

Electronic Newsletter

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The Law Firm of Stephen M. Reck Files Suit for Construction Site Accident

[Attorney Scott D. Camassar](#) has filed suit against Turner Construction Company on behalf of an East Lyme man who was injured in a construction accident in New Haven on August 21, 2009. The man, a welder employed by one of Turner's subcontractors, fell about 10 feet into an open elevator shaft pit after a safety guardrail failed. The guardrail that failed was installed and inspected by Turner, the site's general contractor. Turner is alleged to be negligent in failing to provide adequate fall protection around the elevator shaft pit; failing to provide a guardrail of sufficient strength and construction; failing to inspect the guardrail or discover or repair its dangerous condition; and violating numerous OSHA regulations. As a result of the fall, the man suffered numerous serious injuries including a blunt traumatic head injury with loss of consciousness and intracranial bleeding; traumatic brain injury with cerebral hemorrhaging; left temporal bone complex fracture; multiple rib fractures; and fractured vertebrae in his neck and upper back.

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Supreme Court May Ultimately Decide Fate of Healthcare Law

States Call On Courts to Strike Down Insurance Mandate

"Two major constitutional challenges have been levied against the new law, one by the state of Virginia, which enacted a law exempting its citizens from the

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federal health insurance mandate, and another by Florida and 12 other states. Legal scholars are divided on the merits of the cases, and even Congress - through its research service and its budget scorekeeper - has said it's an open question whether the provision could pass constitutional muster." The key issue "is the scope of the federal government's power over states and individuals. Critics of the law say the requirement that all Americans buy insurance or pay a fine, if allowed, would mean that Congress has virtually boundless authority to compel actions." Read [more](#).

Memo: Toyota Employees Warned Managers About Safety Concerns in 2006

The [Los Angeles Times](#) reports that a group of six "veteran" Toyota union employees sent a memo to the company's senior management that they knew "could damage their careers. The workers had recognized a troubling trend. In recent years, the automaker had kicked into high gear to fill the booming U.S. demand for smaller, more gas-efficient vehicles," and in doing so, took "dangerous safety and manpower shortcuts to lower costs and boost production. ... From 2000 to 2005, their memo pointed out, Toyota had recalled more than 5 million cars -- 36% of all sold vehicles, a rate higher than other companies. Toyota's failure to act, the two-page notice warned, may 'become a great problem that involves the company's survival.'" The Times notes that despite the workers' fears, "Toyota never responded."

Nursing Home Residents with Dementia Given Anti-Psychotics

The [Boston Globe](#) reported that its own analysis of federal data shows approximately 2,500 nursing home residents in Massachusetts were given powerful antipsychotics "last year that were not intended or recommended for their medical condition." In fact, "data collected by the federal Centers for Medicare and Medicaid Services show that 28 percent of Massachusetts nursing home residents were given antipsychotics in 2009," even though 22% of those residents "did not have a medical condition that calls for such treatment." In some cases, the medications are dispensed inappropriately because nursing homes lack behavior management techniques, experience, and staffing to deal with agitated patients, the Globe explained.

Courant Calls for Repeal of Hospital Medical Error Confidentiality Provision

The [Hartford Courant](#) editorialized last month that Connecticut's "General Assembly erred in 2004 when it tampered with a law designed to make public such hospital mistakes as inadvertent cuts during surgery or serious falls." As a result, "the confidentiality provision...now keeps most such mistakes secret," but "patients have a right to know about hospital mistakes and what steps hospitals are taking to reduce medical errors." Under draft legislation "to repeal the confidentiality provision," hospitals would disclose "all reported adverse events...not just those that are investigated." The Courant concludes that "voluntary compliance and diligent attention to trying to reduce medical errors will work in hospitals' favor."

