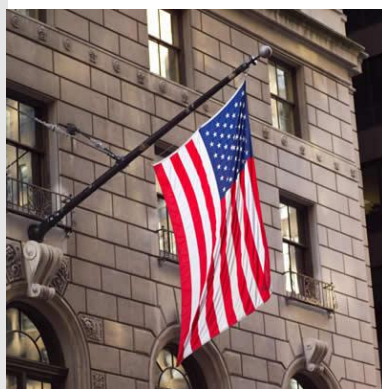


Electronic Newsletter

November 2008



The Law Firm of Stephen M. Reck, LLC

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Greetings!

We want to take this opportunity to wish you and your family a very Happy Thanksgiving.

We are pleased that so many of you enjoyed our first electronic newsletter, and we hope you find this one equally informative and useful. Feel free to pass it along.



Best wishes,
The Law Firm of Stephen M. Reck, LLC

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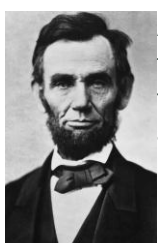
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The Law Firm of Stephen M. Reck Expands Web Presence

New Blog Online at

<http://CTRpersonalinjurylaw.blogspot.com>

We are pleased to announce the start of our blog, and our website can now be found at either stephenreck.com or stephenmreck.com. Why do we blog and send newsletters? Because we believe keeping you informed is vital to the preservation of our civil justice system, and our democracy.



As Abraham Lincoln once said, "I am a firm believer in the people. If given the truth, they can be depended upon to meet any national crisis. The great point is to bring them the real facts."

We want you to have the facts. Knowledge is power.

Rand-Whitney Containerboard

Testimonials

Praise for our first newsletter: "I loved the newsletter, the layout is great and the articles interesting and informative!"

Secretary Gutierrez Blasts Lawsuits

[Congress Daily](#) reported that Commerce Secretary Gutierrez, in a speech at the US Chamber of Commerce's Institute for Legal Reform on Oct. 29th, referred to a "resurgent plaintiff's bar" and called for a curb on tort lawsuits, claiming that a hostile legal environment threatens foreign investment in the United States. He cited a new Commerce report indicating tort costs as

Sued for Fall in Montville Plant

The Law Firm of Stephen M. Reck recently filed suit against Rand-Whitney Containerboard on behalf of Jean Pierre Lesieur, who suffered severe injuries on December 13, 2007, when he stepped into an unguarded floor opening in the box plant and fell into a 20-foot-deep pulp pit.

At the time of the incident, Mr. Lesieur was an employee of Devine Hydraulics, Inc., an industrial machine maintenance contractor, and was in the Rand-Whitney plant as part of a crew working on certain machines during the plant shut-down. The crew was working on a machine when a hydraulic jack failed, causing the crew members to take a break and move away from the machine. While attempting to get to a safe area, Mr. Lesieur fell into the hole, striking several metal bars on the way down. As a result, he suffered numerous serious injuries that have required multiple hospitalizations since last year.

The suit alleges claims for negligence and recklessness against Rand-Whitney, and alleges that the company was at fault in various ways including failing to cover the pit with a floor opening cover of sufficient strength and construction; failing to warn Lesieur of the presence of a floor opening in close proximity to where he was working; failing to provide adequate lighting in the area where he was working; failing to point out safety risks in the area where the crew was working; failing to provide cones, railings, barriers, tape, or other warning to keep workers out of areas where there were serious hazards; failing to inspect the area of the plant in question; failing to follow its own safety procedures regarding covering or warning of dangerous floor openings; and violating various provisions of OSHA. The suit also alleges that Rand-Whitney "acted with reckless disregard and indifference to the rights and safety of [Mr. Lesieur], a business invitee on its premises, in that it knew there were extremely dangerous and deep pits near the area where [he] was working, which could cause serious injury or death to persons falling into them, yet failed or refused to cover the pit and/or warn [him] of the danger."

State Releases New Injury Reports

New reports by the Connecticut Department of Public Health (DPH) demonstrate the enormous impact of injuries on disability and death in Connecticut.



