I. CAPITOL OBSERVATIONS

JUDGE ROMAN SHAUL SELECTED AS ALABAMA STATE BAR’S NEW GENERAL COUNSEL

Former Beasley Allen lawyer Roman Shaul has been selected by the Alabama State Bar Board of Commissioners to serve as the organization’s new General Counsel. Roman joined Beasley Allen in 2000 and practiced in the firm’s Consumer Fraud & Commercial Litigation Section until he was appointed in January 2017 to serve as Circuit Court Judge for the Fifteenth Judicial Circuit in Montgomery, Alabama. The Bar commissioners made an excellent selection to fill a most important position.

While at Beasley Allen, Roman handled complex litigation matters including national class actions and mass actions (individual cases with hundreds and often thousands of individual Plaintiffs). His law practice included Appellate Advocacy and cases involving the Fair Labor Standards Act, civil fraud, predatory lending and finance. He successfully argued a number of appellate cases before the Alabama Supreme Court, as well as the Fifth and Eleventh Circuit Court of Appeals. Before joining Beasley Allen, Roman worked for a private practice firm in Tuscaloosa. His broad range of legal experience also includes title work and defense trial work.

In December 2010, Roman was selected as Beasley Allen’s Lawyer of the Year for the Fraud Section. He also has been selected for inclusion on the Best Lawyers in America list, and on the prestigious Super Lawyers list. In 2016, he was selected as the recipient of the Chad Stewart Award, which honors the memory of Beasley Allen lawyer Chad Stewart, who passed away unexpectedly at the very young age of 41. In addition to being a dedicated lawyer who worked hard for his clients, Chad truly modeled Christ in his daily walk. Roman was selected to receive the award because he exemplified Chad’s spirit of service to God, his family and the practice of law in the service of “helping those who need it most.” Roman says:

“When you love what you do, and the people you are with, the service comes naturally. I love lawyers and our great profession. Beyond our legal responsibilities, it is important for lawyers to serve the profession and communities in which we live.”

As an active member of the Alabama State Bar, Roman is past president of the organization’s Young Lawyers’ Section, past chair of its Wills for Heroes Committee and past chair of the Alabama Bar Admission Ceremony. He has been a member of Volunteer Lawyers Program and Leadership Forum, Class II. Roman is married to the former Caroline Thames of Jackson, Mississippi. They have three daughters, Anne Kingsley, Isabel and Thompson. They are members of First United Methodist Church in Montgomery, where Roman serves on the Board of Trustees.

During his time on the bench, Roman was recognized as an outstanding judge. He was said by all to be a hard-working, fair and just jurist. While he will be missed as a judge, Roman will be doing important work in his new job.

The Alabama State Bar is the official statewide organization of lawyers in Alabama and currently has more than 18,100 members. It is dedicated to promoting the professional responsibility and competence of its members, improving the administration of justice and increasing the public understanding of and respect for the law.

We wish Roman the very best as he begins a new chapter in his professional life. He will do a tremendous job!

II. AUTOMOBILE NEWS OF NOTE

THE SAFETY INSTITUTE’S QUARTERLY VEHICLE SAFETY WATCH LIST

The Safety Institute has released the latest report from its quarterly Vehicle Safety Watch List. The 2016 Toyota Tundra with structure problems rose to the top. But other, more serious potential safety defects continued to show up in clusters, spread over several years of a particular model. The three are: carbon monoxide seeping into the occupant compartments of 1.3 million Ford Explorers, Honda Odyssey seats that fold over and fail to lock in place, and Nissan Altima hood latches that give way with no warning.

The Quarterly Vehicle Safety Watch List, launched in 2014, is a product of the Institute’s Vehicle Safety Watch List Analytics and the National Highway Traffic Safety Administration (NHTSA) Enforcement Monitoring Program. The Watch List is compiled using peer-reviewed analytic methods, with support from Quality Control Systems Corp. These reports are intended to help the public recognize emerging problems in the U.S. fleet and to identify continuing failures potentially associated with known problems. The following will discuss each of the vehicles on the list.

Tundra

The Tundra structure problems correlate to a January recall for 72,847 light trucks in the 2016 and 2017 model years to replace reinforcement brackets at the outboard corners of the rear step bumper that apparently can be easily damaged, causing the bumper to break off. Drivers have complained to the agency that the repair was not available months after the recall. Others reported that they sustained injuries when they stepped on the bumper and it broke off.
Ford Explorer

The Ford Explorer carbon monoxide problem, increasing to five spots on the list, indicate that the problem is intensifying. The 2015 Ford Explorer is in third place; the 2014 Explorer is in fourth place; the 2013 Explorer in 10th place; and the 2017 model year in the 15th spot in the “engine and engine cooling” and “other” categories. The complaints to NHTSA suggest that the Explorers’ strong showing this quarter is related to carbon monoxide escaping into the SUV’s cabin.

Last July, NHTSA bumped up the probe to an Engineering Analysis, with 2,842 complaints to Ford and NHTSA. The investigation now covers 2011-2017 Explorers. The issue has been the subject of news stories, as some of the victims were police departments, which use the Interceptor, a law enforcement version of the Explorer. Departments reported that at least five officers lost consciousness, were hospitalized for CO exposure or crashed their vehicles. The Engineering Analysis remains open.

Honda Odyssey

Second-row seating problems in the Honda Odyssey showed up for the second quarter in a row, with more model years claiming a spot on the Safety Watch List. Honda has twice recalled the minivans, in December 2016 and November 2017, for problems with second row seats that don’t stay locked. The recall notice blamed the problem on “surface roughness on internal parts, reduced torque on the return spring (as a result of manufacturing variability), inconsistent/inadequate grease application, and potential grease hardening under specific temperature and humidity ranges, there is potential for the seat to stay in the unlocked position (free-sliding) after returning the seat to its normal seating position.” In 2016, the automaker recalled 633,753 2011-2016 vehicles; the following year, Honda recalled another 806,936 vehicles from 2011-2017 model years. (Recently, a Cincinnati teen died when he became trapped in the third row bench seat of a 2004 Odyssey and suffocated.)

Nissan Altima

The Nissan Altima in the 2013 and 2014 model years are in the seventh and 13th spots, respectively, for hood latch problems. Nissan has launched recalls in 2014, 2015 and 2016 to repair the secondary hood latch in a variety of models. For example, in 2015 Nissan recalled 170,665 2013-2014 Nissan Pathfinder and Infiniti JX35/QX60 vehicles manufactured in the Smyrna, Tennessee plant. Nissan identified the problem as “hood release cable assembly may be installed incorrectly, effectively shortening the cable length which prevents the latching claw from fully engaging. This causes the secondary latch to remain in the open position when the hood is closed.”

Jeep Grand Cherokee

The 2014-2015 Jeep Grand Cherokee are now in second and eleventh spots, respectively. In April 2016 Fiat Chrysler Automobiles (FCA) recalled vehicles equipped with a monostable gear selector. According to the FCA’s recall submissions, the new gear selector “may not adequately warn the driver when driver’s door is opened and the vehicle is not in PARK, allowing them to exit the vehicle while the vehicle is still in gear.” Fiat Chrysler blamed drivers for their mistaken belief that they had shifted the transmission into the Park position, but implemented a software update that would automatically shift the vehicle into Park upon the driver’s exit. The most recent complaints suggest that Jeep Grand Cherokee vehicles are suffering from other transmission problems related to stalls at high speed and unintended acceleration. Whether the FCA software patch has caused other problems is a question that may be worth investigating.

GMC Acadia

Structural issues in the GMC Acadia seemed to have receded, even as the vehicle has continued to appear on the Watch List for six straight quarters. In June 2015, GM recalled lift gate gas struts that could wear out, causing the gate to suddenly fall, striking occupants’ heads, necks and backs. In the past, consumer complaints to NHTSA indicate that falling lift gates continued to be a problem—in part, because consumers report that GM has not made replacement parts available—or because their vehicle’s build date put it outside the bounds of the recall. Although EWR

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<td>2017 FORD EXPLORER Engine &amp; Engine Cooling</td>
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claims continue to accrue, complaints dropped off after 2015.

**Toyota Prius**

Speed control problems in the 2010 Toyota Prius vehicle continues to be ranked—in the 12th spot of the Safety Watch List.

Ken and Beth Melton of Cobb County, Georgia, sponsor the Vehicle Safety Watch List in memory of their daughter Brooke, who died in a 2010 crash caused by an ignition switch defect in her 2005 Chevy Cobalt. Brooke Melton, 29, died when she skidded into another vehicle after the ignition module of her 2005 Cobalt slipped into the accessory position. Documents and evidence developed in the Melton case found that GM knew about the ignition switch problem as early as 2001. Ken and Beth Melton provide ongoing support to the significant research and analysis that the Watch List provides, in hopes of preventing future tragedies.

Lance Cooper represented the Melton family in their lawsuit and did a tremendous job in the case. He allowed Beasley Allen to assist him in the case. I can say without reservation that Lance, a truly outstanding product liability lawyer, was directly responsible for exposing GM’s bad conduct and for making it possible for hundreds of victims to have their claims resolved. There would never have been a multidistrict litigation (MDL) on the sudden acceleration cases had it not been for the dedication and courage of Ken and Beth Melton and for the hard work of Lance Cooper.

The following is a chart supplied by the Safety Institute. However, the Institute does not claim the chart below is a list of defects, but rather these are areas that potentially need more investigation, and to prioritize limited resources. The information is based on Death and Injury Claims in the Early Warning Reports System to the National Highway Traffic Safety Administration.

*NHTSA Wants Answers For Delays In Takata Air Bag Recall*

The National Highway Traffic Safety Administration (NHTSA) has asked 12 automakers to share their plans and timelines for replacing millions of faulty Takata Corp. air bags. The automakers had missed a December deadline. NHTSA established various deadlines in 2015 for automakers to complete replacements of the potentially explosive air bags, but none of the 12 automakers that sold vehicles with the most dangerous air bags met the first deadline, at the end of 2017.

NHTSA Deputy Administrator Heidi R. King asked each of the automakers for a meeting in letters dated May 3. “The National Highway Traffic Safety Administration’s number one priority is public safety, and the agency is concerned that certain higher risk vehicles with defective Takata air bags remain un repaired,” the agency said in a statement.

As has been widely reported, Takata’s air bags have prompted one of the largest recalls in U.S. history, with roughly 37 million vehicles under recall. The recalls are being conducted in phases based on the vehicles’ locations and ages. Older air bags in hot and humid climates are believed to be at a higher risk of exploding, and are in higher-priority recall groups.

Vehicles in priority groups 1 through 3 were originally sold in areas of “high absolute humidity,” such as Florida, Louisiana and Mississippi, and should have been recalled and replaced by Dec. 31. However, NHTSA said that BMW, Daimler Vans, Daimler Trucks North America, Fiat Chrysler Automobiles, Ford Motor Co., General Motors Co., Honda Motor Co., Mazda Motor Corp., Mitsubishi Motors Corp., Nissan Motor Co. Ltd., Subaru and Toyota Motor Corp. failed to do so.

The Takata air bag contains ammonium nitrate that can fire by mistake, especially in high humidity, blasting chemicals and shrapnel at passengers and drivers. Takata filed for Chapter 11 in June, under the weight of billions of dollars of potential liability and trillions in claims stemming from the air bag inflators. About 7 million of the roughly 20 million air bags in the three highest-priority groups have yet to be replaced, according to the most recent NHTSA data.

**VW Offers Reimbursements To End Faulty-Engine Class Action**

Volkswagen AG and its Audi AG brand have agreed in New Jersey federal court to reimburse a proposed class of drivers for the costs of repairing an alleged defect that puts certain vehicles at risk of losing engine power. The agreement announced on May 14 would resolve litigation launched in May 2016 claiming a timing chain tensioner system in the engines of some Volkswagen and Audi vehicles might “suddenly and unexpectedly fail,” preventing drivers from accelerating, maintaining their current speed or operating the steering wheel and brakes. The drivers, in the filing seeking preliminary approval of the settlement, stated:

Lead settlement class counsel have reached the conclusion that the substantial benefits the settlement class members will receive as a result of this settlement [are] eminently fair, reasonable, and adequate, especially when compared to similar settlements and in light of the risks of continued litigation.

The settlement class would include everyone who purchased or leased certain 2008 through 2014 model year Volkswagen or Audi vehicles in the U.S. or Puerto Rico. Members of the proposed class who hired authorized dealers to repair their timing chain systems will be eligible for 100 percent reimbursement of the costs, and those who had an authorized dealer repair engine problems resulting from the allegedly faulty systems will be eligible for up to 100 percent reimbursement, depending on the vehicles’ mileage and age.

The automaker will reimburse drivers who went to an independent service station as much as $6,500 for engine repairs and $2,000 for timing chain system repairs, the filing said. Volkswagen and Audi will extend the timing chain warranties on the affected vehicles to cover them for 10 years or 100,000 miles. The drivers said they plan to seek $2,500 awards for each of the named Plaintiffs and “reasonable” class counsel fees and expenses.

The drivers are represented by Carella Byrne Olstein Brody & Aqnello PC; Kessler Topaz Meltzer & Check LLP; Kantrowitz Goldhamer & Graifman PC; Thomas P. Sobran PC; Mazie Seater Katz & Freeman LLC; Sauder Schelkopf LLC; Seeger Weiss LLP and Baron & Budd PC.

The case is In re: Volkswagen Timing Chain Product Liability Litigation (case number 2:16-cv-02765) in the U.S. District Court for the District of New Jersey. Source: Law360.com

**Honda’s Crash Sensing System Said To Be Dangerous**

A trio of California Honda CR-V owners have filed a proposed class action in a California federal court against the automaker, claiming their cars came equipped with defective collision avoidance systems that are actually making them less safe. The Plaintiffs, Kathleen Cadena, Mukeshbai Patel and Steven Geiger, claim that Honda is aware its 2017 CR-V model was shipped with defective software that causes the “Honda Sensing” systems to intermittently display false collision warnings and reduces cruise control speed for no reason. The Plaintiffs, alleging that Honda has failed to take action to correct the problems, said:
III. AN UPDATE ON THE OPIOID LITIGATION

The Opioid MDL

There has been a huge amount of activity in the Opioid multidistrict litigation (MDL) thus far. We will give a detailed report on what all has happened, along with what to expect in the future, in the July issue. Our Opioid Litigation Team continues to file suits for governmental entities and individuals at a rapid pace. This litigation serves the public good and will bring about huge changes both in Washington and at the state level. I am convinced that it will serve as a wake-up call for our leaders in government and for the public generally.

Limited Opioid Production Proposed

As the national opioid epidemic progresses, there has been an increasing trend in related deaths over the past several years. More than 40,000 people were killed in 2016, a 100 percent increase since 2008. In response, some states, such as West Virginia, have begun filing lawsuits challenging federal policy on opioid production.

Recently, Attorney General Jeff Sessions announced the Drug Enforcement Agency (DEA) is proposing a rule that will allow limitations on opioid production by pharmaceutical companies. These limitations will be determined by using data from other federal and state agencies and would be set for companies if the DEA believes the drugs are being misused.

To further this initiative, the DEA and 48 state attorneys general have agreed to share prescription drug information with one another to help investigations arising from the opioid crisis. Sessions said:

*DEA collects some 80 million transaction reports every year from manufacturers and distributors of prescription drugs. These reports contain information like distribution figures and inventory. DEA will provide our state partners with that data, and the states will provide their own information to DEA.*

It is no surprise this new proposed rule has been met with resistance by opioid producers. Hospitals and health insurers are also pushing back against the DEA’s plan under the argument the rule could result in shortages and jeopardize patient care.

Another side to the opioid crisis is several companies have looked to cash in on people attempting to alleviate their addiction. These companies distribute products marketed under the names “Opiate Freedom 5-Pack,” “TaperAid Complete,” “Opiate Detox Pro,” and “Withdrawal Support” and make unsubstantiated claims regarding relieving withdrawal symptoms. In response, the U.S. Food and Drug Administration (FDA) and Federal Trade Commission (FTC) have jointly sent letters to 11 marketers and distributors of these predatory products warning against illegal marketing and making deceptive claims about the efficacy of these products. There are FDA-approved products demonstrated to be safe and effective available for those struggling with opioid addiction.

Source: Law360.com, Drugabuse.gov, Worst Pills, Best Pills News and FDA.gov

Insyte Sued For Bribery Doctors To Prescribe Powerful Opioid Subsys

Drug company Insys Therapeutics bribed doctors to prescribe its powerful fentanyl spray Subsys for conditions for which it was not approved, allegedly costing the federal government millions of dollars, according to a complaint filed by the U.S. Department of Justice (DOJ) and six states.

The whistleblower litigation involves allegations that Insys used deceptive practices to market its cancer pain treatment, including funneling money to doctors and nurse practitioners through fake speaking events in exchange for them writing prescriptions; finding jobs for family and friends of those who prescribed the drug; and funding strip club visits.

Numerous Insys sales representatives have pleaded guilty, and others have left the company but face charges. Subsys contains the potent and highly addictive opioid painkiller fentanyl. Due to the dangerous effects of fentanyl, off-label prescription is forbidden by regulation. Fentanyl, a synthetic opioid, is described as being 75-100 times more powerful than morphine. In 2016 more than 20,000 deaths occurred in the United States due to overdoses of fentanyl and its analogues. Fentanyl-laced heroin is likely responsible for the massive increase in heroin overdoses since 2010. Subsys is only approved to treat breakthrough pain in cancer patients already on round-the-clock opioid treatment. Insys is accused of pushing doctors and nurse practitioners into prescribing the drug for other uses including chronic back pain.

Source: Law360.com, Drugabuse.gov, Worst Pills, Best Pills News and FDA.gov

JereBeasleyReport.com
The states joining the Department of Justice in the lawsuit include California, New York, North Carolina, Virginia, Indiana and Colorado. They claim that Medicare has paid tens of millions of dollars for off-label prescriptions of Subsys as a result of the bribes.

Insys said it expects to pay a minimum of $150 million in liability over the next five years as it continues to work with the Department of Justice on the investigation.

DOJ Civil Division Acting Assistant AG Chad Reader said in a statement:

"Improper financial relationships between physicians and drug companies can distort a physician’s best judgment for their patients. This is especially troubling when the drugs are opioids."

Source: Law360.com

**Beasley Allen Opioid Litigation Team**

Beasley Allen lawyers are handling opioid cases nationwide in several capacities. Our Mass Tort Section is representing individual claimants harmed by opioid drugs, and our Toxic Torts Section is handling the case filed on behalf of the State of Alabama, as well as handling cases for city and county governments against opioid manufacturers and distributors.

If you have questions about opioid cases on behalf of governmental entities, contact Rhon Jones, LaBarron Boone, Rick Stratton, Ryan Kral, Will Sutton, Jeff Price or Parker Miller, all lawyers at our firm's Opioid Litigation Team, at 800-898-2034 or by email at Rhon.Jones@beasleyallen.com, LaBarron.Boone@beasleyallen.com, Rick.Stratton@beasleyallen.com, Ryan.Kral@beasleyallen.com, William.Sutton@beasleyallen.com, Jeff.Price@beasleyallen.com or Parker.Miller@beasleyallen.com. If you have questions about opioid cases regarding harmed individuals, please contact Elizabeth Eiland, Liz.Eiland@beasleyallen.com, or Roger Smith, Roger.Smith@beasleyallen.com.

**IV. THE NATIONAL SCENE**

**Another Mass Killing At A Texas School**

As this issue was being compiled, authorities in Texas were beginning to piece together the details of yet another deadly school shooting, this time at the Santa Fe High School, located southeast of Houston, Texas. The Santa Fe Independent School District confirmed that an “active shooter” incident erupted with gunfire around 7:40 a.m. May 18 at the school. This was the third school shooting in eight days in the U.S. and it claimed the lives of nine students and one adult. Ten others were injured, including one ISO police officer. Law enforcement identified Dimitrios Pagourtzis, 17, a student at the school, as the killer.

As law enforcement, ambulances and even Life Flight medevac helicopters descended upon the campus, tearful parents reunited with students traumatized from the morning’s events. Students reported being evacuated and believing it was a fire drill until they heard gun shots. They were then told to run. It was being reported that “[a]n armed person walked into an art class... and began firing what looked like a shotgun.” This is a scene that tragically has been seen repeatedly over the past few years.

Beasley Allen lawyer Parker Miller had this to say when he learned about the mass killings:

“This situation is so tragic and again reflects an all-too-common trend in our national news. I cannot imagine what these families are going through. We have to look at ways to keep our public establishments safe and to ensure that proven techniques are being used to protect our children and our teachers in schools. We are truly at a crossroads. Children cannot learn, teachers cannot teach, and families cannot prosper when we allow deranged individuals the opportunity to wage war with deadly weapons in our schools.

Have we reached a point in America where we are allowing our leaders to sit back and do virtually nothing to address the out-of-control “gun problem” in America? It appears we are no longer shocked when the mass killings occur. Some commenting on the evening news about this recent incident that night said that “at least no assault rifles were used.” Where are we headed in this country? It’s past time for Americans to wake up!

Sources: USA Today and CNN

**More on the Gun Violence In The U.S.**

With all of the national attention being focused on gun violence, the Second Amendment, the NRA, and the children's movement, we thought it might be good to see how the states rank for gun violence and related deaths. Each year, 35,141 people die from gun violence in the U.S., including seven children and teenagers every single day. One has to wonder why Congress doesn’t pass reasonable gun control, including expanding lifesaving Brady background checks. According to polls, nine in 10 Americans support the background checks, yet Congress fails to update our nation's gun laws. Maybe the answer is to follow the money. The NRA made more than $50 million in political contributions last cycle, with more than $30 million going to Donald Trump.

According to the U.S. Centers for Disease Control and Prevention (CDC), 36,252 Americans died from gunshot wounds in 2015. At least 2,824 children and teenagers died from unintentional shootings and firearm homicides. The top 10 states for firearm violence were:

- Alaska—Firearm deaths per 100,000 people: 23.0 per 100,000
- Alabama—Firearm deaths per 100,000 people: 21.4 per 100,000
- Louisiana—Firearm deaths per 100,000 people: 21.2 per 100,000
- Mississippi—Firearm deaths per 100,000 people: 19.8 per 100,000
- Oklahoma—Firearm deaths per 100,000 people: 19.6 per 100,000
- Montana—Firearm deaths per 100,000 people: 19.0 per 100,000
- Missouri—Firearm deaths per 100,000 people: 18.8 per 100,000
- New Mexico—Firearm deaths per 100,000 people: 18.2 per 100,000
- Arkansas—Firearm deaths per 100,000 people: 17.7 per 100,000
- South Carolina—Firearm deaths per 100,000 people: 17.7 per 100,000

Unfortunately, my home state of South Carolina ranks second on the list. The state with the least reported gun violence was Massachusetts, with 3.4 firearm deaths for every 100,000 residents. We cannot allow the NRA to continue dictating policy on all gun-related issues in the U.S. Unfortunately, for years that is exactly what has been happening. Over the past year we have had mass killings on almost a monthly basis, with the school shooting in Santa Fe, Texas last month being the latest. I believe President Trump and Congress have a duty to take action in this matter. What do you think?
Wells Fargo & Co. agreed to pay $480 million to settle a class-action lawsuit in which investors accused the bank of securities fraud related to its fake account scandal.

The settlement resolves the main class-action suit brought by shareholders targeting the bank’s deficient disclosures related to its sales practices. This is the latest cost for Wells Fargo arising out of a consumer banking scandal that came to light in September 2016. Bank employees opened as many as 3.5 million bogus accounts, and the scandal ultimately cost then-CEO John Stumpf his job. The bank still faces a number of other lawsuits on related matters.

The shareholders said Wells Fargo and its executives spent years hyping the company’s focus on persuading existing banking customers to sign up for new products like credit cards, mortgages and retirement accounts, all while knowing that a “significant” number of the signups were fraudulent.

Last month, the San Francisco-based bank settled with the Office of the Comptroller of the Currency and the Consumer Financial Protection Bureau for an unprecedented $1 billion to cover issues in auto lending and mortgages. In February, the Federal Reserve imposed a sanction prohibiting the bank from boosting total assets beyond their level at the end of 2017 until it fixes shortcomings. It’s been estimated that the total cost to the bank will be around $2.6 billion.

The class is represented by Salvatore J. Graziano, Adam H. Wierzbowski and Rebecca Boon of Bernstein Litowitz Berger & Grossmann LLP. Other Plaintiffs are represented by Robert D. Klausner and Stuart A. Kaufman of Klausner Kaufman Jensen & Levinson and Shawn A. Williams, Aelish M. Baig and Jason C. Davis of Robbins Geller Rudman & Dowd LLP.

The shareholder case is Heftel v. Wells Fargo & Co., 3:16-cv-05479, U.S. District Court, Northern District of California (San Francisco).

Panasonic to Pay $280 Million to the SEC to Settle Corruption Claims

Panasonic will pay about $280 million to settle federal charges that executives at its in-flight entertainment unit improperly hid payments to consultants overseas in violation of anti-corruption rules. The Japanese electronics giant’s parent company will pay $143 million to the Securities and Exchange Commission (SEC), while its Southern California subsidiary, Panasonic Avionics, will pay $137 million in penalties to the U.S. Justice Department (DOJ). The investigation concerned payments to consultants in Asia and the Middle East, at least one of which did little or no work, according to the federal authorities.