HHS Inspector General Finds Medical Error Reporting Problems at Hospitals

The [Houston Chronicle](#) reported, "The hospital data currently available in some states" may be "flawed by content gaps, inputting errors, failures by hospitals to conform to data-entry standards, and inadequate government oversight of the data collection process." In early March, "the sad state of medical error reporting, and the frequency of errors, was underlined in a report issued...by the Inspector General of the federal Department of Health and Human Services" in which "the IG investigated 278 hospitalizations in two undisclosed counties," uncovering "120 problematic 'events' in which patients were harmed either permanently or temporarily." However, the hospitals involved had performed "incidents reports on only eight of the 120 cases," even missing two of three reported fatality cases. The "two biggest obstacles to finding errors are inadequate hospital data and poor internal tracking of medical errors by the hospitals

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Public Citizen:

Fewest Medical Malpractice Payouts Since 1990

A blogger at the [Austin American Statesman](#) wrote, "As doctors and their supporters urge Congress to revamp medical malpractice as part of a health care system overhaul, payments in malpractice cases continue to go down - even as health care costs rise, says an analysis this week by Public Citizen. 'The number of medical malpractice payments made on behalf of physicians in 2009 was the lowest since the creation of the National Practitioner Data Bank (NPDB), which has tracked medical malpractice payments since 1990,' the report says."

Georgia Supreme Court Strikes Down Medical Malpractice Damages Cap

The Atlanta Journal-Constitution reported: "A unanimous Georgia Supreme Court on Monday struck down limits on jury awards in medical malpractice cases," [ruling](#) that the \$350,000 cap on noneconomic damages violates the right to a jury trial guaranteed by the Georgia Constitution, as the cap "clearly nullifies the jury's findings of fact regarding damages and thereby undermines the jury's basic function," Chief Justice Carol Hunstein wrote for the court." Read [more](#).

Recession Impacts Jury Service

[CNN](#) looks at how the recession is impacting jury duty, resulting in more people claiming

themselves." Read the IG's report [here](#).

economic hardship as the reason they are unable to serve.

Over 25% of CT School Buses Unsafe



A Courant analysis of almost 30,000 school bus inspections showed that more than 25% of Connecticut's roughly 7,500 school buses "were ordered

off the road in 2009 during routine safety inspections. More than 600 buses had serious brake problems; another 200 had transmission leaks. More than 100 had serious problems with emergency doors and more than 300 had problems with crossing gates or lighted stop signs that extend when a bus is picking up or dropping off students." Read [more](#).

Texas Shows Why "Tort Reform" Won't End "Defensive Medicine"

In [Newsweek](#), Sharon Begley noted that "even in Texas, where a 2003 tort-reform law caps awards for pain and suffering at \$750,000, physicians practiced defensive medicine at the same rate as in other states."

Emergency Vehicles Driven by Distracted Operators



"There is a potential for disaster here"

Hundreds of thousands of police and paramedics are required to use dashboard computers, navigation systems, cellphones,

and sophisticated radios, "sometimes at high speeds, while weaving through traffic, sirens blaring." While the drivers say this technology is a great advantage for their jobs, it comes at a price and carries serious risks for themselves and others on the road. Read [more](#).

Foodborne Illnesses Cost \$152B/Year

A report by a consumer and public health group concludes that foodborne illnesses cost U.S. about \$152 billion per year in healthcare, workplace and other economic losses. Read [more](#).

Raising Alcohol Taxes Reduces Excessive Drinking and Related Problems



The CDC says "Raising alcohol excise taxes is a highly effective strategy for helping to prevent deaths due to excessive drinking in the United States, according to a systematic review published in the February 2010 issue of the *American Journal of Preventive Medicine*."

The review evaluated 73 published articles and reports that examined relationships between the price of alcohol, excessive drinking, and harmful consequences of excessive drinking, including motor vehicle crashes and alcohol-impaired driving." Higher alcohol taxes or prices were found to be related to fewer vehicle crashes and deaths; less drunk driving; less underage drinking; and lower rates of violent crime, including homicide, assault, robbery, and rape. Researchers found that raising the price of alcoholic beverages by 10% would reduce consumption by about 7%. More [here](#).

Tips for Seniors to Stay Safe on the Road



The [CDC](#) says each day, an average of 500 adults ages 65 and older are injured in a motor vehicle crash. To reduce your risk of being one of them, the CDC recommends:

- ask your doctor or pharmacist to review your medicines (prescription and over-the counter) to reduce possible side effects and drug interactions;
- have your eyes checked by an eye doctor at least once a year, and wear glasses or contact lenses as needed;
- leave extra following distance behind the car in front of you;
- avoid distractions in your car, such as a radio, talking on a cell phone, texting, and eating in the car; and
- consider potential alternatives to driving, such as car-pooling and public transit.