Injuries are the leading cause of death among Connecticut residents between the ages of one and 44 years, and are the fifth leading cause for all ages. Injuries are also a leading cause of disability for state residents and responsible for approximately 17,000 inpatient hospitalizations, and 333,000 emergency department visits each year. Direct charges for injury related hospitalizations totaled \$1.6 billion between 2000 and 2004 for Connecticut residents.

The DPH and the Injury Community Planning Group (ICPG) have released two reports called *Connecticut Injury Prevention and Control Plan*, and the *Injury in Connecticut* data book. The DPH and ICPG identify four priority injuries to be addressed by health officials: falls among older adults; suicides/self-inflicted injuries; homicides/assault injuries; and motor vehicle crashes. "These priorities represent the leading causes of injury-related death and morbidity in Connecticut." You can read the reports by clicking the following links:

[Injury in Connecticut: Deaths & Hospitalizations Data Book \(2000 - 2004\)](#)

[Injury-related Emergency Department Visits in Connecticut \(2000 - 2004\)](#)

[Connecticut Injury Prevention and Control Plan, 2008 - 2012](#)

Coming soon, you also will be able to find links to other helpful safety information on our website.

Study Finds 1 of 10 Patients Dies From Preventable Medical Errors

A recent study by the Department of Health & Human Services' (HHS) Agency for Healthcare Research and Quality (AHRQ) found that 1 of every 10 patients who died within 90 days of surgery did so because of a preventable medical error. The study, published in the July 28 issue of the *Journal of Health Services*

a percentage of US gross domestic product are double or triple those of various other countries. "The American Association of Justice . . . discounted Gutierrez's remarks, saying many business surveys have found fear of litigation ranks low in the concerns for manufacturers and small-business owners and that state tort trials have decreased over the last decade." Ray De Lorenzi, AAJ spokesman, noted that foreign companies "have to follow our laws and be held accountable if they are reckless or negligent."

NTSB Seeks to Improve Medical Helicopter Safety



A federal safety panel said last month that aviation officials are not moving quickly enough on proposals to prevent crashes of emergency medical helicopters. In the last 11 months, nine such helicopters have crashed, killing 35 people.

In January 2006, the five-member National Transportation Safety Board urged the Federal Aviation Administration to take steps to improve the safety of emergency medical helicopter flights. The safety board wanted the FAA to improve procedures for medical helicopters, to evaluate flight risks, require onboard crash-warning technology and set policies for securing weather updates.

Plaintiffs Win More Than Half of Cases, Study Finds

DOJ Study Says Civil Trials Decreased From 1992-2005

A new Department of Justice report finds that plaintiffs won in more than half of state court civil trials in 2005 and were more likely to get a favorable verdict in cases tried to a judge than in jury trials. Judges ruled in plaintiffs' favor in 68 percent of the cases, while juries favored the plaintiffs 54 percent of the time. The report also concluded that there was a final median damage award of \$28,000 and punitive damages were awarded in about 5 percent of cases, with \$64,000 as the median punitive damages award. Additionally, there was a significant drop in the number of civil trials, with numbers decreasing by 52 percent from 1992 to 2005 in the nation's 75 most populous counties. In these counties, the median final award also decreased, from \$72,000 in 1992, to \$43,000 in 2005. The exceptions were in products liability

Research, also found that preventable medical errors cost nearly \$1.5 billion annually. [Read more.](#)

Half of Doctors Fail to Report Medical Errors



Survey results indicate that nearly half of U.S. doctors fail to report incompetent colleagues, while at the same time they believe such mistakes should be reported to authorities. Up to 96% of those surveyed said they should report all instances of significant incompetence or medical errors. "There is a measurable disconnect between what physicians say they think is the right thing to do and what they actually do," said Eric Campbell of Massachusetts General Hospital and Harvard Medical School, who led the survey. Campbell and colleagues surveyed more than 1,600 physicians in 2003 and 2004. Their report was published in the *Annals of Internal Medicine*. A report by the U.S. Institute of Medicine in 2000 found that up to 98,000 people die each year due to medical errors in hospitals alone.