Panasonic Avionics was accused of concealing payments to third-party sales agents between 2007 and 2016, in violation of the accounting provisions of the Foreign Corrupt Practices Act. Those payments were improperly recorded in Panasonic’s regulatory filings. Acting Assistant Attorney General John Cronan said:

When Panasonic Avionics Corporation caused its publicly traded parent company to falsify its books and records, it distorted the information available to legitimate investors.

In one case, Panasonic hired a foreign official as a consultant while the official was simultaneously negotiating a contract between the company and a government-owned airline. It appears the official was paid $875,000 over six years, despite doing “little work,” according to the SEC. The case has prompted internal changes at Panasonic, including “appointing a new management team and substantially reducing, and enhancing controls around, the use of third-party agents and consultants,” the company said in a statement. Panasonic Avionics also agreed to engage an independent compliance monitor for a period of two years.

A Look at Direct-To-Consumer Ads by Big Pharma

The American people are constantly hit with television commercials telling them to buy and use certain prescription drugs. The U.S. is unique in that only a very few other countries in the world allow drug companies to advertise products on television that require a doctor’s prescription.

Consumer drug advertising is banned in most of the world. Recently, Michael Carome, M.D., Director Health Research Group at Public Citizen, wrote a piece on the subject in the Worst Pills Best Pills Newsletter. Direct-to-customer advertising should not be allowed in the U.S. by the Food and Drug Administration (FDA). However, since these ads are now being allowed, I believe the ads should be truthful and accurate. Let’s see what Dr. Carome has to say on the subject.

TV Drug Ads Routinely Fail to Comply With FDA Requirements

Pharmaceutical companies spend billions of dollars annually advertising their products directly to consumers on TV. Readers will probably not be surprised to hear that the average TV viewer in the U.S. may see nine drug ads per day, or up to 30 hours of drug ads per year.

Although the Food and Drug Administration (FDA) regulates these ads and requires drug companies to submit all ads to the agency’s Office of Prescription Drug Promotion (OPDP), the agency does not approve the ads, nor does it have sufficient staff or time to even review every ad. Predictably, a recent study published online in February in the Journal of General Internal Medicine revealed that drug ads often fail to fully adhere to FDA regulations governing direct-to-consumer ads.

The researchers at Yale who conducted the study analyzed 97 TV ads for 60 different prescription medications that aired in the U.S. between January 2015 and July 2016. The most commonly advertised drugs were those used to treat inflammatory conditions, diabetes, and bowel or bladder problems.

Most troubling was the finding that 13 ads—for five different diabetes medications—suggested that the drugs were helpful for weight reduction, lowering blood pressure or both—uses that are not approved by the FDA (often called off-label uses). FDA regulations explicitly prohibit prescription-drug ads from promoting or even suggesting off-label uses. (Three years ago, Public Citizen’s Health Research Group filed a complaint with the FDA’s OPDP about the direct-to-consumer ads for five diabetes drugs—four of which had been cited by the Yale researchers—that appeared to promote off-label uses.)

FDA regulations also require a fair balance in the presentation of risks and benefits in prescription-drug ads. However, the Yale researchers found evidence of a lack of such balance. For example, on average, the TV ads spent more time presenting information...
VI. WHISTLEBLOWER LITIGATION

$11 MILLION OF WHISTLEBLOWER SETTLEMENT RETURNED TO BULLETPROOF VEST PROGRAM

More than $11 million the federal government recovered from a recent False Claims Act (FCA) settlement with a bulletproof fabric manufacturer will be re-invested in purchasing new bulletproof vests for law enforcement officers, the U.S. Justice Department (DOJ) said. The funds come from a $66 million recovery stemming from a whistleblower’s False Claims Act lawsuit that exposed deficiencies in the performance of the Zylon fiber used in bulletproof vests. The settlement with Toyobo, a Japanese corporation that makes Zylon fiber, is the most recent and largest recovery to date. The DOJ said the funds will be used to purchase only vests that meet the minimum performance standards established by the federal ballistic resistance standards. Any vests that fail to meet those standards will be replaced.

According to the Justice Department, the BVP program, stated: “Marketing faulty protective gear to law enforcement officers who put themselves in the line of fire is an unconscionable act and a betrayal of trust.”

The Beasley Allen Whistleblower Team

Whistleblowers are key to exposing corporate wrongdoing and government fraud. A person who has first-hand knowledge of fraud or other wrongdoing may have a whistleblower case. Before you report suspected fraud or other wrongdoing—before you “blow the whistle”—it is important to make sure you have a valid claim and that you are prepared for what lies ahead. Beasley Allen has a talented team of lawyers dedicated to pursuing whistleblower cases. The lawyers on our firm’s Whistleblower Litigation Team are Archie Grubb, Larry Golston, Lance Gould and Andrew Brashier. They will be glad to review any potential whistleblower claim either in person or on the phone. You can reach them by phone at 800-898-2034 or by email at Archie.Grubb@beasleyallen.com, Larry.Golston@beasleyallen.com, Lance.Gould@beasleyallen.com or Andrew.Brashier@beasleyallen.com.

VII. PRODUCT LIABILITY UPDATE

AUTO MECHANIC RECEIVES MULTI-MILLION DOLLAR SETTLEMENT FROM BRAKE MANUFACTURERS AND AUTO PARTS STORES

Many automotive mechanics have developed mesothelioma and lung cancer from asbestos exposure. Brakes, clutches, and engine gaskets contained asbestos in the 1960s, ’70s, and ’80s, with brakes containing asbestos even until the early 2000s. This exposure has caused auto mechanics to contract mesothelioma and lung cancer.

Beasley Allen lawyer Sharon Zinns represented an auto mechanic in Rome, Georgia, who was diagnosed with malignant mesothelioma. Defendants in that case included Honeywell International, Inc., which manufactured asbestos-containing Bendix brakes; National Automotive Parts Association and Genuine Parts Company; Zoom, which manufactured asbestos-containing clutches; Pneumo Abex, a manufacturer of asbestos-containing brakes; Dana Corporation, which made Victor gaskets; and Federal Mogul, which made Fel-Pro gaskets.

These automotive industry Defendants asked the Court to exclude Plaintiffs’ experts, claiming that asbestos in automotive friction products cannot cause asbestos-related diseases. The judge denied Defendant’s motion almost entirely, allowing Plaintiffs’ industrial hygienist, epidemiologist, and pulmonologist to testify about how friction products create mesothelioma.

On the second day of jury selection, the final Defendants settled with the Georgia Plaintiffs for multiple millions of dollars. Beasley Allen continues to pursue mesothelioma and lung cancer cases against the automotive industry. If you need more information or have a case to be reviewed, contact Sharon Zinns, a lawyer in our Atlanta office who has been handling these cases for years. Sharon can be reached at 800-898-2034 or by email at Sharon.Zinns@beasleyallen.com.
Polaris Ranger and RZR off-road vehicles contain a design defect in which the vehicles’ high-powered “ProStar” engine is located directly behind the occupant compartment, without proper ventilation and heat shielding. Because it is located within inches of combustible plastic body panels and close to vehicle occupants, it poses a high risk of fire and injury to passengers. This defect has resulted in more than 250 fires, more than 30 severe injuries and at least three deaths.


Our firm seeks to force Polaris to eliminate the fire risks by properly ventilating the excessive engine exhaust temperatures, properly heat shielding the vehicles and by replacing the combustible plastic body panels with those less sensitive to heat.

The case is filed in the Federal District Court of Minnesota before Judge Wilhelmina M. Wright. As other Plaintiffs filed after our case, a multi-district litigation designation is possible. Beasley Allen lawyers Dee Miles and Clay Barnett filed the case with Adam Levitt of DiCello Levitt and Casey and Courtney Davenport of Davenport Law.

Multiple Suits Filed Against BMW For “Soft Close Doors” With No Sensors

Since 2002, BMW has offered an optional feature it calls “soft-close doors.” A BMW owner, Alexis Fields, calls these doors “modern day guillotines.” In 2016, her thumb was caught between the frame of her car and the door, when the soft-close feature activated, pulling the door towards the vehicle and crushing the woman’s thumb. The “soft-close” feature is only supposed to activate when the door latch is 6mm from the “closed” position.

Ms. Fields and Godwin Boateng, another owner, have filed suit alleging that the system can engage at distances much greater than 6mm, and BMW failed to install any sensors.

Alexis Fields was in a parking lot, reaching for her purse as the “soft-close” feature activated, and the feature pulled the door closed with no concern for the fact that her thumb was caught in between the door and car. Ms. Fields’ orthopedic surgeon called the damage to her thumb “the worst bone crushing injury he had ever witnessed in his career.” Her thumb tip required four pins to reconstruct, and Ms. Fields’ use of her thumb is severely limited.

Godwin Boateng was exiting his BMW, and had his right hand on the driver’s door column with his back facing the vehicle. Boateng says the door was open about one foot, yet as the door closed the “soft-close” feature activated, amputating his thumb. Boateng thinks he lost consciousness when he saw half of his thumb on his vehicle’s floor mat.

There are no sensors in any vehicles concerning the “soft-close” feature, despite the fact that a similar feature in BMW windows does include sensors; certain BMW vehicles have a feature that allows for its windows to be rolled up or down when a button on the key fob is pressed. However, sensors in the window system will detect if there is an object obstructing a window’s ability to close, and will automatically roll the window down if any object is contacted.

The “soft-close” feature is intended to offer an owner of a BMW greater ease in closing his or her car doors, and the feature exists on all doors in the vehicle. Essentially, the feature allows you to barely push your car door towards the vehicle, such that it is almost closed, and may even look closed, but there was not sufficient force to engage the latch. When this happens, a sensor will notice the latch being 6mm away or less, and will engage a motor which grabs the door and latches it shut. If the door is greater than 6mm away, the system is not supposed to engage.

There is, however, evidence that the “soft-close” feature may not be functioning properly. In 2012, BMW recalled more than 45,000 vehicles based on the “soft-close” feature failing. That failure was based on the system failing to allow doors to close, and in some instances, allowing doors that appeared to be closed to open while driving.

The “soft-close” feature is available and alleged to be defective on the following models:

- 2002-2015 BMW 7 Series (excluding G11/G12 models)
- 2004-2016 BMW 6 Series Coupe and Convertible
- 2008-2016 BMW X5
- 2009-2016 BMW X6
- 2010-2016 BMW 5 Series GT
- 2011-2016 BMW 5 Series
- 2013-2016 BMW 6 Series GC

It should be noted that all of the M models of these vehicles are included.

A California court has dismissed claims arising from the “soft-close” feature. However, that case was brought as a class action, and alleged claims under a design defect theory based in the consumer fraud context, and warranty violations. At this juncture there has not been a case decided arising under theories based in tort. If you need more information on this subject, contact Warner Hornsby, a lawyer in our firm’s Personal Injury & Products Liability Section, at 800-898-2034 or by email at Warner.Hornsby@beasleyallen.com.

Source: carcomplaints.com and Law360.com

E-Cigarette Explosion Causes Death In Florida

Authorities in St. Petersburg, Florida recently reported that a vape pen killed a man last month after it exploded in his face. Tallmadge D’Elia, 38, died on May 5 in a house fire with about 80 percent of his body burned. Injuries to his face suggested that the vape pen exploded. The autopsy showed that two pieces of the vape pen became projectiles in the explosion, with the mouthpiece lodging in the man’s brain. The autopsy also noted that the e-cigarette was manufactured by Smok-E Mountain and was a “mod” type device.

There were 195 separate e-cigarette fire and explosion incidents in the United States reported by the media between 2009 and 2016, according to a report released last year by the U.S. Fire Administration. The report blamed the incidents on the prevalence of lithium-ion batteries in the products. The report stated:

No other consumer product places a battery with a known explosion hazard such as this in such close proximity to the human body. It is this intimate contact between the body and the battery that is most responsible for the severity of the injuries that have been seen. While the failure rate of the lithium-ion batteries is very small, the consequences of a failure, as we have seen, can be severe and life-altering for the consumer.

If you would like more information about these cases, you can contact Will Sutton, a lawyer in our firm’s Toxic Torts Section. He can be reached at 800-898-
Lawsuits filed against pharma and device cases currently working on a number of significant projects. They are involved in litigation in a number of states, including several multidistrict litigations (MDLs). The following projects are being worked on and are in various stages of the litigation process.

**Pharma and Devices**

**Xarelto**—Lawsuits filed against Johnson & Johnson subsidiary Janssen Pharmaceuticals and Bayer Corp. over the blood thinner Xarelto which have been consolidated in Louisiana federal court. Xarelto has been linked to serious side effects including internal bleeding, gastrointestinal bleeding, brain bleed and death. The Xarelto lawsuits come on the heels of the recent $650 million Pradaxa settlement. Researchers linked Pradaxa, also a blood thinning medication, to more than 500 deaths. Xarelto blood thinner litigation has been consolidated before U.S. District Judge Eldon Fallon in the Eastern District of Louisiana, who presided over suits against Merck & Co. over its medication Vioxx. The Vioxx litigation resulted in a $4.85 billion settlement in 2007. Contact: David.Byrne@beasleyallen.com or Melissa.Prickett@beasleyallen.com.

**Proton Pump Inhibitors**—Proton pump inhibitors (PPIs) were introduced in the late 1980s for the treatment of acid-related disorder of the upper gastrointestinal tract, including peptic ulcers and gastrointestinal reflux disorders, and are available both as prescription and over-the-counter drugs. Beasley Allen is currently investigating PPI-induced Acute Interstitial Nephritis (AIN), which is a condition where the spaces between the tubules of the kidney cells become inflamed. The injury appears to be more profound in individuals older than 60. While individuals who suffer from AIN can recover, most will suffer from some level of permanent kidney function loss. In rare cases, individuals suffering from PPI-induced AIN will require kidney transplant. Contact: Navan.Ward@beasleyallen.com or Melissa.Prickett@beasleyallen.com.

**Taxotere**—Taxotere (docetaxel) is a chemotherapy drug approved in the treatment of breast cancer along with other forms of cancer. It is administered intravenously through a vein, and is a member of a family of drugs called taxanes. In 2007, manufacturer Sanofi-Aventis issued a press release touting the efficacy of Taxotere based on a clinical study. However, Sanofi-Aventis failed to inform the U.S. Food and Drug Administration (FDA), health care providers, and the public that permanent hair loss was observed in a number of patients taking Taxotere.

In December 2015, the FDA announced it had ordered Sanofi-Aventis to change Taxotere's label to warn patients of the risk of permanent hair loss. While hair loss during chemotherapy is expected, patients undergoing chemotherapy with Taxotere were not warned they could potentially experience permanent hair loss. Permanent hair loss is an extremely debilitating condition, especially for women. We are currently investigating claims for women who suffered permanent hair loss following chemotherapy with Taxotere for breast cancer. Contact: Beau Darley@beasleyallen.com or Melissa.Prickett@beasleyallen.com.

**Risperdal**—An atypical antipsychotic drug used to treat schizophrenia and certain problems caused by bipolar disorder, has been linked to the development of gynecomastia in boys and young men. Gynecomastia is a condition that causes boys to grow breasts. The drug is manufactured by Johnson & Johnson. Contact: James.Lampkin@beasleyallen.com, or Melissa.Prickett@beasleyallen.com.

**Bone Cement**—The type of bone cement used during knee replacement surgery affects the outcome of that surgery. High viscosity bone cement (HVC) boasts shorter mixing and waiting times and longer working and hardening phases, meaning surgeons...
can handle and apply the cement earlier than with low- or medium-viscosity cements. Although HVC may be more convenient to use, there is mounting evidence that the bond it produces is not as strong. Researchers have observed more early failures with the use of HVC, even when used in combination with a previously well-performing implant. Complications associated with knee replacements performed with HVC include loosening and debonding (where the implant fails to adhere to the cement interface on the shin or thigh bone), which requires revision surgery. Other reported problems include new onset chronic pain and instability. Contact: Roger.Smith@beasleyallen.com, Ryan.Duplechin@beasleyallen.com or Melissa.Prickett@beasleyallen.com.

**Metal-on-Metal Hip Replacement parts**—The FDA has ordered a review of all metal-on-metal hip implants due to mounting patient complaints. Problems with metal-on-metal include, but are not limited to loosening, metallosis (ie: tissue or bone death), fracturing, and/or corrosion and fretting of these devices, which require revision surgery. Many patients that require revision surgery due to these devices suffer significant post-revision complications. 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 Stryker Rejuvenate and ABG II modular-neck stems, recalled in July 2012; the Stryker LFIT Anatomic v40 Femoral Head (recalled August 29, 2016); the DePuy Pinnacle, the Zimmer Durom Cup, the Wright Conserve, and the Biomet M2A “38mm” and M2A-Magnum hip replacement systems, which have not been recalled. Reported problems include pain, swelling and problems walking. Contact: Navan.Ward@beasleyallen.com or Melissa.Prickett@beasleyallen.com.

**Invokana**—Approved in March 2013, Invokana (canagliflozin) is an SGLT2 Inhibitor used to treat adults with Type 2 diabetes, manufactured by Janssen Pharmaceuticals, a subsidiary of Johnson & Johnson. SGLT2 inhibitors work by preventing high blood sugar by helping the patient’s kidneys remove excess sugar through their urine. In May 2017, the U.S. Food and Drug Administration (FDA) warned the drug causes an increased risk of leg and foot amputations, requiring manufacturers to add a black box warning to the label. The results of two recent clinical trials show that diabetic patients taking Invokana are twice as likely to need amputations as those on a placebo. Contact: Danielle.Mason@beasleyallen.com or Melissa.Prickett@beasleyallen.com.

**3M Bair Hugger**—The 3M Bair Hugger is a forced hot air warming blanket, used primarily to help maintain a patient’s body temperature during surgery. The 3M Bair Hugger pushes warm air through a flexible hose into a blanket draped over a patient. However, warming blankets can recirculate contaminated air over a patient’s body, including over an open surgical site. This may result in infections like MRSA or sepsis. In particular, patients undergoing knee or hip replacement surgery are at risk of infections deep in the joint, which is very difficult to treat. Complications from these infections include hospitalization, implant revision surgery, limited mobility, permanent disability, amputation and death. Contact: Melissa.Prickett@beasleyallen.com.

**IVC Filters**—Retrieveable IVC filters are wire devices implanted in the vena cava, the body’s largest vein, to stop blood clots from reaching the heart and lungs. These devices are used when blood thinners are not an option. Manufacturers include Bard, Cook and Johnson & Johnson. While permanent IVC filters have been used since the 1960s with almost no reports of failure, retrievable IVC filters were introduced in 2003, promoted for use in bariatric surgery, trauma surgery and orthopedic surgery. Risks associated with the retrievable IVC filters include migration, fracture and perforation, leading to embolism, organ damage and wrongful death. Contact: Melissa.Prickett@beasleyallen.com.

**Zofran**—Manufactured by GlaxoSmithKline, Zofran (ondansetron) was approved to treat nausea during chemotherapy and following surgery. Zofran (ondansetron) works by blocking serotonin in the areas of the brain that trigger nausea and vomiting. Between 2002 and 2004, GSK began promoting Zofran off-label for the treatment of morning sickness during pregnancy, despite the fact the drug has not been approved for pregnant women and there have been no well controlled studies in pregnant women. The FDA has received nearly 500 reports of birth defects linked to Zofran. Birth defect risks include cleft palate and sepal heart defects. Contact: Roger.Smith@beasleyallen.com or Melissa.Prickett@beasleyallen.com.

**Physiomesh**—Intended for hernia repair, Physiomesh is a flexible polypropylene mesh designed to reinforce the abdominal wall, preventing future hernias from occurring. Though there are several types of hernias, most occur when an organ or tissue protrudes through a weak spot in abdominal muscles. The condition often requires surgery where mesh, like Physiomesh, which is intended for laparoscopic use, is used to fill in a hole in the abdominal muscle or laid over or under it to prevent any further protrusions. Independent studies have found Physiomesh to lead to high rates of complications including hernia reoccurrence, organ perforation, mesh migration, sepsis and even death. In May 2016, Ethicon issued a market withdrawal of Physiomesh in the U.S. and recalled the product in Europe and Australia. We are currently investigating cases involving serious injury or death as a result of Ethicon’s Physiomesh. Contact: Melissa.Prickett@beasleyallen.com.

**ATTUNE Knee Replacement**—Despite the overall high success rate in knee replacement surgeries, researchers have identified larger-than-usual failure rates with the DePuy Synthes ATTUNE® Knee System. Problems with ATTUNE include loosening of the tibial component at the implant-cement interface within the first two years after implant. Patients often present with pain on weight bearing, swelling, and decreased range of motion. Researchers believe that these failures are likely underreported, as competing companies cannot provide data on the revision components that they replace. We are currently investigating cases involving individuals who have undergone revision surgery due to loosening after a knee replacement using an ATTUNE device. Contact: Roger.Smith@beasleyallen.com, Ryan.Duplechin@beasleyallen.com or Melissa.Prickett@beasleyallen.com.

**Opioids**—Opioid abuse has reached epidemic proportions in the United States. According to the Department of Health & Human Services, 12.5 million people misused prescription opioids and 33,091 Americans died from opioid overdose in 2015 alone. These medications provide important pain relief for many. However, over the years, drug companies inflated the effectiveness of delayed-release medications like OxyContin and down-
played their addictive properties, creating conditions ripe for abuse. We are investigating cases involving opioid-related deaths and overdose, or symptoms of overdose requiring hospitalization. Contact: Melissa.Prickett@beasleyallen.com, Roger.Smith@beasleyallen.com or Liz.Eiland@beasleyallen.com

Andy Birchfield heads up the Mass Torts Section and Melissa Prickett serves as Section Administrator. Currently, we have 39 lawyers and 79 support staff in this section. If you have any questions about any of the ongoing projects contact the appropriate lawyer listed for the project. If you have any questions about any of the product areas listed above, contact Melissa at 800-898-2034 or by email at Melissa.Prickett@beasleyallen.com. She will answer your inquiries or put you in touch with the appropriate lawyer.

IX.
A FURTHER MASS TORTS UPDATE

NATIONAL TALC LITIGATION UPDATE

As most of you know, Beasley Allen is on the front lines of talc/ovarian cancer litigation around the country. We obtained the first five Plaintiff verdicts in St. Louis (totaling more than $308 million), and we helped obtain the $418 million verdict in California last summer. Our firm presently has hundreds of cases pending in New Jersey, Missouri, Georgia Pennsylvania, and elsewhere. Our own Leigh O’Dell is co-lead counsel for the talc multidistrict litigation (MDL) in New Jersey.

Our next trial is presently scheduled for September in St. Louis. That case is a consolidation of 13 Plaintiffs, all of whom developed ovarian cancer after years of perineal use of Johnson and Johnson’s Baby Powder. We also have cases poised for trial in Atlanta and Philadelphia in early 2019. Discovery is ongoing in all three venues. Progress in the MDL has been steady as well.

The Plaintiffs have assembled an outstanding group of experts consisting of world-renowned oncologists, pathologists, toxicologists, epidemiologists, gynecologists, analytical microscopists, biostatisticians, chemists, geologists, and more. These experts are some of the absolute best in their field, from some of the most revered medical schools and research institutions in the world. The science supporting the Plaintiffs’ causation analysis is very strong, and fully supported by this impressive field of experts.

The Plaintiffs are also steadily moving forward with discovery depositions and document production review. To date, lawyers in our firm have received well over a million documents from Johnson and Johnson and other Defendants. We have a tremendously talented team of lawyers and paralegals reviewing documents from law firms around the country. These documents are proving quite revealing of the decades of misconduct by the Defendants. These are some of the most damning and egregious documents evidencing corporate misconduct I have ever seen. Some of the documents used in previous trials can be viewed on the Beasley Allen website. You will be shocked at some of the admissions by corporate officials at J&J.

In today’s world of complex pharmaceutical litigation, a large team of highly skilled and dedicated lawyers and support professionals is required to take on a giant like Johnson and Johnson. The Plaintiffs in the talc litigation have assembled an outstanding team, as evidenced by our successes to date. It’s unclear how many sizable verdicts it will take for Johnson & Johnson and the other Defendants to start warning unsuspecting women about the ovarian cancer risk associated with the perineal use of their talc-based body powders. But until then, Beasley Allen lawyers will tirelessly fight for these very deserving women.

If you need more information on the Talc Litigation, contact David Dearing, one of the lawyers on our Talc Litigation Team. He can be reached at 800-898-2034 or by email at David.Dearing@beasleyallen.com.

JOHNSON & JOHNSON ADDS BREAST IMPLANTS TO CATALOG OF DANGEROUS PRODUCTS

In December 2017, the American Association for Justice (AAJ) reviewed the “Worst Corporate Conduct of 2017.” Johnson & Johnson was one of the featured companies, titled “Johnson & Johnson’s Catalog of Dangerous Products.” These featured dangerous products include: Talcum Powder, Xarelto, Risperdal, Transvaginal Mesh, and metal-on-metal hip implants.

