

Electronic Newsletter

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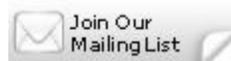
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The Law Firm of Stephen M. Reck Files Suit for Death of Disabled Man



[The Law Firm of Stephen M. Reck](#) has filed suit on behalf of the estate of a Groton man who died January 16, 2009 after ambulance attendants dropped his wheelchair while trying to carry him up stairs into his apartment, causing the man's head to strike a concrete step, resulting in a traumatic brain injury and massive hemorrhaging. The suit names as defendants Hunter's Ambulance Service, Inc.; Groton Estates, LLC; and MCR Property Management, Inc.

The plaintiff alleges that Hunter's Ambulance was negligent in various ways including dropping the wheelchair, causing Mr. Vasquez to strike his head, and failing to use a stair chair in order to safely move



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him up the stairs where there was no ramp. The suit alleges that Groton Estates and its management company were negligent in a variety of contributing ways, including violating the Connecticut State Building Code by having unsafe stairs, failing to provide a proper handrail, and failing to provide or allow a wheelchair ramp. The plaintiff alleges that they denied or discouraged the construction of a wheelchair ramp, in violation of the Fair Housing Act and the Discriminatory Housing Practices Act.

[Attorney Scott D. Camassar](#), who represents the estate, said Mr. Vasquez's death has been hard on his family, especially his son Jose Vasquez, who lived with his father in order to care for him 24 hours a day. "To lose his father after a preventable accident, after his father was sick for so many years, is especially painful to him" noted Camassar. Adding insult to injury, MCR started eviction proceedings last month against Jose Vasquez.

The Day covers the story [here](#). To read the lawsuit, click [here](#).

Tower of Terror: Dangerous or Therapeutic?



A 16-year old British girl and her mother have filed suit in Florida alleging negligence in the design and operation of Disney World-MGM Studios' "The Twilight Zone Tower of Terror" ride. She alleges that she rode it several times but that after one ride, her heart stopped and she had a brain hemorrhage. Read [more](#).

Meanwhile, a Florida woman who claims the G-forces from the ride relieve her chronic pain has sued Walt Disney World for breaching its contract with visitors by limiting her to four rides per visit on its Tower of Terror. "In the four years that Plaintiff was an annual pass holder she would religiously ride the tower of terror every Saturday dozens of times to help her alleviate her medical condition, her pain associated with it, and minimize the number of surgeries she required as a result," the suit says. But since being cited for trespassing and forced to curtail her rides, her condition has allegedly worsened, and she is now suing Disney for breach of contract, false arrest and intentional infliction of emotional distress. More on that [here](#).

Use of Physical Restraints in Nursing Homes is Down

A [USA Today](#) analysis of nursing home data provided to Medicare shows that on average, nursing homes immobilize 5.5% of their residents with physical restraints, about a quarter as many as in 1991. Physical restraints, once widely used in nursing homes to prevent falls, cause muscle atrophy, feelings of anguish and desperation, and social withdrawal.

Surgeon, Nurses Reprimanded for Surgical Error

The Rhode Island Dept. of Health has reprimanded a doctor and two nurses for their roles in the wrong-site surgery at Miriam Hospital in September. The team operated on the wrong knee of a patient undergoing an elective, outpatient procedure. According to the Health Department investigation, the surgeon, Dr. Robert M. Shalvoy, had correctly marked the surgical site. "But a nurse, Susan Dilibero, failed to look for the surgical site marking before preparing the knee, and draped the wrong knee." Then, in the "time out" just before surgery, Shalvoy, Dilibero and a nurse anesthetist, John Duhamel, all failed to verify that the knee they were about to operate on was the correct one, although Dilibero documented that the site had

Newsletter Archive

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Spring Sports Safety

[Safe Kids USA](#) notes that each year in the U.S., more than 30 million children participate in sports and more than 3.5 million ages 14 and under are treated for sports injuries. "While collision and contact sports are associated with higher rates of injury, injuries from individual sports tend to be more severe." Get their recommendations for kids playing individual and team sports [here](#).



Nursing's High Turnover

A recent national study finds that about 1 in 5 newly licensed nurses quits within a year, and this high turnover rate is expected to contribute to a severe nursing shortage nationwide. "The national nursing shortage could reach 500,000 by 2025, as many nurses retire and the demand for nurses balloons with the aging of baby boomers, according to Peter Buerhaus of Vanderbilt University Medical Center." As a result, many hospitals are trying harder to support and retain nurses. Read [more](#).

A Patient Discusses Physical Therapy

An author shares her thoughts on physical therapy with the NY Times, noting "it's hard to imagine anything is going to take so long and hurt so much." Read [more](#).

