court of Appeals, 9th Circuit.

Source: Lawyers USA Online

XXI.
RECALLS UPDATE

Each month a number of safety-related recalls are reported. This month will be no different. As we have said, serious safety-related recalls have become commonplace. The following are some of the more significant recalls since those reported in the August issue. There continue to be a number of recalls by automakers. If more information is needed on any of the recalls mentioned below, readers are encouraged to contact Shanna Malone, the Executive Editor of the Report. We would also like to know if we have missed any safety recalls that should have been included in this issue.

**Toyota Recalls SUVs and Sedans**

Toyota has recalled 778,000 RAV4 SUVs and Lexus HS 250h sedans to fix a suspension problem that could cause crashes. The company says if rear suspension nuts aren’t tightened properly after a wheel alignment, the arms can rust and separate from the vehicle. Toyota reported nine crashes and three minor injuries from the problem. RAV4s covered by the recall are from the 2006 to 2011 model years. The Lexus sedans are from 2010 only. Toyota says it’s developing a plan to fix the problem. It will notify owners by mail when it’s time to take the vehicles into dealers for a free repair. In the meantime, the company is telling drivers to contact their dealers if they hear an abnormal sound in the rear of the vehicle.

**Ford Recalls More Than 16,000 Transit Connect Vans**

Ford Motor Co. has recalled more than 16,000 2011 and 2012 Transit Connect vans due to faulty windshield-wiper arms. The wiper-arm pivot pins may be too short, which could cause the wipers to come off when the vehicle is in motion. NHTSA said in a statement: “If the wiper arm detaches, the windshield wiper will fail and the driver’s visibility may be reduced, increasing the risk of a crash.” Ford said it is not aware of any accidents or injuries due to the defect. For more information, owners can call Ford at 866-436-7352 or NHTSA’s vehicle-safety hot line at 888-327-4236.

**General Motors Recalls Big Vans To Fix Possible Fuel Leaks**

General Motors has recalled more than 10,000 full-size vans in the U.S. and Canada because the fuel filler pipes can rust, leak and cause fires. The recall from the Detroit, Mich.-based automaker affects Chevrolet Express and GMC Savana vans from the 2003 and 2004 model years with left-side cargo doors. It covers vans sold in 20 states, Washington, D.C., and in Canada, where salt and chemicals are used to clear snow from roads.

According to GM salt and chemicals can get trapped in a conduit that covers the fuel filler pipe and cause corrosion. Gasoline may leak and cause a fire. The company said it doesn’t know of any fires or injuries from the problem. GM dealers will fix the problem free of charge. Dealers are expected to be notified in October when parts become available. GM said in documents filed with the National Highway Traffic Safety Administration that owners already have been sent letters detailing special repair coverage for the problem. Owners should take their vans to dealers if a leak develops.

The vans were sold in all 50 states, but the recall affects only those sold or registered in Canada and the following states: Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia and Wisconsin. Owners with questions can call Chevrolet at (866) 694-6546 and GMC at (866) 996-9463.
**CHRYSLE RECALLS 1,661 DODGE SUVs FOR AIRBAG ISSUE**

Chrysler Group LLC has recalled 1,661 2013-model Dodge Durango sport utility vehicles in the United States and Canada because certain airbags may not deploy in an accident. The recall affects 1,449 of the seven-passenger versions of the SUVs in the United States and 212 in Canada and other markets.

Chrysler, which is majority owned and managed by Fiat SpA of Italy, said some of the seven-passenger versions of the Durango may have been built with the incorrect airbag occupant restraint control module, and in the event of a side impact rear of the second row of seats, the supplemental side airbag inflatable curtain behind that row might not properly deploy.

The modules were meant for the five-passenger versions of the SUVs, but were mislabeled, according to Chrysler. Chrysler said it was not aware of any accidents or injuries related to the issue and most of the affected vehicles are still in the hands of dealers. Chrysler, which will replace the module free of charge, expects to begin the recall this month, according to documents filed with NHTSA.

**NISSAN RECALLS 2013 INFINITI JX35 CROSSOVER FOR FAULTY FUEL GAUGE**

Nissan Motor Co. has recalled 7,842 2013 Infiniti JX35 crossover vehicles to check for defective fuel gauges. According to the Japanese automaker a faulty gauge in the new luxury crossover could indicate a higher fuel level than actually exists. In its official recall notice, the National Highway Traffic Safety Administration said that the faulty gauge could cause the JX35 to run out of fuel unexpectedly, increasing the risk of crash.

**SUZUKI RECALLS COMPACT CARS TO FIX HEADLIGHTS**

Suzuki has recalled nearly 102,000 cars in the U.S. to fix a wiring problem that can cause the headlights to go out. The recall covers Forenza compacts from the 2004 to 2006 model years, and Reno compacts from 2005 and 2006.

The company says wires behind the dashboard can heat up and melt part of the wiring assembly. This can cause the low- and high-beam headlights to fail, increasing the risk of a crash. It was not clear at press time whether the problem has caused any crashes or injuries. Dealers will reconnect wires at no cost to the owners.

**KAWASAKI RECALLS MOTORCYCLES TO FIX OIL LEAK**

Kawasaki has recalled nearly 4,200 Ninja ZX-10R motorcycles in the U.S. because oil can leak onto the rear tire and cause a crash. The National Highway Traffic Safety Administration says in documents on its website that the recall affects bikes from the 2011 and 2012 model years. They were made from Sept. 1, 2010 to Feb. 15, 2012. The documents say oil can leak from the crankcase and pool. Continued use could cause the oil to spill onto the rear tire. Kawasaki says the problem hasn’t caused any crashes or injuries. The company says that dealers will seal the crankcase to stop the leak.

**MICHELIN N.A. RECALLS 841,000 TIRES BECAUSE TREAD CAN SEPARATE**

Michelin has recalled around 841,000 BFGoodrich and Uniroyal tires because the tread can separate, causing rapid air loss. No deaths or injuries have been reported from the tires, which were made as replacement tires for commercial light trucks and full-sized heavy duty vans from April 2010 until early this year, according to the company.

Michelin North America Inc., based in Greenville, S.C., started the recall last month. Tires will be replaced at no charge. Websites and toll-free numbers were set up with more information.

It is well-known that tire separations create a safety hazard and are extremely dangerous. A Michelin spokesperson said the company’s internal testing shows the problems with the tires have apparently been corrected for those manufactured more recently. The tires being recalled were BFGoodrich commercial tires LT 235/85 and LT245/75 and Uniroyal Laredo tires LT 235/85 and LT245/75. Michelin said anyone looking for more information can call 800-657-5527.

**2012 HARLEY-DAVIDSON VOLTAGE REGULATOR RECALL**

Harley-Davidson Motor Company has recalled and will replace voltage regulators on certain 2012 motorcycles. This recall applies to all 2012 Harley-Davidson models (except V-Rod) built approximately October 1, 2011 through March 31, 2012. Harley-Davidson Motor Company is sending letters to registered owners of affected products in the United States notifying them of this condition and instructing them to contact their dealer for the inspection. This program was effective beginning June 11, 2012. The company says that the services delivered under this product program will no longer be rendered at factory expense after two years from the date of the bulletin, which will be June 11, 2014.