Despite Johnson & Johnson’s conduct being featured as one of 2017’s worst, Johnson & Johnson’s profits continued to rise. In 2017, Johnson & Johnson’s annual revenue was $76.45 billion, with its pharmaceutical section alone reporting more than $36 billion in sales. Johnson & Johnson’s profits closely relate to its reputation that it is a trusted family company.

However, recent lawsuits have uncovered telling evidence of Johnson & Johnson’s product recalls and deceptive marketing practices. While these lawsuits often lead to the discovery of damaging internal documents usually the public is never exposed to them. This can have indirect consequences on the consuming public’s ability to choose to buy safe products.

For instance, in February 2016, a jury found Johnson & Johnson liable for the ovarian cancer death of a woman who had used talcum powder products for more than 35 years. The jury based their decision on Johnson & Johnson’s internal documents that showed numerous efforts to cover up and hide the risk of ovarian cancer from the consuming public. These internal documents showed Johnson & Johnson had known of talcum powder’s risk of ovarian cancer since the early 1980s. After the trial, in 2016, our firm called on Johnson & Johnson’s CEO, Alex Gorsky, to make the internal documents public and allow consumers to decide for themselves—a choice Johnson & Johnson should have given to consumers many years ago. The request was ignored. Even so, in mid-2018, Johnson & Johnson continues to withhold this information and actively sell talcum powder products to consumers.

Johnson & Johnson’s conduct relating to talc is just one of many examples revealing the company’s lack of concern for safety and the well-being of its customers. Over the past several years, we have covered extensively in the Jere Beasley Report these cases involving Johnson & Johnson. Despite the growing publicity surrounding these lawsuits, however, “Johnson & Johnson’s Catalog of Dangerous products” continues to grow in 2018.

New information has come to light linking silicone-gel breast implants to an increased cancer risk. In March 2017, the U.S. Food and Drug Administration (FDA) made an official warning that breast implants can cause a form of cancer called anaplastic large cell lymphoma (ALCL). According to the FDA, since the agency first discovered a potential link in 2011, it has received more than 350 medical device reports providing details on injuries and deaths due to ALCL.

In May 2018, a new lawsuit was filed against Johnson & Johnson’s subsidiary involving a Plaintiff who developed ALCL, a rare form of T-cell lymphoma, from using Johnson & Johnson’s MemoryGel Siltek breast implants. The company’s MemoryGel Siltek breast implants have been implanted in more than 5 million women. According to the complaint, Johnson & Johnson’s subsidiary “refused or recklessly failed” to report previous studies to the FDA that showed testing participants contracted “systematic ailments” caused by toxins in the gel implants.

It will be interesting to see whether Johnson & Johnson knew about this risk
$25.7 MILLION TALC ASBESTOS CANCER VERDICT AGAINST J&J

A California jury returned a $21.7 million verdict in compensatory damages late last month against Johnson & Johnson in a trial over its talc baby powder’s connection with asbestos cancer. Joanne Anderson developed malignant mesothelioma as a result of her exposure to asbestos from products sold by Johnson & Johnson and Johnson & Johnson Consumer Inc. These companies were treated as a single Defendant for the purposes of the trial.

The jury on the next day returned an additional $4 million in punitive damages in the second phase of the trial. Significantly, the jurors asked the trial judge if they could require J&J to put a cancer warning on the product. Unfortunately, the answer had to be no because a jury does not have that authority.

Joanne Anderson, the Plaintiff, is represented by David Greenstone, Chris Panatier and Coner Nideffer of Simon Greenstone Panatier PC. The case is Joanne Anderson et al. v. Borg Warner Corp. et al., (case number BC666513) in the Superior Court for the State of California, County of Los Angeles. Source: Law360.com

GSK AND ZOFRAN USERS TO PICK 16 POTENTIAL MDL BELLWETHER CASES

U.S. District Judge F. Dennis Saylor IV has ruled that GlaxoSmithKline and the families who claim its anti-nausea medication Zofran caused various birth defects will each select eight cases to investigate and bring to trial in the multidistrict litigation’s final discovery phase. Judge Saylor said the time is nearing for GSK and the families to begin picking the appropriate cases.

More than 400 cases have been consolidated in Massachusetts, and GSK had wanted to question 240 people, while the families had argued eight was enough to pick out some bellwether cases. Judge Saylor stated in his ruling:

By June 15, 2018, plaintiffs and GSK shall each identify 8 initial cases (for a total of 16) for [the final phase of discovery. In its initial phase, the purpose … will be to identify appropriate cases for trial that will be reasonably representative of the cases as a whole, in order to permit the resolution of issues of general applicability and therefore promote the resolution of the litigation.

Judge Saylor said investigating the 16 cases will need to be concluded by Oct. 31. If a selected case is voluntarily dismissed, GSK will choose a replacement, and if a selected case is settled, the Plaintiffs will select a substitute. The lawyers will be able to depose Plaintiffs, parents who are not Plaintiffs, prescribing physicians, treating physicians, and GSK sales representatives who worked with the prescribing doctors.

The families claim GSK knowingly and wrongfully asked prescribers to give pregnant patients Zofran off-label to treat morning sickness. GSK claims that the labeling of Zofran was in line with the U.S. Food and Drug Administration.

The families are represented by Tobias L. Millrood of Pogust Braslow & Millrood LLC, Kimberly D. Barone Baden of Motley Rice LLC, M. Elizabeth Graham of Grant & Eisenhofer PA, Robert K. Jenner of Janet Jenner & Suggs LLC, and James D. Gotz of Hausfeld LLP. The case is In re: Zofran (Ondansetron) Products Liability Litigation (case number 1:15-md-02657) in the U.S. District Court for the District of Massachusetts. Source: Law360.com

POTENTIAL CONSOLIDATION OF HERNIA MESH CASES IN NEW JERSEY

The New Jersey Supreme Court may decide to consolidate state lawsuits involving multi-layered hernia mesh products against Johnson & Johnson and its subsidiary, Ethicon USA, LLC (Defendants). In March 2018, an application advocating for multi-layered hernia mesh lawsuits to be designated as a multicounty litigation (MCL) was filed with judiciary officials on behalf of 62 Plaintiffs who have lawsuits pending in Bergen County. Superior Court Judge Rachelle Lea Harz currently oversees all MCLs in Bergen County, and her assignment to oversee this litigation was requested in the filed application.

The multi-layered hernia mesh products to be included in the consolidated proceedings are all polypropylene-based hernia mesh products manufactured and sold by Defendants, including: Proceed Surgical Mesh, Proceed Ventral Patch, Physiomesh Flexible Composite, Prolene 3D Polypropylene Patch, and Prolene Hernia System. Each of these hernia mesh products deviate from the uncoated two-dimensional polypropylene mesh design causing a significant increase in the type and rate of serious complications. Plaintiffs allege Defendants’ multi-layered hernia mesh products are defective, and therefore cause serious injuries which necessitate further medical intervention.

Based on the information provided in the filed application, it is estimated that thousands of these multi-layered hernia mesh products have been implanted in patients throughout the United States since they were first introduced into the market. It is highly likely that hundreds of additional cases involving Defendants’ multi-layered hernia mesh products will be filed in the near future.

New Jersey Justices Approve Centralizing Abilify Side-effect Suits

The New Jersey Supreme Court has agreed to give multicounty litigation (MCL) designation to lawsuits against Bristol-Myers Squibb Co. and Otsuka America Pharmaceutical Inc. over certain side effects relating to the antipsychotic drug Abilify. The high court on May 7 assigned the 42 cases pending in various Garden State counties to Atlantic County Superior Court Judge Nelson C. Johnson. This came after the court considered the parties’ request to centralize the suit for management purposes and comments on the request.

The suits allege that Abilify, which the U.S. Food and Drug Administration (FDA) has approved to treat schizophrenia, bipolar 1 disorder and major depressive disorder, caused consumers to exhibit compulsive behaviors, and they include product liability and fraud claims against the companies. The MCL request was filed in November.

The parties said in their request that centralization of the cases would conserve court resources, as the geographically dispersed Plaintiffs are bringing similar claims. Additionally, centralization would prevent contradictory discovery rulings from different judges, the parties said.

The cases involve consumers from states including New Jersey, New York, Pennsylvania, California, Delaware and Arizona who all claim that the companies failed to warn them that Abilify causes “uncontrollable compulsive behaviors,” the MCL request said. The cases allege similar legal violations, making them appropriate for centralization, the parties argued. “Centralization will provide a fair and more convenient, cost-effective process for all parties, witnesses, counsel and the court,” the parties said in their request letter.

Source: Law360.com
Three Florida Bellwether Cases Settled in Abilify MDL

Bristol-Myers Squibb and Otsuka Pharmaceuticals have settled with consumers in three cases scheduled for bellwether trials in Florida this summer in multidistrict litigation (MDL) over side effects of the antipsychotic drug Abilify. The settlements were reached through mediation with a settlement master. In U.S. District Judge M. Casey Rodgers’ order, which stayed the cases, the drugmakers must pay settlement proceeds and the consumer Plaintiffs must enter full releases in 30 days under their agreements.

The three settled cases were chosen from more than 600 in the multidistrict litigation, but they were not intended to serve as a true bellwether sample because their selection was based neither on an analysis of their characteristics nor randomness, but for the convenience of being eligible for trial before Chief Judge Margaret Catherine Rodgers in the Northern District of Florida without a venue waiver.

The suits allege that Abilify, which the U.S. Food and Drug Administration (FDA) has approved to treat schizophrenia, bipolar I disorder and major depressive disorder, caused consumers to exhibit compulsive behaviors, including gambling, shopping, sexual activity and eating. The consumers brought product liability and fraud claims against the companies.

Defendants Otsuka Pharmaceutical Co. Ltd. and Otsuka America Pharmaceutical Inc. developed the drug aripiprazole, and Bristol-Meyers Squibb Co. marketed and distributed it as Abilify. The cases involve consumers from several states, including Arizona, California, Delaware, Florida, New Jersey, New York and Pennsylvania.

Parallel litigation is also taking place in New Jersey involving about 50 related cases. The first of those cases is scheduled to go to trial in October, which was expected to be just after the three trials were completed in Florida. In March, Judge Rodgers released a redacted version of an order she issued to the parties on Jan. 22 denying the drugmakers’ bid for a summary judgment. That had effectively cleared the path for the first trials.

Fanny Lyons is represented by Robins Kaplan LLP; David and Cassie Viehe are represented by Cory Watson PC; and Jennifer Lilly is represented by Aylstock Witkin Kreis & Overholtz PLLC and Putnick Legal LLC.

The case is In re: Abilify (Aripiprazole) Products Liability Litigation (case number 3:16-md-02734) in the U.S. District Court for the Northern District of Florida. The three trial pool cases are Lyons v. Bristol-Myers Squibb Co. et al. (case number 3:16-cv-414) Viekiec v. Bristol-Myers Squibb Co. et al. (case number 3:16-cv-291) and Lilly v. Bristol-Myers Squibb Co. et al. (case number 3:17-cv-186) also in the U.S. District Court for the Northern District of Florida.

Source: Law360.com

Jury Finds For AbbVie In AndroGel Bellwether Trial

An Illinois federal jury has ruled in favor of AbbVie Inc. in the fifth bellwether trial in multidistrict litigation (MDL) over the company’s testosterone replacement therapy drug AndroGel. The jury found that the drug didn’t cause Arthur Myers, an Arizona man, to develop blood clots in his lungs. It was contended that taking AndroGel caused Mr. Myers to suffer pulmonary emboli in February 2008. Like others in the MDL, Myers and his wife Heather had claimed that AbbVie misleadingly marketed the drug as a safe and effective treatment for age-related lower testosterone. They also claimed that AbbVie had failed to adequately warn that AndroGel could cause deep vein injuries like pulmonary embolism or deep-vein thrombosis.

The verdict in this case is the second time that AbbVie has won a complete Defense victory in bellwether trials. Its first win came in January. However, in March, another Illinois federal jury ordered AbbVie to pay $3 million in a retrial over an Oregon man’s claims that his heart attack was caused by taking AndroGel.

In his lawsuit, Myers claimed that he sought specific testing and treatment for low testosterone based on direct-to-consumer awareness campaigns about it. Myers said in the complaint that he had a previous medical history of sleep apnea, erectile dysfunction and hypertension, but did not have hypogonadism, a medical disorder characterized by low testosterone levels, or an approved clinical indication for testosterone replacement therapy.

The U.S. Food and Drug Administration approved AndroGel in 2000 to treat hypogonadism, which can be caused by an injury or congenital defect, and can also be the result of a hormone disorder. Like others in the MDL, Myers claimed that AbbVie marketed AndroGel to treat the declining levels of testosterone that come with age. Representatives for the parties didn’t immediately respond to requests for comment on Wednesday. There are more than 6,000 cases in the MDL with new cases being filed on a near-daily basis.

The vast majority of the remaining cases involve AbbVie Inc. Many of the pharmaceutical companies facing suits in the MDL, including Endo Pharmaceuticals Inc., Auxilium Pharmaceuticals LLC and GlaxoSmithKline LLC, have reached tentative settlements. Last month, U.S. District Judge Matthew Kennelly dismissed about 160 cases from the MDL after the Plaintiffs did not respond to requests for more information on their claims against the pharmaceutical companies.

Judge Kennelly ordered the dismissal of the cases with prejudice following an order that any person bringing claims against the makers and sellers of testosterone replacement therapy products must provide more information about their use of the products, how they got them and their alleged injuries.

The Myerises are represented by Mark Hoffman, Blake Kaplan and Scott S. Berger of Ross Feller Casey LLP, and Ronald E. Johnson and Sarah Emery of Schachter Hendy & Johnson PSC.

The case is Myers et al. v. AbbVie Inc. et al., (case number 1:15-cv-01085) and the MDL is In re: Testosterone Replacement Therapy Products Liability Litigation (case number 2545) both in the U.S. District Court for the Northern District of Illinois.

Source: Law360.com

A Bayer And J&J Win In Xarelto Trial In Philadelphia

A Philadelphia jury returned a verdict in favor of a pair of Bayer AG and Johnson & Johnson units in a Xarelto lawsuit. Bayer Healthcare Pharmaceuticals Inc. and Janssen Pharmaceuticals Inc. were the Defendants in the suit. It was claimed that the companies failed to properly warn a New Jersey man’s doctors that Xarelto should not be used in combination with aspirin and Plavix, commonly referred to as “dual-antiplatelet” therapy. The case centered on claims from New Jersey resident Daniel Russell, who suffered a massive gastrointestinal bleed after using Xarelto for just a week after undergoing emergency treatment for both a blocked coronary artery, for which he received a stent, and an irregular heartbeat.

Russell was prescribed a mix of Plavix and aspirin to prevent clotting in the area of the stent, and Xarelto to prevent potentially stroke-inducing blood clots that can develop in individuals with atrial fibrillation. Medical records revealed that one of the two doctors who prescribed Xarelto to Russell during his hospitalization said that he had done so after “extensive discussion” with Russell about Xarelto’s risk of bleeding. However, internal company documents revealed that Bayer and Janssen believed internally that taking Xarelto 20mg in combination with dual-antiplatelet therapy posed excessive bleeding risks to patients. Rather than informing doctors in the United States that Xarelto should not...
be taken with dual-antiplatelet, internal company emails show that top executives and scientists in Bayer and Janssen opted to “stay silent.”

In the end, the jury determined that Xarelto’s label was adequate, despite the absence of a warning about the risk of taking Xarelto with dual-antiplatelet therapy. It appears the prescribing doctor’s testimony at trial damaged the case.

Brian Barr, a lawyer with Levin Papantonio who is representing Russell, said that while he was disappointed in the verdict, he still believes in the overall strength of the claims Bayer and Janssen are still facing over the drug in both state and federal courts around the country. Currently, there are about 20,000 cases pending in various stages of discovery.

Russell is represented by Brian Barr of Levin Papantonio, Laura Feldman of Feldman, Weinkowitz and Frederick Longer of Levin Sedran & Berman. The case is Daniel Russell et al. v. Janssen Pharmaceuticals Inc. et al. (case number 150500362) in the Court of Common Pleas of Philadelphia County, Pennsylvania.

Source: Law360.com

X. BUSINESS LITIGATION

CVS ACCUSED OF ANTI TRUST IN CONNECTION WITH THE 340B PROGRAM

RxStrategies, Inc. has filed suit against CVS Pharmacy, Inc. and Wellpartner, LLC, alleging that CVS violated federal laws against anticompetitive, tortious, and unfair conduct in connection with the 340B Drug Pricing Program. RxStrategies is a 340B program administrator that provides comprehensive 340B program management with a focus on program compliance.

The 340B Drug Pricing Program is a federal program that requires drug manufacturers that participate in Medicaid to provide outpatient drugs at a significant discount to 340B covered entities. 340B covered entities may elect to dispense 340B drugs to patients through contract pharmacy services, like CVS. Because it is a complex system, most 340B covered entities utilize 340B program administrators, such as RxStrategies, to manage their claims.

According to the complaint filed in the United States District Court for the Middle District of Florida, CVS approached RxStrategies to develop a technology solution that would allow RxStrategies’ customers (i.e., 340B covered health care providers) to gain access to CVS pharmacies. The 340B market has been a lucrative business for the drug giants. Currently, Walgreens holds almost one-third of the total 340B market, with CVS in a close second.

It’s alleged in the complaint that CVS wanted RxStrategies to serve as its 340B program administrator to design and manage software for RxStrategies’ covered entity customers to use CVS as a contract pharmacy. RxStrategies claims that just as it was on the cusp of implementing this technology, and after it shared hordes of valuable, proprietary, confidential, and trade secret information with CVS over the course of a year and a half, CVS broke away from RxStrategies and instead acquired Wellpartner, RxStrategies’ competitor, in order to provide the same technology.

CVS and Wellpartner then announced that to gain access to CVS’s pharmacies, health care providers in the 340B program must use services from Wellpartner. The federal complaint alleges that CVS and Wellpartner have since initiated a campaign of contacting 340B program health care providers, including RxStrategies’ customers, to attempt to force them to switch to using Wellpartner. RxStrategies claims that CV’s conduct is a blatant violation of federal antitrust laws. The complaint alleges that to perpetrate this campaign, CVS and Wellpartner have misappropriated RxStrategies’ trade secrets, tortiously interfered with RxStrategies’ customers, and engaged in other actionable misconduct at RxStrategies’ expense.

The litigation was filed on May 3, 2018, in the United States District Court for the Middle District of Florida. This is not the first time CVS has been accused of anti-competitive conduct. Most recently, in order to increase its market share, including the 340B market in order to surpass Walgreens, CVS announced its plan to purchase the insurance company, Aetna, for $69 billion. CVS’s looming $69 billion merger with Aetna, if approved, would become the nation’s biggest retail pharmacy with the third-largest health insurer, and would further cement CVS as an essential contract pharmacy for covered entities.

Additionally, through this merger, CVS can now use its massive retail market to provide services to individuals enrolled in Aetna’s insurance plans. CVS has since been accused of having a plan to steer patients enrolled in Aetna’s insurance plans from hospital outpatient clinics directly to clinics located inside the CVS retail outlets. This is not only a way to take business from Walgreens, but it also takes services away from hospitals. Millions of patients who might have gone to their local hospital’s emergency room will instead go to their 24-hour CVS pharmacy to see doctors and fill their prescriptions.

There are certainly reasons to be wary of the CVS-Aetna merger, which could help CVS and Aetna unfairly undercut their competitors, which according to RxStrategies, would be just another one of their acts of anti-competitive conduct.

If you have any questions about any part of the above or about potential antitrust cases, contact Ali Hawthorne, a lawyer in our firm’s Consumer Fraud & Commercial Litigation Section, at Alison.Hawthorne@beasleyallen.com.

Source: RxStrategies, Inc. v. CVS Pharmacy, Inc. et al

Complaint

XI. AN UPDATE ON SECURITIES INSURANCE AND FINANCE LITIGATION

ALABAMA AND MASSACHUSETTS ANNOUNCE $26 MILLION SETTLEMENT WITH LPL FINANCIAL

Alabama and Massachusetts officials announced a $26 million settlement with LPL Financial over securities they say were sold illegally over a 12-year period. Alabama Securities Commission Director Joe Borg and Secretary of the Commonwealth William F. Galvin announced the settlement last month. An investigation was led by regulators in the two states and the North American Securities Administrators Association (NASAA), of which Director Borg is also president. The investigation led to the settlement.

A NASA task force led by regulators in Alabama and Massachusetts determined LPL had been negligent in its duty to supervise its agents and employees, and to prevent the sale of unregistered securities to its customers over the past 12 years. According to the settlement, LPL will buy back illegally sold securities from investors with interest. Customers who were sold unregistered securities, non-exempt securities since October 2006 will be offered the full amount paid, plus 3 percent interest. Director Borg said:

This investigation is representative of the aggressive and coordinated enforcement actions of state securities regulators and demonstrates the important investor protection role states serve in safeguarding investors nationwide.

Source: JereBeasleyReport.com
LPL has also agreed to a full review to assess its compliance with all state securities requirements. This is an important part of the settlement.

Source: AL.com

SEC IS CUTTING BACK ON CORPORATE ENFORCEMENT ACTIONS

It has been reported that the U.S. Securities and Exchange Commission (SEC) filed only 15 new enforcement actions against public companies and their subsidiaries in the first half of fiscal year 2018—the lowest semiannual in five years. The trend was part of a report, “SEC Enforcement Activity: Public Companies and Subsidiaries –Midyear FY 2018 Update,” released on May 15 by the Pollack Center for Law & Business at New York University and by Cornerstone Research. The 15 enforcement actions compares with 45 in the same period a year ago.

The report also noted that monetary settlements in the first half of the year decreased substantially from prior fiscal years. The average monetary settlement so far in 2018 was $4.3 million, it said, significantly below the next-lowest semiannual average of $13.3 million, which occurred in the second half of 2015. The maximum monetary settlement of $14 million was by far the lowest maximum monetary settlement in any half-year in the database. In other areas, the report showed:

- There were 12 individual Defendants involved in the actions; nine of them held positions as CEO, CFO or controller.
- Actions concerning issuer reporting and disclosure, or investment adviser/investment companies were the most common types.
- More than half of public company and subsidiary Defendants cooperated in this time period, compared to less than a third in the second half of 2017.

If you need more information on securities litigation contact Archie Grubb or Leslie Pescia, lawyers in our Consumer Fraud & Commercial Litigation Section, at 800-898-2034 or by email at Archie.Grubb@beasleyallen.com or Leslie.Pescia@beasleyallen.com.

Source: Law360.com

U.S. SUPREME COURT APPROVES EMPLOYER USE OF CLASS ACTION WAIVERS

The U.S. Supreme Court recently ruled in a 5-4 decision that employment agreements forcing workers to sign away their rights to pursue class action claims are legal, rejecting the National Labor Relations Board’s position that class waivers violate federal labor law. Arbitration agreements have become a common way for employers to stifle lawsuits that could lead to large Plaintiff classes and reasonable recoveries for class members. The majority held:

- First, workers do not have a right to go to court to sue over alleged violations of federal workplace laws. They must accept industry-sponsored arbitration.
- Second, the arbitration agreements may require employees to bring their complaints as individuals and not as part any group or class.

The Court ruled that the Federal Arbitration Act (FAA) instructs “federal courts to enforce arbitration agreements according to their terms—including terms providing for individualized proceedings.” The Court also reasoned that neither the FAA’s savings clause nor the National Labor Relations Act (NLRA) contravenes this conclusion. This is good news for employers and very bad news for employees. Businesses can continue requiring that workers agree to arbitrate claims individually, which will mean that employees with legitimate, relatively small, claims won’t pursue their claims.

In a strong and compelling dissent, Justice Ruth Bader Ginsburg called the decision of the majority “egregiously wrong.” She argued that the rights under the NLRA include the right to pursue litigation collectively, and that an employer-dictated waiver would violate it. Class action lawsuits are often the most powerful way for employees to secure back pay when their minimum wage or overtime rights have been violated. The use of these waivers has exploded in recent years. The Economic Policy Institute has estimated that mandatory arbitration clauses now cover 60.1 million workers nationwide, and 24.7 million of them include class action waivers.

If anybody believes that employers and employees stand on “equal footing” in the workplace, they are badly mistaken. If you need more information on the impact of this decision, contact Lance Gould, a lawyer in our Consumer Fraud & Commercial Litigation Section, at 800-898-2034 or by email at Lance.Gould@beasleyallen.com. Lance handles employment cases for our firm.

Source: Huffpost and Law360.com

EMPLUS AND FLSA LITIGATION

XII.

PREMISES LIABILITY UPDATE

FAMILY OF TODDLER WHO DROWNED IN DEFECTIVE GREASE TRAP FILES SUIT

Lawyers at Beasley Allen have filed a lawsuit on behalf of Corrie and Tracy Andrews, parents of 3-year-old Sadie Grace Andrews, who drowned after falling into a grease trap located at Bruster’s Real Ice Cream in Auburn, Alabama, last October. This was a tragic death that should never have happened.

