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Matthews Legal News

The Official Newsletter of Matthews & Associates

2905 Sackett St., Houston, Texas 77098

Jury Awards $3.6 Million to Woman in Rape Case

Mall security failed to warn former employee of previous attacks

HOUSTON – A jury awarded a former Galleria employee $3.63 million on Nov. 8 in a case against a security company and the largest shopping mall in Texas. The woman was 19 in August 2003 when she was abducted from the Galleria parking garage and raped. David Matthews and Jason Webster, the victim's attorneys, argued that HG Shopping Center, LP., and its security company, IPC International Corp., were negligent in failing to warn her of three previous assaults on women in the three months prior to her kidnap and rape.

Defense attorneys brought crime expert Dr. Merlyn Moore, who argued that the previous Galleria assaults were statistically insignificant and failed to indicate a pattern of crime that made the victim's assault foreseeable. *(p. 2)*

Engineer Killed on Rig

AMARILLO – Matthews & Associates have been hired by the wife of an engineer who was killed Oct. 17, 2006 when a metal rope line he was spooling yanked him onto the spool drum and crushed him. Amarillo native Michael Blaine, 32, was positioning a metal cable in the assembly of an oil rig when the mishap occurred.

We contend that the drum design was faulty; that the control panel lacked sensitivity; that another man fed the cable too fast; and that other spooling procedures were substandard. An OSHA investigation by the U.S. Dept. of Labor determined last April that "the sand-line drum was not guarded effectively to prevent an accident."

The defendant, Stoehr Wire Rope, contends Mr. Blaine was solely at fault. A Texas jury will decide the case.

$1.5 Million Jury Verdict in Man's Hospital Death

BEAUMONT – Matthews & Associates attorneys David Matthews and Jason Webster won a case in September for the family of a man who died of an undiagnosed heart attack at Christus St. Mary Hospital in Port Arthur. The suit charged that Christus staff doctors ignored Aurilano Salas' family's admonitions about Mr. Salas' heart condition and Plavix mediction.

Christus doctors diagnosed a respiratory infection, prescribed Tylenol for Mr. Salas' fever and antibiotics for his sepsis. The suit charged that he should have at least been hooked to a heart monitor and could have been saved.

Defense attorney Curry Cooksey argued the victim died of sepsis, the autopsy was "result oriented," not technical enough, and failed to account for Mr. Salas prior heart condition and blocked arteries. The jury disagreed.

Medtronic Sprint Fidelis Leads Recalled

Medtronic has suspended sales of the Sprint Fidelis family of defibrillator leads because of the potential for lead fractures, reports of life-threatening complications and at least five patient deaths. Matthews & Associates are actively handling these cases.

Four of the Sprint Fidelis family of defibrillator leads have been recalled: model numbers 6930, 6931, 6948 and 6949. The lead may also have been used to connect defibrillators manufactured by other companies such as Guidant, Boston Scientific, and St. Jude.

The FDA recommends that patients with the Sprint Fidelis lead implanted contact their physician immediately, especially if they have experienced multiple shocks, lightheadedness, fainting or palpitations. *(p. 2)*

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Vioxx Settles: $4.85 Billion

We're pleased to announce that Merck & Co. has finally agreed to settle the Vioxx claims of more than 27,000 people injured by the expensive pain drug. ***Matthews & Associates*** *has spent millions of dollars, thousands of hours, and tremendous effort in litigating Vioxx claims for more than three years. As the official "Vioxx document depository" for the state of Texas, we have reviewed more than 20 million documents, and our Vioxx staff is continuing to update all the files required to qualify our clients for the settlement.* (p. 4)

David Matthews has a top rating in Martindale-Hubbell and is board-certified in personal injury trial law. Voted a "Texas Super Lawyer" by his peers, he has more than 100 jury verdicts.

Mesothelioma/Asbestos

Matthews & Associates continue to pursue mesothelioma cases throughout the country. Mesothelioma is caused by exposure to asbestos, a material present in many work environments such as construction, ship building, automotive and other manufacturing industries. Individuals with a history of extended asbestos exposure are at the highest risk for developing malignant mesothelioma.

Even a small exposure to cancer-causing asbestos can result in malignant mesothelioma. However, mesothelioma has a latency of up to forty years. Many individuals previously exposed to asbestos are only now displaying symptoms, so the average age of mesothelioma victims is between 50 and 70 years. *(p. 3)*

Medtronic Recall *(from p. 1)*

"Fractures in the Sprint Fidelis leads may lead to audible alerts, inappropriate shocks and the loss of output," Medtronic said. The company first notified physicians in March 2007 about the fracture rate at that time and the proper method for implantation. Additional data on adverse events accumulated since then has prompted the recall.