**EXPLODING TOILETS RECALLED**

The U.S. Consumer Product Safety Commission has recalled millions of faulty flushing mechanisms that have caused toilets to explode, creating “laceration risks” for toilet users. The CPSC issued the warning about the Flushmate III Pressure-Assisted Flushing System, which was sold at Home Depot and Lowe’s stores and to toilet manufacturers American Standard, Crane, Kohler, Eljer, Mansfield, St. Thomas and Gerber. The recall applies to devices manufactured between 1997 and 2008—about 2.3 million in the United States and 9,000 in Canada.

According to the CPSC, Flushmate has received 304 reports of the product bursting, with 14 “impact or laceration injuries.” Anyone who owns a toilet with the recalled system should shut off the water connection to the toilet and contact Flushmate at (800) 303-5123 to request a free repair kit.

**ENERGIZER RECALLS NIGHT LIGHTS DUE TO BURN HAZARD**

About 260,000 Energizer Rotating Night Lights have been recalled by the importer Energizer, of St. Louis, Mo., and the manufacturer Ningbo Sun-alps Industry Development Co. Ltd, of China. The night lights can overheat and smoke, posing a burn hazard to consumers. Energizer has received nine reports of the night lights overheating, including three reports of minor property damage. No injuries have been reported. This recall involves Energizer LED rotating night lights. The night lights are white and have an LED light inside an adjustable dome on top. The night lights measure about 2 inches wide by 2 1/2 inches long. Model
number “ENLPLROT” and date codes between 0110 (for January 2010) through 0111 (for January 2011) are included in this recall. The model number is stamped onto the side of the night light. The date code is stamped in a circle on the back of the night light. The arrow points to the month of production (i.e., 12 = December) and the number positioned on either side of the arrow represents the year (i.e., “10” = 2010).

The night lights were sold exclusively at Target stores nationwide from February 2010 through July 2012 for about $6. Consumers should immediately stop using and unplug the recalled night lights. Contact Energizer for instructions on returning the night lights for a $7 coupon towards the purchase of an Energizer product. For additional information, contact Energizer at (800) 383-7323 between 8 a.m. and 6 p.m. CT Monday through Friday, or visit their website at www.energizer.com.

**STAGE AND RISER CADDIES RECALLED BY MIDWEST FOLDING PRODUCTS**

Midwest Folding Products, of Chicago, Ill., has recalled about 5,300 stage and riser caddies due to risk of injury and death to consumers. The caddy’s latches do not automatically close to secure the stages and risers when they are not being used. Unsecured stages and risers can fall off the caddies and onto consumers. A three-year-old girl died in May 2011 in Greenville, S.C., from severe head trauma when a portion of a portable stage fell out of the caddy and onto her at a church.

This recall involves Midwest Folding Products’ caddies used to store collapsible stages and risers when they are not being used. The caddies are brown, gray or black metal and measure 44 inches long by 30 inches wide by 60 inches high. They hold six 96-inch long or eight 48 to 72-inch long stage or riser platforms. Yellow caution and instruction labels are located on the caddy’s frame.

The recalled caddies were sold by Midwest Folding Products’ dealers to churches, schools, performing arts centers and various other organizations nationwide and online at www.midwestfolding.com from January 1989 through March 2012 for about $1,200. Midwest Folding Products is directly contacting known purchasers of the caddies. Caddy owners and consumers should immediately stop using the recalled stage and riser caddies. Caddy owners should contact Midwest Folding Products to receive a free repair kit with new brackets that will allow latches to automatically return to the closed position on the caddies and new white warning and instruction labels. For more information, contact Midwest Folding Products at (800) 621-4716 between 8 a.m. and 5 p.m. CT, or visit their website at www.midwestfolding.com.

**BABYLICIOUS RECALLS CLOTH CRIB FRINGE DUE TO STRANGULATION HAZARD**

About 300 Crib Fringe have been recalled by the manufacturer Babylicious Products Inc., of Vancouver, British Columbia, Canada. The narrow fabric strip connecting individual fabric triangles presents a strangulation hazard to young children. The product is a narrow fabric strip connecting several individual fabric triangles. It is designed to be attached to the side rail of a crib or along window valences or curtain rods. The product was sold in a variety of colors and patterns and with two fringes in each package. The Crib Fringes were sold online and at specialty children’s product retailers from January 2006 through May 2012 for about $24. Consumers should immediately remove the recalled product from cribs, window valence or curtain rods and contact Babylicious to receive a refund. Consumers will be refunded $12 for each recalled fringe returned.

For additional information, contact Babylicious at (855) 684-8399 from 9 a.m. to 5 p.m. PT Monday through Friday or visit www.babylicious.ca/recall.

**CEILING FANS RECALLED BY EMERSON AIR COMFORT PRODUCTS DUE TO INJURY HAZARD**

About 870 Emerson Corsair Ceiling Fans have been recalled by Air Comfort Products, a division of Emerson Electric Co., of St. Louis, Mo. The ceiling fan’s hanger bracket can spread apart due to heat from the motor and/or out-of-balance operation, causing the fan to fall from the ceiling. This poses a risk of injury to bystanders. Emerson is aware of three reports of these Corsair fans falling from the ceiling. No injuries have been reported.

This recall involves Emerson “Corsair” model ceiling fans with two blades and 44- or 52-inch blade spans. The fans were sold in two finishes, oil-rubbed bronze and antique pewter.

The fans were sold at fan and lighting stores nationwide and on various websites, including www.emersonfans.com and www.amazon.com, from January 2009 through June 2012 for between $450 and $530. Consumers should immediately stop using the recalled ceiling fans and contact Emerson Air Comfort Products to schedule a free repair. For additional information, contact Emerson Air Comfort Products toll-free at (866) 994-8759 between 8 a.m. through 4:30 p.m. CT Monday through Friday, or visit their website at www.emersonfans.com.

**SEARS RECALLS 795,000 DEHUMIDIFIERS DUE TO FIRE RISK**

Sears has recalled 795,000 Kenmore dehumidifiers. The dehumidifiers can overheat, smoke, melt and catch on fire, posing fire and burn hazards to consumers, according to the U.S. Consumer Product Safety Commission. The firm says it has received 107 reports of incidents, with more than $7 million in property damage and three reports of smoke inhalation injuries. The recall involves 35-, 50- and 70-pint dehumidifiers with a Kenmore logo on the front top of the unit, manufactured between 2003 and 2005. The dehumidifiers are made of white plastic and are between 21 and 24 inches tall, about 15 inches wide and about 13.5 inches in depth. They have fan and humidity controls on their top front panels and some models include remote controls. They come with front-loading water buckets.

