



SPRING 2010

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## Surgeons could improve patient safety, reduce medical mistakes with use of "safe-surgery checklist"

*By James C. Lewis, Attorney*

Surgeons could reduce patient complications and deaths, and consequently reduce medical mistakes and malpractice lawsuits, by following a "safe-surgery checklist," according to a study recently published by the *New England Journal of Medicine* (NEJM).

*(continued on page 3)*

## CURRENT CASES WE'RE WORKING ON

### CAR/TRUCK/VEHICLE ACCIDENTS:

- Married father injured and killed while operating motorcycle struck by a careless car driver. Wrongful death claim occurred in North Carolina.
- Young father was a passenger in a car rear-ended by a commercial truck and was killed in wreck. Suit pending in Virginia state court on behalf of the estate.
- Interstate highway accident: Man putting out warning cones for his vehicle was killed by a careless driver in foggy conditions. We represent the estate in Virginia state court.

### RAILROAD/FELA:

- Railroad bridge worker injured when 1600-pound crosstie timber smashes leg, causing permanent leg injuries. Handling FELA case.
- Railroad engineer suffers chemical-inhalation injuries from battery explosion on engine; locomotive defective.
- Railroad conductor retires, subsequently becomes teacher. After retirement is diagnosed with asbestos/mesothelioma cancer. Settled FELA case on behalf of his family in Virginia state court.
- Railroad worker suffers back injury while using railroad-supplied brakestick.

### DANGEROUS DRUGS/ FAULTY-DEFECTIVE PRODUCTS:

- Several cases involving serious medical complications from Yaz® birth-control pills.
- Death of North Carolina man prescribed Fentanyl

patches (medical negligence/product liability issues).

- Avandia—complications from taking this dangerous drug, including heart problems.
- NuvaRing®—birth-control device linked to strokes and other medical complications.
- Custom wakeboard boat owner suffers serious ankle injury from hole/defect in fiberglass construction of pleasure boat.

### MEDICAL/SURGICAL ERRORS:

- Man suffers terrible medical complications from gastric bypass surgery gone wrong; undergoes corrective surgery.
- Three separate cases involving permanent shoulder injuries (dystocia) suffered by children at childbirth, all pending in Virginia state courts.
- Representing four unrelated women, all suffering various serious medical complications from hysterectomy surgery, where surgeons accidentally cut or severed the ureter (tube between kidney and urinary system).
- Family doctor failed to screen 50-year-old for colon cancer; man contracts and dies from colon cancer. Represent estate in Virginia state court lawsuit.

### INDUSTRIAL ACCIDENTS:

- Retained by government inspector injured at industrial warehouse by careless forklift operator; client suffered leg and ankle injuries. Case settled in Virginia state court.

**Two firm attorneys included among "The Best Lawyers in America" (2010 Ed.) and named as "Virginia Super Lawyers" (Law & Politics, 2009 Ed.)**

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## **The sixth-biggest killer in America**

Preventable medical errors kill and seriously injure hundreds of thousands of Americans every year. Errors include physician diagnostic mistakes, incomplete or deficient patient records, medication-prescription slip-ups, staff fatigue and overwork, procedural safety-check lapses, and others.

Experts believe that if doctors, nurses, dentists, technicians, and other staff were simply more careful, they would make fewer errors.

### **Leading causes of death in the United States**

1. Heart disease	652,091
2. Cancer	559,312
3. Stroke	143,579
4. Chronic lower respiratory disease	130,922
5. Accidents	117,809
<b>6. PREVENTABLE MEDICAL ERRORS</b>	<b>98,000</b>
7. Diabetes	75,119
8. Alzheimer's disease	71,509
9. Influenza/pneumonia	63,001
10. Kidney disease	43,901

Source: [www.justice.org](http://www.justice.org)

Preventing medical errors will lower health-care costs, reduce doctors' insurance premiums, and protect the health and well-being of patients. The Institute of Medicine's study of medical errors estimated that 98,000 people die every year as a result of these mistakes. If these errors were reduced, our health-care system would save \$29 billion annually.

The Institute for Healthcare Improvement approximates that 15 million incidents of medical harm occur each year. HealthGrades, a leading health-care-rating organization, found that Medicare patients who experienced patient-safety incidents had a one-in-five chance of dying as a result.

Even though one-third of Americans say that they or one of their family members has experienced a medical error, and one in five say that a medical error has caused either themselves or a family member serious health problems or death, surveys show that Americans vastly underestimate the extent of medical errors.

# **TORT REFORM**

## **McDonald's burning-hot coffee**

Sometimes we must discredit frivolous lawsuit myths.

Corporations have spent millions to spread falsehoods about how lawsuits are out of control and responsible for all of America's ills.

### **Facts often tell a different story**

Take, for instance, the popular legend that a woman sued because she spilled coffee on her lap! Those looking to weaken civil justice mocked Stella Liebeck and the McDonald's coffee case.

Unfortunately, the case's facts are no laughing matter. Ms. Liebeck's injuries included third-degree burns—the most severe—to her groin, inner thighs, and buttocks. She was hospitalized for eight days, undergoing skin grafting and surgical removal of damaged tissue.