'Black Boxes' May Help in Toyota Accident Probes

Event data recorders ("EDRs") gather information in the event of a vehicle crash. "The data - spanning from a few seconds before a crash to up to a few seconds after - include such information as speed, seat belt use, air bag deployment and (important in acceleration probes) brake and gas pedal positions. If the data show a driver had his or her foot on the brake but the car still accelerated into a crash, it could help verify that the car, not the driver, was to blame." Read [more](#).

Pfizer Hit with RICO Verdict

The CT Law Tribune reported that Pfizer Inc. was recently hit with a \$141 million penalty for promoting its epilepsy drug Neurontin for unapproved uses. A federal jury in Boston last month concluded that the pharmaceutical giant had violated federal racketeering laws in promoting the drug for so-called "off-label" uses that were ineffective. The jury's verdict was actually \$47 million, but the penalty was automatically tripled under the federal Racketeer Influenced and Corrupt Organizations Act. Kaiser Foundation Hospitals and Kaiser Foundation Health Plan argued that Pfizer misled them into believing that Neurontin could effectively treat conditions such as migraines and bipolar disorder. Neurontin was approved to treat epilepsy in 1993 by the FDA. Pfizer indicated it would appeal the verdict, arguing that the plaintiffs misled the

Recall Central

To read about recent recalls and product safety news from the U.S. Consumer Product Safety Commission, click [here](#).

Get the latest recall information from the National Highway Traffic Safety Administration [here](#).

The Dept. of Agriculture's

jurors. "What the jurors heard in the courtroom is not what Kaiser is telling its patients. In fact, Kaiser itself continues to recommend Neurontin for the same uses they sought recovery for in this case," said Pfizer officials.

Pfizer Paid \$35 Million to Doctors, Medical Centers in Last 6 Months of '09

The [New York Times](#) reported that Pfizer, "the world's largest drugmaker," said last week that it paid "about \$20 million to 4,500 doctors and other medical professionals for consulting and speaking on its behalf in the last six months of 2009." The company "also paid \$15.3 million to 250 academic medical centers and other research groups for clinical trials in the same period."

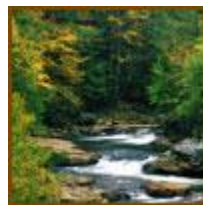
OSHA To Increase Oversight of State Workplace Safety Agencies

The [Wall Street Journal](#) reported that the Occupational Safety and Health Administration (OSHA) is increasing scrutiny of state workplace safety agencies in order to raise state standards and focus on some high-risk industries. Workplace safety advocates say a more stringent approach is needed to correct lax federal enforcement in previous administrations, while some state agency executives warn that budget limitations may preclude more enforcement.

CT May Extend Statute of Limitations for Child Sex Abuse Lawsuits

Last month, the Connecticut's judiciary committee narrowly passed a proposal to change the statute of limitations for civil lawsuits in child sexual abuse cases, after lawmakers revised it "to maintain some restrictions on those currently barred from suing." The original proposal, which was "inspired in part by pending sexual abuse lawsuits involving St. Francis Hospital and Medical Center, would have eliminated the statute of limitations for civil cases involving child sexual abuse, assault or exploitation." But lawmakers changed the proposal after a public hearing, "allowing victims 48 and older to sue only if they can clear certain hurdles." Read [more](#).

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Click [here](#) for Food and Drug Administration recalls, market withdrawals and safety alerts.

For updates on the peanut products recall click [here](#).

NJ Supreme Court: Attorney-Client Privilege Applies to Personal Email Accessed at Work

"A company should not have read e-mails a former employee wrote to her lawyer from a private, password-protected web account, even though she sent them from her employer's computer," according to a unanimous decision by the New Jersey Supreme Court. After a nursing manager at a home health care agency quit and filed a discrimination and harassment lawsuit against the company, the company retrieved her email messages from the computer's hard drive and used them in preparing its defense. Read [more](#).



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The trial attorneys at The Law Firm of Stephen M. Reck, LLC represent individuals in all types of personal injury cases throughout the state of Connecticut and the state of Rhode Island, including, in Connecticut: New London County, New Haven County, Middlesex County, Hartford County, Tolland County, and Windham County; and in Rhode Island: Bristol County, Kent County, Newport County, Providence County, and Washington County.

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