The model number can be found on the right side of the interior of the unit once the bucket has been removed. The dehumidifiers were manufactured by LG Electronics (Tianjin) Appliance Co., Ltd., of Tianjin, China, and sold exclusively by Sears and Kmart stores nationwide and Sears.com and Kmart.com from 2003 to 2009 for between $140 and $220. Consumers should stop using recalled products immediately unless otherwise instructed. CPSC reminds consumers that it is illegal to resell or attempt to resell a recalled consumer product. Recalled units have the following model numbers:

35-pint (2004)—580.54351400
50-pint (2003)—580.53509300
70-pint (2003)—580.53701300
70-pint (2004)—580.54701400
70-pint (2005)—580.54701500

Consumers should immediately turn off and unplug the dehumidifiers and contact the firm to receive a Sears gift card for either $75, $80, $90 or $100, which may be used at any Sears or Kmart store or at Sears.com or Kmart.com. The gift card amount will depend on the capacity and year of the dehumidifier. In lieu of a gift card, consumers may request a check for the refund amount. All consumers with recalled units will also receive a $25 coupon that may be used at Sears Department Stores or Sears.com toward the purchase of a new Kenmore dehumidifier.

**Motion Sensing Security Lights Recalled By HeathCo Due To Electrical Shock Hazard**

About 7,800 Motion Security Lights have been recalled by HeathCo LLC, of Bowling Green, Ky. Internal wiring can be damaged during installation, bulb replacement or adjustment, posing an electric shock hazard. This recall involves Heath®/Zenith 270 Motion Security Lights with model number SL-5414-WH. It replaces a standard outdoor wall mounted light fixture and is designed to turn on when motion is detected at night. The product has two cone-shaped light bulb receptacles attached to a round mounting plate. A small, rectangular motion sensor is attached to the mounting plate between the light bulb receptacles. The unit is made of aluminum and plastic. It comes in white only. The brand name and model number are on a label located on the back of the motion sensor.

The lights were sold exclusively at Home Depot Stores from September 2011 through April 2012 for about $30. Consumers should immediately stop using the light, turn off power to the unit at the circuit breaker or fuse panel and contact HeathCo for a free replacement light fixture. For additional information, contact HeathCo toll-free at (855) 833-8657 between 8 a.m. and 5 p.m. CT Monday through Friday, e-mail hzproductnotice@heathcolle.com, or visit the company’s website at www.heath-zenith.com/hzproductnotice.

**1.3 Million Dishwashers Recalled**

More than 1 million GE and Hotpoint dishwashers have been recalled after a series of fires. The recall covers machines sold from March 2006 to August 2009 for $550 to $850. “GE is aware of 15 reports of dishwasher heating element failures, seven of which resulted in fire and smoke damage beyond the unit,” GE said in its recall notice. Three of the fires caused extensive property damage, but no one was injured according to the CPSC.

All of the recalled dishwashers have front controls and a plastic tub, according to the notice. Owners of the impacted dishwashers are advised to stop using them and turn off the fuse or circuit breaker to the machines. GE will provide a free repair to all consumers with units affected by the recall. GE is offering to repair the problems in homes for free, or provide discounts for the purchase of a new GE washing machine.

The recalled dishwashers include GE, GE Adora, GE Eterna, GE Profile brand machines models beginning with GLC4, GLD4, GLD5, GLD6, GSD61, GSD62, GSD63, GSD66, GSD67, GSD69, GLDL, PDW7, PDWF7, EDW4, EDW5, EDW6, GHD4, GHD5, GHD6, GHA4, GHA6 and serial numbers starting with FL, GL, HL, LL, ML, VI, ZL, AM, DM, FM, GM, HM, LM, MM, RM, SM, TM, VM, ZM, AR, DR, FR, GR. Recalled Hotpoint machines have model numbers starting with HLD4. Dishwasher model and serial numbers are marked on a plate on the left side of the tub when the door is opened.

**Thousands Of Dryers Recalled For Fire Hazard**

More than 20,000 gas dryers made by LG Electronics and Sears’ brand Kenmore Elite, have been recalled because they could catch on fire. Their gas valve may fail to shut off, causing the dryer to continually heat after the cycle is finished, posing a risk for a fire. So far, the two companies have had 141 complaints, three for minor burns to hands or arms, and more than 50 for burnt clothing.

If you own one of these dryers, turn off the gas supply and stop using it until it can be repaired. For those who bought their dryers at Sears, call your local store; otherwise, contact LG for instructions on what to do next. The model and serial numbers of your dryer can be found on a label fixed to the front of the dryer, above the opened door.

**Patio Bistro Sets Recalled Due To Fall Hazard**

About 16,400 Patio Bistro Sets have been recalled by L G Sourcing Inc., of North Wilkesboro, N.C. When the chair support bar is not fully engaged, the chair poses a fall hazard to a consumer who sits in the partially engaged chair. They have received 13 reports of consumers who fell from partially opened chairs, resulting in reports of back injuries, contusions and scrapes. This recall involves folding chairs sold with three-piece patio bistro sets. Each set contains two folding chairs and a folding table. The chairs have a black steel frame and dark stained wooden seats and backs. Model #S658-01, item # 055053 and “Garden Treasures” is printed on the cover of the instruction manual sold with the patio bistro sets.

The chairs were sold exclusively at Lowe’s stores nationwide from August 2011 through February 2012 for about $98 for the set. Consumers should immediately stop using the recalled chairs and contact Midas Lin for a new set of warning labels and supplemental instructions for the chairs. Do not return the product to the store. For additional information, please contact Midas Lin toll-free at (877) 556-0886 between 9 a.m. and 5 p.m. PT Monday through Friday, or visit their website at www.cobernbistroset.com.

**Baby Seats Recalled For Repair By Bumbo International Due To Fall Hazard**

Bumbo International Trust, of South Africa, has recalled about 4 million Bumbo Baby Seats in the U.S. In October 2007, 1 million Bumbo seats were recalled to provide additional warnings against use on raised surfaces. Babies can maneuver out of or fall from the Bumbo seat, posing a risk of serious injuries. CPSC and Bumbo International know of at least 50 incidents after the October 2007 voluntary recall in which babies fell from a Bumbo seat while it was being used on a raised surface.

32  

**www.BeasleyAllen.com**
Nineteen of those incidents included reports of skull fractures. The CPSC and Bumbo International are aware of an additional 34 post-recall reports of infants who fell out or maneuvered out of a Bumbo seat used on the floor or at an unknown elevation, resulting in injury. Two of these incidents involved reports of skull fractures, while others reported bumps, bruises and other minor injuries.

The bottom of the Bumbo seat is round and flat with a diameter of about 15 inches. It is constructed of a single piece of molded foam and comes in various colors. The seat has leg holes and the seat back wraps completely around the child. On the front of the seat in raised lettering is the word “Bumbo” with the image of an elephant on top. The bottom of the seat has the following words: “Manufactured by Bumbo South Africa Material: Polyurethane World Patent No. PCT: ZA/1999/00030.” The back of the seat has several warnings and seats manufactured since 2008 have an additional label on the front of the seat warning against use on raised surfaces.