Choosing a Nursing Home

Dr. Carolyn Clancy, director of the Agency for Healthcare Research and Quality at the U.S. Dept. of Health and Human Services, offers [advice](#) on selecting the right nursing home.

been verified. Article [here](#).

Reducing Risks of Surgical Burns



Data from studies conducted in Pennsylvania suggest there are 650 surgical fires in hospitals annually in the U.S., and that there may be three to four times as many "near miss" incidents, in which fires begin smoldering but are quickly extinguished. While such incidents are uncommon, patient-safety groups and medical specialty organizations are increasing efforts to raise awareness of risks and provide guidelines for prevention of surgical burn injuries to patients. Hospitals are conducting operating-room fire drills on fighting fires that start on the drapes, gowns or skin of surgical patients and extinguishing flames inside patients' airway or tracheal tubes. Training programs are being developed to educate staff on the dangers of burns from medical equipment and procedures. Read [more](#).

Some diagnostic tests also may cause skin burns. Last month, the [Wall Street Journal](#) reported that the FDA "warned of the risk of skin burns in patients wearing transdermal drug patches who are undergoing MRI scans." The patches, which "are applied to the skin and can be used to deliver pain medications, hormones, and nicotine," are made with "aluminum or other metal in the backing of the patches which can overheat during an MRI scan and cause skin burns in the immediate area of the patch."

Chimp Owner Likely Strictly Liable



Media reports suggest the owner of the 200 lb. chimp who attacked a woman in Stamford in February had notice of [prior safety concerns](#) about the animal. While these facts are important to develop a negligence case against the owner, our courts are likely to impose strict liability against the owner.

While there are no reported decisions in Connecticut on chimp attacks (not surprisingly), other states have concluded that a chimpanzee's owner is strictly liable for the animal's actions unless the victim caused the animal to attack. Generally, courts impose strict liability for wild animal attacks because keeping such animals in close proximity to humans is an abnormally dangerous activity with high risk of injury.

Geronimo's Descendants Sue for Return of Remains

On the 100th anniversary of his great-grandfather's death, Harlyn Geronimo announced the filing of a lawsuit against Yale, its secret society known as Skull and Bones, and the federal government, seeking the return of his ancestor's remains that were stolen from the Apache Prisoner of War Cemetery at Fort Sill, Okla., after the Indian warrior's death and burial in 1909. Read [more](#).



Hib Infection On the Rise

Haemophilis influenzae type B, or Hib infection, a disease that has been nearly wiped out by routine vaccination, is making a comeback. [USA Today](#)

Recession Makes Jurors Harder to Predict

Jury verdicts are ordinarily difficult, if not impossible, to predict. But the recession adds a whole new level of uncertainty into the mix. Trial lawyers from around the state told the [Connecticut Law Tribune](#) that they believe jury verdicts will be harder to predict as a result of these difficult economic times.

Privacy Concerns with Electronic Medical Records

The Institute of Medicine has concluded that government rules that are supposed to protect patients' medical records are inadequate, and cites as a growing problem the many security breaches of medical record databases that have occurred in the past two years, affecting tens of thousands of patients. Read [more](#). To learn more about medical identity theft, click [here](#).

Westerly Police Fight Underage Drinking

The [Westerly Sun](#) reports that "Westerly has the second highest rate of underage drinking in Rhode Island, as reported by kids themselves," and the Westerly Police Dept. is trying do change that.

Heroin Widespread in Norwich

Teens told Norwich officials that heroin use is rampant, and they worry "that teenagers are becoming over-medicated with pharmaceuticals for behavioral disorders, creating a culture of drug use." One local probation officer noted that "adult professionals in the community have turned to heroin after they could no longer obtain the prescribed drugs." Read [more](#).



reports that "The cases, along with scattered measles outbreaks last year that infected about 140 children and adults, most of them not immunized, have health officials concerned that a growing trend among some parents to delay or forgo infant vaccinations could create a large enough population of unprotected children to allow outbreaks of diseases that haven't been seen by most doctors for a generation." Anne Schuchat, director of the CDC's National Center for Immunization and Respiratory Diseases, says "Some parents wonder if these diseases are a risk. With something like Hib, many people have never heard of it because we haven't seen it. But it was a killer disease, and we want parents to know it is very dangerous."

Overseas Clinical Trials Criticized

A recent article in The New England Journal of Medicine about drug companies' globalization of clinical trials, the human studies that determine the safety and efficacy of medicines, "raises questions about the ethics and the science of increasingly conducting studies outside the United States - when the studies are meant to gather evidence for new drugs to gain approval in this country." Read [more](#).

Wyeth Decision Inconsistent with Ruling on Medical Devices

Preemption Was Upheld in *Riegel v. Medtronic*

When the Supreme Court ruled last month in *Wyeth v. Levine* that "federal law does not protect drug companies from product liability suits in state courts," the decision appeared to conflict with a ruling last year involving medical devices. "The Supreme Court ruled last year that federal law does bar such lawsuits against the makers of heart stents, artificial joints and other critical medical devices." Professor David C. Vladeck, of Georgetown University Law Center, said, "I think this is going to force Congress to revisit the issue of why medical devices should be insulated from lawsuits." Read [more](#).

In fact, one "day after the Supreme Court decided that federal rules do not protect drugmakers from state lawsuits," Democratic lawmakers "reintroduced a bill that would allow similar lawsuits against companies that make heart devices, catheters, hip replacements and other devices." In 2008, "the Supreme Court agreed with the pre-emption policy in a case [*Riegel v. Medtronic*] involving medical devices, ruling a patient injured by a catheter from Medtronic could not sue under state laws. That case turned on a provision of federal law prohibiting states from imposing their own requirements on the devices," but "there's no similar provision for drugs." Article [here](#).

Last month, the [New York Times](#) editorialized, "Now that the Supreme Court has ruled that patients can sue drug companies in state courts for harm caused by medicines approved by the Food and Drug Administration, Congress ought to give patients the same right to sue makers of medical devices." The paper concluded, "Suits in state courts reinforce federal regulations. Patients who have been hurt by faulty medical devices should have the right to seek redress there."

Preemption Endangers Patients

Congress Should Decide if Medical Device Makers Should Be Shielded from Suits

In an op-ed in the [New England Journal Of Medicine](#), Gregory Curfman, M.D., Stephen Morrissey, Ph.D. and Jeffrey Drazen, M.D. wrote, "Major stakeholders throughout our health care system agree that every step must be taken to ensure that medical interventions, used with the intention of improving patients' health, are as safe as possible. ... Unfortunately, one major stakeholder, the medical-device industry, has been shielded from the potential consequences of failing to adequately disclose risks."

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 Food Safety and Inspection Service regulate meat, poultry products and processed eggs. Check their recalls [here](#).

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

FDA Not Enforcing Medical Device Safety Standards

The nonpartisan watchdog group [Project on Government Oversight](#) says the FDA "has dramatically reduced inspections of 'good laboratory practices' at facilities that do the earliest testing of medical devices." The group wrote in its recent report, "The decision ... to not enforce (lab standards) is stunning in its contempt for the protection of patients." Get their report [here](#).

Fisher-Price 3-in-1 High Chair Recalled

"Fisher-Price has voluntarily recalled 24,000 convertible high chairs after a report of a child falling out and fracturing his skull when a seat back detached." The 3-in-1 High Chair, which converts from a high chair to a toddler booster seat, was sold at Target stores nationwide over the last four months for about \$100.

Some Companies Stop Using BPA

Six companies have stopped making baby bottles containing Bisphenol-A (BPA), a chemical "some studies suggest may be harmful to infants," in response to a request last year from several attorneys general including Connecticut's Richard Blumenthal. "Avent America Inc., Disney First Years, Gerber, Dr. Brown, Playtex Products Inc. and Evenflo

After the Supreme Court's ruling in *Riegel*, "thousands of lawsuits against medical-device manufacturers have been tossed out of court by judges following the Court's lead in deeming such lawsuits to be preempted" and "we contend that preemption will result in medical devices that are less safe for the American people." They conclude, "The critical issue of preemption, which directly affects the disclosure of risks and thus the safety of the nation's supply of medical devices and drugs, should properly be decided by officials elected by the people, with whom the responsibility for the health of the public rightfully resides."

Pedestrians At Risk From Quiet Cars



Tom Greenwood of the [Detroit News](#) observed, "Apparently automakers are facing an unusual problem: electric and hybrid cars that are too quiet." He wrote, "Believe me when I say they were absolutely silent; my vision and hearing are fine, but I found myself looking over my shoulder to see if a vehicle was creeping up on me." As a result, "the NFB is advocating for quiet vehicles to be equipped to emit a continuous sound and wants additional research on the problem." Now, "the National Highway Traffic Safety Administration and the Society of Automotive Engineers International are looking into ways to 'bell the car,' and Congress earlier charged the secretary of transportation with studying and implementing regulations for hybrid, electric and other silent engine vehicles to produce nonvisual alerts for pedestrians."



About Our Firm

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Co. are voluntarily complying with the request," he [said](#)."

Complaints, Calls for Regulation Increase with Use of Wood-Burning Stoves

An East Windsor woman claims "she never used to get sick until her neighbor installed a wood-burning stove a few years ago. Now she has been ill for six weeks, she wakes up coughing in her sleep and her two young kids are plagued by breathing problems." The laws regarding wood-burning devices are limited, but the number of complaints is growing as more people are using wood-burning stoves. Now the legislature is considering bills that may lead to more regulations and give health and environmental officials some power to respond to complaints. 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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