The Sprint Fidelis leads were especially useful for some because the narrow diameter made them easier to thread into veins; but the narrowness also made them more prone to fracture.

Judge Rules Against Citizens

editorial by Richard Matthews

In a landmark case in April, state court Judge Randy Wilson ruled against Texas citizens in favor of multi-national drug companies. Wilson ruled that citizens can't recover damages from a company that made and marketed a bad drug, if that drug was approved by the FDA. Wilson's ruling turns the FDA's principal reason for existence on its head. It shields corporations and dismisses injury claims of the very taxpayers who fund the agency.

The FDA was created to protect citizens from dubious corporate products, not to act as a legal fence to protect corporations from injured citizens. No rightful ruling can turn the agency's main function in direct opposition to its original and rightful intent. The beleaguered, underfunded agency doesn't design drug studies; it makes fallible judgements based primaily upon information it receives from studies paid for by Big Pharma. Wilson's ruling delivers a grievous insult to citizens as well as democracy. Surely Wilson knows the FDA is rife with problems: funding limitations, lobbyist money tainting science, a revolving-door relationship with pharmaceutical companies.

Wilson's ruling denies injured, taxpaying citizens access to the courts. Shame on Judge Wilson.

Galleria Rape *(from p. 1)*

Dr. Moore also argued that informing the Galleria's 350 retail outlets of the previous assaults would have caused mass hysteria. Matthews countered with a document showing the Galleria issued a security alert to 350 retailers after a bank bag theft in the weeks preceding the sexual assault, and therefore had the ability to warn retailers of previous assaults and should have.

Matthews also argued previous attacks established a pattern of crime that should have prompted mall security to add more cameras and personnel, and to establish a system to monitor roving security positions in the garages. Two of the previous assault victims testified, as did the rape victim, that their screams went unanswered by mall security.

Defense lawyers for IPC International Corp., one of the largest security companies in the U.S. with more than 6,500 employees, were unable to prove the mall had the "100 percent coverage" that security director Floyd Sharp said he called for after the second reported assault. The Galleria's parent company, the Simon Property Group, owns more than 200 retail centers across the U.S..

Gadolinium Suits

HOUSTON – Matthews & Associates have taken on two new cases for victims of Gadolinium MRI/MRA, a contrast dye used in magnetic resonance imaging. M & A will argue in court that the manufacturers failed to properly study and research this product or evaluate the impact it could have on those with impaired kidney function. They also failed to warn of Gadolinium's life-altering, potentially fatal problems.

The FDA has indicated all five available Gadolinium MRI contrast agents could cause several serious problems: burning, itching, swelling, hardening and tightening of the skin; red or dark patches on the skin; yellow spots on the whites of the eyes; stiff joints with trouble straightening or moving the limbs; pain in the hip bones or ribs; and/or generalized muscle weakness.

Dangerous Drugs

Avandia

Avandia users are 43 percent more likely to suffer a heart attack and 67 percent more likely to die of CV causes than non-users, according to the NEJ of Medicine. As leaders in the US with similar cases involving **Rezulin**, we're now reviewing Avandia.

Ortho Evra

The Ortho Evra Birth Control Patch is still on the market despite alarming "side effects." Its maker, Johnson & Johnson, is facing hundreds of lawsuits related to strokes, heart attacks and deaths caused by the patch. We're reviewing these cases.

Zyprexa

Eli Lilly's Zyprexa, purported to treat schizophrenia, has been shown to cause weight gain, high blood sugar, high cholesterol and other metabolic problems. In addition, the American Diabetes Association claims that Zyprexa causes diabetes.

Seroquel

Seroquel has been linked to a high incidence of type 2 diabetes, pancreatitis, hyperglycemia and other blood sugar disorders, leading the FDA to request that manufacturer AstraZeneca clearly list dangers on Seroquel packaging.

Fentanyl/Fentora

Texas attorneys recently won a $5.5 million verdict in a first-ever federal trial in a death case involving Fentanyl, a highly addictive pain drug 80 times more potent than morphine. The Fentanyl-based drug Fentora has been associated with the deaths of four people so far.

Fosomax

Studies have shown long term use of Fosemax can cause a problem in the jawbone, osteonecrosis of the jaw. This painful condition results in surgery to remove exposed parts of the jawbone in the mouth.