Two grease-holding tanks were installed in a landscaped picnic area adjacent to the Bruster building. During the family’s outing at the ice cream parlor, Sadie was playing with her siblings in the grassy area. As the child ran across the grass, she stepped on a hidden grease trap covering and fell into the 6-foot deep, inground grease pit full of sludge. We learned that the grease trap cover was in poor condition. After Sadie fell into the grease trap, the covering immediately flipped back in place so that no one was able to locate her. When she was discovered, efforts to revive the child were unsuccessful.

Bruster’s, which was responsible for maintaining the property, is one Defendant. Tuf-Tite, Inc., the maker of the plastic covering of the grease trap, is another Defendant. This company manufactured a defective product that was extremely dangerous. We learned that Tuf-Tite sold a safety lid/pan as optional equipment. The purpose of designing this lid/pan was to prevent anyone, especially children, from falling into the system. Safety must never be optional.

The Andrews family is a close-knit family. This family outing to eat ice cream turned into a parent’s worst nightmare and it never should have happened. Sadie Grace Andrews died needlessly, but her death will not be in vain. Already, many lives have been affected by the faithful testimony of the Andrews family. This lawsuit is being filed to ensure other children do not needlessly die. Our expectation is that the entities that caused Sadie’s death will accept responsibility for their failures and will become safer companies.
The complaint alleges that the toddler’s tragic death occurred because the grease trap, its cover and potentially component parts were unreasonably dangerous and defective. It was not equipped with quality materials, locking devices, guards, or devices to prevent unintended entry into the grease tank. It also alleges that the condition of the property caused the device to be hidden and an extremely dangerous trap.

Additional Defendants include Frey-Moss Structures, Inc., Budget Rooter, LLC, and Eagle Creamery, Inc. The complaint is filed in the Circuit Court of Lee County, Alabama, Civil Action No. CV-2018-900267. The Andrews family is represented by Beasley Allen lawyers Cole Portis, Greg Allen and this writer.

**NEW GM MUST FACE SOME GROUNDWATER CLAIMS**

A New York bankruptcy judge ruled that Michigan residents with property-contamination claims against GM must submit to the provisions of GM’s 2009 bankruptcy sale order. However, that order does allow the residents to pursue claims over contaminants that were purportedly dumped presale, but migrated onto their land post-sale.

U.S. Bankruptcy Judge Martin Glenn said that GM’s 2009 bankruptcy sale order in which Old GM died and New GM was born, though “not a model of clarity” with regard to the environmental-type claims being brought here, will allow a Michigan federal court to hear certain environmental claims from residents who say that salt dumped at the Milford Proving Ground, or MPG, migrated through groundwater and caused personal injury and property damage.

There was obvious disagreement between the parties over whether the sale agreement indicated that New GM was assuming liability for common-law environmental torts from Old GM. The judge said:

*This is the first instance in which the court is required to parse the complicated provisions of the sale agreement to determine the scope of New GM’s assumed liabilities regarding environmental law. The plain language of the sale order and sale agreement are not a model of clarity regarding the contours of New GM’s liability for common-law claims for personal injury and property damage due to environmental contamination.*

Plaintiffs may not assert common-law claims against New GM for personal injury or property damage based on groundwater contamination that migrated from the MPG before the sale of the property to New GM was completed. However, Judge Glenn said:

*For personal injury or property damage claims based on groundwater contamination from Old GM’s dumping of road salt before the property sale to New GM, but which migrated from the property after the property was owned by New GM, the sale order does not bar such claims.*

New GM had said it was not liable for any property damage stemming from Old GM’s “conduct,” but agreed with the Plaintiffs that it would be liable for its own post-sale conduct. Judge Glenn said the Plaintiffs “sufficiently identified New GM conduct that would support” common-law claims against New GM.

New GM had agreed that under the sale order it would be the party to bear any remediation or response costs required by environmental statutes. But the Plaintiffs had argued that the common-law claims for injury and property damage fell under the same exception. Judge Glenn said that though the sale order “could arguably be construed” the Plaintiffs’ way, “the more reasonable interpretation” from “basic tenets of contract interpretation” was to apply it only to environmental statutes and agree that Old GM retained for itself any liability for the common-law claims here: negligence, public and private nuisance, trespass and fraud.

Six named Plaintiffs who live near the proving ground say GM needs to clean up the 4,000-acre testing site after a very long period in which the company dumped huge amounts of salt, allegedly turned local groundwater toxic and allegedly lowered property values.

The residents are represented by Edward Hood of Clark Hill PLC and Alexander Memmen of Memmen Law Firm LLC. The cases are *Terry Moore et al. v. General Motors LLC* (case number 2:17-cv-14226) in the U.S. District Court for the Eastern District of Michigan, and *In re: Motors Liquidation Co.* (case number 1:09-bk-50026) in the U.S. Bankruptcy Court for the Southern District of New York.

Source: Law360.com

### XIV. WORKPLACE HAZARDS

**EXCAVATION AND TRENCH WORK IS VERY DANGEROUS**

In this month’s Report, we will focus on hazards that have claimed hundreds, if not thousands, of lives—cave-ins and wall collapses associated with excavation and trench work. An analysis by the National Institute for Occupational Safety and Health (NIOSH) of worker’s compensation claims for 1976 to 1981 found that excavation cave-ins caused about 1,000 work-related injuries each year. Of these, 140 resulted in permanent disability and 75 deaths, leading NIOSH to designate excavation work as a major cause of death.

These numbers have only increased. Between 1992 and 2000, 488 deaths resulted from trenching and excavation accidents, an average of 54 fatalities per year. Sixty-eight percent of those fatalities occurred in companies with fewer than 50 workers. Forty percent of the deaths occurred in small companies with 10 or fewer workers. From 2000 to 2006, another 271 workers died in these accidents. From 2011 through 2013, another 56 workers were killed in excavation work.

Cave-ins are more likely to result in worker fatalities than any other excavation-related accident. Most depressing is the fact that all of these injuries and deaths are completely preventable. For instance, OSHA safety standards require that trenches be inspected daily and even more frequently if conditions change. Inspectors must be “competent” to identify hazards or dangerous working conditions, and they must be knowledgeable on how to correct and eliminate existing or foreseeable hazards. In addition, OSHA requires that all trenches five feet or deeper have protective systems that prevent cave-ins from occurring. Protective systems include sloping, shielding, and shoring techniques. For excavations that are four feet or deeper, employees must use ladders, steps, ramps or other devices that can greatly mitigate the possibility of a cave-in death.

Stories of these deaths demonstrate how fast they can happen, and how tragic the consequences can be. Let’s take a look at several of these incidents:

- On Jan. 9, 2018, the owner of Seattle-area Ali Construction was charged with felony manslaughter after an employee was killed when seven-foot dirt walls of a trench he was working in collapsed and buried him alive. An investigation by state officials concluded that the
company had numerous safety violations, including the most severe "willful" violations.

- In May 2007, a 46-year-old self-employed plumbing contractor was killed when the sewer trench he was working on collapsed.

- In another particularly egregious story, Zachary Hess was buried under 20 to 30 feet when an unprotected trench collapsed on him. His employer, JK Excavating & Utilities of Mason, Ohio, had just been cited by OSHA three years before for violations of OSHA’s trenching standard.

- In North Carolina, Edward Webb was killed when a six-foot trench wall collapsed on him while he was installing an overflow pipe at a new pond.

- In 2017, the owner of two Brooklyn construction companies was charged with manslaughter and criminally negligent homicide after authorities say numerous complaints from laborers about a poorly maintained retaining wall were ignored. The laborers had previously complained that the wall needed critical support. Ultimately, and notwithstanding these pleas, the wall collapsed and killed an 18-year-old laborer and injured two others.

Lawyers in our Personal Injury & Products Liability Section are interested in investigating cases where people are seriously injured or killed as a result of excavation and trenching cave-ins. As noted above, excavation accidents normally occur because earth and man-made walls do not have protective systems. On some occasions, products that are used to reinforce trench walls fail, which can also lead to deadly cave-ins. In other circumstances, floors and floor coverings can fail, causing structures to collapse or pedestrians to fall and be seriously injured. While laborers are the most common victims, pedestrians have also been severely injured or killed from excavation mishaps.

If you have any questions about these cases, contact Parker Miller, a lawyer in the Personal Injury & Products Liability Section, at 800-898-2034 or by email at Parker.Miller@beasleyallen.com.

Source: NIOSH, CDC, OSHA, WITN.com and The New York Times

FORKLIFTS PRESENT WORK PLACE HAZARDS

Some of the most common on-the-job injuries lawyers in our Personal Injury & Products Liability Section see involve forklifts and other powered industrial trucks. Forklifts are used to lift, stack and transfer loads in workplaces across the country. OSHA estimates that forklifts are to blame for 62,000 non-serious injuries and 35,000 serious injuries annually. It is estimated that more than one in 10 of the forklifts in the United States are involved in an accident each year. In 2015, 96 U.S. workers were killed in accidents involving forklifts. These accidents take many forms.

Examples of common forklift injuries include runover or back over injuries, tip over or rollovers, and loads falling on operators or other workers. Of the fatalities reported, 42 percent were caused by the operator being crushed in a tip over, 25 percent involved someone being crushed between the forklift and another object, 11 percent involved someone being crushed between two vehicles, 10 percent were runovers, 8 percent were due to falling materials, and the final 4 percent were due to someone falling from the forks.

In an effort to decrease injuries caused by forklifts, OSHA requires forklift training in the employment setting. OSHA’s standard on powered industrial trucks requires employers to implement training programs that focus on both formal training as well as real world application and workplace performance. This standard, codified as 29 CFR 1910.178, requires that:

**the employer shall ensure that each powered industrial truck operator is competent to operate a powered industrial truck safely, as demonstrated by the successful completion of the training and evaluation outlined in the standard.**

Additionally, operators are trained to inspect forklifts before each job. OSHA requires that seatbelts, tires, lights, horn, brakes, backup alarms and fluid levels are checked prior to each use.

Although operator training is important to reducing fork lift accidents, training alone cannot prevent every accident. It is imperative that some of the inherent dangers of forklifts be designed out by the manufacturers. To that end, OSHA and ANSI require certain things of the forklift manufacturers. 29 CFR 1910.178(a)(2) and ANSI B56.1-2011 require that every powered industrial truck have an operator controlled horn or sound-producing device. Horns are required to alert others of the presence of the forklift.

Additionally, in noisy work environments, trucks must have visual devices to alert other workers of the presence of the power truck. These requirements are an effort to reduce the number of runover and back over injuries caused by forklifts. Often, forklifts are operated in tight quarters amongst other workers. This use in confined spaces can lead to unintended run over injuries. As is the case with new passenger vehicles, it may be time we require back up cameras and motion sensors on forklifts.

Despite OSHA's efforts, forklift accidents continue to injure and kill workers. Forklift manufacturers must take it upon themselves to go past the minimum requirements set by OSHA and ANSI in designing safe equipment. Sixty thousand injuries and nearly 100 deaths per year is simply too many. The OSHA training standards have been in place for many years. It is clear that when 1 in 10 forklifts in the entire country will be involved in an accident, operator training and the bare minimum requirements of horns and visual cues are not enough.

If you need more information on this subject, contact Evan Allen, a lawyer in our firm's Personal Injury & Products Liability Section, at 800-898-2034 or by email at Evan.Allen@beasleyallen.com.

Sources: OSHA and ANSI

PROTECTING YOUR RIGHTS WHEN INJURED ON THE JOB

Kendall Dunson, a lawyer in our firm's Personal Injury & Product Liability Section, has written several articles relating to on-the-job injuries covered by statutory workers' compensation statutes. Beyond informing the appropriate person of the injury, there are other considerations to address to ensure all of the injured worker's rights are protected. It's relatively easy to identify a workers' compensation claim. Many individuals with viable worker's compensation claims are harmed when their claims are not analyzed properly by a lawyer experienced in handling workplace litigation.

There are some injuries covered under state workers' compensation laws that don't require the involvement of a lawyer. Kendall has witnessed numerous injured workers show up in court to resolve their claim against their employer without the assistance of a lawyer. However, he has never seen a settlement where the employer did not have its own lawyer present. Thus, unless it is a very minor injury, Kendall suggests that the injured worker always contact a lawyer. More importantly, injured workers should always be sure to contact a lawyer who is experienced in workers compensation litigation.

Workers' compensation laws are limited in what damages are available to the injured worker, therefore, it is also important to verify that all available claims have been considered. Kendall recently reviewed a case where a worker sustained a very serious on-the-job injury. His injury was associated with a machine on the premises. It was disclosed after receiving...
medical records that responding medical professionals failed to stabilize the worker on route to the hospital, leading to the death of the worker. Based on the limited information discussed, the worker’s family has potential claims of workers’ compensation, product liability and medical negligence. There are lawyers who specialize in all three areas independently. However, there are few, if any, lawyers who specialize in all three areas collectively.

Oftentimes, injured workers or their survivors don’t know how to appropriately analyze their specific fact situation and therefore they are unaware of the type of specialty their case may require. Injured workers and/or their survivors should meet with an experienced lawyer and ask if “ALL” potential claims have been considered and investigated. A full and proper investigation of all potential claims might involve multiple attorneys on multiple occasions. In the end, the time invested in these meetings will benefit the client significantly.

If you are a lawyer who specializes in a particular area of the law, it is in your and your client’s best interests to contact a lawyer to supplement the litigation team to ensure no stone is left unturned in analyzing what claims are available. Each claim carries benefits to which the client is entitled. An improper analysis could lead to the client missing out on a claim and a recovery.

Properly analyzing all available legal claims is akin to a medical diagnosis. When a patient has a heart issue, she is referred to a cardiologist, not a brain surgeon. For serious medical issues, not just any doctor will do. Most people want a doctor in the requisite field and they want the best doctor they can find. The same is true for legal services. Be sure you have the right lawyer for the circumstances and then ask the right questions. Just like with important medical procedures, one mistake in the diagnosis of legal claims could be fatal to preserving and pursuing your rights in a court of law. If you have any questions, contact Kendall Dunson at 800-898-2034 or by email at Kendall.Dunson@beasleyallen.com.

XV.
TRANSPORTATION

U.S. MARINE CORPS ACCELERATES MODERNIZATION OF V-22 OSPREY, KEEPING IT AROUND FOR ANOTHER FOUR DECADES

The controversial V-22 Osprey is getting a makeover, or at least some of the fleet will be fitted with a range of weapons, allowing it to provide assault support on its missions, according to The Maven. The U.S. Marine Corps recently announced that it plans to accelerate a “modernization and readiness” overhaul of the aircraft, which includes adding the weapons. However, the plans do not address efforts to overcome the aircraft’s design defects that have yielded a below par readiness rating and a highly questionable safety record. So let’s take a look at the aircraft and its history.

A flawed design

The tilt-rotor aircraft takes off like a helicopter and by tilting its rotors 90 degrees, it transitions into airplane mode. Its nickname, the Widowmaker, accurately portrays the level of danger it presents to crewmembers aboard. It has survived decades of design defects, mechanical problems and critics. Even in its infancy during the George H. W. Bush administration, then-Secretary of Defense Dick Cheney tried unsuccessfully to end the program, calling the Osprey an expensive and deadly “boondoggle,” as mentioned previously in this Report.

The aircraft was developed by Bell Helicopter and Boeing’s helicopter unit to transport ground troops into combat, Fortune explains. Developing the aircraft has been costly, ballooning from a $68.7 million design in 1983 to $56 billion as of 2012. The cost of each unit is $100 million compared to $20-40 million for a Black Hawk combat helicopter. Some argue that the project “was never truly fulfilled.”

In 1991 the U.S. Department of Defense (DOD) began testing the V-22 Osprey, according to the Center for Defense Information. The hybrid aircraft combines the functional designs of a helicopter and an airplane—essentially a compromise between two aircraft that operate completely differently.

As explained in a prior issue this Report, the aircraft’s rotor blades create a more powerful downwash than other types of rotorcraft. The blades are shorter than optimal so that the Osprey can land on an aircraft carrier, delivering troops and supplies. The blades are also twisted more than a typical helicopter’s blades so that they can function better when flying as an airplane. These design compromises have created flaws that can increase the risk of a phenomenon known as the vortex ring state, making the aircraft lose altitude too quickly and preventing it from landing safely. Defects in the V-22 engine air filtration system prevent it from operating and landing safely in dusty environments where other transport aircraft (equipped with better and safer filtration systems) regularly operate.

Additionally, when an Osprey transitions between helicopter and airplane modes, it experiences more vibration than other aircraft. The vibration, along with other questionable design problems, causes chaffing of the hydraulic fluid system, as well as wear on other parts. The parts that require frequent maintenance or repair, because of the aircraft’s design, are expensive and this creates an additional challenge to keeping a ready supply of those parts on hand.

The readiness factor

Such problems regarding mission-capable readiness are exacerbated by the growing demand for the aircraft in combat-related missions and the growing scope of those missions. The Marine Corps’ goal is to improve readiness to at least 75 percent across the fleet, which seems aggressive given the aircraft’s peak readiness was only 68 percent and has dropped to around 62 percent, Vertiflite reports. The strain on the already weak design of the aircraft and the processes currently in place to keep the fleet combat ready will likely only escalate as the aircraft is retrofitted with weapons and called upon to perform functions it was not originally designed to perform.

While the military implemented revisions to the aircraft, the changes have not improved readiness. The growing number of fatal crashes show that the revisions also did little to increase the aircraft’s safety. Analysis of the history of crashes, which tend to uncover further defects leading to “product improvements,” seems to indicate that the manufacturers are continuing to beta test aircraft with live troops. In the corporate civilian world, when beta testing is used to test new computer software, computers sometimes crash and system engineers write new code and release patches to repair the flaws. When the same approach is used with live troops in flawed aircraft, the stakes are much higher. Lives are lost and then are simply treated as another cost of the ongoing program to improve the aircraft. The
A deadly endeavor

Fortune reports that during testing, accidents from 1991 to 2000 claimed the lives of 30 service members. Despite the deaths of 23 Marines in the crash of two test flights in 2000, the deadliest Osprey crash to date, the DOD officially deployed the V-22 in 2007. Since it has been deployed, additional crashes have claimed the lives of other service members. One of those crashes happened in May 2015 at Bellows Air Force Station in Hawaii—killing 21-year-old Lance Cpl. Matthew Determan and 24-year-old Cpl. Joshua Barron, both Marines. Cpl. Determan’s family hired our law firm and Honolulu lawyer Melvin Y. Agena to represent them in a wrongful death lawsuit alleging the aircraft is dangerous and defective.

Last August, 26 Marines were aboard a V-22 Osprey when it crashed off the eastern coast of Australia, as we reported in a previous issue. Three of the Marines were killed during the crash. Earlier in the year, a U.S. Navy SEAL was killed and three others were injured when an Osprey made a “hard landing” during a mission in Yemen. And, in December 2016, another Osprey crashed, this time off the coast of Okinawa, Japan, deepening local residents’ fears about the aircraft’s questionable safety record. It also prompted Itsunori Onodera, Japan’s Defense Minister, to ask the U.S. to stop flying the V-22 in Japan.

Despite unsuccessful efforts to revamp the design and given the aircraft’s controversial safety record and dismal readiness rating, the question remains, why does the DOD and Marine Corps continue relying on such an unreliable machine?

If you need more information or have questions, contact Mike Andrews, a lawyer in our firm’s Personal Injury & Products Liability Section at 800-898-2034 or by email at Mike.Andrews@beasleyallen.com. Mike handles aviation litigation for Beasley Allen.


$40 Million Settlement In Helicopter Crash Suit

Two men who suffered serious injuries in a deadly TV news helicopter crash in Seattle in 2014 have agreed to a $40 million settlement in their personal injury suits against the TV station, the helicopter operator and the estate of the deceased pilot. The settlement resolves claims brought by motorists Guillermo Sanchez and Richard Newman accusing Helicopters Inc., the helicopter operator hired by Sinclair Broadcast Group Inc.’s KOMO station, of failing to properly train its pilot and forcing him to fly an Airbus helicopter that he only had three hours of flight time in when his normal aircraft was out of commission.

It was contended by the Plaintiffs that the negligence of the helicopter operator and station caused the helicopter to crash onto the vehicles, resulting in serious burns and other injuries to the Plaintiffs. The crash killed the pilot and a photojournalist on board. The jury heard evidence that pilots were forced to land and take off multiple times a day at a helipad near Seattle’s Space Needle instead of refueling at a nearby municipal airport in order to save on fuel costs.

The settlement was reached after evidence emerged during the trial that hadn’t been previously disclosed by the Defendants, according to the Plaintiffs’ lawyers. Six weeks before the crash, the pilot had raised concerns in emails stating that a construction crane located near the helipad created complications, among other safety concerns. Reportedly, the trial judge was considering imposing sanctions on KOMO and Helicopters Inc. for discovery misconduct. The trial judge submitted the case to the jury in the second phase to consider awarding punitive damages, which they did.

Plaintiff Newman is represented by David Beniger and Patricia Anderson of Luvera Law Firm and Plaintiff Sanchez is represented by Alisa Brodkowitz and Rachel Luke of Friedman Rubin PLLP. The case is Sanchez et al. v. Airbus Helicopters Inc. et al., (case number 16-2-06330-6) in the Superior Court of the State of Washington, King County. Source: Law360.com

XVI. AN UPDATE ON ENVIRONMENTAL CONCERNS

Residents Sue 3M And Other Manufacturers For Contaminated Drinking Water

Ninety-two residents who live near Fairchild Air Force Base in Spokane, Washington have filed a class action lawsuit in federal court against manufacturers of a firefighting foam that has contaminated the area’s water supply. The Plaintiffs allege they suffer from a variety of health issues including birth defects, miscarriages, cancer, ulcerative colitis, and thyroid problems. Others claim the pollution has diminished their property values.

The contamination was allegedly caused by decades of firefighting foam runoff from a training site on the air base. In the early 1960s, 3M and the U.S. Navy developed Class B firefighting foam to combat flammable petroleum fires and spills. Some or most of these Class B foams contained PFCs, in particular PFOS, as part of their formulation. Some foam manufacturers have changed processes and materials to eliminate or minimize PFC content in their foam.

The lawsuit alleges the foam manufacturers negligently created and sold a dangerous product without providing adequate warnings and instructions for use. The Defendants include 3M, Chemguard, National Foam, Buckeye Fire Equipment, and Tyco Fire Products.

Other similar cases have settled or are finally forcing cleanup and prevention efforts. In February, 3M settled with the State of Minnesota over the contamination of groundwater and rivers around its Cottage Grove plant just outside Minneapolis. Also, the U.S. military is currently spending hundreds of millions of dollars to mitigate PFC contamination at bases across the county. The Air Force announced it is beginning to install water filters for residents nearby Fairchild who utilize private wells, which showed high levels of PFC contamination.

Lawsuits filed nationwide are raising questions as to what manufacturers have known about these harmful chemicals, which do not degrade in the environment and accumulate in the human body. Beasley Allen is involved in two lawsuits on behalf of the water treatment systems in Gadsden and Centre, Alabama which allege carpet manufacturers upstream in Dalton, Georgia are responsible for the contamination. The lawsuits were filed to
ensure that these entities, not ratepayers in Gadsden and Centre, would pay to decontaminate their drinking water.

Lawyers at Beasley Allen are investigating other PFC contamination cases. If you have any questions about this subject, contact Rhon Jones, Rick Stratton, or Ryan Kral, lawyers in our firm’s Toxic Torts Section, at 800-898-2034 or by email at Rhon.Jones@beasleyallen.com, Rick.Stratton@beasleyallen.com, or Ryan.Kral@beasleyallen.com.

Source: The Spokesman.

JUDGE ORDERS SHELL OIL AND CONOCO PHILLIPS TO PAY $5 MILLION IN BENZENE-POLLUTION CASE

U.S. District Judge Nancy Rosenstengel recently ordered Shell Oil and ConocoPhillips to settle a class action lawsuit brought by hundreds of people living in and around the city of Roxana, Illinois, a community just across the Mississippi River from St. Louis, Missouri. The claimants alleged that the companies released benzene into the ground, contaminating the groundwater and driving property values down. The lawsuit was filed in 2012 by lawyers for class representative Jeana Parko, who alleged that Shell’s Wood River refinery allowed 18 benzene spills over a 25-year period. Collectively, these spills amounted to more than 200,000 pounds of benzene.

The settlement required Shell and the other Defendants to pay about $5 million in damages. Judge Rosenstengel stated the amount “adequately and fairly encompases those properties situated above and adjacent to the groundwater contamination that is the subject of this action and that may have experienced a decrease in value as a result of the groundwater contamination,” according to the Madison St. Clair Record.

The class-action also accused Shell of releasing other toxic volatile organic compounds (VOCs), including toluene and ethylbenzene. According to the Madison St. Clair Record, Shell was ordered to pay up to a maximum of $4.48 million and Conoco Phillips was ordered to pay $350,000. The order excluded future claims for personal injury and wrongful death tied to the benzene pollution.

