

# LEGALLY SPEAKING

A quarterly newsletter for friends and clients of  
*MOORE & WOLFE*, Attorneys at Law

WINTER, 2003

Alabama Bar Association rules require the following disclaimer: No representation is made that the quality of legal services to be provided is greater than the quality of legal services to be performed by other attorneys.

## Recommendation of Services

We truly appreciate the recommendation of our legal services by our current and former clients and by those people in the community who are familiar with our practice. Unlike lawyers who advertise on TV, we count on each and every one of our clients to recommend our services to their friends and family members. ***Our next client comes from you, not a TV commercial.***

Over 85% of our current clients have been recommended to our office by former clients or people in the community who are familiar with our work and service. **THERE IS NO CHARGE FOR CONSULTATION.**

## DON'T BE A VICTIM TWICE!

**FREE HANDBOOK FOR MOTOR VEHICLE ACCIDENT VICTIMS.** Our publication *Motor Vehicle Accidents: A Victim's Handbook*-Alabama Edition has recently been updated. This free publication provides motor vehicle accident victims with a general overview of their legal rights. It includes a section on Insurance Coverages and provides important information on how Insurance Companies view and handle claims. It also contains a section on Hiring an Attorney with important questions and considerations when making this decision.

Since its original publication in 1994, 25,000 copies of this important booklet have been printed and distributed. **IF YOU HAVE BEEN INJURED IN AN ACCIDENT, PLEASE CALL 251 433-7766 FOR A FREE COPY.**

## AT THE FIRM

-Moore & Wolfe help Santa Kop. For the second year, the law firm was a corporate donor for the Santa Kop program. The program is sponsored by area law enforcement officers who volunteer during their off time to raise money for toys and gifts for deserving children in our area.

-Attorney Knox Boteler has become a partner at Moore & Wolfe. For the past three years Knox has been the backbone of the Litigation section. His tireless work in the trenches on motions and briefs as well as his skill in successfully litigating cases has made him a great addition to M&W.

-Robin Edwards is now the Litigation Secretary at M&W and she has been doing a great job in that capacity. After the first of the year we anticipate that Raven McNab will move

from the Receptionist to Legal Assistant in the Claims section and the Litigation section. At M&W we are very proud of all of our employees and the great work they do for our clients. Their hard work and dedication enhance the quality of legal representation provided by the attorneys at M&W.

## TRIAL LAWYERS TO THE RESCUE

South Alabama Trial Lawyers Association (SATLA) comes to aid of those in need. Contrary to the media stereotype of Trial Lawyers as being selfish and greedy, the 75 members of SATLA recently pulled together to raise over \$7,500 for area charities and programs.

The Salvation Army's Neediest Family Campaign received a \$5,000 contribution from SATLA and the members pledged funds to buy 30 bicycles for the children at the Prichard Boys and Girls Club. In addition, the \$1,500 raised from the annual charity golf tournament will be donated to the Mobile Bar Association's Volunteer Lawyer Program (VLP). The VLP provides free legal services and consultations to indigent people in the Mobile area.

Since SATLA was founded in 1998 over \$45,000 has been raised and donated to area charities and public awareness programs. Most SATLA members are also participants in the Alabama Civil Justice Foundation (ACJF), which is the primary charity sponsored by the Alabama Trial Lawyers Association. Since its inception ten years ago, the ACJF has raised and donated almost 4 million dollars to charitable groups across the State of Alabama. (Continued on page 2)

This publication provided as a service of:

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#### TO THE RESCUE (continued from page 1)

Local charities that have received grants and funding from the ACJF include the Boy Scouts, the Girl Scouts, the Boys and Girls Clubs, 100 Black Men, the YMCA and Habitat for Humanity to name just a few. If you know of a local charity or non-profit organization that might qualify for a grant or donation, please have them call the ACJF at 334 263-3003 for more information.

Mark Wolfe serves on the Executive Committee for both SATLA and the Alabama Trial Lawyers Association. The SATLA mission statement reflects the character and ideology of its members:

***-lawyers from the community helping  
people in our community-***

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### **TEENAGE DRIVERS AT RISK**

Once again the annual statistics regarding teenage drivers cause us great concern. As attorneys who represent automobile accident victims, we pass along this information in hopes that our readers with teenage drivers will share this information with their children.