The seats were sold by Babies R Us, Sears, Target, Toys R Us, USA Babies, Walmart, and various other toy and children’s stores nationwide, and various online sellers, from August 2003 through August 2012 for between $30 and $50. Consumers should immediately stop using the product until they order and install a free repair kit, which includes: a restraint belt with a warning label, installation instructions, safe use instructions and a new warning sticker. The belt should always be used when a child is placed in the seat. Even with the belt, the seat should never be used on any raised surface. Consumers should also immediately stop using Bumbo seat covers that interfere with the installation and use of the belt. A video demonstrating proper installation of the restraint belt and proper use of the Bumbo seat are available at www.recall.BumboUSA.com. Order the free repair kit by visiting www.recall.BumboUSA.com or calling (866) 898-4999 between 8 a.m. and 5 p.m. CT Monday through Thursday and between 8 a.m. and 12:30 p.m. CT on Friday. Do not return the Bumbo seat to retailers as they will not be able to provide the repair kit.

**Liberty Mountain Recalls VAUDE Kenta Child Carriers Due To Fall Hazard**

Liberty Mountain, of Salt Lake City, Utah, has recalled its Kenta and Kenta Plus child carriers. The carriers were manufactured by VAUDE Sport GmbH & Company KG, of Germany. The side strap’s seam can unravel and cause the strap to separate, posing a fall hazard to the child in the carrier. VAUDE has received two reports of the side strap separating. No injuries have been reported. This recall involves backpack-style child carriers sold under the Kenta and Kenta Plus model name. “VAUDE” is printed on the back and between the shoulder straps of the carrier. “Kenta” or “Kenta Plus” is printed on the lower back or hip belt of the carrier. The carriers were sold in black, red and brown and were designed for children up to 31 pounds.

The child carriers were sold at outdoor camping and climbing stores nationwide from January 2010 through May 2012 for about $150 for the Kenta and $170 for the Kenta Plus models. Consumers should immediately stop using the recalled child carriers and return the product to an authorized VAUDE dealer for a replacement. Consumers can contact Liberty Mountain to locate an authorized VAUDE dealer. For additional information, contact Liberty Mountain at (800) 366-2666 between 9 a.m. and 5 p.m. MT Monday through Friday, or visit their websites at www.vau.de or www.libertymountain.com.

**Gerber Recalls Machetes Due To Laceration Hazard**

Gerber Legendary Blades, of Portland, Ore., has recalled about 119,000 Gerber® Bear Grylls Parang Machetes. A weakness in the area where the handle meets the blade can cause the handle or the blade to break during use, posing a laceration hazard. The firm received 24 reports of breaks, including one report of a laceration injury in Canada, which did not involve stiches. The recalled product is a curved blade machete with an overall length of 19.5 inches and a blade length of 13.5 inches. The handle is a dark gray textured rubber grip with wrist lanyard, orange trim and a stylized “BG” on it. The blade is marked with the “GERBER®” trademark and a stylized Bear Grylls trademark. The machete comes in a black nylon sheath with orange and gray trim. The machetes were sold separately or as one of the products in Gerber’s Apocalypse Survival Kit. The model numbers are on the package. Model numbers are: 31-000698, which has “Survival Series” printed on the package; and 31-001507, which was sold only at Walmart. Model number 30-006010 is for the Apocalypse Survival Kit, which includes a Parang machete among other items in a foldable black cloth case with ‘GERBER’ printed in orange on the inside right.

The recalled blades were sold at sporting goods stores nationwide and online from January 2011 through June 2012 for about $43 for the individual Parang machetes and $349 for the Apocalypse Survival Kits. Consumers should immediately stop using the recalled Parang machetes and contact Gerber Legendary Blades to receive a free replacement. For additional information, contact Gerber Legendary Blades toll-free at (877) 314-9130 between 9 a.m. and 5 p.m. PT Monday through Friday, or visit their website at www.gerbergear.com.

**Green Toys Recalls Mini Vehicles Due To Choking Hazard**

Green Toys Inc., of Mill Valley, Calif., has recalled Green Toys™ Mini Vehicles. This includes about 50,000 in the United States and 2,500 in Canada. The wheels and hubcaps on the toy cars can detach, posing a choking hazard to young children. Green Toys has received ten reports of wheels and hubcaps detaching or loosening from the vehicles. There have been no reports of injuries. This recall involves Green Toys™ Mini Vehicles. All cars are made of plastic and available in yellow, green, red, white and blue. Model names and numbers for the seven recalled vehicles or sets are listed in the table below.

For Mini Vehicle (MVHA—1014) and Fastback (MVFA-1022) sets the model numbers can be found on the bottom of the toys’ packaging. For all other cars, a label with the model number can be found on the bottom of the car itself. The recalled Mini Vehicles were manufactured from March 2012 through June 2012. The manufacturing date is represented by a circle with an arrow in the middle that can be found
imprinted on the underside of the front of the car. To the left and right of the arrow are numbers that represent the year and the arrow itself points to the number that represents the month. Cars with an “I” etched into the underside of the car next to the date stamp are not part of the recall.

The toys were sold by mass merchandisers, grocery stores and independent toy and specialty stores nationwide and by online retailers from April 2012 to June 2012. The cars cost about $5 each or $18 for the set. Consumers should take the product away from children immediately and contact Green Toys Inc. to receive a full refund. For additional information, contact Green Toys toll-free at (888) 973-3421 between 9 a.m. and 5 p.m. PT Monday through Friday or visit the firm’s website at www.greentoys.com/recall

**TOYSMITH RECALLS ANIMAL SNAP BRACELETS DUE TO LACERATION HAZARD**

Toysmith of Sumner, Wash., has recalled about 89,500 Animal Snap Bracelets. The metal snap band can wear through the fabric covering resulting in exposing sharp edges and posing a laceration hazard. The firm has received eight reports of injuries including lacerations. This recall includes Animal Snap Bracelets in assorted metallic fabrics with animal figures, including: Seahorse, Frog, Snake, Starfish, Crab, Lizard, Dolphin and Fish. Manufacturing date codes between 07/11 and 01/12 are printed on a sewn-in label found on the inside of the bracelet. The label includes the Toysmith name and address. A round paper tag is attached to the product with the product name, Toysmith information, the words “Item # 2360 Animal Snap Bracelet,” SKU number and bar code. The bracelets were sold at Cost Plus World Market, Cracker Barrel Old Country Store and other retailers from September 2011 to February 2012 for about $3. Consumers should return the product to the store where purchased for a full refund. For additional information, contact Toysmith at (800) 356-0474 between 8 a.m. and 5 p.m. PT Monday through Friday, or visit their website at www.toysmith.com.

**RECALL ISSUED ON TURKEY SAUSAGE PRODUCT**

Wisconsin-based Johnsonville Sausage has recalled some packages of turkey sausage with cheddar cheese because the product may include pieces of glove. The company is recalling select 13.5-ounce vacuum packages of Johnsonville “Turkey Sausage with Cheddar Cheese” with a “Best By” date of Aug. 20, 2012, and the establishment number “EST. P-34224.”