Benzene is a known carcinogen. It occurs naturally in petroleum, and is used as an organic solvent to make a variety of other chemicals and various plastics. It is also used in the manufacturing of some types of rubbers, varnishes, lacquers, lubricants, dyes, detergents, drugs and pesticides. Because benzene comes from petroleum, benzene is often found in oil-based paints, various degreasers, thinners, solvents, and fuels—including diesel, gasoline and kerosene. The medical literature indicates that benzene causes multiple myeloma, acute myeloid leukemia (AML), myelodysplastic syndrome (MDS) and other forms of leukemia and lymphoma.

John Tomlinson, a lawyer in our firm’s Toxic Torts Section, has filed and is investigating occupational benzene exposure cases. If you need more information on this subject contact John at 800-898-2034 or by email at John.Tomlinson@beasleyallen.com.

Sources: Madison St Clair Record and Righting Injustice

MONSANTO'S ROUNDUP FOUND IN COMMON FOOD ITEMS

The active ingredient in Roundup, a weed killer manufactured by Monsanto, is a chemical called glyphosate. As we have previously stated in prior issues, glyphosate is the most commonly used weed killer in the world, and while Roundup’s safety has been upheld by most regulators, a multidistrict litigation (MDL) pending in the U.S. District Court in San Francisco contends that the use of Roundup can lead to the development of non-Hodgkin’s lymphoma.

Newly obtained documents indicate that there is an extremely good chance most people in the U.S. are eating low levels of this controversial herbicide. The U.S. Food and Drug Administration (FDA) has recently found traces of glyphosate in a number of common foods, such as crackers, cereal, etc. The glyphosate levels in these food products have been found to exceed the 5ppm legal limit for glyphosate in human food, though the dangers of this consumption are not yet completely understood. All U.S. government analyses of glyphosate do not account for instances in which people are eating trace amounts of the chemical, instead focusing on inhalation and dermal exposure routes.

Glyphosate was found in nearly all samples tested by the FDA, which had “trouble finding any food that does not carry traces of the pesticide.” The fact that the chemical is found in such a wide variety of foods at low levels could lead to harmful effects when consumed regularly over a prolonged period of time. Linda Birnbaum, director of the U.S. National Institute of Environmental Health Sciences, states that “even with low levels of pesticides, we’re exposed to so many and don’t count the fact that we have cumulative exposures.” An official study of the FDA’s findings is expected later this year.

If you would like more information about these cases, contact Grant Cofer, a lawyer in our firm’s Toxic Torts Section. He can be reached at 800-898-2034 or by email at Grant.Cofer@beasleyallen.com. Source: New York Daily News

HAWAII IS THE FIRST STATE TO BAN PESTICIDE LINKED TO BRAIN DAMAGE

A bill approved by Hawaii’s Legislature made the state the first in the U.S. to ban chlorpyrifos, a pesticide the U.S. Environmental Protection Agency (EPA) has linked to brain damage in children, but declined to ban it in 2017. The passing of Senate Bill 3095 by both houses of the Hawaii Legislature puts a ban on pesticides containing chlorpyrifos. Gov. David Ige signed the measure and it will go into effect on Jan.1, 2019.

The bill creates 100-foot buffer zones around schools where no “restricted-use” pesticides can be sprayed and will require all users of restricted-use pesticides to report their usage. The chlorinated organophosphate insecticide is commonly used on food crops, including small fruits and vegetables such as strawberries, apples and broccoli. It was outlawed at the federal level for home and garden use in 2000.

The Center for Food Safety, an advocacy group, said in a statement that the bill is significant for Hawaii as chemical giants Monsanto, Dow, and Syngenta develop genetically engineered crops in the state and then test their resistance to pesticides. Sylvia Wu, a lawyer for the group, said in the statement: “By banning the toxic pesticide, chlorpyrifos, Hawaii is taking action that Pruitt’s EPA refused to take.”

The EPA recommended banning the pesticide during the Obama administration, but in March 2017 Administrator Scott Pruitt denied a 2007 petition by the Pesticide Action Network North America and Natural Resources Defense Council (NRDC) seeking to ban all uses of chlorpyrifos. Pruitt is the most anti-consumer person to have headed the EPA in recent history. In 2015, the Ninth Circuit Court of Appeals had ordered the EPA to rule on chlorpyrifos, calling its delay “egregious.” Later that year the agency proposed banning chlorpyrifos, citing the human health risks.

In November 2016, the EPA released an updated assessment of the dangers of chlorpyrifos, concluding that there is no safe level of exposure to it in food or drinking water. The Ninth Circuit denied Pesticide Action Network North America and the NRDC’s challenge to Pruitt’s decision in July, saying that further mandamus relief was not appropriate because the groups were now objecting to the merits of the EPA’s denial of the petition and not whether it had acted. The Ninth Circuit had only directed the EPA to take “final
action” on the environmental groups’ petition to ban the pesticide, the panel said.

Users of chlorpyrifos in Hawaii can apply for an exemption from the ban until 2022. After that, a full ban will be in place. The bill also requires the Department of Agriculture to conduct a study monitoring pesticide drift, and funding will be provided for pesticide education and awareness campaigns. States have the power to regulate pesticides, as long as the regulations they impose do not conflict with the Federal Insecticide, Fungicide, and Rodenticide Act.

A bill that would ban chlorpyrifos at the federal level was introduced in July by U.S. Senators Tom Udall and Richard Blumenthal. That bill is badly needed, but I am afraid that it has very little chance of passage. So much for consumer safety!

Source: Law360.com

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**XVII. UPDATE ON NURSING HOME LITIGATION**

**Beasley Allen Lawyers Fighting for Victims of Nursing Home Neglect and Abuse**

Nursing homes exist to provide skilled nursing care to elderly and disabled residents. As a business, quality care should be their basic product and mission. However, according to many studies, the quality of care in the nursing home industry has markedly declined over the past decade. One of the main causes of this decline is that in an effort to maximize profits many nursing homes cut costs by failing to employ enough nurses and other qualified caregivers to provide quality care for all of the residents in their facilities. This understaffing creates a heavier workload for nurses and caregivers and often leads to patient neglect or poor quality care for residents, which can result in avoidable illnesses or injury, many of which are serious and can lead to death. This fact is not only tragic and heartbreaking, but also completely unacceptable because these sicknesses or injuries are easily prevented with proper care.

If a nursing home cannot adequately care for all its patients, its is failing in its legal responsibilities and putting innocent lives at risk. Our firm is fighting to protect the safety and rights of elderly and infirmed Americans by representing the injured in litigation—both lawsuits and arbitration—to hold nursing home facilities accountable for their acts of abuse and neglect. Our cases include many of the common injury types typically found in nursing home cases. We are currently handling cases involving the death of nursing home residents due to decubitus ulcers (bed sores), malnutrition, failure to treat known medical conditions, choking, and falls. We are also handling catastrophic injuries caused by severe bed sores, infections, and amputations resulting from delayed or poor nursing care. Let’s take a look at two of these cases.

One of our cases, filed in Jefferson County, Alabama Circuit Court, contends that the nursing home failed to take the necessary precautions to prevent our client from choking, including providing adequate supervision and monitoring while she was eating. It is further alleged that once our client was discovered to be choking, the nursing home failed to immediately and properly respond to the choking crisis and provide medical care necessary to save her life. Carl Chambler, Jr., a lawyer with the Chambler & Malone law firm in Birmingham, is our co-counsel in this case.

Another of our cases involves a Georgia woman who because of the nursing home’s failure to prevent, properly treat, and seek additional medical care allowed her to develop a bed sore that became septic, causing her tremendous pain and suffering for more than two years and ultimately caused her death. The case is filed in the U.S. District Court for the Middle District of Georgia and is scheduled for trial later this year. The Atlanta law firm of Schenk Smith is our co-counsel in this case.

Many recent studies indicate that residents in nursing homes suffer abuse and neglect more and more frequently at the hands of nursing home corporations. If you have suffered serious injury, your loved one had been catastrophically injured or died, or you have any questions about nursing home abuse and neglect, contact Chris Boutwell, who heads up our Nursing Home Litigation Team, at Chris.Boutwell@beasleyallen.com or by phone at 800-898-2034. contact

**Nursing Home Resident Dies A Tragic And Painful Death**

More than 1.5 million elderly and infirmed Americans reside in nursing homes and other long-term care facilities in this country. Thankfully, most of these residents receive proper care. However, our lawyers have learned that nursing home abuse and neglect occur more frequently than you might imagine. These instances of abuse and neglect are always unfortunate and sometimes can be spectacularly egregious. Such is the case of Rebecca Zeni.

According to her family, Ms. Zeni lived the American dream. She worked in a naval yard during World War II; modeled in New York City, and worked at a TV station in Chicago. However, in her later years Zeni suffered from dementia and in 2010 became a resident at the Shepard Hills Nursing Home in Lafayette, Georgia, where she died in 2015 from “sepsisemia due to crusted scabies.”

Scabies is a painful but treatable skin condition caused when parasitic mites burrow into your skin, lay eggs and survive off of your body. Pictures of Zeni before her death show skin flaking off and one of her hands blackened. Stephen Chance, a lawyer representing the family, claims that nursing home staff were told not to touch Zeni’s hand. “There was a conversation at this nursing home with a health care provider about being careful about touching Ms. Zeni’s hand for fear that it might fall off her body,” claims Chance in an interview.

Forensic pathologist Dr. Kris Sperry, former chief medical examiner at the Georgia Bureau of Investigation, reviewed Zeni’s autopsy report and said, “This is one of the most horrendous things I’ve ever seen in my career as a forensic pathologist.” Sperry estimates hundreds of millions of mites were living inside Zeni at the time of her death. He doesn’t think it’s an exaggeration to assume she was essentially eaten alive and that she likely died a painful death.

To make this horrific instance worse, both the nursing home and Georgia state health officials knew of scabies outbreaks at Shepard Hills in 2013 and 2015—before Zeni’s death. Yet nothing was done to save her.

Ms. Zeni’s family has filed a lawsuit against Pruitt Health, a for-profit company that owns Shepard Hills as well as dozens of other nursing homes. The lawsuit alleges that Pruitt failed to follow policies and procedures to prevent the occurrence and spread of the highly contagious disease that caused Ms. Zeni to die a preventable but agonizing death.

This appalling case of neglect is as close to the worst-case scenario as many of us can imagine and, thankfully, is uncommon. However, this is a reminder of why it is important for lawyers and Beasley Allen to defend those who are in the most pre-
FALLS AND FALL PREVENTION IN NURSING HOMES

Lawyers in our firm who handle claims involving nursing homes have learned that injuries sustained from falls by nursing home residents are a significant problem. According to the Centers for Disease Control and Prevention (CDC), up to 75 percent of elderly nursing home residents suffer at least one fall each year. This rate is twice as high as the rate of falls among elderly people living within the community. Moreover, the CDC estimates that up to 20 percent of nursing home falls result in a serious injury.

Falls in nursing homes occur for a variety of reasons. Nursing homes can be liable for fall-related injuries sustained by residents under specific situations such as:

• Failure to evaluate and assess new patients for falling risks.
• Failure to institute modifications to enable safer mobility of patients who are at high risk for falling.
• Failure to provide and maintain clean and safe premises for residents.
• Failure to develop and educate staff in the implementation of a fall prevention program.

The MediFocus Literature Guide to Falls and Fall Prevention in Nursing Homes captures the salient articles published over the past two decades in peer-reviewed medical journals regarding the problem of falls in nursing homes and the strategies and guidelines that have been devised to mitigate the risk of falls among nursing home residents. This unique Guide consists of more than 200 hand-selected references published in peer-reviewed journals with links to the article abstracts and free online access to full-text copies of 35 journal articles.

XVIII. A REPORT ON ACTIVITY IN BEASLEY ALLEN’S CONSUMER FRAUD & COMMERCIAL LITIGATION SECTION

We are featuring the Consumer Fraud & Commercial Litigation Section of the firm, managed by Dee Miles, in this issue. The Section has been very busy thus far in 2018 and lawyers are currently handling cases in the areas set out below:

Class Actions

Our firm’s class action practice is continuing to grow. We have cases filed all over the country ranging from consumer fraud, antitrust, employment abuses, ERISA (Employee Retirement Income Security Act) to product liability cases. This area of our practice continues to grow due to the corporate abuses occurring in the business and consumer world.

While arbitration clauses still have an impact on class action filings, it has not proven to be the effective deterrent corporate America intended. This is mainly due to the courts finally recognizing that arbitration was never intended to be utilized in consumer transactions. Arbitration was designed for complex business transactions involving sophisticated parties in specialized areas of business. However, corporations have manipulated the use of arbitration clauses to frustrate consumer resistance to their fraudulent practices.

Just because a consumer contract has an arbitration clause, that doesn’t mean a class action on the abusive corporate conduct is barred. There may be ways around the arbitration clause and a lawyer familiar with the ever-changing law on this issue can make that determination. Lawyers in the Section are well versed in the area of the law surrounding both class actions and arbitration clauses. They review many potential class actions daily and welcome the opportunity to review more.

Apple

Lawyers in the Section recently filed a Class action case against Apple regarding Apple’s alleged scheme to slow down, or “throttle,” the performance of certain iPhone models, including the iPhone 6, 6 Plus, 6s Plus, SE, 7, and 7 Plus models (“Legacy iPhones”). Apple represented that its recent iOS 10 and iOS 11 software updates to Legacy iPhone models would improve those devices’ performance and maintain their security against malware and other compromising third-party software. Apple strongly encouraged iPhone owners to accept these updates. Apple’s systems configurations are typically designed so that Legacy iPhones automatically download software updates, prompting the user then to install the updates.

Apple failed to inform customers that it intentionally had designed its software updates to throttle the Legacy iPhones’ processing speed. Apple claimed after-the-fact that the throttling was required in order to correct a battery defect and preserve battery life in Legacy iPhones, but Apple’s real
reason for throttling was intentionally to compromise the performance of Legacy iPhones, in an attempt to force Legacy iPhone users and owners to upgrade to newer iPhone models. On Dec. 20, 2017, Apple admitted to purposefully throttling the Legacy iPhones.

Archie Grubb and our firm have been honored with an appointment by U.S. District Court Judge Edward J. Davila to serve in the leadership of this multidistrict litigation (MDL) case on the Plaintiff's Steering Committee. We are looking forward to working with many other stellar firms on this important consumer litigation.

Lawyers: Dec Miles and Archie Grubb
Primary Staff Contacts: Whitney Gagnon and Ashley Pugh

**Facebook**

We recently filed a class action lawsuit against Facebook and Cambridge Analytica on behalf of Facebook users whose personal data may have been accessed by Cambridge Analytica. Some consumers may have received a direct notice from Facebook informing them that Cambridge Analytica may have accessed their personal data. Others may have discovered this information from checking the new help page Facebook set up about the data leak or found it on Facebook’s Help Center on their computer or phone by searching for “Cambridge Analytica.” Regardless, for users who may have had their data compromised, a lawsuit to protect their rights has been filed by our firm and many others throughout the country.

The information that was leaked stems from a personality quiz created in 2014 by Cambridge neuroscientist Aleksander Kogan called “This is Your Digital Life.” The quiz gave Facebook users the impression that the answers they provided were for academic research, but Kogan supplied the data to Cambridge Analytica, which allegedly used it for politically motivated purposes.

Cambridge Analytica is a British political consulting firm once headed by Trump campaign and White House adviser Steve Bannon. The company uses data to drive conservative political causes, including the election of Donald Trump, as evidence suggests. There’s also evidence indicating Cambridge Analytica used the Facebook data to help steer Britain’s Brexit vote, allowing the UK to leave the European Union.

Kogan paid about 270,000 Facebook users to take the personality quiz. Once installed, the Facebook app gave Cambridge Analytica access to the data of the quiz takers and all of their friends. Facebook CEO Mark Zuckerberg said his company estimates about 87 million people were affected.

Names, phone numbers, mail and email addresses, political and religious affiliations, and other interests are some of the data Cambridge Analytica extracted from the quiz takers and their online friends. If you never installed the personality quiz but one of your Facebook friends did, Cambridge Analytica likely acquired your data.

Facebook pulled the app in 2015, but by then Cambridge Analytica had successfully obtained the personal information of millions of people in the U.S. and U.K. Whistleblower Christopher Wylie, a former Cambridge Analytica employee, has said that the company’s military-style information operations have no place in a healthy democracy. He estimates the company’s data grab could be even larger than 87 million.

Facebook, Cambridge Analytica, and their affiliates now face class-action lawsuits on both sides of the Atlantic. The “Stateside” litigation will certainly be headed to a multidistrict litigation Federal Court soon. Our firm will seek to be a part of the leadership of this litigation. We will keep you posted.

Lawyers: Dec Miles, Archie Grubb and Tyner Helms
Primary Staff Contacts: Whitney Gagnon and Ashley Pugh

**Polaris Ranger and RZR Fire Risk Defect**

We have recently filed a class action lawsuit against Polaris concerning off-road vehicles. Polaris Ranger and RZR off-road vehicles contain a design defect in which the vehicles’ high-powered “ProStar” engine is located directly behind the occupant compartment, without proper ventilation and heat shielding. Because it is located within inches of combustible plastic body panels and close to vehicle occupants, it appears to pose a high risk of fire and injury to passengers. This alleged defect has resulted in more than 250 fires, more than 30 severe injuries and at least three deaths.


We are seeking to force Polaris to eliminate the fire risks by properly ventilating the excessive engine exhaust temperatures, properly heat shielding the vehicles and by replacing the combustible plastic body panels with those less sensitive to heat. Plaintiffs are represented by Beasley Allen lawyers Dee Miles and Clay Barnett and they are working with the firms of DiCello Levitt and Case and Courtney Davenport of Davenport Law. The case is filed in the Federal District Court of Minnesota before Judge Wilhelmmina M. Wright.

Lawyers: Dee Miles, Clay Barnett and Chris Baldwin
Primary Staff Contacts: Ashley Pugh and Brenda Russell

**Volkswagen/Audi/Porsche Emissions Defect**

It is no secret that our firm joined with other firms to file a nationwide class action lawsuit on behalf of consumers that own Volkswagen, Audi and Porsche who were deceived by the automaker’s deliberate “end-run” around Environmental Protection Agency (EPA) pollution controls. We were most fortunate to have been selected by Judge Charles R. Breyer, District Judge in California, to serve on the Plaintiff’s Steering Committee of this most important case.

Dee Miles was selected by the court and has been quite busy on this case over the two years, but we are pleased to be part of the three part Volkswagen settlement of the “cheat device” class; the $15 billion 2.0 Volkswagen settlement announced in July 2016; the $4 billion 3.0 settlement announced in February 2017; and the Bosch Volkswagen settlement of $32.75 million also announced in February 2017.

In addition Volkswagen agreed to pay $4.3 billion in civil/criminal penalties to the federal government as part of a plea bargain. To date the Volkswagen scandal has cost Volkswagen nearly $24 billion. However, there are still other Volkswagen cases that remain
Antitrust Cases

Lawyers in the Section continue to investigate and litigate antitrust cases. Antitrust law is the law of competition. Society is better off if buyers and sellers act independently, not in concert. Antitrust law focuses on the promotion of competition through restraints on monopoly and cartel behavior. Typical cases involve attempts to monopolize, price fixing, exclusive distributorships, refusals to deal, tying arrangements, and mergers and acquisitions. We believe that antitrust is a growing area, as corporations increasingly tend to “cross the line” as they seek to gain advantage in this tough economy. The firm is currently heavily involved in antitrust litigation against Blue Cross Blue Shield companies.

Lawyers: Dee Miles, Archie Grubb and Leslie Pescia
Primary Staff Contact: Michelle Fulmer, Ashley Pugh, Whitney Gagnon and Tami Lee

Blue Cross Blue Shield

Our lawyers are currently involved in antitrust cases dealing with Blue Cross Blue Shield’s illegal actions. We wrote about this case in the May issue. The BCBS case involves the Blues’ agreements not to compete with each other. BCBS has separate companies that cover different geographical regions of the country. Those individual companies agreed amongst themselves to stay out of other geographic regions. For example, BCBS of Alabama and BCBS of Mississippi agreed not to compete with each other for providers (hospitals and physicians) or subscribers (individual and group policyholders). Normally, competition in a certain area drives costs down with each company trying to be the lowest available. Absent competition, the companies were able to set prices for both reimbursement and premiums at any price they chose.

We are honored to have been selected to serve on the leadership of this multidistrict litigation (MDL) case and are diligently pursuing discovery in the case as the Alabama portion of this MDL is likely headed for trial in 2019. This case recently received a historical and favorable ruling by the trial court regarding how the case will be tried. This is a very important case that is having a very positive impact on how Blue Cross Blue Shield will do business in the future and we are honored to be a part of the leadership of this case.

Lawyers: Dee Miles, Archie Grubb and Clay Barnett
Primary Staff Contacts: Michelle Fulmer, Ashley Pugh and Whitney Gagnon

More Consumer Class Actions

Life Insurance

Our firm currently has three filed class action lawsuits against separate companies, Banner Life, William Penn Life and USFL, alleging that the cost of insurance increases these companies have implemented on certain policies are unfounded. Policyholders are seeing increases of more than 600 percent in some cases, and the cash value of their policies are being stripped down to zero dollars in a matter of months. It appears that these increases have been executed ultimately to benefit shareholders and the company of near-term liabilities it has accrued and its wrongful use of captive reinsurance companies.

We have also filed some individual cases against Transamerica Life Insurance Company and AXA for the same reasons. We are attempting to recover the excess insurance costs paid out-of-pocket or stripped from the value of these policies. Additionally, we are looking into many other life insurance companies with similar unfair practices and welcome the opportunity to review additional policies that have seen sudden increases in costs or premiums.

Lawyers: Dee Miles, Andrew Brasier and Rachel Boyd
Primary Staff Contact: Michelle Fulmer, Ashley Pugh and Tami Lee

Takata Airbags

Lawyers in the Section were involved in the class action lawsuits for economic losses related to the potentially defective airbags manufactured by Takata Corporation. We were selected by the multidistrict litigation (MDL) Leadership to conduct discovery in this case and worked very hard to move this case along to trial and class certifications. While vehicle owners and drivers could not have known about the potential danger posed by the airbags, the Defendants knew about the defect and failed to disclose it to consumers and actively concealed that defect from the public and federal regulators. It was not until December 2011, when the fifth recall related to the same defect was issued, that Honda finally reported the injuries and deaths related to the Takata airbags to federal regulators. To date, more than 14 million vehicles with Takata-manufactured airbags have been recalled due to the defects.

Recently, Honda, Toyota, Mazda, Subaru, Nissan and BMW collectively reached a settlement agreement with consumers for $553 million to cover economic losses due to the Takata airbag defect.
Also, Takata filed for Chapter Eleven bankruptcy protection, but a panel has been set up to provide relief to personal injury victims for other losses through the bankruptcy court in Japan. We will continue to prosecute the class claims against Ford and keep our readers updated on any new developments in this case.

Lawyers: Dee Miles, Archie Grubb and Clay Barnett
Primary Staff Contact: Michelle Fulmer, Ashley Pugh and Whitney Gagnon

General Motors

Lawyers in the Section are involved in the class action lawsuits against general motors concerning GM model vehicles (listed below). The Generation IV 5.3 Liter V8 Vortec 5300 engine rapidly consumes oil at a rate that greatly exceeds industry standards. This excessive oil consumption results in low oil levels and internal engine damage.

The oil consumption defect is caused by low-tension oil control rings that GM installed within its Generation IV 5.3-Liter V8 Vortec 5300 passenger engines. The low-tension oil rings are incompatible with these engines as they allow an excessive amount of engine oil to enter the engine's combustion chambers—where it is consumed or accumulates—resulting in oil loss.

GM offered the defective 5.3-liter engines in the following vehicles (the “Class Vehicles”):

- 2010-2013 Chevrolet Avalanche
- 2010-2012 Chevrolet Colorado
- 2010-2013 Chevrolet Express 1500
- 2010-2013 Chevrolet Silverado 1500
- 2010-2013 Chevrolet Suburban
- 2010-2013 Chevrolet Tahoe
- 2010-2013 GMC Canyon
- 2010-2013 GMC Savana 1500
- 2010-2013 GMC Sierra 1500
- 2010-2013 GMC Yukon
- 2010-2013 GMC Yukon XL

The Liter V8 Vortec 5300 engine was designed to remedy the excessive oil consumption problem. The redesigned engine abandoned the low-tension oil control ring engineering failure and returned to the use of standard tension oil rings. However, despite knowing that vehicles equipped with faulty 5.3-liter engines remained on the road, GM has done nothing to alert owners and lessees that their vehicles may be unreliable and unsafe.

The case in pending in the Northern District of California federal court and we just recently successfully defeated a motion to dismiss in the case. We are now in the discovery phase of the case. Filed on Dec. 12, 2016, the case name is Monteville Sloan, Jr., Raul Siqueiros et al. vs General Motors 3:16-cv-07244.