\*Motor Vehicle Accidents are the leading cause of death for children age 15 to 19.

\*One out of three teenage drivers will have an accident during their first year of driving.

\*Teenage drivers account for only 7% of the driving population but they account for 14% of all accidents and deaths.

\*In accidents involving teenage drivers, the teenage driver was found to be at fault in 82% of the accidents.

\*The crash rate of 16 year old drivers is three times that of 17 year old drivers and five times that of 18 year old drivers.

Year in and year out the statistics repeat what we already know. Driving is dangerous. A car in the hands of an inexperienced driver can be a lethal weapon. Interestingly, the statistics and reports also indicate teenagers are more likely to adopt safe driving skills if their parents practice safe driving skills. PLEASE BE A SAFE AND COURTEOUS DRIVER.

### **Home Improvement Contract Problems**

Organizations such as the American Tort Reform Association (ATRA), constantly promote these type of stories to further their true agenda of closing the Courthouse doors for

The National Association of Consumer Agency Administrators and the Consumer Federation of America recently reported the number one consumer complaint last year involved Home Improvements. Specifically, poor workmanship by contractors related to various home improvement projects.

Moore & Wolfe offers the following tips to help minimize problems with Home Improvement projects:

-Use a reputable contractor. Do not hire someone who is soliciting home improvement work door-to-door. Check references from the contractors last three jobs.

-Put your agreement in writing! Make sure the written agreement is specific as to: 1) what work the contractor is going to do, 2) the length of time anticipated to do the work, 3) the type and quality of material to be used and, 4) when payments will be made. If the contractor writes up the agreement make sure it contains details for the four areas above.

-Do not pay in full until the work is completed. Be wary of those contractors who only accept cash. If the contractor requires a substantial pre-payment for "materials and supplies", consider meeting him at the suppliers business to directly purchase the material and supplies.

-Another factor to consider is how long the Home Improvement company has been in business. Experts report that Home Improvement is the industry where companies are most likely to go out of business and reopen under another name.

If a dispute arises involving \$3,000 or less consider going to Small Claims Court. Moore & Wolfe has free information about Small Claims Court. Call 433-7766 for a copy of our booklet concerning Small Claims Court.

### **Litigation Legends Spreading Via the Internet**

For the past six months an e-mail about 10 frivolous lawsuits has been sent back and forth across the country. The original e-mail purports to be from a Chicago law firm concerned with these "out-of-control" jury verdicts and the "greedy Trial Lawyers" who are ruining our civil justice system. The e-mail tells the basic details of 10 frivolous lawsuits and the outrageous money awarded by a jury in each case. These ten lawsuits are purported to be nominees for the "Stella Award". So named after Stella Liebeck, the victim in the infamous McDonald's Hot Coffee case. The ten cases reported are truly outrageous and at the end, the reader is encouraged to forward the e-mail on to friends and family so they too can be equally outraged at "greedy Trial Lawyers."

The problem is that **nothing** about the e-mail is true. Every "case" reported in the e-mail is pure fiction. Investigation into the e-mail further shows that the Chicago law firm listed as the sponsor of the e-mail does not exist. These cases are simply Litigation Legends.

all injury victims and consumers. A visit to the ATRA web site page entitled "Fifty Ludicrous Lawsuits" reveals some interesting insights if one actually takes some time to review

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each of these fifty cases they report on. First, several of the cases involve the same person who apparently was in a dispute with a City about his pet. The Plaintiff filed several different lawsuits over a five year period. The cases were apparently brought in Small Claims Court without a lawyer representing the Plaintiff.

Another interesting revelation from the reported fifty ludicrous lawsuits is that 30% of the cases reported were filed Pro Se, that is there wasn't a lawyer representing the Plaintiff and most of these Pro Se cases were apparently filed in Small Claim Courts. Five of the cases reported as "Ludicrous Lawsuits" weren't even filed in the United States or even involve American citizens! Also, several of the "cases" reported were not even lawsuits but simply commentaries about incidents that "might be" grounds for a "Ludicrous Lawsuit." At least none of the fictional cases referenced at the introduction to this story were reported.