Nearly 49,000 pounds of product is being recalled. No injuries have been reported. The sausage was distributed in Alabama, Arizona, California, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Maine, Michigan, Mississippi, Nevada, New York, North Carolina, Ohio, Oregon, South Carolina, Tennessee, Utah, Washington and Wisconsin. Consumers who bought the sausage can call Johnsonville at 1-800-270-4662 or visit http://www.johnsonville.com/darkSite.

As has become the norm, there were so many recalls last month that we weren’t able to include all of them in this issue. We tried to include those of the most importance and urgency. If you need more information on any of the recalls listed above, visit our firm’s web site at www.BeasleyAllen.com/recalls. We would also like to know if we have missed any significant recall that involves a safety issue. If so, please let us know. As indicated at the outset, you can contact Shanna Malone at Shanna.Malone@beasleyallen.com for more recall information or to supply us with information on recalls.

**XXII. FIRM ACTIVITIES**

**CHRIS BOUTWELL**

Chris Boutwell, who joined our firm’s Toxic Torts Section in 2008, represents clients in what are referred to as “toxic torts” cases in numerous state and federal courts. He has dedicated his practice to protecting the rights of individuals whose health and property have been harmed by the intrusion of toxic substances onto their property. Chris had this to say about his work:

“All of the lawyers at Beasley Allen truly care about their clients and are committed to fighting to hold large, impersonal corporations accountable when they harm innocent people in the name of corporate greed. The most rewarding part of my job is when I can see the look of relief in my client’s face when I tell them we have resolved their case and righted the wrong they have suffered.”

Currently, Chris is heavily involved in the multi-district litigation (MDL) resulting from the 2010 British Petroleum/Deepwater Horizon oil spill in the Gulf of Mexico. Chris’s clients include businesses and owners of real property along the Gulf Coast whose property or economic interests are being harmed by the catastrophic, far reaching effects of the oil spill.

In addition to his work in the BP litigation, Chris is the lead attorney in our cases involving Leaking Underground Storage Tanks (UST). In these cases, Chris represents property owners whose health and property are being injured by toxic petroleum contaminants, including benzene (known to cause cancer in humans), toluene, ethyl benzene, xylene, and MTBE, that leak from USTs, usually from a convenience store or other gasoline sales or storage facility. Chris’s UST clients include people who live or own property near leaking USTs, residents who obtain drinking water from wells near a leaking UST and nearby businesses affected by a UST leak.

Over the past few years, Chris has successfully recovered damages for numerous clients harmed by leaking USTs.

Prior to joining the firm, Chris served as Assistant District Attorney for Alabama’s Second Judicial Circuit, where he gained extensive trial experience in both jury and bench trials. Chris also served as the lawyer for the Butler County Department of Human Resources. In his work with that department, he fought to protect abused and neglected children. Born and raised in Greenville, Ala., Chris said he always wanted to be a lawyer. “As early as I can remember, I knew I wanted to be a lawyer,” he said. “I liked the idea that I could make a difference in the world by fighting for and defending the rights of people who cannot do it for themselves.”

Chris graduated from the University of Alabama in 1992 with a B.S. Degree in Com-
merce and Business Administration. While at Alabama, he served as President of Phi Kappa Psi fraternity. After ten years of managing a family owned sales business, Chris decided to attend Thomas Goode Jones School of Law. While there, he served as Executive Editor of the Jones Law Review, completed an externship as a judicial clerk at the Alabama Supreme Court, and received recognition for Best Scholastic Achievement in 11 classes. Chris also received the Ronald A. Canty Memorial Scholarship which was awarded by our law firm. In 2005, Chris graduated magna cum laude, was number one in his class, and was awarded the James J. Carter Scholarship Award.

Chris and his family live in Montgomery where they attend the First United Methodist Church. Chris is a very good and hard-working lawyer. He is totally dedicated to his work and to his clients. We are blessed to have Chris with us.

RICK MORRISON

Rick Morrison is a lawyer in our Personal Injury / Products Liability Section. He is a Martindale-Hubbell AV Preeminent-Rated lawyer. Rick graduated from Huntingdon College in 1988 and graduated cum laude from the Cumberland School of Law in 1991. While attending Cumberland, Rick served on the Editorial Board of the Cumberland Law Review. He is a member of Curia Honoris. Rick joined the firm in 1996 after practicing for a time with a defense firm. Initially, Rick handled consumer and insurance fraud cases, several of which resulted in seven-figure settlements and verdicts. One of the first cases Rick tried after joining the firm, Knox v. Alfa, resulted in a $1.9 million verdict.

Rick currently handles product liability cases for the firm, including crashworthy litigation. He has been involved in cases against automobile manufacturers dealing with defective seat belts, seats and seat backs, fuel systems, structural integrity, safety glass, and cargo restraints. Rick has also handled rollover and roof crush cases involving SUVs and heavy trucks. In addition to the numerous cases Rick has handled against automobile manufacturers, he has also represented clients whose cases involved tires, motorcycles, helmets, saws, tractors, presses, textiles and ATVs. He has handled and worked on over 40 cases which have resulted in seven figure settlements and verdicts.

Rick has been featured in Lawyers USA, Bloomberg News, The Akron News Journal, and various other publications concerning his work on tire cases. Rick currently serves as the chair for the Products Liability Section of the American Association for Justice and serves on the Executive Committee. He also serves on the Editorial Board for the Alabama Lawyer. Rick is a regular speaker at various national and state seminars concerning product liability issues and updates. He is the author of various papers and articles relative to Product Liability issues, including “The Hidden Dangers of Cargo Vans, The Overlooked Hazard.” “What you don’t know may kill you—Dangers of Aged Tires.” In December 2010, Rick was selected as Beasley Allen’s Lawyer of the Year for the Personal Injury Section.

Rick is married to the former Estee Knudsen and they have two children, a daughter, Meredith Grace, and a son, Richard Knox Morrison. The family attends St. James United Methodist Church. Rick is a very good lawyer who cares deeply about his clients and their claims, and works very hard for them. We are blessed to have Rick with us.

REBECCA GILLILAND

Rebecca Gilliland, who has been with the firm since November of 2010, currently works as a Law clerk/staff assistant in our Mass Torts Section. She works on the cases is the HRT litigation. She has been drafting motions and responses to motions in several different jurisdictions. Rebecca previously worked in the Consumer Fraud Section on AWP cases and transferred to the Mass Torts Section in June of this year.

Rebecca, who served in the Marine Corps, trained as a Celestial Navigator on C-130s. After that, Rebecca moved home, finished her degree in criminal justice, and began working as a police cadet with the city of Pensacola. She met her husband and moved to Montgomery. Rebecca has an eight-year-old son and a ten-year-old step son. She is an animal lover and has two dogs (Italian mastiff and a Cavalier King Charles), a cat, and a bearded dragon. Rebecca has been playing the piano for 28 years, violin for 13, and viola for about eight years. She is a violist with the Montgomery Symphony. According to my friend Helen Steineker, Rebecca is very good.