Lawyers: Dee Miles, Clay Barnett, Archie Grubb and Andrew Brashier
Primary Staff Contact: Michelle Fulmer, Ashley Pugh and Whitney Gagnon

GM Liftgate Strut Defect

We recently filed a new class action case against GM concerning their vehicles with liftgates. GM vehicles 2010-2012 General Motors Corp. (GMC) Acadia, 2010-2012 Buick Enclave, 2010 Saturn Outlook, 2010-2012 Chevrolet Traverse, 2010-2012 Cadillac SRX, 2010-2012 Chevrolet Equinox, and 2010-2012 GMC Terrain feature allegedly defective power liftgate struts that can unexpectedly fail, causing the liftgate to suddenly fall on people attempting to access the rear compartment.

The power liftgate struts prematurely wear because the design allows dirt and debris to compromise the seals on the pressurized cylinder, allowing pressurized gas to escape without warning, causing injury to anyone in the path of the liftgate and hindering the owners’ ability to use their rear compartment because the liftgate will not remain open.

In its failed 2015 recall campaign GM admitted to National Highway Traffic Safety Administration (NHTSA) that the struts in the recalled vehicles were defective. There, GM offered to “reflash” (reprogram) the power liftgate actuator motor electronic control unit with a new software calibration and agreed to replace the struts only if they failed at the time of the repair or within 90 days of the repair.

The only permanent “fix” for the Power Liftgate Defect requires both strut replacement and a software update to the power liftgate actuator module.

This class is being held by Beasley Allen attorneys Dee Miles and Clay Barnett, along with DiCello Levitt and Casey and Courtney Davenport of Davenport Law firms.

Lawyers: Dee Miles, Clay Barnett and Chris Baldwin
Primary Staff Contact: Ashley Pugh and Brenda Russell

Talc

Beasley Allen lawyers are representing a class of California and Illinois citizens who were deceived into believing that Johnson and Johnson's talc-based products were safe and they purchased those products for genital hygiene use. Some recent studies have demonstrated a significantly increased risk of ovarian cancer for women who use talc-containing products on their genitals. Johnson and Johnson has been aware of the risk for years, yet the company continues to market its products as safe for daily use. These folks would not have purchased the baby powder and other talc products had they known of the increased risk of ovarian cancer, but because of Johnson and Johnson's marketing, believed they were purchasing and using a safe product. We represent these people in an effort to recover the money they spent on these cancer-causing products that they would not have spent absent Johnson and Johnson's marketing.

Lawyers: Dee Miles, Lance Gould and Ali Hawthorne
Primary Staff Contacts: Holly Busler and Jessica Stapp

Qui Tam Cases

A qui tam action involves a private party, called a relator, who asserts claims on behalf of the government. Although the government is considered the real (named) Plaintiff, if the action is successful, the relator receives a share of the award. Most qui tam actions are brought under the federal False Claims Act (FCA), 31 U.S.C. § 3729, et seq., although many States have adopted their own false claims act. The successful results speak for themselves—more than $34 billion in recoveries since 1986—and that tells a powerful story. Our firm is currently involved in a number of

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these *qui tam* cases throughout the country, however due to the confidential nature of these cases we cannot openly discuss the facts of the cases or even mention the Defendants.

*Qui tam* actions typically begin with an employee witnessing his/her employer defrauding the government. The employee may later consult with an attorney on another matter, but convey their knowledge of false information being given to the government. Lawyers need to be on the lookout for such information and recognize potential claims.

It takes vigilance and courage for these private individuals, commonly referred to as “whistleblowers,” to report fraudulent activity; but without them, the vast majority of fraud against our government would go undetected. Recognizing the perils faced by whistleblowers, legislators have passed laws protecting individuals who take a stand against fraud. 31 U.S.C. § 3730 prohibits discrimination and retaliation against whistleblowers and imposes strict penalties, including double back pay with interest, on violators.

Additionally, if a *qui tam* action is successful, the whistleblower receives between 10-30 percent of the Government’s recovery. Damages under the FCA include penalties and “3 times the amount of damages which the Government sustains” due to the fraud. 31 U.S.C. § 3730. In short, the law protects and rewards whistleblowers for their instrumental role in exposing and prosecuting fraud. Lawyers in our firm have waged war against corporate fraud for more than 30 years and would welcome the opportunity to assist with any *qui tam* actions that any of our readers may have.

**Lawyers:** Dee Miles, Larry Golston, Archie Grubb, Clay Barnett, Andrew Brasher and Tyner Helms

**Primary Staff Contact:** Holly Busler

### Pharmaceutical Litigation

The firm handles a wide array of cases dealing with the pharmaceutical industry. These cases include AWP, unapproved drugs, Actos, Granuflo, Usual and Customary pricing and many others.

### State Attorneys General Representation

#### AWP

Beasley Allen has represented the States of Alabama, Alaska, Hawaii, Kansas, Louisiana, Mississippi, South Carolina and Utah in a series of cases against pharmaceutical companies, known as the Average Wholesale Price (AWP) litigation. These States allege that pharmaceutical companies falsified pricing information, causing state Medicaid agencies to grossly overpay for prescription drugs. The manufacturers’ false and inflated AWPs (average wholesale prices) caused pharmacies to shop for drugs that offered the highest reimbursement from the State. The inflated AWPs in turn provided higher sales revenue, volume and market share for the drug companies, and created dramatically steeper costs for the states.

Juries have returned more than $600 million in verdicts for the States of Alabama, Mississippi, Kentucky, Wisconsin, Missouri and Massachusetts. We recently won two appeals of a $30 million and $32 million verdict in Mississippi Supreme Court regarding Watson Pharmaceuticals Inc. now Activas Inc., and Sandoz, Inc. and we have either settled or tried these cases in all eight states and received more than $1.5 billion and completed the litigation in all states, with the exception of one case on appeal in the state of Utah.

**Lawyers:** Dee Miles and Ali Hawthorne

**Primary Staff Contacts:** Jessica Stapp and Brenda Russell

#### Molina/Unisys

At the conclusion of the AWP cases in Louisiana, the State discovered that its data-processing firm, Molina, appears to not have been utilizing the correct reimbursement rate in processing payments to pharmacies. Instead of the computer system automatically calculating reimbursements with the state-approved formula, Molina programmers apparently input the wrong data points, resulting in gross overpayments. Beasley Allen represents the State in seeking to recoup those overpayments from the party that caused them, which appears to be Molina/Unisys.

**Lawyers:** Dee Miles, Lance Gould, Ali Hawthorne and Lauren Miles

**Primary Staff Contacts:** Jessica Stapp and Holly Busler

### Unapproved Drugs

In order for a state to reimburse pharmacies for dispensing drugs to state Medicaid beneficiaries, those drugs must be U.S. Food and Drug Administration (FDA) approved. By manipulating the system, some pharmaceutical manufacturers have been able to sneak certain drugs that have not been FDA approved onto the state Medicaid reimbursement without alerting anyone. States have reimbursed pharmacies for dispensing these drugs, unaware that they were not FDA approved, and therefore, ineligible for reimbursement. Beasley Allen represents the States of Louisiana and Mississippi in seeking to recover Medicaid reimbursements for these ineligible drugs and we are consulting with other state attorneys general.

**Lawyers:** Dee Miles, Lance Gould, Ali Hawthorne, and Lauren Miles

**Primary Staff Contacts:** Holly Busler and Jessica Stapp

#### Granuflo

Granuflo is a dialysate product used in the hemodialysis process. Several years ago Fresenius, the manufacturer of Granuflo, realized that through a natural biological process, its product created a significantly increased risk of cardiac distress and death when not administered in a different dosage than every other dialysate product on the market. Instead of warning clinics, physicians, consumers, and the states, Fresenius remained silent about the risk. Once the risk came to attention of the U.S. Food and Drug Administration (FDA), Fresenius notified its own clinics to adjust their dosage, but it did not notify those owned and operated by non-Fresenius companies.

Eventually, the true risk information became public. There are several cases filed against Fresenius alleging that the Defendant’s actions caused injuries to individual users. Beasley Allen represents the States of Louisiana and Kentucky in seeking to recover for the reimbursements it made and damages it suffered because of the claims submitted to the states’ Medicaid office for this substandard product and Fresenius’ failure, through its marketing to physicians, clinics, and citizens, to inform its customers of the proper dosage requirements. This trial is set for January in Kentucky.

**Lawyers:** Dee Miles, Lance Gould, Ali Hawthorne and Lauren Miles

**Primary Staff Contacts:** Holly Busler and Jessica Stapp
Actos

Actos is a commonly prescribed drug used in treating Type II Diabetes Mellitus. Diabetes affects more than 26 million people nationwide. Approximately 90 to 95 percent of those 26 million Americans with diabetes suffer from Type II Diabetes. Actos received U.S. Food and Drug Administration (FDA) approval in 1999, but prior to that, an unreported clinical study was conducted, whereby the Defendants discovered an association between Actos and an increased risk of bladder cancer. Subsequent studies over the years have demonstrated that there is in fact a statistically significant increase in the risk of bladder cancer for individuals that have been prescribed and consumed Actos. The Defendants, manufacturers of Actos, were aware of the increased risk of bladder cancer, but downplayed and tried to discredit the numerous studies that demonstrated that risk. Beasley Allen represents the State of Louisiana in seeking to recover for the reimbursements it made and damages it suffered because of the claims submitted to the state’s Medicaid office for this substandard product and the manufacturers’ failure, through their marketing to physicians and citizens, to inform its customers of the proper dosage requirements.

Lawyers: Dee Miles, Lance Gould, Ali Hawthorne and Lauren Miles
Primary Staff Contact: Jessica Stapp

Home Depot Data Breach

Dee Miles was appointed to the Plaintiffs Steering Committee (PSC) representing financial institutions in the Multidistrict litigation (MDL) over a massive Home Depot data breach. The litigation involves consumer and financial institution Plaintiffs who were affected by the incident, which compromised up to 56 million credit and debit card numbers. The cyberattack is believed to have occurred at Home Depot stores between April and September of 2014. The MDL Court recently and preliminarily approved a settlement valued at $27 million for the financial institutions but a portion of the case has been appealed and that process is currently ongoing.

Lawyers: Dee Miles, Larry Golston, Andrew Brashtier and Leslie Pescia
Primary Staff Contact: Michelle Fulmer, Ashley Pugh, and Tami Lee

Other Consumer Classes

Silent Recalls

Lawyers in the Section are investigating numerous safety defects involving multiple auto manufacturers and varying models. Although there are more active recalls now than ever before, every potential defect has not necessarily been placed under a mandatory recall. Auto manufacturers commonly conduct “silent recalls” — where the dealer only repairs a defect once a consumer complains about the specific defect even though the manufacturer is aware of the defect. This practice leaves thousands of American motorists unaware of the defective components in their vehicles.

Alternatively, auto manufacturers are able to conduct regional recalls that are only disseminated to a particular region, leaving consumers outside the specified region unaware of the recall. Under this process, the same make and model under recall in one state may not be under recall just over the state line. If you have a vehicle with a safety defect and the manufacturer has refused to repair your vehicle under the warranty, then you may have a case. Contact one of our class action lawyers for more details.

Lawyers: Dee Miles, Archie Grubb, Clay Barnett and Andrew Brashtier
Primary Staff Contacts: Whitney Gagnon and Brenda Russell

ERISA Litigation

The Employee Retirement Income Security Act of 1974 (ERISA) dictates certain minimum standards for voluntarily established health and benefit plans. Employers sometimes violate the requirements of ERISA, to the detriment of their employees. If these violations are plan-wide, or affect a large number of employees, it is possible to form a class to seek recompense and/or to force compliance. Please contact us with information regarding any instances where ERISA’s requirements have been violated; we are particularly interested in self-funded employee health benefit plans.

We recently filed an ERISA class against Wells Fargo for withholding information concerning the Wells Fargo stock within the ERISA plan, which caused losses to the plan. The information involved the fraudulent accounts scheme for which Wells Fargo has now paid more than $100 million to the Federal Government in fines and restitution. This fraudulent scheme was ongoing while bank members with knowledge of the
scheme suppressed it while managing the assets of the ERISA plan and were authorizing more company stock purchases for the plan. This caused hardship to the ERISA plan.

**Wills and Estates**

Creating a will to plan for what happens to your estate after you pass is critical. Without a will, all of a person’s possessions pass through their state’s intestate succession laws—meaning that heirloom you want your cousin to have probably will not get into your cousin’s hands. Without a will, it will pass to whomever the law dictates receives your estate. For some people, those with a lot of assets, even a trust is necessary to protect the estate assets for years to come. This is particularly important for people who own their own business. A trust can dictate who controls the business, what happens to business assets, and how the company profits are handled. Though the decedent would hope it does not create a dispute, sometimes the heirs of an estate dispute the validity of the will/trust or dispute the meaning of the language in the will/trust. Beasley Allen lawyers are looking into these disputed wills and trusts involving large estates.

**Conclusion**

The areas of the Section’s practice mentioned above show the broad scope of the work currently being done by our lawyers and support staff. They continue to dedicate their efforts relating to all issues involving corporate misconduct. The Section does an excellent job in these important areas of the law. We now have 15 lawyers in the Section, along with 24 support staff personnel. Michelle Fulmer, Section Administrator, can be reached at 800-898-2034 or by email at Michelle.Fulmer@beasleyallen.com. She can give you more information on the matters handled by the Section.

**XIX. MORE NEWS ON CLASS ACTION LITIGATION**

**Beasley Allen Lawyer Archie Grubb Named To PSC In iPhone MDL**

U.S. District Judge Edward J. Davila has appointed Beasley Allen lawyer Archie Grubb to the Plaintiffs Steering Committee (PSC) for the multidistrict litigation (MDL) dealing with Apple’s slowing down old iPhones. The MDL has consolidated more than 60 lawsuits in the Northern District of California. In January 2017, Apple released an update for its operating system iOS 10.2.1, claiming the update was to prolong the life of batteries in older iPhones including models 6, 6 Plus, 6S Plus, SE. Eventually, iPhone 7. Apple admitted to slowing down the phones, but said the update was to prevent the handset from unexpectedly shutting down in the event a performance spike drew too much power. This could cause customers’ handsets to turn off even if the phone indicated it was fully charged. Apple failed to adequately inform customers that the performance issues affecting their devices was “artificially” caused by the company’s iOS update. The update created a defect in older batteries that could not handle newer processing speeds. Plaintiffs contend that Apple was “throttling” the performance of older iPhones, reducing the performance speed on all devices by as much as 70 percent. They further contended that instead of giving customers a free battery replacement, Apple attempted to conceal the battery defect. This deception led many customers to purchase new, upgraded devices. Archie had this to say:

I’m honored to be selected by Judge Davila to serve in this leadership position. Although the product in this case is high-tech, the issue at stake is basic. Apple broke its promise to deliver quality products and betrayed its customers’ trust by deceiving them about their device’s performance and battery functionality. We cannot allow such deceptive corporate behavior to remain unchecked.

The U.S. Judicial Panel on Multidistrict Litigation (JPML) established the MDL last month. The case is In Re: Apple Inc. Device Performance Litigation, (case number MDL 2827) in the North District of California.

**$309 Million Settlement In Deutsche, Barclays And HSBC Euribor Litigation Approved**

A Manhattan federal judge has given final approval to $309 million in investor settlements with Deutsche Bank AG, Barclays PLC and HSBC Holdings PLC over claims they manipulated the Euro Interbank Offered Rate (Euribor). After a settlement hearing, U.S. District Judge P. Kevin Castel issued final approval to the settlements with Euribor investors that had accused the big banks of conspiring to rig the interest rate benchmark, excluding eight potential class members that asked to be omitted. Judge Castel stated in his order:

This court hereby finally approves the settlements, as set forth in the settlement agreements, and finds that the settlements are, in all respects, fair, reasonable and adequate, and in the best interest of the settlement class, including the plaintiffs.

Under the terms of the deals, Deutsche Bank owes $170 million, Barclays $94 million and HSBC $45 million. The judge also signed off on $68.7 million in fees, or 22.24 percent of the total fund, and $1.6 million in expenses for class counsel. Friday’s order certifies a class of investors led by the California State Teachers’ Retirement System, Stephen Sullivan, White Oak Fund LP, Sonterra Capital Master Fund Ltd., FrontPoint Partners Trading Fund LP and FrontPoint Australian Opportunities Trust that had purchased, sold, held or traded Euribor-linked products between 2005 and 2011.
This ends antitrust claims against some of the banks that investors sued in 2013 in Illinois federal court, a case that was subsequently transferred to New York. The suit alleged the banks schemed over a roughly seven-year period to fix Euribor, which is used to reflect the interest rate charged on short-term euro loans between big banks.

Barclays reached an initial settlement with investors in late 2015, with HSBC following suit in January 2017. Deutsche Bank reached its own settlement last summer. The investors’ case against JPMorgan Chase & Co. and Citigroup Inc. is ongoing.

The banks were also hit with separate fines from the European Commission, including a €33.6 million (currently equivalent to $39.5 million) penalty lodged against HSBC in 2016. Barclays escaped what would have been a €690 million fine by revealing the existence of the cartel, the commission said in a 2013 settlement decision that also fined Deutsche Bank more than €465 million.


Source: Law360.com

**XX. THE CONSUMER CORNER**

**The CFPB’s Undoing: How Mick Mulvaney Is Demolishing A Federal Agency**

When Donald Trump appointed Mick Mulvaney to head the Consumer Financial Protection Bureau (CFPB) in November, the interim director said rumors that he would “set the place on fire or blow it up or lock the doors are completely false.” Some folks believed that he was being somewhat truthful.

Six months later, it’s becoming clear that words like “defang,” “neuter,” or “eviscerate” may have been more on point, for while the doors of the agency remain open, Mulvaney is proposing measures that would render it virtually powerless to shield U.S. consumers from financial fraud.

Since Mulvaney’s appointment, the CFPB has taken no enforcement actions and it has walked away from many more cases of potential violations, fraud, and other wrongdoing than it has taken on. As Reuters reports, Mulvaney’s CFPB has dropped its own cases against shady payday loan operations and online lenders that operate on tribal land so that they can charge triple-digit interest rates.

The CFPB was created by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 in response to the financial crisis of 2007-2008 and the resulting Great Recession. Since its founding, the agency has operated independent of U.S. lawmakers and special interests, and its independence has been confirmed by the U.S. Court of Appeals. That has been a good thing for consumers and also for businesses that follow the law and do the right thing.

If the CFPB won’t protect U.S. consumers from these financial predators, who will? Mulvaney’s words and actions clearly demonstrate he is squarely on the side of the big banks seeking to eliminate the agency’s consumer protections. Speaking to a crowd of 1,300 bankers and lending industry officials at the American Bankers Association conference in Washington, Mulvaney said:

“We had a hierarchy in my office in Congress. If you’re a lobbyist who never gave us money, I didn’t talk to you. If you’re a lobbyist who gave us money, I might talk to you.”

Indeed, it seems Mulvaney has been talking to the big banks, proposing a series of overhauls that would pitch the agency into the clutches of pay-to-play lawmakers. One of the reforms Mulvaney endorses would require Congress to approve any major rules the CFPB proposes. St. John’s University law professor Jeff Soviero wrote on Public Citizen’s Consumer Law & Policy blog:

“It would really mean that the CFPB couldn’t issue major rules at all: Anything it wanted to do would require legislation enacted by both Houses of Congress and signed by the President (or passed by a majority sufficient to override a presidential veto). None of the major regulatory agencies is subject to that kind of limitation; if it were, it wouldn’t be a regulatory agency, just a proposer of legislation, a particularly futile role in an era of partisan gridlock in Congress.”

Bloomberg reported that Mulvaney is considering several plans to cut costs, including moving some jobs to the basement of its Washington headquarters or to Dallas, Texas, and forcing staffers to share desks—possibly a plan to shrink the agency by attrition in the way the Occupational Safety and Health Administration (OSHA) has been diminished.

Mulvaney is also pushing to call the CFPB by its statutory name—“the Bureau of Consumer Financial Protection.” The agency unveiled a new seal last month featuring an eagle circled with the words “Bureau of Consumer Financial Protection.”

More recently, the CFPB wrote to the Associated Press, urging it to update the AP Stylebook to refer to the agency by its legal name. Nobody knows for sure why so much effort is being invested in making this name change, but some consider it part of Mulvaney’s broader effort to, as the National Law Journal put it, “rip up the floorboards and replace the wallpaper inside the house Richard Cordray, the CFPB’s first director, built.”

I am greatly concerned over what is happening at the CFPB. American citizens will be the real losers if current events are any indication of what is coming from the newly named agency in the near future.


**AN UPDATE ON THE EQUIFAX DATA BREACH LITIGATION**

Equifax, in a document filed with the U.S. Securities and Exchange Commission (SEC) on May 8, revealed more details about the personal data breach that was announced last year on Sept. 7. Essentially, these details revealed that the breach was worse than Equifax originally indicated. Initially, Equifax said 143 million customers were affected; now, after reviewing all affected data, Equifax confirmed information was stolen from 146.6 million people.

Specifically, all 146.6 million people had their names and dates of birth exposed, while 145.5 million of those individuals had their Social Security numbers exposed and 99 million individuals had their address information exposed. Further, 27.3 million people had their gender exposed, 20.3 million had their phone number exposed, 17.6 million had their driver’s license number exposed, 1.8 million had their email addresses exposed, and 209,000 had their credit card information exposed.

Separately from these elements, which were contained within database tables and files, the attackers also accessed images uploaded to Equifax’s online dispute portal by approximately 182,000 U.S. consumers. As part of the dispute process, some consumers may have uploaded government-
issued 1Ds through the portal. Consequently, 56,200 passports, drivers’ license images, Social Security cards, Taxpayer ID cards, and Passports were also leaked.

In the referenced filing, Equifax expressed its view that this information wasn’t considered sensitive enough to warrant a new notification to customers. That position is impossible to justify. Beasley Allen lawyers are involved in litigation on behalf of consumers affected by the Equifax breach.

For more information about the Equifax data breach litigation, contact Beasley Allen lawyers Dee Miles, head of the firm’s Consumer Fraud & Commercial Litigation Section, Archie Grubb, Andrew Brashier, Leslie Pescia or Rachel Boyd at 800-898-2034 or by email at Dee.Miles@beasleyallen.com, Archie.Grubb@beasleyallen.com, Andrew.Brashier@beasleyallen.com, Leslie.Pescia@beasleyallen.com or Rachel.Boyd@beasleyallen.com.

Sources: Business Insider, SEC.gov

XXI.
RECALLS UPDATE

We are again reporting a large number of safety-related recalls. We have included some of the more significant recalls that were issued in May. If more information is needed on any of the recalls, 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.

FIAT-CHRYSLER RECALLS NEARLY 5 MILLION VEHICLES FOR CRUISE-CONTROL GLITCH

Fiat-Chrysler is recalling nearly 5 million U.S. vehicles to repair a software glitch that could prevent drivers from canceling the cruise control. The problem affects about 4.8 million Fiat-Chrysler cars, minivans, SUVs, and pickup trucks from model-year 2014 to 2018. According to the automaker, “a driver could be unable to cancel cruise control” if the cruise control system accelerates at the same time a “short-circuit in a specific electrical network” occurs. Normally drivers disengage cruise control by tapping the brake or hitting the cruise-control on-off switch, but both methods can stop working if the glitch occurs. The National Highway Traffic Safety Administration (NHTSA) “strongly encourages” drivers of the affected vehicles to stop using cruise control until a dealer updates the software in the vehicle’s Powertrain Control Module. In the event the cruise control becomes stuck, drivers can overpower it by continuously applying the brakes or shifting the vehicle to neutral and bring it to a stop. The automaker said it is not aware of any accidents or injuries stemming from the problem, but there is one report of the cruise control becoming stuck in a 2017 Dodge Journey crossover vehicle.

According to the Wall Street Journal, Fiat-Chrysler’s recall announcement “comes as the auto industry is increasingly relying on software to take over critical vehicle functions, which is putting more drivers and passengers at risk from distractions—or worse—as bugs crop up while vehicles are in operation.” Fiat-Chrysler said dealerships will install a software update that will prevent the short circuit in affected vehicles. Drivers should call a local Fiat-Chrysler dealer to schedule a repair, which will be provided at no cost to the consumer. The vehicles covered under this recall are:

- 2015-17 Chrysler 200 sedan
- 2014-18 Chrysler 300 sedan
- 2014-18 Dodge Charger sedan
- 2014-18 Dodge Durango SUV
- 2014-18 Dodge Journey crossover
- 2014-18 Jeep Cherokee SUV
- 2014-18 Jeep Grand Cherokee SUV
- 2014-18 Ram 2500 pickup
- 2014-18 Ram 3500 cab chassis
- 2014-18 Ram 3500 pickup
- 2014-18 Ram 4500/5500 cab chassis
- 2014-19 Ram 1500 pickup
- 2015-18 Dodge Challenger coupe
- 2017-18 Chrysler Pacifica minivan
- 2018 Jeep Wrangler

2018 DODGE, JEEP, CHRYSLER AND RAM VEHICLES ARE RECALLED

Approximately 70 model-year 2018 Chrysler 300 sedans; model-year 2018 Dodge Challenger and Charger sedans and Durango SUVs; model-year 2018 Jeep Grand Cherokee and Wrangler SUVs; and model-year 2018 Ram 1500 pickup trucks have been recalled. An incorrect transmission park lock rod may have been installed in the transmission, which could lead the transmission to not shift into Park and keep the vehicle from moving, increasing the risk of unintended vehicle movement and the risk of a crash. Dealers will install the correct park lock rod for free. Chrysler, Dodge, Jeep and Ram manufacturer Fiat Chrysler Automobiles will begin notifying owners June 20. Owners can call the automaker at 800-853-1405, the National Highway Traffic Safety Administration’s (NHTSA) vehicle-safety hotline at 888-327-4236 or visit NHTSA’s website to check their vehicle identification number and learn more.