Rise in Malpractice Premiums Not Caused by Claims

Malpractice "Crisis" or Corporate Greed?

The American Association for Justice (AAJ) analyzed the 2000-2004 performance of the 15 largest medical malpractice insurers in the United States rated by A.M. Best. "Because of the overall surge in malpractice premiums with no corresponding surge in claims payments during [that period], the leading malpractice insurers have increased their surplus by more than a third in only three years, and they are now charging more for malpractice insurance than either their actual payments in malpractice cases or their estimated future payments in malpractice cases would justify." Is this just another case of corporate greed? Read the report [here](#).

U.S. Supreme Court Could End Drugmakers' Liability

Major Preemption Case Involves Drug Phenergan

Diana Levine claims Wyeth Pharmaceuticals should be liable "for a botched injection of the Wyeth-made drug Phenergan that led doctors to amputate her right arm in 2000." Wyeth has appealed a \$6.7 million verdict in Levine's favor. A ruling "could have major ramifications for drug makers and consumers. The court is expected to decide whether people can sue under state law -- or are pre-empted from doing so -- for harm caused by a drug approved by the federal Food and Drug Administration." Wyeth and the Food and Drug Administration (FDA) "say that when a drug like Phenergan has a federally approved label, its manufacturer is immune from lawsuits in state court." But consumer groups argue that "federal regulation should represent the floor, not the ceiling, of a drug company's responsibility." Fordham University law professor Benjamin Zipursky told the AP that "the court could effectively 'eliminate all pharmaceutical company liability in this one case.'" [Read more.](#)

Medication Deaths Reported to Gov't Hit New Record

The Washington Times recently reported that "The number of serious problems and deaths linked to medications reported to the government set a record in the first three months of this year...."

"The Food and Drug Administration (FDA) received nearly 21,000 reports of serious drug reactions, including over 4,800 deaths, said an analysis of federal data by the nonprofit Institute for Safe Medication Practices (ISMP), which scrutinized data going back to 2004, and yearly totals dating to the 1990s." [Read more.](#)

Are Biological Medicines Marketed Too Soon?

Studies show that about one in four recently approved biological medicines needed some type of regulatory action because of safety issues that arose after they came on the market, according to an [article](#) recently published in the *Journal of the American Medical*

Association, where median awards were five times higher in 2005, and in medical malpractice cases, where median awards more than doubled. [Read more.](#)

Baby Deaths Prompt Recall of Nearly 1.6M Cribs

Delta Enterprises is voluntarily recalling nearly 1.6 million older versions of its drop-side cribs after two infants suffocated to death. One [recall](#), to install missing safety pegs, involves 985,000 of the drop-side cribs. The other [recall](#), which affects about 600,000 cribs, is because the crib's drop side can detach when the spring peg is not engaged, causing an entrapment and suffocation risk to infants and toddlers.

Delta's recall follows on the heels of another [recall](#) of about 2,000 convertible cribs made by Playkids USA, after an infant died by suffocation as a result of becoming trapped in one of the cribs. The sides of the convertible crib are made of a mesh that expands, creating a gap between the mattress and the side through which an infant can slip, resulting in risk of suffocation and entrapment for small children. If you have concerns about a dangerous or defective product, call the Law Firm of Stephen M. Reck.

CPSC Product Recalls

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

GAO Says FDA Fails in Oversight of Foreign Drug Manufacturing

The Wall Street Journal recently reported that the Government Accountability Office (GAO) has found that "The Food and Drug Administration (FDA) is failing to keep accurate data about foreign drug facilities it is supposed to oversee and often doesn't follow up warning letters with inspections." The GAO report indicates that from fiscal 2002 through 2007, the FDA issued 15 warning letters to foreign companies with serious deficiencies, but performed re-inspections of only four companies, anywhere from two to five years later. "The FDA isn't even sure how many foreign facilities are producing for the American market." [Read more.](#)