Rebecca graduated magna cum laude from Faulkner University Jones School of Law in May. She was on the Dean’s list every semester and was the August J. Rendigs National Products Liability moot court champion. She received several best advocate awards and one best brief award at competition participating in five tournaments. She has out best paper awards and was on the editorial board for the law review, serving as articles editor. Rebecca is a very good employee, a hard worker and we are fortunate to have her with us.

LESLIE PESCA

Leslie Pescia came to work with the firm in May as a law clerk in the Consumer Fraud department. She worked full time during the summer, but will be part time during her last year of law school this year. She has been primarily working on the AWP Litigation, but has done several projects for other cases as well. Leslie is married to James Pescia, and they just celebrated their first anniversary. James is a police officer for the City of Auburn, and they have two black labs, Toby and Tucker.

Leslie graduated from Scottsboro High School in 2006. She graduated from Auburn University in December of 2009 with a double major in political science and criminology. She currently attends Jones School of Law. Leslie is an Eagle Scholar, a Knabe Scholar, and has been on the Dean’s List throughout her law school career, as well as receiving best paper awards and advocacy awards. Leslie and her husband enjoy taking deep sea fishing trips when they can find time away from law school, but she mostly enjoys just hanging out with her family and friends whenever she can. Since the Pescias currently live in Auburn, attending Auburn athletic events is definitely one of their favorite hobbies! Leslie is a very good employee and a hard worker. We are fortunate to have her with us.

TEMP TEMPLE

Dana Allen (Temp) Temple Jr. came to work at the firm in May as a Communications Intern in the website development department. Temp had been attending Belmont University in Nashville, Tennessee, majoring in public relations and communications. During his internship, Temp helped write news releases and stories for the Beasley Allen website and the Righting Injustice blog site. He also helped get audio files ready to be put on the firm’s YouTube channel. Temp was a fast learner, picked up on things quickly, and did a very good job on these projects.

Toward the end of his internship, Temp was moved to the firm’s Personal Injury Section and started working on new client communications. In this job, he contacts persons who have called the firm about a potential case in order to gather more information about their claim. Temp then passes this on to be used by our investigators and lawyers who then can follow up, do the investigation and evaluate the potential claim. In August, when the opportunity to accept a full-time job with the firm became available, Temp decided to stay here, rather than returning to Belmont. He is now enrolled, as a junior, in the adult degree completion program at Huntingdon College,
and plans to attend classes in the evenings to finish out his coursework.

Temp grew up in Montgomery, and graduated from Trinity Presbyterian School. His father, Dana Allen Temple, is a local businessman. His mother, Lisa Cheek Temple, is a graduate of Jones School of Law, and passed the bar examination, but instead of practicing law went to work for a family business. Lisa, a talented author, has also written her first novel which should be in print later this year. I predict it will be a best seller and the start of a new career.

In his free time, Temp enjoys spending time with friends and playing tennis. He also is interested in languages, having visited France to study French. At some point, Temp wants to visit Japan to study Japanese. Temp is a very hard worker and while he still has lots to learn, he is doing a good job for the firm. We are glad he elected to stay with us.

XXIII.
SPECIAL RECOGNITIONS

JULIA BEASLEY AND DANIELLE MASON WERE FEATURED IN BUSINESS ALABAMA

Julia Ann Beasley and Danielle Ward Mason, lawyers in our firm, were recently included in a Business Alabama magazine article profiling female trial lawyers. The article, titled “Women on the Front Line,” notes that although the number of women lawyers in Alabama has increased almost 50% in the last 12 years, only a handful of the state’s trial lawyers are women. In the article, Julia and Danielle weigh in on a variety of topics including how female lawyers may be perceived differently than men by juries. They also describe the challenges of balancing family and work life.

Danielle says she feels her ability to empathize with female clients in her work with Hormone Replacement Therapy (HRT) litigation is a plus, but is quick to point out that “advocacy skills are shaped more by personality than gender.” She notes there are many different approaches a lawyer can take in court, and she has seen the same ones executed by both men and women. Julia told the magazine that she agrees that it’s important to be yourself. She says juries don’t want to see a performance, but instead, they want the facts and they want a lawyer who genuinely is interested in the case and the client. It helps, Julia says, “to develop your own style in the courtroom.”

Julia represents clients in the area of Personal Injury. She says the most common feeling at trial is one experienced by all lawyers to some degree—and that’s apprehension. She told Business Alabama:

I think all lawyers feel that way because that trial is my client’s only opportunity to tell his or her story in court and let a jury decide the case. The courtroom is the only place where real life and serious—sometimes deadly—problems can be heard and resolved by a jury.

Julia and Danielle are very good lawyers who do outstanding work for their clients. They are a credit to the legal profession. It’s good to see them recognized in Business Alabama.

MARY ALICE MCLARTY IS THE NEW PRESIDENT OF THE AMERICAN ASSOCIATION FOR JUSTICE

Mary Alice McLarty will be the new president of the American Association for Justice (AAJ). Mary Alice will lead AAJ in its continued mission to protect the legal rights of Americans when they are injured by negligence or misconduct, even when it means taking on the most powerful corporations and interests. Mary Alice had this to say:

I’m proud to be a trial lawyer and a member of AAJ. My goal is to get new and existing members excited about what this organization stands for—fighting to keep the court house doors open. We need to work together and face down the enemies of justice.

Mary Alice has been an outspoken supporter over the years of AAJ and a defender of the civil justice system. She will follow outgoing president Gary M. Paul, a partner at Waters, Kraus & Paul in Los Angeles, Calif., who did an outstanding job. Mary Alice is with the McLarty Pope Firm, in Dallas, Texas. She has been practicing law for over 28 years, concentrating on catastrophic injury cases, including Reflex Sym pathetic Dystrophy (RSD) and brain injuries. Mary Alice has been in several leadership posts at AAJ—serving on the Board of Governors and chairing the Women Trial Lawyers Caucus, the RSD/CRPS Litigation Group and the Sole Practitioner & Small Firm Section.

Mary Alice has held leadership positions with the Texas Trial Lawyers Association and the Dallas Trial Lawyers Association, serving as their president in 2004. In addition to Mary Alice, AAJ’s new set of officers includes:

• President-Elect J. Burton LeBlanc of Baron and Budd, P.C. in Baton Rouge, La.;
• Vice-President Lisa Blue Baron of Baron & Blue Law Firm in Dallas, Texas;
• Secretary Larry A. Tawwater of the Tawwater Law Firm, P.L.L.C. in Oklahoma City, Okla.;
• Treasurer Julie Braman Kane of Colson Hicks Eidson in Coral Gables, Fla.; and
• Parliamentarian Laird M. Ozmon of the Law Offices of Laird M. Ozmon, LTD. in Joliet, Ill.

We wish Mary Alice the very best as she takes over the reins as President of AAJ. I predict—based on her history—that she will do an outstanding job.