2018 FORD ECOBOOST RECALLED

Approximately 270 model-year 2018 Ford EcoSport SUVs have been recalled. European brake fluid reservoir caps and European owners’ manual kits were installed instead of the U.S. versions required by federal motor vehicle safety standards, which could lead to a crash. Ford said it is not aware of any related accidents or injuries. Dealers will replace the brake fluid reservoir cap and owners’ manual kit with the versions required by federal motor vehicle safety standards for free. Ford did not immediately announce an owner-notification schedule. Owners can call the automaker at 866-436-7332, the National Highway Traffic Safety Administration’s vehicle-safety hotline at 888-327-4236 or visit its website to check their vehicle identification number and learn more.

9,700 MERCEDES-BENZ, MERCEDES-AMG SUVs ARE RECALLED

Approximately 9,700 model-year 2012-14 Mercedes-Benz ML350 Bluetec 4Matic and ML550 4Matic SUVs; model-year 2012-15 ML350 4Matic and ML63 AMG 4Matic SUVs; model-year 2013-16 GL350 Bluetec 4Matic and GL550 4Matic SUVs; model-year 2017 GLS550d 4Matic, GLS450 4Matic, and GLS550 4Matic SUVs; model-year 2015 ML400 4Matic SUVs; model-year 2016 GLE400 4Matic, GLE350 4Matic and GLE450 4Matic coupe SUVs; model-year 2015-16 GLS450 4Matic SUVs; model-year 2013-14 GL450 4Matic SUVs; model-year 2013-16 Mercedes-AMG GL63 4Matic SUVs; model-year 2017 GLS63 4Matic SUVs; and model-year 2016 GLE63 4Matic, GLE63S 4Matic and GLE63S 4Matic coupe SUVs equipped with Active Curve System have been recalled. In certain driving conditions, if the oil level in the ACS reservoir is below the minimum level, the oil may foam and leak out of the vent holes in the reservoir cap, which in the presence of an ignition source can increase the risk of a fire. Dealers will correct the oil level as necessary and replace the reservoir sealing cap to prevent oil foam from leaking out for free. Mercedes-Benz will begin notifying owners this month with an interim notification. A subsequent letter will be sent when the fix becomes available, expected in August. Owners can call the automaker at 800-367-6372, the National Highway Traffic Safety Administration’s vehicle-safety hotline at 888-327-4236 or visit NHTSA's website to check their vehicle identification number and learn more.

JereBeasleyReport.com
visit its website to check their vehicle identification number and learn more.

### 2004-2007 Jeep Liberty Recall

Approximately 240,000 model-year 2004-07 Jeep Liberty SUVs have been recalled. Water may accumulate inside the rear lower control arms, potentially subjecting them to corrosion and fracture, which could result in compromised driver control and a crash or injury. Jeep manufacturer Fiat Chrysler Automobiles said it is aware of a single potentially related accident but no related injuries. Dealers will replace the rear lower control arms for free. Owners can call the automaker at 800-853-1403, the National Highway Traffic Safety Administration’s (NHTSA) vehicle-safety hotline at 888-327-4236 or visit NHTSA’s website to check their vehicle identification number and learn more.

### Specialized Bicycle Components Recalls

**Specialized Bicycle Components Recalls**

Specialized Bicycle Components, Inc., of Morgan Hill, California. The driveside crankarm can disengage and cause the rider to lose control, posing fall and injury hazards. This recall involves Specialized Felt Bicycles and Fatboy SE bicycles with Stout cranks. The bikes come in Gloss Hyper/Black and Fatboy SE bicycles with Stout cranks have been recalled by Specialized Bicycle Components, Inc., of Morgan Hill, California. The driveside crankarm can disengage and cause the rider to lose control, posing fall and injury hazards. This recall involves Specialized Felt Bicycles and Fatboy SE bicycles with Stout cranks. The bikes come in Gloss Hyper/Black and Fatboy SE bicycles with Stout cranks.

**2008-2009 Smart ForTwo Cars Are Recalled**

Approximately 42,800 model-year 2008-09 Smart ForTwo electric city cars have been recalled. The rear insulation mat in the engine compartment may deform, deteriorate and loosen over time, allowing the mat to contact hot exhaust system components and increasing the risk of fire. Dealers will replace the rear insulation mat with an improved one for free. Owners can call the automaker at 800-367-6372, the National Highway Traffic Safety Administration’s (NHTSA) vehicle-safety hotline at 888-327-4236 or visit NHTSA’s website to check their vehicle identification number and learn more.

**2017 Honda Civic Hatchback And Civic Type R Vehicles Are Recalled**

Approximately 70 model-year 2017 Honda Civic hatchbacks and Civic Type R cars have been recalled. Driver- and front-passenger seatback pads sold as replacement service parts were made without slit openings for the seat-mounted side airbags. In the event of a crash necessitating airbag deployment, the seatback pad could interfere and adversely affect airbag performance, increasing the risk of injury. Dealers will replace the front seatback pads. Owners can call the automaker at 888-234-2138, the National Highway Traffic Safety Administration’s (NHTSA) vehicle-safety hotline at 888-327-4236 or visit NHTSA’s website to check their vehicle identification number and learn more.

**2017 Hyundai Ioniq Hybrids Are Recalled**

Approximately 10,100 model-year 2017 Hyundai Ioniq Hybrid cars have been recalled. The hydraulic clutch actuator inner oil seal may leak, allowing oil to accumulate in the cap area, possibly resulting in an electrical short and increasing the risk of a fire. Dealers will inspect the HCA caps for leaked oil and replace the HCA assembly if needed. Repairs will be done for free. Owners can call the automaker at 888-327-4236 or visit NHTSA’s website to check their vehicle identification number and learn more.

**Hyundai Ioniq Hybrids**

**For Kids, Inc., of Ontario, Canada.** The steering wheel on the go-kart can detach, break or crack while in use, posing a laceration and/or collision hazard to young children. This recall involves the Nerf® Battle Racers, a four-wheel pedal powered go-kart for children ages 4 to 10. The “Nerf” logo can be found on each side of the go-kart and is etched into the black seat. The wheels are black and orange. It measures approximately 50 inches long by 27 inches high by 24 inches wide. The model number T91869, and the date of manufacture is printed on a white sticker located on the underside of the seat. Only go-karts with a date of manufacture between 01/2016 and 05/2017 are being recalled. Hauck has received 639 reports in the United States of the steering wheel detaching, breaking or cracking with one resulting in a laceration to a child’s face requiring stitches and one resulting in a minor scrape to a child’s chest.

**2004-07 Jeep Liberty Recall**

Approximately 500 model-year 2003-12 Honda Accord sedans and Pilot minivans; model-year 2010 Accord Crosstour wagons; model-year 2001-11 Civic cars; model-year 2002-11 CR-V SUVs; model-year 2003-04, 2006-08 and 2011 Element SUVs; model-year 2007 and 2009-13 Fit hatchbacks; model-year 2010-12 Insight hybrid sedans; model-year 2002-04 Odyssey minivans; and model-year 2012 Ridgeline pickup trucks have been recalled. The front passenger airbag may have been installed incorrectly during replacement of Takata-equipped vehicles, which could cause it to deploy improperly in the event of a crash, increasing the risk of injury. It should be noted that this recall is separate from the latest Takata recall expansion from January. Dealers will inspect and, if necessary, replace the passenger frontal airbag module assembly for free. Honda will begin notifying owners June 1. Owners can call the automaker at 888-234-2138, the National Highway Traffic Safety Administration’s (NHTSA) vehicle-safety hotline at 888-327-4236 or visit NHTSA’s website to check their vehicle identification number and learn more.

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$1,400 and $1,500. Consumers should immediately stop using the recalled bicycles with stout cranks and contact an Authorized Specialized Retailer for instructions on how to receive a free replacement crankarm. Contact Authorized Specialized Retailer or Specialized Bicycle Components toll-free at 877-808-8154 from 8 a.m. to 6 p.m. PT Monday through Friday, email ridercare@specialized.com or online at www.specialized.com and click on “Safety Notices” for more information. Pictures available here: https://www.cpsc.gov/Recalls/2018/Specialized-Bicycle-Components-Recalls-Bicycles-with-Stout-Cranks-Due-to-Fall-and-Injury-Hazards

Regency Fireplace Products Recalls Gas Stove Fireplaces Due To Explosion and Injury Hazards

Fireplace Products U.S. Inc., of Blaine, Washington, has recalled about 13,700 Regency Ultimate direct vent gas stove fireplaces (models U37 and U39). The pressure release system can fail and cause the gas stove to explode, posing explosion and injury hazards. This recall involves Regency Ultimate U37 and U39 direct vent gas stove fireplaces. They were sold in black and have gold or silver trim around the glass doors. “Regency” is printed on the front, bottom left corner of the pedestals of the stoves. The following model and serial numbers are included in the recall and are printed on a label located on the inside of the front panel door. Regency has received three reports of the pressure system failing, and one report of the door hinge breaking, including one incident that resulted in minor cuts to the consumer’s legs.

They were sold at fireplace distributors and stores nationwide from January 2001 through January 2018 for about $2,800. Consumers should immediately stop using the recalled gas stoves, turn off the gas supply to the unit, and contact Regency to schedule a free repair. Contact Regency toll-free at 866-867-4528 from 8 a.m. to 7 p.m. ET Monday through Friday, email at u39@regency-fire.com or online at www.regency-fire.com and click on “U39 notice” at the bottom of the page for more information.

Michaels Recalls Spin Art Kits Due To Fire and Burn Hazards

Michaels Stores Procurement Co., Inc. (MSPCI), a subsidiary of The Michaels Companies Inc., of Irving, Texas has recalled about 110,000 Creatology® Spin Art Kits. The battery compartment in the spin art kit can overheat, posing fire and burn hazards. This recall involves spin art kits sold under the Michaels private brand Creatology®. The 34-piece kit includes one battery operated spin art wheel with cover, paint, paint brushes, and paper. The recalled art kits are blue and have SKU number 197861 and one of the following UPC codes printed on the barcode on the box.

The kits were sold exclusively at Michaels stores nationwide and online at www.michaels.com from August 2011 through February 2018 for about $25. Consumers should immediately take the recalled spin art kits away from children, stop using them and return them to any Michaels store for a full refund. Contact Michaels at 800-642-4255 from 9 a.m. to 7 p.m. CT Monday through Friday or online at www.michaels.com and click on “Product Recalls” at the bottom of the page for more information.

Play and Park Structures Recalls Playground Slides Due To Entrapment Hazard

Play and Park Structures, Fort Payne, Alabama, has recalled about 15,000 ground SuperMax Triple Slides. A gap between the rails near the entrance way to the slide poses an entrapment hazard to young children. This recall involves three models of Play and Park Structures SuperMax triple slides. The molded plastic playground slides were sold in multiple colors and have three single bedways and an eight-foot deck. They are age rated 5-12. The Play and Park Structures logo and the age rating are printed on a label located on the upper part of the outside perimeter of the playground structure. Model numbers 71717 (triple slide with spiral), 71718 (triple slide hood cascade) and 71732 (triple entrance cascade with square deck) are included in this recall. The model number is printed on the sales invoice.

Consumers should immediately stop using the recalled playground slides and contact Play and Park Structures to schedule a free inspection and repair to the playground slides. Play and Park Structures is contacting all known purchasers directly. Play and Park Structures has received one report of a gap between the rails that poses an entrapment hazard. No injuries have been reported. The slides were sold at independent distributors to parks, schools and municipalities from May 2014 through February 2018 for about $8,000. Contact Play and Park Structures at 800-809-4181 from 8 a.m. to 4:30 p.m. ET Monday through Friday, email at service@playandpark.com or online at www.playandpark.com and click on “FAQs” for more information.

Harbor Freight Tools Recalls Chainsaws Due To Serious Injury Hazard:

Harbor Freight Tools, of Camarillo, California, has recalled about 1,020,000 Portland, One Stop Gardens, and Chicago Electric 14-inch electric chainsaws. The power switch can malfunction and allow the chainsaw to continue operating after the operator moves the switch to the “off” position, posing a serious injury hazard to the operator. This recall involves two models of 14-inch chainsaws sold under three different brand names. The Portland and One Stop Gardens brand chainsaws have a green and black color scheme and “Portland” printed on the blades. The Chicago Electric brand chainsaws has a red and black color scheme and “Chicago Electric” printed on the chainsaw handle. All recalled chainsaws were sold with a black blade guard. Harbor Freight Tools has received 15 reports of chainsaws continuing to operate after being turned off by the operator, resulting in three laceration injuries including one serious injury to the arm requiring stitches.

The saws were sold at Harbor Freight Tools stores nationwide and online at www.harborfreight.com from May 2009 through February 2018 for about $50. Consumers should immediately stop using the recalled chainsaws and return the product to their local Harbor Freight Tools store for a free replacement chainsaw. Replacement units were available starting May 21, 2018. Contact Harbor Freight Tools at 800-444-3353 Monday through Friday from 8 a.m. to 4:30 p.m. PT, email at recall@harborfreight.com or online at www.harborfreight.com and click on “Recall Safety Information” on the bottom of the homepage for more information. Pictures available here: https://www.cpsc.gov/Recalls/2018/Harbor-Freight-Tools-Recalls-Chainsaws-Due-to-Serious-Injury-Hazard

ALDI Recalls Deep Fryers Due To Fire And Burn Hazards

About 35,000 Ambiano mini deep fryers have been recalled by ALDI Inc., of Batavia, Illinois. The deep fryer heating element can overheat, posing fire and burn hazards. This recall involves Ambiano mini deep fryers sold in two colors, brushed stainless steel and red. The recalled deep fryers have a black lid and were sold with a metal food basket. The deep fryers measure about 9.45 inches wide by 10.43 inches high by 8.25 inches deep. The units have Ambiano printed on the front. The
The fryers were sold at ALDI stores nationwide from February 2018 through March 2018 for about $15. Consumers should immediately stop using the recalled deep fryers and return it to their local ALDI store for a full refund. Contact ALDI at 800-366-9967 from 8 a.m. to 6:30 p.m. ET Monday through Friday or online at wwwaldi.us and click on “Product Recalls” for more information. Pictures available here: https://www.cpsc.gov/Recalls/2018/ALDI-Recalls-Deep-Fryers-Due-to-Fire-and-Burn-Hazards

SHARPER IMAGE AND FRIGIDAIRE MANDOLINE SLICERS RECALLED FOR CUT HAZARD

Premier Kitchen Products has recalled about 19,000 Sharper Image and Frigidaire Mandoline Slicers. The company says the small blades in the julienne slicer attachment can separate from the plastic assembly, posing a cutting hazard to the user. The recall involves the Sharper Image Mandoline Slicer with Model Number 12SP1006, and Frigidaire Mandoline Slicer with Model Number 12EP203. Consumers should stop using the recalled slicers and contact Premier Kitchen Products for instructions on how to receive a refund in the form of a $15 gift card. The slicers were sold at several stores including HomeGoods, Kohl’s, Marshall’s, Ross, Target, and more from May 2017 through April 2018. They sold for about $13 to $20.

ILLY RECALLS 8.8-OUNCE WHOLE BEAN COFFEE CANS DUE TO INJURY HAZARD

illycaffè S.p.A. of Italy has recalled about 65,000 illy 8.8-ounce whole bean coffee cans. The coffee bean can lid can detach suddenly with force upon opening when missing an air valve on the bottom, posing an injury hazard. This recall involves only Whole Bean 250 gram/8.8 ounce cans of illy coffee in medium, dark roast and decaf with no air valve on the bottom of the canister with a best by date of 10/2019, 11/2019, or 12/2019 printed on the bottom of the can. The silver, cylinder-shaped coffee cans have the “illy” logo printed on the front with a red, black or green-colored accent line across the top and bottom of the can.

The cans were sold at Bed Bath & Beyond, Kroger, Shoprite, Sur La Table, Target, Whole Foods, Williams Sonoma, and other stores nationwide and online at illy.com or online at www.illy.com/caninfo Monday through Friday, email at caninfo@illy.com or online at www.illy.com/caninfo for more information Pictures available here: https://www.cpsc.gov/Recalls/2018/illy-Recalls-880ounce-Whole-Bean-Coffee-Cans-Due-to-Injury-Hazard

MUNCHKIN RECALLS WATERPEDE BATH TOYS DUE TO CHOKING HAZARD:

About 72,000 Waterpede™ children’s bath toys have been recalled by Munchkin’s, of Van Nuys, California. The bath toy can break apart exposing small parts, posing a choking hazard to young children. This recall involves Munchkin’s Waterpede bath toys. The one-piece multicolored Centipede-shaped toy allows water to be scooped from the top, and flows through the chambers of bottom. The bath toy is 100 percent plastic and is for children 6 months and older. The company has received one report of the toy breaking apart and exposing small beads. No injuries have been reported.

The toys were sold at Babies R Us, Target, and other stores nationwide and online at munchkin.com from September 2015 through January 2018 for between $5 and $7. Consumers should immediately take the bath toy away from young children and contact Munchkin for a free replacement bath toy of comparable value. Contact Munchkin toll-free at 877-242-3134 from 8 a.m. to 5 p.m. ET Monday through Friday or online at www.munchkin.com, click on Help at the bottom of the page and then Recalls for more information. Pictures available here: https://www.cpsc.gov/Recalls/2018/Munchkin-Recalls-Waterpede-Bath-Toys-Due-to-Choking-Hazard

PORSCHE RECALLS TOY CARS DUE TO CHOKING HAZARD

About 1,700 My First Porsche—Wooden Cars have been recalled by Porsche Cars North America Inc., of Atlanta, Georgia. The wheels and axles can detach from the wooden toy car, posing a choking hazard to young children. This recall involves a blue wooden toy Porsche car with tan wheels. The Porsche crest is printed on the front of the recalled toy cars. “PORSCHE” is printed on both sides of the recalled toy cars. They measure about 4 inches long by 2 inches wide by 1 1/2 inches tall. The underside of the toy has “BAJO” and a lot number printed on it.

Porsche RecallS toy cars due to choking hazard

The toys were sold at Porsche dealers nationwide and online at shop4.porsche.com/usa/ and other websites from April 2015 through March 2018 for about $25. Consumers should immediately stop using the recalled toy cars, take them away from young children and contact a local authorized Porsche dealer to return the recalled toy car and receive a full refund. Contact Porsche at 800-767-7243 from 9 a.m. to 5 p.m. ET Monday through Friday or online at shop4.porsche.com/usa/ and click on “Product Recall” at the bottom of the page for more information.

JBS USA, INC. RECALLS GROUND BEEF PRODUCTS DUE TO POSSIBLE FOREIGN MATTER CONTAMINATION

JBS USA, Inc., a Lenoir, North Carolina, establishment, has recalled approximately 35,464 pounds of raw ground beef products that may be contaminated with extraneous materials, specifically hard plastic, the U.S. Department of Agriculture’s (USDA) Food Safety and Inspection Service (FSIS) announced the recall. The raw ground beef items were produced on March 22, 2018. If you need a list of recalled item numbers contact Shanna Malone at Shanna.Malone@beasleyallen.com.

The products subject to recall bear establishment number “EST. 34176” inside the USDA mark of inspection. These items were shipped to distribution centers in Virginia and Indiana for further distribution to retail locations. The problem was discovered after the company received a complaint from a consumer who found blue, hard plastic pieces in one of the products. There have been no confirmed reports of adverse reactions due to the consumption of these products. Anyone concerned about an injury or illness should contact a health care provider.

FSIS is concerned that some product may be frozen and in consumers’ freezers. Consumers who have purchased these products are urged not to consume them. These products should be thrown away or returned to the place of purchase. FSIS routinely conducts recall effectiveness checks to verify recalling companies notify their customers of the recall and that steps are taken to make certain that the product is no longer available to consumers. Consumers and members of the media with questions about the recall can contact Cheri Schneider, director of external communications at JBS, at (970) 506-7717.

Consumers with food safety questions can “Ask Karen,” the FSIS virtual representative available 24 hours a day at AskKaren.gov or via smartphone at m.asksKaren.gov. The toll-free USDA Meat and Poultry

BeasleyAllen.com
Hotline 1-888-MPHotline (1-888-674-6854) is available in English and Spanish and can be reached from 10 a.m. to 6 p.m. (Eastern Time) Monday through Friday. Recorded food safety messages are available 24 hours a day. The online Electronic Consumer Complaint Monitoring System can be accessed 24 hours a day at: http://www.fsis.usda.gov/reportproblem.

**FROZEN CHICKENS DISTRIBUTED IN TEXAS RECALLED DUE TO POSSIBLE CONTAMINATION**

Texas All Grass-Fed, a meat and poultry processor in Sealy, Texas, is recalling approximately 2,300 whole frozen chickens because of processing issues that may have permitted the growth of Salmonella or other bacteria. The Texas Department of State Health Services announced the recall. The recalled chicken was packaged whole in plastic bags and distributed in the Houston, Dallas and Austin areas and sold at Texas All Grass-Fed’s storefront at 1962 Hluchan Road in Sealy.

While the risk of illness is said to be low, DSHS urges people to discard the recalled chicken or return it to the point of sale. A recent records review found that the company failed to document that it had taken steps to prevent or eliminate bacterial contamination from the chickens or document that the birds were properly cooled after processing. There have been no reported illnesses associated with eating the recalled chicken, but anyone who got sick after eating chicken from Texas All Grass-Fed should contact their health care provider and tell them about the possible exposure.

**MORE THAN 206 MILLION EGGS ARE RECALLED BECAUSE OF SALMONELLA FEARS**

More than 206 million eggs have been recalled after a Salmonella outbreak sickened more than 55 people in nine states. U.S. Food and Drug Administration (FDA) investigators have linked the outbreak to Rose Acre Farms in Hyde County, North Carolina. Cases have been reported in Colorado, Florida, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Virginia and West Virginia. Because it can take two to four weeks before a person is diagnosed for a case to be reported, the FDA said additional cases may still be found.

The eggs were sold under the names Country Daybreak; Crystal Farms; Coburn Farms; Sunshine Farms; Publix; Sunups; Glenview; Great Value; as well as at Walmart and Food Lion stores. Cal-Maine Foods Inc. also voluntarily recalled eggs purchased from Rose Acre Farms. The affected eggs have “Best by” dates of April 2 and April 3 on them.

Most people with Salmonella develop diarrhea, fever and abdominal cramps between 12 and 72 hours after infection. The illness usually lasts four to seven days and most people recover without treatment. In some cases, however, hospitalization and antibiotics are required. Infants, children, older people, and anyone with a weakened immune system is particularly at risk from Salmonella infections. Salmonella is blamed for 450 deaths in the U.S. each year. No deaths have been linked to the current outbreak. Customers who have the eggs in their homes should not eat them, the FDA said, and should throw them away or return them to the place of purchase for credit or refund.

Once again there have been a large number of recalls since the last issue. While we weren’t able to include all of them in this issue, we included those we believed to be of the highest importance and urgency. If you need more information on any of the recalls listed above, visit our firm’s web site at BeasleyAllen.com or our consumer site at RightingInjustice.com. 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**

**BEASLEY ALLEN LAWYER AND STAFF SPOTLIGHTS**

**APREILL HARTSFIELD**

Apreill Hartsfield started at Beasley Allen on Halloween in 2016, and has worked continuously as a Content Writer in the Marketing Department, “scaring up” stories for the firm’s various platforms, including for the website, Righting Injustice blog, the Jere Beasley Report and social media, as well as a few outside publications.

Much of Apreill’s work focuses on the firm’s work, issues that affect clients and potential clients, events, and the firm’s community involvement. She assists attorneys with keeping their biographical information updated and helps them apply for various awards and recognitions for their work.

Apreill honed her skills at the University of North Alabama, and graduated in 2000 with a Bachelor of Science in Political Science and Public Communications. In 2009, she earned a law degree from Faulkner University’s Thomas Goode Jones School of Law. Apreill also assisted with the research and writing for the Alabama Kids Count Data Book. Throughout her career, Apreill has enjoyed a good mix of writing projects and providing public relations advice. Her passion is advocating for improving child wellbeing and solutions that address social and economic justice issues.

In July, Apreill will celebrate her 15th wedding anniversary to Rodney Hartsfield. They have a 5-year-old daughter, Mercy, who will start Kindergarten in the fall, and a 4-year-old son, Brennan. They live in Prattville and are members of Journey Church of the River Region.

When Apreill isn’t writing stories for the firm, she is spending time with her family, playing outdoors, visiting museums, and just hanging out at home. She loves reading, devouring podcasts about unsolved mysteries, and belting out a song when she has the opportunity. Apreill is a definite asset to our firm, performing valuable work, and we are most fortunate to have her with us.