From the dates reported on the cases, it is clear that this research goes back at least ten years. ATRA, are you kidding us? If these "cases" are the best examples you can find to justify Tort Reform, no wonder you and your insurance industry cronies have resorted to perpetuating fictional cases.

It is time for consumers, and mainstream media, to examine the Myth of Lawsuit Abuse. What is the motivation for organizations such as ATRA, Alabama Voters Against Lawsuit Abuse and the Business Council of Alabama to close the Courthouse doors? The answer is simple: MONEY. The harder it is for victims and consumers to get into Court, the harder it is for them to recover fair and reasonable restitution. The less restitution paid to consumers and victims, the more money for Corporate America.

### **WRONGFUL DENIAL OF DISABILITY INSURANCE BENEFITS**

UnumProvident Life & Accident Insurance Company has been targeted by a statewide consumer advocacy firm for the wrongful denial of disability benefits. UnumProvident has recently come under criticism for wrongfully denying benefits under its disability insurance policies as well as the disability policies it administers for other companies. The allegations against the company include the bad faith denial of benefits and breach of contract claims.

Under Alabama law, insurance companies must act in good faith when administering and paying claims of their insureds. A company can be held liable if it fails to process and pay legitimate claims submitted by an insured. [Unfortunately this law does not apply to third party liability insurance claims.] UnumProvident is one of the largest underwriters of Disability Insurance policies and it administers disability claims for many other companies. If you, or a friend or family member, has recently been denied disability benefits under a UnumProvident policy or a policy they have administered, call us today and we can help you determine your rights. **251 433-7766.**

### **Moore & Wolfe Fight for Victims' Rights**

The attorneys at M&W are currently working on two important appellate cases that will have statewide implications for auto-accident victims. The two cases are both against ALFA Insurance Company and involve the status of med-pay subrogation rights of insurance companies. Subrogation is where an insurance company seeks to get repaid for benefits it provided to its insured. Medical payment coverage (commonly called med-pay benefits) is a coverage found under most policies of automobile insurance. Auto-accident victims often use their own med-pay coverage as a supplemental coverage to help with medical bills while a third party liability claim is pending.

In 2000 the Alabama Supreme Court reversed the long standing law that allowed the victim's right of recovery to take precedent over his or her insurance company's right to be repaid. Under the new interpretation of the law, an insurance company's right of repayment can now be placed ahead of the victim's right to recover full restitution from the third party liability insurance company. At issue in the two cases, which are currently pending in the Alabama Court of Civil Appeals, is whether or not the ALFA policy language adequately expressed its intention to assert its right of repayment regardless of whether or not the victims fully recovered all the restitution they were entitled to in their third party settlements.

Barbara Evans, the Director of Alabama Watch (a statewide consumer advocacy group), recently contacted the attorneys at M&W to express her organization's interest in the cases. In addition, the attorneys at M&W have spoken to numerous other attorneys across the state who are also watching these important cases. "We are hoping to eventually get this issue back to the Alabama Supreme Court" said Mark Wolfe. "We [Alabama] seem to have gone backwards on this issue. Most other states, including our neighbors in Georgia, Mississippi and Tennessee, have adopted Alabama's old interpretation of subrogation law that allows the victim's rights to take priority over his or her insurance company's right to get repaid," said Wolfe.

While the two cases at M&W only involve about \$4000 in med-pay benefits, the issue in dispute involves millions and millions of dollars in med-pay benefits paid annually by insurance companies to their insureds who have been injured in automobile accidents. "The insurance companies want to sell this coverage and then penalize their insureds for using it as a supplemental coverage," Wolfe explained. The final reply brief will be due in mid-January and the Court of Civil Appeals will decide the cases. If either party is not satisfied with the Court of Civil Appeals' decision, then a Writ has to be filed with the Alabama Supreme Court asking that Court to consider accepting the case for further consideration.

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FREE CONSULTATIONS ABOUT YOUR RIGHTS