

# INJURY LAW ALERT

*FALL 2008 ISSUE*

## ***RVS AND AGING TIRES: A DEADLY COMBINATION***

As the population ages and begins to retire, many retirees are purchasing recreational vehicles, giving them the freedom to travel around the country at their own pace and with their own itinerary. RVs have become more popular, and they have also become larger. Many of them (known as Class A motor homes) are so big that they resemble buses, have their own TVs, kitchens, and full baths, and can comfortably carry the entire family with all of its luggage.

However, along with the rise in Class A RVs has come an unfortunate rise in RV accidents. Although RVs are involved in the occasional fender bender like any other motor vehicle, many of them also crash due to problems with their tires. There are several reasons for this.

### ***Reasons for Tire Problems***

First, while RVs are growing in size, RV manufacturers are not taking into account their increased weight when deciding what size of tire to put on them. In 2006, the National Highway Transportation Safety Administration (NHTSA) issued a report that, in part, faulted manufacturers for adding features to RVs that increase their weight without also increasing their tire size. The NHTSA specifically recommended the installation of larger tires and upgrades to other parts of RVs that carry the added weight in order to improve ride, handling, and safety.

RV manufacturers also spend little effort to engineer their motor homes for safe driving. It is alarming how few safety tests are conducted on these behemoth RVs when compared with other vehicles, such as cars and trucks.

Tires generally suffer from problems with age. Although most tire manufacturers will tell you that a tire is good for at least 10 years, many people have reported dangerous deterioration in both real and synthetic rubber tires after as few as six years. As time passes, the rubber used in the tire gets progressively more brittle, causing the tread to separate from the tire while driving. This kind of tire problem appears to be especially common in RVs, which often keep the same tires for many years because they are driven far fewer miles in a given year.

Finally, RVs are often driven under conditions that stress tires--during the summer, under maximum loads, and by drivers who are not familiar with driving such a large vehicle--*after* the RVs have been sitting unused for months on end. All of these conditions can increase the chance of tire failure, and prevention of tire failures requires RV owners to take a more active role in making sure that their tires have a good tread, are otherwise in good condition, and (most importantly) are properly inflated.

If you or a loved one has been injured in an RV accident caused by tire failure, tread separation, or the like, call us. We will be happy to discuss your legal rights and help you recover any damages you may be entitled to receive.

## ***\$4 MILLION VERDICT FOR DEFECTIVE TIRE CRASH***

A jury recently ruled that Wal-Mart pay \$4 million to a woman who was severely injured when the tread on one of her tires separated. The defective tire caused the vehicle to crash, paralyzing the woman driver.

The defective tire had been recalled in 2002, and Wal-Mart had serviced her vehicle nine times since the recall, but the woman was never informed that the tire was bad. Wal-Mart had a policy not to disclose tire recalls unless the tires were bought at Wal-Mart. In addition, Wal-Mart argued that its servicemen were not trained to look for tire defects.

Despite this, the jury believed that Wal-Mart had a responsibility to inform the woman about the defective tire and it ruled in her favor.

## ***YOUR TEEN IS READY TO DRIVE? MAKE THAT PROSPECT LESS FRIGHTENING***

So your baby is all grown up (or thinks he is) and wants to get his driver's license. While having a teen on your auto policy is likely to raise the price of your insurance, there are things you can do to increase the chances that your teen will be a safe driver.

First, set a good example. If you speed, tailgate, and drive aggressively, your teen probably will also. Relax, slow down, and show your child how a safe driver operates.

Insist that your teen wear his seat belt--wearing a seat belt has been proven to be the best way to prevent injuries in an accident. Make sure that your teen wears his seat belt every time he drives.

Many teenagers think that they are 10 feet tall and bulletproof, and that nothing bad can happen to them. We know better, so set clear limits. Studies have shown that teens are more easily distracted than more experienced drivers are, so limit the number of distractions.

You can restrict the number of people that your teen is allowed to have in the car or prohibit him from using his mobile phone or eating while driving. Nighttime is a more dangerous time to

drive, so set a "driving curfew," a time by which the car has to be back in the garage. Drinking and driving (which is not safe for any driver, and is also against the law) must be absolutely prohibited.

Make sure that your teen understands that driving is a privilege. The ability to drive means that the teen is getting closer to adulthood, but being an adult has serious obligations. Be certain that your teen understands that driving is dangerous, not just for him but for the other drivers with whom he shares the road. Impress upon him that unsafe behavior or the failure to obey your rules means that you will take the keys.

Finally, check for insurance discounts. Although insurance for teen drivers is very expensive, some insurers offer certain discounts. For example, some companies give discounts if your child is on the honor roll. Others offer discounts if the child completes an approved safe driving course.

Taking these steps can help your teen driver grow into a safe driver.

## ***ASTHMATIC WINS DISABILITY SUIT***

If you are disabled, the law may require your employer to make "reasonable accommodations" for your disability, accommodations that will allow you to continue to do your job. A recent case demonstrates that the definition of a "disability" can be broader than you might think.

The case involved a woman who worked in a prison as a drug counselor. The woman suffered from asthma so severe that an asthma attack made her turn blue for lack of oxygen and could send her to the hospital.

The prison began to use air fresheners that triggered the employee's asthma attacks, but, once the prison realized that the air fresheners were causing the asthma attacks, they were removed. However, the prison then installed automatic air fresheners and refused to remove them despite the employee's protests. The prison then compounded its error when it refused to allow her to come to work unless she provided a signed assurance from her doctor that the air fresheners would not affect her and, when such assurance was not forthcoming, she was fired.

At trial, the jury found that the woman's asthma was so severe that it constituted a disability, and it went on to find that the prison failed to make a reasonable accommodation for the woman by removing the air fresheners. The woman was awarded \$1.5 million in damages.

## ***THE IMPORTANCE OF PRESERVING EVIDENCE***

Regardless of the kind of case you have, every lawsuit is the same in one way: The evidence must support your claim. This means that if you suspect you have a claim, you should take steps to preserve the evidence that could be critical in supporting your case.

It is said that a picture is worth a thousand words, and this is especially true in a lawsuit. If you have been hurt in a car accident, take photos of the car you were in, the scene, and, if possible, your injuries. Documents can also be evidence: Receipts, medical records, product instructions, accident reports, and the like can all be used to prove your claims.

Evidence is especially important in products liability cases, where someone is hurt by a defective product. Keep the product in the condition that it was in when the injury occurred and, if it is not in your possession (such as a car in a wrecker yard), take steps to secure it. There are reports of defendants' trying to buy the defective product so that they can destroy it.

Sooner is better than later. A picture of the accident scene taken the day after a collision is worth more than one taken a year later. A picture of your bruises taken soon after you were injured will tell more than pictures of the same bruises once they have begun to heal.

When you hire a lawyer to represent you, give him all of the evidence you have saved. This will help make your case and get you the compensation you deserve.

## ***INSURERS MAKE RECORD PROFITS--AT YOUR EXPENSE***

Insurers in America have posted record profits of \$62 billion in 2007. These profits are not a fluke: Insurers have made almost \$170 billion in profits since Hurricane Katrina, and about \$235 billion since 2002.

These profits are the product of a combination of higher premiums and smaller payments. In fact, insurers routinely refuse to pay covered claims and they use unfair claims and settlement practices to increase profits, harming policyholders who have paid for coverage.

The next time you hear insurers lamenting poor profits and blaming greedy lawyers for increases in premiums, remember who it is that has all of the money. Unfortunately, if you want a fair shake from an insurer, you have to hire a lawyer to help you, which is why people with lawyers regularly recover far more from insurance companies than people without lawyers do.

## ***CASE BY CASE***

### ***Workplace Safety Violations Cost Employer***

A jury recently returned a \$3.7 million verdict against the employer of a man who was seriously injured when he fell down an open elevator shaft.

The worker (who, ironically, was responsible for safety at the construction site) fell because the rails intended to keep people from falling down the shaft had been partially disassembled. The evidence showed that one side of the rails had been unscrewed from the supports and, when the worker leaned on the rails, they gave way and he fell.

The fall caused the worker to break several ribs, his shoulder, and his elbow. His injuries were so serious that he could not move, and he had to be rescued from the elevator shaft by a crane.

At trial, the employer blamed the worker, saying that the worker had given permission for the rails to be loosened to allow another company to do some work. The employer also claimed that the rails were obviously not attached and that it was the worker's fault for not noticing. However, these claims were undermined by another worker, who testified that the rails still looked as if they were properly attached.

The jury ruled against the employer. It awarded the worker over \$3 million for his injuries and loss of earnings, and awarded his wife almost \$700,000 because of the injuries suffered by her husband.

Workplace safety is important, and verdicts such as these play an important role in ensuring that employers have the proper incentive to protect their workers.

## ***WE APPRECIATE YOU***

Thank you for choosing our firm for your legal needs. We hope that you will continue to count on us when you need legal help. We are just a phone call away.

We also appreciate the trust that you have placed in us by referring your friends, family, and associates to us for legal services. Thanks!