**RHON JONES**

Rhon Jones has been part of Beasley Allen since 1994 and he now heads up the firm’s Toxic Torts Section. In that capacity, Rhon oversees a variety of cases. He has spearheaded efforts to obtain justice for those harmed by the nation’s opioid epidemic. Specifically, Rhon is working on behalf of local governments suffering economic losses as a result of devoting resources to address the opioid problem. The award-winning lawyer has been recognized as one of the top environmental lawyers for Plaintiffs in the entire country. Verdicts and settlements that Rhon has participated in while at Beasley Allen are estimated at $30 billion. He has handled environmental or toxic exposure cases in 14 different states to date. Rhon was the lead lawyer for the State of Alabama’s BP litigation that settled for $1.5 billion.

Rhon says he became a lawyer somewhat by accident. After finishing his Psychology degree at Auburn University, Rhon realized he no longer wanted to go to graduate school. He worked at a landscape and garden company in Auburn and for six months he enjoyed being outside and the manual labor. Thoughts of going to law school led to a conversation with his dad who agreed to pay, provided Rhon maintained good grades and finished on time, which he did. Once at the University of Alabama School of Law, Rhon believed he had been led there by God and his faith continues to play a significant role in his law practice.

Helping those who have been wronged and solving problems are what Rhon judges as the best part of his work. Rhon and his wife, Trudy, have been married for 23 years and they have two children, Marshall and Anna. In his free time, Rhon enjoys cooking and spending time outdoors with his family.

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Helping those who have been wronged and solving problems are what Rhon judges as the best part of his work. Rhon and his wife, Trudy, have been married for 23 years and they have two children, Marshall and Anna. In his free time, Rhon enjoys cooking and spending time outdoors with his family. Rhon continues to play a significant role in the firm’s work, issues that affect clients and potential clients, events, and the firm’s community involvement. He assists attorneys with keeping their biographical information updated and helps them apply for various awards and recognitions for their work.

Apreill Hartsfield started at Beasley Allen on Halloween in 2016, and has worked continuously as a Content Writer in the Marketing Department, “scaring up” stories for the firm’s various platforms, including for the website, Righting Injustice blog, the Jere Beasley Report and social media, as well as a few outside publications. Much of Apreill’s work focuses on the firm’s work, issues that affect clients and potential clients, events, and the firm’s community involvement. She assists attorneys with keeping their biographical information updated and helps them apply for various awards and recognitions for their work.

Apreill honed her skills at the University of North Alabama, and graduated in 2000 with a Bachelor of Science in Political Science and Public Communications. In 2009, she earned a law degree from Faulkner University’s Thomas Goode Jones School of Law. Apreill also assisted with the research and writing for the Alabama Kids Count Data Book. Throughout her career, Apreill has enjoyed a good mix of writing projects and providing public relations advice. Her passion is advocating for improving child wellbeing and solutions that address social and economic justice issues.

In July, Apreill will celebrate her 15th wedding anniversary to Rodney Hartsfield. They have a 5-year-old daughter, Mercy, who will start Kindergarten in the fall, and a 4-year-old son, Brennan. They live in Prattville and are members of Journey Church of the River Region.

When Apreill isn’t writing stories for the firm, she is spending time with her family, playing outdoors, visiting museums, and just hanging out at home. She loves reading, devouring podcasts about unsolved mysteries, and belting out a song when she has the opportunity. Apreill is a definite asset to our firm, performing valuable work, and we are most fortunate to have her with us. Rhon Jones has been part of Beasley Allen since 1994 and he now heads up the firm’s Toxic Torts Section. In that capacity, Rhon oversees a variety of cases. He has spearheaded efforts to obtain justice for those harmed by the nation’s opioid epidemic. Specifically, Rhon is working on behalf of local governments suffering economic losses as a result of devoting resources to address the opioid problem. The award-winning lawyer has been recognized as one of the top environmental lawyers for Plaintiffs in the entire country. Verdicts and settlements that Rhon has participated in while at Beasley Allen are estimated at $30 billion. He has handled environmental or toxic exposure cases in 14 different states to date. Rhon was the lead lawyer for the State of Alabama’s BP litigation that settled for $1.5 billion.

Rhon says he became a lawyer somewhat by accident. After finishing his Psychology degree at Auburn University, Rhon realized he no longer wanted to go to graduate school. He worked at a landscape and garden company in Auburn and for six months he enjoyed being outside and the manual labor. Thoughts of going to law school led to a conversation with his dad who agreed to pay, provided Rhon maintained good grades and finished on time, which he did. Once at the University of Alabama School of Law, Rhon believed he had been led there by God and his faith continues to play a significant role in his law practice.

Helping those who have been wronged and solving problems are what Rhon judges as the best part of his work. Rhon and his wife, Trudy, have been married for 23 years and they have two children, Marshall and Anna. In his free time, Rhon enjoys cooking and spending time outdoors with his family.
enjoys most about practicing law. Rhon says:

Most cases we take on are not easy and require a lot of thought and work to solve the problems each case presents. It is very satisfying to help someone who really needs it!

Rhon says he enjoys being part of a firm where lawyers and staff are open about their Christian faith, encourage each other in their walk with the Lord, and strive to do what is right. He values the hard work and persistent nature of his law partners and appreciates how dedicated the staff is to the firm’s clients. Rhon believes these qualities set the firm apart from its competition.

Despite the large number of projects that he manages daily, all who know Rhon realize that he focuses on keeping his priorities in the right order—God, family, work—and he attributes that order to his success. Outside of work, Rhon is a deacon at First Baptist Church of Montgomery, where he teaches Sunday school and facilitates a men’s bible study. He is also an Advisory Board Member of the Family Sunsh ine Center, whose mission is to prevent domestic abuse. Rhon is also a former member of the Board of Directors of the Janice Capilouto Center for the Deaf, which fills needs for the hearing impaired. He continues to actively support both as well as multiple ministry organizations in Montgomery and beyond.

Rhon is recognized nationally as a leader in his area of practice. He sets a high standard for the lawyers in the Toxic Torts Section. We are blessed to have Rhon with us.

STEPHANIE QRYS

Stephanie Qrys is the Junior Web Developer at Beasley Allen. She has been with the firm since November 2016 and works in our firm’s Marketing Department. Stephanie works closely with the Web Developer to ensure all the firm’s websites are running smoothly. In late 2017, the firm launched a full redesign of its main website, BeasleyAllen.com, and Stephanie was integral to the process. The new layout and format offer our audiences a clean look and easy access to information about our work. The new site consistently receives compliments from our audiences, content managers and others in the industry. The web development team is working to upgrade and integrate other Beasley Allen websites to further enhance the audience experience.

As a high-achieving high school student, Stephanie graduated with a 4.0 GPA from American School of Correspondence, a homeschool program. Although her achievement earned her recognition for a presidential scholarship from the University of Alabama, it was later determined that she was ineligible because she graduated from a homeschool program. Yet, Stephanie continued to excel. She taught herself coding and web development, and in the process discovered a newfound passion.

Stephanie is married to Jeffrey Deetman, an Air Force veteran. They were married the week before she started her career with the firm, so it was a very eventful week. Stephanie and Jeffrey recently bought their first house and enjoy renovating the 1950s Cape Cod style house. When she isn’t renovating, Stephanie also enjoys practicing German in conversation with her mother-in-law, playing video games and building her coding skills on CodePen—a website that has featured some of Stephanie’s work. Stephanie is another hard-working employee who does valuable work for our firm and we are most fortunate to have her with us in a most important role.

FRANK WOODSON

Frank Woodson, a lawyer in the firm’s Mass Torts Section, works primarily in the area of drugs and medical devices. He is a principal in the firm, having been with Beasley Allen for 17 years. Prior to joining Beasley Allen, Frank was a partner in the general litigation firm of Turner, Onderdonk, Kimbrough & Howell in Mobile, Alabama, where he focused on both Plaintiff and Defense litigation. Frank has practiced in the area of pharmaceutical product liability since joining Beasley Allen and his most recent work is on behalf of individuals who have died or suffered cardiac events after receiving dialysis treatment involving the drug Granuflo, manufactured by Fresenius Medical Care.

Frank is also investigating claims involving drugs that cause Stevens Johnson Syndrome (SJS), having successfully resolved claims for two clients who were blinded by SJS. In late 2008, Frank worked to resolve a claim for a child who required a liver transplant after ingestion of an antibiotic, and in 2009, he resolved the claim of a family of another child who died from liver failure after ingestion of an antibiotic.

Frank likes to say that his grandfather really wanted a lawyer in the family; so Frank took the entrance exam and applied to law school. His father also encouraged Frank to pursue a law degree, which he said could be helpful regardless of whether Frank ever practiced law. Now, Frank enjoys using his experience and skillset to help people. He says, “It can be very rewarding when you are successful in helping your client resolve whatever the problem is they have hired you to help them with.”

Throughout his career at the firm, Frank counts among many notable verdicts and settlements the successful resolutions of our firm’s Rezulin, Baycol and shoulder pain pump cases, and a $5.1 million verdict for a woman who developed breast cancer after taking hormone replacement therapy. Frank also served as Vice Chairman of the Sales and Marketing Committee for the Vioxx multidistrict litigation (MDL) and was an integral part of the successful Vioxx trial team.

Frank says he is proud of the firm’s resources, including the large number of Plaintiff lawyers in one firm, as well as the specialty practice areas and the extensive scope of work. He says these characteristics, combined with the client-first approach and the integrity consistently demonstrated by lawyers and staff, distinctively set the firm apart. Frank says he is pleased that Beasley Allen has the capacity to serve so many clients, nationwide.

Frank currently serves as President of the Alabama Association for Justice (ALAJ). He is a former president of Mobile County Young Lawyers and was a member of the State of Alabama Young Lawyers Committee. Additionally, Frank is currently a member of the Montgomery County and Mobile Bar Associations and the American Association for Justice.

Frank is married to the former Marti Glaze of Tuscaloosa, Alabama, and they have four children. The family are active members of Frazer United Methodist Church, where Frank served on the Board of Stewards. He is a member of the Harbor Light Sunday school class and serves as an usher during the contemporary service. He also is a past member of the Board of Directors for St. James School.

Frank is a very hard worker who is extremely capable in his area of practice. He has also done outstanding work in his various roles with ALAJ and considers it an honor to serve on behalf of victims of corporate wrongdoing. We are blessed to have Frank at Beasley Allen.

XXIII.
SPECIAL RECOGNITIONS

ROB REGISTER JOINS BEASLEY ALLEN IN ATLANTA

Rob Register, a lifelong Georgia native, joined our firm’s Personal Injury & Products Liability Section last month. He will handle personal injury and product liability cases in our Atlanta office. Rob has dedicated his practice to helping individuals and their families in cases involving life-altering harm including brain and spinal
record injuries, amputations, burns and wrongful death.

Since his earliest days growing up on a farm in South Georgia, Rob had a relentless drive to make something of himself and to help others in need. After high school, he attended North Georgia Military College on a military scholarship. He obtained a Bachelor of Business Administration in Accounting in 1995 and served in the U.S. Army National Guard. In 1998, Rob graduated from Mercer University, Walter F. George School of Law, where he was a member of the Law Review.

Rob began his career at a Defense firm where he represented corporations, hospitals, and doctors, trying cases all across Georgia. After many years on the Defense side, Rob recognized his true calling and since 2003 has devoted his career exclusively to representing people whose lives have been devastated by the carelessness and wrongdoing of companies in Corporate America.

Now, the award-winning lawyer annually chairs seminars on personal injury topics and speaks frequently around the country on issues related to trial practice, professional negligence, and tractor-trailer and other types of commercial vehicle litigation. Rob has been recognized by his peers as an outstanding trial lawyer.

Rob says his favorite parts of practicing law includes the challenge of investigating, preparing and litigating each new case, and the opportunity of providing hope to his clients. He says, “I can never replace what they have lost, but we can make a difference in the quality of their life and provide resources for their future in an effort to help them adapt and overcome the loss.” Rob looks forward to continuing his practice and pursuing his calling at Beasley Allen and says:

I have always viewed Beasley Allen as a preeminent Plaintiff’s firm in the United States, known for their ability to organize and successfully resolve some of the largest and most complex litigation cases in the country. The lawyers that I know from the firm are top notch professionals who also have a friendly and compassionate presence. I am excited to be a part of this great law firm.

Rob holds a number of leadership positions, including current chair-elect for the General Practice and Trial Section of the State Bar of Georgia and serves on the Board of Governors for the Southern Trial Lawyers Association. He has chaired the Institute for Continuing Legal Education (ICLE) Jury Trial Seminar each year from 2011-2018, which averages more than 250 attendees and is broadcast statewide on the Georgia Public Broadcast (GPB) network. Rob also chaired the 2015 Professional Liability section of the Georgia Trial Lawyers Association’s annual convention. And, he serves in various leadership capacities in several national legal organizations devoted to upholding the high standards of lawyer competency and protecting the right to trial by jury in civil cases.

Rob, his wife Brie, and their boys Ryder and Bryce, attend Northpoint Community Church. He also volunteers his time for several organizations and coaches his 10-year-old son’s baseball team. All of us at Beasley Allen welcome Rob to our family and consider him to be a tremendous addition to the firm.

ALABAMA ARISE BIDS FAREWELL TO KIMBLE FORRISTER ON HIS RETIREMENT

For three decades, Alabama Arise (Arise) has been leading the charge to improve state policies affecting low-income Alabamians and tackling economic injustice on many different fronts. Kimble Forrister has been at the helm for 27 of its 30 years, serving as Executive Director. He has led the group through the highs and lows of countless legislative and public policy battles. Kimble has worked with other like-minded advocates to build a strong foundation of active supporters who will continue the efforts well into the future.

Yet, Kimble says it is time for a changing of the guard and he will hand over the reins this year. While so many will miss Kimble’s passion, leadership and fortitude in the fight to help protect the “least of these,” his departure provides an opportunity to reflect on the work done by Arise.

Arise was established in 1988 when a coalition of 32 congregations and groups were united under the belief that low-income Alabamians deserved to be recognized by the state’s policy decisions. Three years later, it hired its first State Coordinator, Kimble Forrister, who would later become the organization’s Executive Director. In 1994, its sister group, Arise Citizens’ Policy Project (ACPP), was created to supplement Arise’s efforts and Kimble also served as ACPP’s Executive Director. ACPP was officially incorporated as a 501 (c)(3) in 1997. Under Kimble’s leadership, Alabama Arise and ACPP have grown monumentally, from two staff members to 15, tripled the number of member groups, as well as added nearly 1,000 more members.

Each summer Arise organizers travel all over the state, holding listening sessions to learn about circumstances that hold low-income people back and to explore how policy change can address these barriers to a better life. Members develop issue proposals over the summer, then meet in Montgomery each September for a full day of spirited discussion before voting to choose their legislative agenda for the coming year. Then, Arise’s policy team develops educational materials to help lawmakers and the general public understand the issues and develop long-term solutions.

With a mission to ensure legislation is passed that allows low-income Alabamians to move up the economic ladder and better provide for their families, the group has advocated for a wide range of issues. Two of its major successes came in a single year. In 2006, Alabama lawmakers passed the state’s first landlord-tenant law, which guarantees renters’ rights. That year, state lawmakers also raised the income tax threshold, the level of income that requires a household to begin paying income tax, from a meager $4,600 to $12,600 for a family of four. Arise also championed funding equity and school-based health and social services, successfully obtaining a $42 million increase in funding.

Most recently, the group’s efforts to reform the predatory or payday lending industry in the state gained momentum. Alabama has created a statewide database of predatory lenders in order to improve knowledge about the lenders’ practices.

Arise has worked to address other issues including state funding for public transit; the inequities of the death penalty; funding for elderly, child, and low-income health care; predatory lending practices; constitutional reform; and education reform. It has also opposed measures that would negatively impact low-income Alabamians. During the most recent legislative session, the group successfully fought efforts to take millions of taxpayer dollars out of the state’s Education Trust Fund by giving tax breaks for private school tuition. Its members’ strong opposition also defeated proposals to implement expensive and unnecessary barriers to families that benefit from Medicaid, Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance to Needy Families (TANF).

Other battles including improving Alabama’s regressive tax structure, additional efforts to limit the harm inflicted on hard working Alabamians by payday lenders, and removing the
sales tax from groceries, are ongoing. Yet, hope for economic justice in Alabama remains strong thanks to Arise’s track record for success and the firm commitment of its supporters “to help the least of these” that was cultivated by Kimble Forrister.

A native of Nashville, Tennessee, prior to his work for Arise and ACPP Kimble worked in urban ministry in the Northeast during the 1970s. He completed a Master of Divinity at Princeton Theological Seminary and served as Southeast regional organizer at Bread for the World for nine years during the 1980s.

Kimble says he has no predetermined plans for the immediate future, but that he looks forward to seeing what opportunities the future holds for him. All of us at Beasley Allen wish Kimble the very best in his retirement. He deserves a well-earned rest, but we will be watching to see what this passionate consumer advocate will do next. Kimble Forrister has dedicated his life to helping others and I am confident that he will find ways to continue his work. May God bless this man!

XXIV.
FAVORITE BIBLE VERSES

Wendi Lewis, who does a tremendous job as our firm’s Marketing Director, furnished her favorite Bible verse for this issue. Wendi says “it is easy to get caught up in what other people are doing or saying, when really our concern should be growing stronger—seeing more clearly—in our own walk. We can’t know what’s in another person’s heart. How would Jesus treat them? I think it’s also interesting that Matthew 7:1-5 tells us that we will be treated as we treat them? I think it’s also interesting that Matthew 7:1-5 tells us that we will be treated as we treat others. What an encouragement to extend grace!”

Judge not, that you be not judged. 2 For with what judgment you judge, you will be judged; and with the measure you use, it will be measured back to you. 3 And why do you look at the speck in your brother’s eye, but do not consider the plank in your own eye? 4 Or how can you say to your brother, ‘Let me remove the speck from your eye;’ and look, a plank is in your own eye? 5 Hypocrite! First remove the plank from your own eye, and then you will see clearly to remove the speck from your brother’s eye. Matthew 7:1-5 (NKJV)

Sandra Jones, a clerical assistant in the Mass Torts Section, supplied three verses this month. She says “these verses have become a motto for my family. When a situation faces me that surrounds me with an improbably solution, I claim these verses and say it over and over until I strengthen my resolve to accomplish the impossible. Jesus said our way of thinking is what makes a situation impossible. If I think with the power of men, I remove my eyes from God. If I look into the eyes of Jesus Christ, the concept of impossible does not exist.” Sandra gives these examples of how God can work in our lives.

Impossible: After a difficult birth, a child was pronounced under developed and the doctors gave no hope for the child to live beyond 2 years.

Impossible: A vicious storm destroyed the family home, a beloved brother died, a son was killed a month later in a faraway land where war reigned, and a family had to relocate to a new city.

These verses from Sandra illustrate that hope can overcome the impossible. She says the child the doctors virtually gave up on is now turning 17, standing over 6 feet tall and healthy. The family in the second example have made a home in their new city and now look forward to the future that God will provide them. Sandra says we should never believe that anything is impossible with God by our side.

But Jesus beheld them, and said unto them, with men this is impossible; but with God all things are possible. Matthew 19:26 (KJV)

For nothing will be impossible with God. Luke 1:37 (ESV)

Frank Woodson, a lawyer in our Mass Torts Section, supplied one of his favorite verses this month. He says that Paul’s message to the church at Ephesians also applies to the work of our law firm. I totally agree with Frank.

In everything I did, I showed you that by this kind of hard work we must help the weak, remembering the words the LORD Jesus himself said: ‘It is more blessed to give than to receive. Acts 20:35

XXV.
CLOSING OBSERVATIONS

Our Government Has Failed To Confront The Threat Of Climate Change, So We Must Get Involved

Climate change is an issue that threatens the survival of every living person and creature on earth, yet in the United States it has become little more than a hot-button political topic in many peoples’ minds.

But while politicians argue over the causes of climate change, and even go so far as to deny the radical climate changes that are currently underway, the earth continues to experience erratic weather patterns, intense storms, deadly drought, and disappearing shorelines.

According to the Environmental Defense Fund, these changes are seen and felt in the Arctic more than anywhere else. In fact, the winter of 2018 was the warmest winter on record for the Arctic. The formation of sea ice also dropped to its lowest level in history. These conditions allowed a commercial tanker to complete the first winter crossing of the Arctic Ocean ever in February.

Scientists who monitor Arctic climate patterns say the mild winter weather is unprecedented and dangerous because they believe Arctic “heat waves” help drive a vicious cycle that is playing a strong destabilizing role in the climate everywhere else on earth.

We are entering a new era in which the only predictable aspect of the climate is its unpredictability. Entire oceans worth of Arctic ice are evaporating, and all that water will come back down sooner than later.

We saw this with Hurricane Harvey last August. When the Category 3 storm made landfall at San Jose Island, Texas, it released more water from the sky than any other storm in U.S. history—one million gallons for every person in Texas, scientists estimate. The resulting flooding made Harvey one of the deadliest and costliest storms ever to hit the U.S.

Immediately after Harvey came Hurricanices Irma and Maria, which decimated parts of Florida, the Gulf Coast, Puerto Rico, and other Caribbean Islands.

At a time when industry, science, and government should be working together to develop and invest in climate change solutions, the Trump Administration is working with big polluters to deceive the American public about the realities of climate change while backing out of key agreements, reversing critical environmental protections and goals, and de-investing

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in renewable and sustainable energy technologies.

The harmful, destructive effects of industrial pollution and climate change cannot go unanswered, which is why it’s so critical for organizations like the Environmental Defense Fund to work with the private and public sectors in reducing carbon emissions. It is also not just our right but our duty not only to hold big polluters legally accountable for practices and policies that harm and sicken us, but threaten to rob our children and grandchildren of an inhabitable earth.

If our politicians won’t take the initiative in tackling critical climate change issues, then who will? People who want to save our world for future generations have that responsibility and must get involved. I recommend personal contacts with elected officials at every level by all of us who understand the need to get involved in this critically important battle.

Source: Environmental Defense Fund

The Faith to Persevere

by Oswald Chambers

Perseverance means more than endurance—more than simply holding on until the end. A saint’s life is in the hands of God like a bow and arrow in the hands of an archer. God is aiming at something the saint cannot see, but our Lord continues to stretch and strain, and every once in a while the saint says, “I can’t take any more.” Yet God pays no attention; He goes on stretching until His purpose is in sight, and then He lets the arrow fly. Entrust yourself to God’s hands. Is there something in your life for which you need perseverance right now? Maintain your intimate relationship with Jesus Christ through the perseverance of faith. Proclaim as Job did, “Though He slay me, yet will I trust Him’ Job 13:15

Faith is not some weak and pitiful emotion, but is strong and vigorous confidence built on the fact that God is Holy love. And even though you cannot see Him right now and cannot understand what He is doing, you know Him. Disaster occurs in your life when you lack the mental composure that comes from establishing yourself on the eternal truth that God is holy love. Faith is the supreme effort of your life—throwing yourself with abandon and total confidence upon God.

God ventured His all in Jesus Christ to save us, and now He wants us to venture our all with total abandoned confidence in Him. There are areas in our lives where that faith has not worked in us as yet—places still untouched by the life of God. These were none of those places in Jesus Christ’s life, and there are to be none in ours. Jesus prayed, “This is eternal life, that they may know You…” (John 17:3). The real meaning of eternal life is a life that can face anything it has to face without wavering. If we will take this view, life will become one great romance—a glorious opportunity of seeing wonderful things all the time. God is disciplining us to get us into this central place of power.

We must learn to persevere in all areas of our life. Oswald Chambers understood that and so should we. There will be times when problems arise and we may be tempted to quit on something we have been working very hard on. That is why we must persevere. Bumps in the road, some of a major sort, are a part of life. Perseverance in all areas of our lives is an absolute necessity and I have learned that when God is in control of our lives, we can overcome all obstacles, persevere and reach our goals.
On January 15, 1979, Jere L. Beasley established a one-lawyer firm in Montgomery, Alabama, which has grown into the firm now known as Beasley, Allen, Crow, Methvin, Portis & Miles, P.C.

Jere has been an advocate for victims of wrongdoing since 1962, when he began his law practice in Tuscaloosa and then his hometown of Clayton, Alabama. He took a brief hiatus from the practice of law to enter the political arena, serving as Lieutenant Governor of the State of Alabama from 1970 through 1978. He was the youngest Lieutenant Governor in the United States at that time. During his tenure he also briefly served as Governor, while Gov. George Wallace recovered from an assassination attempt.

Since returning to his law career, Jere has tried hundreds of cases. His numerous courtroom victories include landmark cases that have made a positive impact on our society. His areas of practice include litigation in products liability, insurance fraud, business, nursing home and personal injury.

It has been nearly 40 years since he began the firm with the intent of “helping those who need it most.” Today, Beasley Allen has offices in Atlanta and Montgomery, and employs more than 250 people, including more than 75 attorneys. Beasley Allen is one of the country’s leading firms involved in civil litigation on behalf of claimants, having represented hundreds of thousands of people.

No representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers.