

FOR THE RECORD

Practice Areas:

- ◇ Medical Malpractice
- ◇ Birth Injuries
- ◇ Legal Malpractice
- ◇ Auto Accidents
- ◇ Trucking Accidents
- ◇ Nursing Home Abuse
- ◇ Wrongful Death
- ◇ Premises Liability
- ◇ Workers' Compensation
- ◇ Dangerous Drugs and Devices
- ◇ Aviation Litigation

"Before I came to Bailey & Greer, I felt very helpless and upset. After meeting with my attorneys, I felt like a weight had been lifted. I was treated very well. The attorneys were positive and efficient in the way they handled everything. The attorneys were also kind. I think they did a super job! I would highly recommend this firm. If you hire Bailey & Greer you are getting the best."

Carol Cunningham -
Memphis, TN

TOP TEN TENNESSEE TRAFFIC SAFETY LAWS

As the holiday season approaches, keep these traffic laws in mind while traveling throughout Tennessee. Courtesy of the Tennessee Department of Safety and Homeland Security.

www.tn.gov/safety

1. Texting While Driving Law (TCA 55-8-199) Texting while driving a vehicle in Tennessee is illegal.
2. Move Over Law (TCA 55-8-132) When approaching a stopped emergency vehicle with its emergency lights activated, drivers are required to move over into the closest available lane away from the emergency vehicle. When the roadway does not provide an additional lane, drivers are required to slow down and provide as much space as possible.
3. Seat Belt Law (TCA 55-9-603) Tennessee is a primary Safety Belt state. Drivers are required to wear safety belts at all times when operating a motor vehicle in Tennessee. Drivers are also responsible for ensuring that all passengers are belted in.
4. Speeding in Construction Zones Law (TCA 55-8-153) Drivers are required to obey speed limits at all times, especially when workers are in a construction zone. Violators are subject to a minimum \$250.00 fine.
5. Handgun Carry Permit Law (TCA 39-17-1351) Tennessee allows out-of-state residents who possess a legally issued Handgun Carry Permit to bear a handgun; Tennessee laws regulating the use and carry of a handgun shall take precedent.
6. Tennessee's DUI Law and Penalties (TCA 55-10-401 and 55-10-403) Individuals are presumed to be under the influence of alcohol with a Blood Alcohol Concentration (BAC) of .08%. First time offenders are subject to a \$350.00 minimum fine and 48 hours in jail. Vehicle towing and storage will also be charged to offenders. Enhanced penalties and sanctions will result if BAC is greater than the legal limit or if children are present at the time of arrest.
7. Maximum Length of Recreational Vehicle Combination Law (TCA 55-7-201) The maximum length of this type of combination vehicle is sixty-five feet (65'). Any towed vehicle shall also be securely attached to the pulling unit and equipped with functional brake and signal lights.
8. Child Restraint Devices Law (TCA 55-9-602) All child passengers through the age of eight (8) must be secured in a Child Restraint Device. Infants are required to be in a rear facing child restraint device in the rear seat, if available, until the age of one (1) or weighing twenty pounds (20 lbs.) or less. Children ages one (1) through three (3) weighing greater than twenty pounds (20 lbs.) must be in a child restraint device in a forward facing position in the rear seat, if available. Children ages four (4) through eight (8) and less than four-feet, nine inches (4' 9") in height must be in a booster seat in the rear seat, if available. Children above the age of nine (9) must be secured by a safety belt restraint system.
9. Motorcycle Helmet Law (TCA 55-9-302) All motorcycle operators and passengers are required to wear a helmet. Helmets must meet federal motor vehicle safety standards and be certified by the Department of Transportation (DOT).
10. Open Container Law (TCA 55-10-416) Drivers shall not consume or possess an open container of an alcoholic beverage or beer while operating a motor vehicle in Tennessee.



IN THE NEWS

Sadler Bailey was featured as a guest columnist in *The Commercial Appeal* and also appeared as a guest on WREG Memphis' *Live at 9*, where he discussed the recent unfair change in Tennessee insurance bad faith law.

As Mr. Bailey discussed, Tennessee drivers are more likely than others to find themselves in a dispute with their insurance company. With the new law change, citizens and small business owners are placed at a serious disadvantage when dealing with their own insurance carrier.

For more information about this unfair change in Tennessee consumer law, visit our website at www.baileygreer.com

TENNESSEE LAWMAKERS LIMIT MENINGITIS VICTIMS' RIGHTS



By Thomas Greer

The nationwide meningitis outbreak is affecting Tennessee citizens the hardest. A total of 75 cases of meningitis have been reported in Tennessee, more than in any other state. A total of 11 Tennesseans have died.

Federal and state officials have now linked the outbreak to the New England Compounding Center located in Massachusetts. Unfortunately, in addition to incurring medical bills, lost wages, pain and suffering, and in some cases death, the 75 Tennessee victims of this tragic outbreak will have limited rights in our own courts. This is due to a change in Tennessee law pushed through by Gov. Haslam and the GOP majority in the General Assembly.

The ironically titled Civil Justice Act of 2011 strips Tennessee juries of the right to determine the full amount of damages suffered in a personal injury or wrongful death case. Instead, the act imposes an arbitrary cap of \$750,000 for non-economic damages and also caps punitive damages. Proponents of the bill say that it will

create jobs, but there is no credible data to support this claim.

One thing that is clear about the bill is that it protects out-of-state corporations who send dangerous and defective products to Tennessee. The general public is now aware of the devastating effect a defective drug can have on our citizens, but this new law protects more than just drug makers. For instance, the bill protects the out-of-state trucking company who hires an incompetent and unqualified driver, it protects the habitual drunk driver who kills a Tennessee family, and it protects a substance abusing surgeon who operates on the wrong body part.

"If we trust Tennessee juries to impose the death penalty, should we not trust them to decide just how badly a person is injured?"

I have often heard people ask: How do you put a price on pain and suffering or the loss of a spouse? Well for 200 years

Tennessee juries were allowed to decide this issue after hearing all the evidence. The founding fathers of our state even included a constitutional provision guaranteeing our citizens the right to have a jury decide the extent of damages in a personal injury or wrongful death case. Under the new law, our politicians set the price. This leads me to a question: If we trust Tennessee juries to impose the death penalty, should we not trust them to decide just how badly a citizen is injured?

Q. Will My Dependents Receive Compensation if I am Killed While on the Job?



By John Zuck

If the worst case scenario happens, and you are killed in the workplace, your dependents may receive workers' compensation benefits under Tennessee law.

No Eligible Dependents

If no eligible "dependents" exist, the estate of the deceased employee is still entitled to recover the lump sum of \$ 20,000.00. Burial expenses are also payable up to \$7,500.00.

Surviving Spouses and Children

Tennessee law presumes that a surviving spouse and children under the age of 16 are dependents. In the event that only a surviving spouse is left behind, then the surviving spouse is entitled to 50% of the deceased employee's average weekly wages. If a surviving spouse and one or more dependent children are left behind, they will be entitled to 66 2/3 % of the deceased employee's average weekly wage. Both of

these payments are subject to the maximum compensation cap provided by the Tennessee Department of Labor. The maximum benefit currently allowed is \$322,400.00. This maximum award is separate from medical and funeral expenses.

Other Possible Dependents

It should be noted that parents, grandparents, siblings, and in-laws may also be considered "dependents" for purposes of receiving death benefits under Tennessee workers' compensation law. In some situations, it may be necessary to prove that such a person was actually a dependent of the deceased employee and, therefore, entitled to a share of the death benefits.

The Accident Must Occur "On the Job"

First and foremost, like any potential workers' compensation case, the injury which caused the employee's death must have been sustained while that employee was acting in the course and scope of his or her employment. The next question to be addressed is whether the deceased employee left behind any "dependents."

Q. WHAT IS A WHISTLEBLOWER LAWSUIT?



By Austin Byrd

In a whistleblower lawsuit, a person with knowledge of a company's illegal activities provides information about fraud, corruption or other illegal activity. Whistleblowers are

usually employees or former employees who have access to an organization's documents and internal information.

Whistleblowers are individuals who have the courage and integrity to stand up and call attention to wrongdoing in government and private industry. They report illegal activities because it is the right thing to do, even though it can trigger retaliation.

Whistleblowers Often Compensated

According to the qui tam provisions of the False Claims Act, if the government recovers money as a result of the information provided by a whistleblower, he or she will receive a portion of the recovery. Typically, the whistleblower re-

ceives 20 to 30 percent of the amount recovered. In many states, similar laws reward those who blow the whistle on fraud against the state government.

The Purpose and History of Whistleblower Suits

The history of whistleblower lawsuits dates back to the Civil War era. Companies supplying goods to the Union Army cheated the government then, just as some do today.

President Abraham Lincoln devised a plan for holding these wrongdoers responsible by rewarding whistleblowers. At Lincoln's request, the False Claims Act was enacted into law in 1863 and was intended to root out fraud against the government and to encourage individuals who are aware of fraud being perpetrated against the government to bring information forward.

At Bailey & Greer, we have experience handling whistleblower lawsuits. Call us today if you have information about a case or need more information about your rights.



For answers to more frequently asked questions visit our website

www.baileygreer.com

U.S. TRUCKING ACCIDENTS ON THE RISE



By Sadler Bailey

All throughout the United States, the number of semi, tractor-trailer and commercial truck accidents is on the rise. Over 500,000 large truck accidents occurred on our nation's roadways in 2010, causing approximately 100,000 injuries and 5,000 deaths. Compare this to the 3,200 fatalities in 2009, and the question must be asked:

Why are large truck accident statistics on the rise?

The main reason for these devastating numbers is that there are more trucks on the road. Because of the simple fact that the number of trucks hauling our nation's freight increases every year, so do the chances of large truck accidents. Consider the following:

- The predicted increase of big trucks on U.S. roadways for 2012 is 20%.
- Because there are more trucks, of course there are more truck drivers.
- New drivers do not have the experience and knowledge of the older ones and may be more prone to making mistakes.
- A greater number of trucks also increases the need for maintenance and repair, which can strain a trucking compa-

ny's resources.

- Sometimes trucking companies offer their drivers incentives to be faster and save time. This can lead to driver fatigue and danger for those of us who share the road with these 18 wheel beasts.



- Even though the total number of large trucks makes up only 4% of all vehicles on the roads, they account for 12% of all fatal crashes.
- Safety violations such as worn tires, inadequate braking systems and overloaded trucks can lead to deadly crashes.

It is the responsibility of the drivers, companies and government agencies to protect our citizens from large truck accidents. When these systems fail, our civil justice system provides the only recourse for injured citizens. Call Bailey & Greer toll free at 888-470-9143 with your questions about this serious issue.

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The greatest compliment we can receive is the referral of a friend or family member

FIRM INFORMATION

At Bailey & Greer, we take only a limited number of serious injury, wrongful death, and professional malpractice cases. While some law firms work to settle, we work to get the best possible result for you. We have the experience, expertise and financial resources to carry each and every case to trial. We have been involved in numerous multi-million dollar verdicts and settlements, including birth injury, medical malpractice, auto accident, product liability, and premises liability cases.

When you choose us as your attorneys, you will always be able to speak to a lawyer and you will always be treated as a person, not just a case. In addition to our attorneys, we are also proud of our courteous, knowledgeable office team, which includes a full-time nurse.

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