SHAW WOODSON TRAVELS TO COOPERSTOWN

The Montgomery Dirtbags, a Montgomery-based travel baseball team, competed in Cooperstown, N.Y. recently. There were 105 teams from 29 states and one team from Canada in the competition. As all real baseball fans know, Cooperstown is the home of the Major League Baseball Hall of Fame. The Montgomery team won their first nine games reaching the final four. The Dirtbags were then eliminated by the eventual tournament champion from California. Shaw Woodson played shortstop for the Dirtbags and hit four home runs during the tournament. Shaw is the son of Frank and Marti Woodson. Frank is a lawyer in our Mass Torts Section.

THE PRESIDENT VISITS JOSH AND PAIGE WETZEL AT WALTER REED

I wrote last month about Josh Wetzel, the soldier who was injured in Afghanistan, and who is now at Walter Reed Hospital. His wife, Paige, told me recently about the visit to Walter Reed by President Obama. The President came on the day Obamacare was passed in Congress to visit troops at the hospital. Paige said all they were told in advance was that a “distinguished visitor” was coming to the hospital. They weren’t told the visitor would be the President until the day of his visit. When President Obama came onto the floor that day, according to
When President Obama came into the room, he hugged every person in the room. Paige said he actually looked around and commented on the "Auburn décor" that is all over the walls in Josh's room. The President first thanked Josh for his sacrifice and told him that our country would be nothing without our military, which is 100% voluntary. He said that without those in the military who choose to fight the war on terror, which has lasted a decade, our country could not have still been the great nation that it is today.

President Obama said he was "proud and honored" to be in Josh's presence and gave him his Presidential coin. Just as the President was about to leave, Paige asked him if it would be ok if they prayed for him. He immediately said, "Absolutely" and Paige led this prayer:

Dearest God, thank you for this opportunity. We have the infantry and the face of our nation together in one room joined in prayer. God, our President is human too. He needs your guidance and wisdom for decision making. Please let the experiences on this floor stick with him and influence positive decision making for our military and ultimately our nation. Thank you for bringing us together today. Amen.

Paige said it was quite obvious the President was touched deeply by her prayer and he told her "You deserve a hug for that one!" He then proceeded to hug everyone in the room. A photographer took pictures of Paige praying for the President. The group was in a circle, with Josh in a wheelchair, all holding hands with heads bowed as Paige prayed a powerful prayer.

A few weeks later, Josh's hospital liaison told him that the President was so moved by her offer to pray for him that he wanted permission for their picture to be blown up and hung in the west wing of the White House. Paige and the family went on a tour of the West Wing a few days later and actually saw the picture. Paige told me they all said a prayer around the picture, asking that it would influence all who walked by it. Paige said the best part of the trip was when the tour guide behind them got to the picture and told the group that the family in the picture was the folks ahead of them. The guide told them "the gentleman in the wheelchair is one of our nation's wounded warriors." Paige says she will never forget the feelings of how proud of Josh she was at that time.

Paige also says to let our readers know that Josh is doing great. He will have one more skin graft to close the wound on his left shoulder blade and hopefully that will be the last one. Josh is being fitted and casted for his prosthetics. Paige says Josh is so very excited about the opportunity to walk again and told me again how so very proud she is of her husband. I told Paige we too were proud of Josh and would continue to pray for the two of them. I hope our readers won't mind me writing again about Josh and Paige. Since Paige was a "North Alabama Beasley," before she became a "Wetzel," I feel like I have a license to do so without having to explain why.

But we must all remember many members of our armed services have gone through the very same thing Josh is now dealing with. Unfortunately and sadly, some of our warrior-heroes didn't make it back home. We can't forget them or their families!

**XXIV. FAVORITE BIBLE VERSES**

Sam Carpenter, who just happens to be Willa's husband, says a verse from Corinthians is one that he relies on. Sam is retired from the U.S. Air Force. He is a deacon in his church and Willa says Sam is a man with a servant's heart.

_But this I say, be which sows sparingly shall reap also sparingly, and be which sows bountifully shall reap also bountifully. So let each one give as be purpose in his heart, not grudgingly or of necessity; for God loves a cheerful giver._

Corinthians 9:6-7

Rev. Carmen Falcone, who has a ministry in Montgomery, The Gathering, is one of the best Bible scholars and teachers that I have ever had involvement with. Carmen comes once each month to give a devotion for our firm. We have been holding weekly devotions for several years and Carmen has been one of our regulars. We look forward to his coming because of the message on behalf of Jesus and he blesses us with his presence each time he comes. Carmen sent in two verses for this issue which he says are the cornerstone of his faith.

_That I may know Him and the power of His resurrection, and the fellowship of His sufferings, being conformed to His death_,

Phil. 3:10

_Thus says the Lord: "Let not the wise man glory in his wisdom, Let not the mighty man glory in his might, Nor let the rich man glory in his riches; But let him who glories glory in this, That be understands and knows Me, That I am the Lord, exercising loving kindness, judgment, and righteousness in the earth. For in these I delight," says the Lord._

Jeremiah 9: 23 & 24

Mrs. Laurice Kern, who sent in a verse for this issue, has been a long-time member of St. James United Methodist Church in Montgomery. Laurice worked for Dr. Paul Hubbert at AEA for a number of years. After she retired, she later worked at Pickwick Antiques until she retired again last year. Laurice is a gifted individual who cares about others and is always ready to lend a helping hand. She says this verse tells it all and if you read it you will see that Laurice is correct.

Jesus said to him, "You shall love the Lord your God with all your heart, with all your soul, and with all your mind. This is the first and great commandment. And the second is like it: 'You shall love your neighbor as yourself.'

Matt. 22:37-39

**XXV. CLOSING OBSERVATIONS**

_A Return Visit To Neptune Meters In Tallassee_

I was invited to visit Tallassee recently for the 40th anniversary of Neptune Meters. The company came to Alabama in 1972 and was the first to use the Alabama Industrial Development Training Program (AIDT). While I was in state government, I was fortunate to have had the opportunity to play a major role in the creation of AIDT, which was inspired by what South Carolina was doing at that time to attract industry to that state.

From the outset, the program was very successful in Alabama. Interestingly, AIDT was opposed in the beginning by almost
every segment of public education. Those in leadership roles couldn’t grasp the program’s concept since there was no building and no large staff. The way the program works is sort of simple, and that, too, could have resulted in some of the opposition. AIDT sets up training in a building near the plant site. While the plant is being built, the work force is being trained by qualified instructors on the very same machines to be used in the plant. The training for Neptune Meters was done at night and the trainees, who had jobs and were being upgraded, would walk from training directly into employment at very good wages.