### **What really happened**

Ms. Liebeck sought to settle her claim with McDonald's for \$20,000, but management refused. At trial, McDonald's grudgingly identified more than 700 victims burned by its coffee between 1982 and 1993, some involving third-degree burns like Ms. Liebeck's.

McDonald's clearly knew of the hazard. The company's quality-assurance manager testified that any food served above 140 degrees is a burn hazard.

McDonald's coffee was kept at a scalding 185 degrees.

A jury awarded Ms. Liebeck \$200,000 in compensatory damages, but reduced the amount to \$160,000 because they found her 20 percent at fault for the spill. The jury also awarded her \$2.7 million in punitive damages, equal to two days' worth of McDonald's coffee sales. This was eventually reduced to \$480,000, even though the judge called McDonald's conduct reckless, callous, and willful. Jurors expressed similar sentiments in interviews after the trial.

Ms. Liebeck and McDonald's eventually entered a postverdict settlement.



## Surgeons could improve patient safety...

(continued from front page)

The study shows that approximately **one-third of patient complications and deaths were reduced when surgeons followed the “safe-surgical checklist.”**

Despite its effectiveness, only 20 percent of hospitals have adopted it.

With the development and proven effectiveness of this checklist, hospitals and surgeons should take note. If more hospitals implemented such checklists, the quality of patient care would increase significantly, and the number of surgical mistakes would decrease. Surgical errors like this are considered “never events,” meaning that with the execution of proper procedures, they should never occur.

## Study reveals Avandia increases risk of heart attack

By Emily Mapp Brannon, Attorney

A recent study by a Harvard researcher reveals patients who take the diabetes drug Avandia more than double their risk of a heart attack, according to [tradingmarkets.com](http://tradingmarkets.com). The study is set to be published in the American Diabetes Association journal.

This isn't the first time Avandia has been cited as a potentially dangerous drug. Three years ago, the Food and Drug Administration (FDA) required that a “Black Box” warning be added to the label of all Avandia bottles about the heart risks associated with the medication. Surprisingly, the FDA allowed Avandia to stay on the market despite many endocrinologists and other diabetes specialists calling for the removal of Avandia from the market, just like Vioxx and Rezulin.

In addition to potential heart attack, the most common Avandia side effects include:

- Liver toxicity
- Chest pains
- Congestive heart failure
- Stroke
- Vision changes
- Trouble breathing
- Respiratory infections
- Brittle bones in women

Nearly 13,000 people who used to take Avandia and suffered heart attacks or other serious side effects have filed claims against the drug company GlaxoSmithKline, the manufacturer of Avandia. That's far too many people who've suffered negative side effects from a drug that was marketed as something to help people with diabetes.

All of these studies point to the fact that Avandia is potentially a very dangerous drug and that the FDA should strongly consider removing it from the open market.

## Why are any tractor-trailers on the road in a blizzard?

By Richard N. Shapiro, Attorney

I had planned a family ski trip to the Seven Springs ski resort in Pennsylvania, which required that I drive through Virginia, Maryland, and then into Pennsylvania because the resort is just east of Pittsburgh. At times, I was surrounded by semis and big rigs, and I wondered what in the world these huge tractor-trailers were doing trying to drive in the treacherous conditions. The only reason I was still on the road was because I had a four-wheel-drive vehicle.

The problem I had was that tractor-trailer operators have **special duties** that typical motorists do not have under what is called the Federal Motor Carrier Safety Act. The Federal Motor Carrier Safety Administration oversees the operation of tractor-trailers, trucks, and buses operating on interstate highways. Regulations clearly state that commercial trucks need to reduce their speed, and “*if conditions become sufficiently dangerous, the operation of the commercial motor vehicle shall be discontinued.*”

The tractor-trailer operators had no business being on an interstate highway with **severe winter weather conditions**. I did see a few tractor-trailers pulled off on the side of the road, but for the most part, the tractor-trailers were trying to make it to a destination, and it was probably the dispatchers and the owners who were pushing the tractor-trailer operators.

**The tractor-trailer operators had no business being on an interstate highway with severe winter weather conditions.**



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## ***Announcing the winners of our Web Site Visit Contest!***

**WE PICKED OUR FEBRUARY 2010 CONTEST WINNERS, BY RANDOM DRAWING, AND NO PERSONS EMPLOYED WITH OUR LAW FIRM ARE QUALIFIED. THE WINNERS, WHO HAVE BEEN NOTIFIED, ARE (*to maintain their privacy, their last names have been omitted*):**

- 42-inch TV winner:**  
**Charlotte M., Clifton Forge, VA**
- iPod Touch winners (two):**  
**Tim W., Virginia Beach, VA**  
**Donald A., Henrico, VA**

### **NEW CONTEST PRIZES:**

- One portable travel DVD player (with carry case, headset, and charger)**
- Two iPod Touch units**

*To qualify for our Web Site Visit Contest in the future, any FIRST-TIME visitor who has not previously entered the contest may enter.*

*All you need to do is visit our Web site and enter your contact information.*

**Drawing date: May 3, 2010**



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