Antilock Brakes on Motorcycles May Reduce

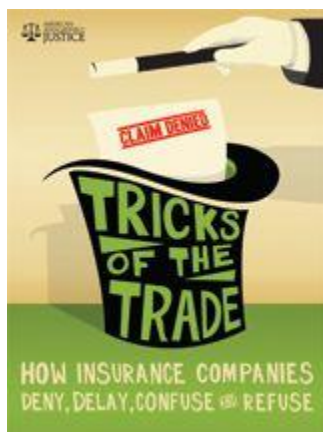
Association. Researchers focused on 174 biological medicines that were approved in the U.S. and/or Europe between January 1995 and June 2007. Biological products, which accounted for about one quarter of new drug approvals in the U.S. between 2003 and 2006, are made from natural sources, including human or animal tissues or microorganisms, and can include enzymes, antibodies, growth factors, hormones, and vaccines. "Many biotech drugs affect the immune system, raising a risk that the drug may alter its function in unintended ways," according to an [article](#) in Bloomberg News. From January 1995 and June 2008, 82 safety-related regulatory actions were issued for 41 of these medications, almost 24 percent of the total. Most of these actions occurred within the first five years of the drugs' approvals. None of the drugs were withdrawn from the market.



Group Opposes Rhode Island's Proposed Changes to Medicaid Long-Term Care Coverage

Rhode Island has asked the Centers for Medicare & Medicaid Services (CMS) to approve the Rhode Island Global Consumer Choice Compact Waiver, under which the state proposes to accept a capped allotment of Medicaid funds from the federal government in exchange for much broader discretion in the operation of its Medicaid program. Generally, there is no limit on federal help for a state's Medicaid program; every state is guaranteed a federal match for each dollar expended, so long as the state offers a federally mandated package of benefits to certain segments of its Medicaid population. Rhode Island, however, wants more power to choose who may be eligible and the services for which to provide coverage, apparently willing to accept the capped amount of federal funds that would accompany these changes. While states are expected to spend \$50 billion on Medicaid long term care coverage in 2008, Rhode Island has proposed to CMS to be the first state to request authority under Section 1115(a) of Title XIX "to use global budgeting as a financing mechanism for all Medicaid populations and services." The National Senior Citizens Law Center opposes this move, noting that some people needing long-term care will be denied services. It argues that "proposals aimed at fundamentally changing a state's delivery system should be carefully constructed, have a transparent design, and strive to ensure that individuals without necessary supports have access to services. Rhode Island's proposal currently does not meet this criterion." [Read more.](#)

New Report Details Insurance Company Tactics Against Policyholders



A new report by the American Assoc. for Justice (AAJ) describes "some of the most egregious ways the insurance industry attempts to make money at the expense of consumers." The report, released Nov. 12th, describes six tactics that insurers use against policyholders to delay or deny claims, names the insurance companies that are engaging in these practices, and offers ways consumers can fight back to prevent abuses. Get the report [here](#).

About Our Firm

At The Law Firm of Stephen M. Reck, justice is our mission. Our firm is well known and well respected for its ability to handle personal injury, wrongful death, and professional malpractice cases in Connecticut and Rhode Island. Call us today or visit us on the web at www.stephenreck.com.

The Law Firm of Stephen M. Reck, LLC

* Advertising Material *

Fatalities

A study by the Insurance Institute for Highway Safety (IIHS) concludes that antilock brakes could help motorcycle operators avoid fatal crashes. According to the institute, the fatal crash rate for motorcycles equipped with optional antilock brakes (ABS) was 38% lower than the rate involving similar motorcycles without ABS. Read the report [here](#).

Conn. Nursing Home Rates Among the Highest in U.S.

The [Courant](#) reported on the results of an annual survey by the MetLife Mature Market Institute, which finds that Connecticut has some of the highest rates in the country for nursing homes and assisted living facilities. "On a statewide average, Connecticut's nursing home cost is \$362 a day, and areas of the state other than Hartford and Stamford average \$346. On a national average, private room nursing rates remained about flat this year at \$212 a day." The average monthly cost for assisted living in Connecticut is \$4,286, not the highest but still above the national average. Get the report [here](#).

Proudly Serving Connecticut and Rhode Island

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.

Referrals Welcome