A number of folks were involved in establishing the program in 1971. It came about largely because of two brothers—Jimmy Faulkner and Dr. T.L. Faulkner. The Faulkner brothers had heard about what was happening in South Carolina and wanted to learn more about it. Jimmy Faulkner was a highly successful businessman from Bay Minette. His brother, Dr. Faulkner, headed up the vocational education division in the state education department. I headed up the team that went to South Carolina to study their program. Others on the team were Fred Denton (Alabama Power Co.—who became the top assistant in ADO); Jimmy Clark from Eufaula, (a powerful state senator); and Tom Eden (Executive Director of the Alabama Textiles Association). We spent a week in South Carolina and learned a great deal from those in the state’s training program.

George Howard from South Carolina was hired as Director of AIDT. To say that George did a great job would be a gross understatement. Under his leadership, the program got off to a very good start and has never slowed down. Every major industrial plant coming to Alabama since that time has used AIDT to train their workforce. Each of those companies said AIDT was a major factor in Alabama being selected for their plant.

I participated in the groundbreaking of the facility at the Neptune Meters plant 40 years ago. Having the opportunity to now go back and see firsthand what they have accomplished over the years was a real blessing. I must say the plant is most impressive. I am grateful to have had the opportunity to be a part of AIDT in the beginning of the program. Knowing that this program has been so good for Alabama made all of the early work by the folks who got AIDT off and running well worth the efforts.

**FOOTBALL COACHES CAN BE MOST PERCEPTIVE**

Football at every level—high school, college and in the NFL—is in the news on a daily basis since seasons across the country will have gotten underway by the time this issue is mailed. Coaches are quoted each day about how things are going with their team. Some coaches are very good with the media. The following are some astute observations made in years past by some outstanding football coaches who were among the best in the business.

---

**First there are those who are winners, and know they are winners. Then there are the losers who know they are losers. Then there are those who are not winners, but don’t know it. They’re the ones for me. They never quit trying. They’re the soul of our game.**

Coach Paul Bryant—Alabama Crimson Tide

**Setting a goal is not the main thing. It is deciding how you will go about achieving it and staying with that plan. Football is an incredible game. Sometimes it’s so incredible, it’s unbelievable.**

Coach Tom Landry—Dallas Cowboys

**A winner never whines.**

Coach Paul Brown—Cleveland Browns

---

**The Green Bay Packers never lost a football game. They just ran out of time. Football is like life—it requires perseverance, self-denial, hard work, sacrifice, dedication and respect for authority.**

Coach Vince Lombardi—Green Bay Packers

What these highly successful coaches said during their tenures still applies today. Each of these men contributed greatly to their game, but they also had a tremendous influence outside the world of football. I believe each of them would have been equally successful in any line of work. They also molded the lives of hundreds of young men in a positive manner and that’s very important. I believe that any young man who played for these coaches came away a better person.

---

**MONTHLY REMINDERS**

If my people, who are called by my name, will humble themselves and pray and seek my face and turn from their wicked ways, then will I hear from heaven and will forgive their sin and will heal their land.

2 Chron7:14

All that is necessary for the triumph of evil is that good men do nothing.

Edmund Burke

Woe to those who decree unrighteous decrees, Who write misfortune, Which they have prescribed. To rob the needy of justice, And to take what is right from the poor of My people, That widows may be their prey, And that they may rob the fatherless.

Isaiah 10:1-2

The only title in our Democracy superior to that of President is the title of Citizen.

Louis Brandeis, 1937

U.S. Supreme Court Justice

---

**XXVI. PARTING WORDS**

**SEEKING JUSTICE FOR THOSE WHO DESERVE IT**

I am grateful to have had the opportunity to be a trial lawyer and am proud to be in the business of helping folks. It’s always the goal of the lawyers in our firm to obtain justice for our clients. Each of the lawyers at Beasley Allen is an advocate for their clients. Because all of our clients are in need, either physical or economic or a combination of the two, they are badly in need of an advocate. Many are totally disabled, can’t work and are totally dependent on others for the activities of daily life. Other clients are the surviving family members of a person who was tragically killed. Others we represent have been cheated by a powerful corporation and suffered significant losses. In our role as advocates, we have a duty to do our very best to see that complete justice is done for each client we represent.

In every case that we handle there is some entity or person at fault and responsible for our client’s plight. I learned early in my career that there are very few pure accidents. In every case I have seen somebody is at fault. The conduct of the wrongdoers can be either: a negligent or careless act; wanton conduct; or intentional conduct.

---

www.BeasleyAllen.com
Without lawyers like those in our firm who are willing to take on their case, folks who are hurt or harmed by a large corporation would be virtually helpless with no where to turn. When we take on their case, we assume an awesome responsibility that goes with the responsibility. It’s our job to see that the victims of corporate wrongdoing or abuse receive justice. Taking on corporate America in litigation is no easy task. The huge corporations, many of whom put profits over safety, are politically powerful and have great influence with both the regulatory agencies on the federal level, as well as with some of the courts. The influence on the latter group is by way of political contributions which should have no place in judicial races.

It’s a basic premise that the pursuit of justice is the foundation of a civilized society—but quite often it comes hard and always at a cost. Obtaining justice comes about not by simply rigidly following rules—it also requires wisdom. Regardless of how smart we think we are or how well educated we may be, real wisdom can only come as a gift from God. Seeking justice means tackling injustice—and as we all know, the world is full of injustice. Justice involves protecting those who can’t defend themselves or who can’t be their own advocate. That’s what keeps me actively involved in the business of being an advocate.

We can learn a great deal about justice from the Bible. God gave the people laws through Moses that were the very embodiment of wisdom. Biblical law and wisdom go together because real wisdom comes from God. In fact, the Ten Commandments are the best example of God’s wisdom that you will ever see. In fact, God’s wisdom is the very cornerstone of Biblical law. The purpose of Biblical law is to enable us to love God and to love our neighbor. It would be a great world if all folks everywhere followed the mandate from God to love our neighbors. Micah the prophet summarized all of God’s commands for us relating to justice when he said:

He has told you—O man, what is good; and what does the Lord require of you but to do justice, to love kindness, and to walk humbly with your God.

Advocates for the weak and the oppressed are badly needed in today’s world. In fact, the need has never been so great. That’s why I do what I do. God has blessed me with both the ability and the desire to help others. It has been my responsibility over the years to do my very best to be their advocate and to work hard to obtain justice for them. I take that responsibility very seriously and know that God has used me to help others and I thank Him daily for that. My prayer is that the rich and powerful in this country will come to realize that all of us, regardless of our stations in life or the color of our skin, must follow God’s commandments to let justice be done for all of His people. Hopefully, I will see that come to pass one of these days and hopefully that will be sooner than later.

To view this publication on-line, add or change an address, or contact us about this publication, please visit our Website: BeasleyAllen.com

No representation is made that the quality of legal services to be performed is greater than the quality of legal services performed by other lawyers.
Jere Locke Beasley, founding shareholder of the law firm Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. is one of the most successful litigators of all time, with the best track record of verdicts of any lawyer in America. Beasley’s law firm, established in 1979 with the mission of “helping those who need it most,” now employs over 50 lawyers and more than 200 support staff. Jere Beasley has always been an advocate for victims of wrongdoing and has been helping those who need it most for over 30 years.