Cymbalta

Like all antidepressants, Cymbalta contains a black box suicide warning ordered by the FDA. Five people in the drug's clinical trials committed suicide. Among them was Traci Johnson, a healthy 19-year-old volunteer with no recent history of depression. She hanged herself with a scarf in Eli Lilly's clinical research laboratory.

Haldol

The FDA announced a new warning will be added to the schizophrenia drug Haldol; users could face an increased risk of sudden death from dangerous heart conditions. Haldol has been associated with sudden death, QT prolongation and Torsades de Pointes (TdP).

Gadolinium MRI/MRA

An MRI dye, Gadolinium-based injections can impair kidneys and lead to a potentially fatal disorder involving formation of thick and hard skin on limbs and scarring to internal organs.

Contact us for a free consultation.

Tire "Blowout" Death

TEXAS – Matthews & Associates have been retained by the husband of a 28-year-old Texas woman who was killed in May 2006 when a violent tire blowout caused a truck to spin and flip. The woman, a mother of three, was a passenger in a 2000 Mazda pickup when one of its tires, made by Cooper Tire & Rubber Co., malfunctioned. The tread separated from the tire in the blowout and precipitated the tragedy.

Cooper Tire & Rubber Co., is an Ohio corporation, though the tire in question is believed to have been manufactured in Texarkana, Ark., after being designed and tested in Pearsall, Texas.

Matthews & Associates filed the suit in U.S. District Court for the Eastern District of Texas. Among the multiple charges: "[T]he tire contained unreasonably dangerous design defects and was not reasonably safe, (and) was insufficiently tested."

Celebrex Cases Update

NEW YORK – Pfizer Inc. won a U.S. Court ruling Nov. 20 that could limit the lawsuits claiming that its Celebrex painkiller caused heart attacks and strokes. Judge Charles Breyer of U.S. District Court for the Northern District of California ruled that plaintiffs had not presented scientifically reliable evidence that Celebrex causes heart attacks or strokes when taken at a strength of 200 milligrams.

"This ruling represents a blow to cases in which our clients took only the 200 milligram dosage," said Matthews & Associates attorney Julie Rhoades. "Clients with records to prove they took 200 milligrams twice daily are still in the game, but we will have a hard time moving forward with the cases in which clients took only 200 milligrams."

HypnoPharmo

by Ken Jones

I'm a narcotized Narcissus
The TV is my pond
Its pharmocopic miracle cures
My medicinal magic wand
No wonder I can't sleep
Or face the next sunrise
I stare into the hypnoscreen
Drug commercials mesmerize
They sell you cures for ills
You never knew you had
Don't worry about the long term
Side effects can't be that bad
As long as Big Pharma
Reports enormous profits
and stock portfolios swell
In our system, all is well
So I sit back, numbly pacified
Another consumer on a zoned out ride

Ken Jones' latest book of poetry is *Unutterable Blunders and Palace Disasters*. An attorney as well as a poet, he lives and works in Houston, Texas.

FDA Gets an "F"

WASHINGTON, D.C. – A 2007 report by the Office of Inspector General of the U.S. Department of Health and Human Services (HHS) states, "weaknesses in the FDA's information systems and management processes hinder the agency's ability to oversee clinical trial inspections." The report said the FDA inspected just one per cent of clinical trial sites from 2000 to 2005. Of the estimated 350,000 trial sites, the FDA is believed to have inspected just 2,855. The report also revealed a lack of follow up on sites which had been issued a warning letter after being classified as "Official Action Indicated" (OAI) for regulatory violations.

The FDA must re-inspect sites that have been sent a warning letter to ensure there are no repeat violations, but according to FDA data, which was noted to be inadequate in the report, the agency only conducted three follow-ups for every 100 inspections that were classified as OAI. That's three percent, an "F" in anybody's grade book.

Mesothelioma/Abestos

(from p. 1)

Men are typically affected more often, due to the common presence of asbestos in industrial settings.

Asbestos is an insidious substance that can cause great damage to human health. It consists of very small fibers which can find their way to the outside lining of the lung and damage the cells that pleura is made of. These fibers can also be carried on clothing, which makes them dangerous not only to the person exposed, but also to family members.

Symptoms may include, but are not limited to respiratory distress and a lasting cough and pneumonia. In addition, symptoms are often mistaken for less serious ailments, and many patients show no signs at all. Diagnosis is usually made by chest x-rays and CT scans. Anyone with concerns should seek medical help.

Contact us for a free consultation.

Q & A with Dr. Jeb Wait

Question: If a drug I'm taking is on your dangerous drugs list, should I stop taking it?

Answer: Sudden withdrawal of any drug can lead to severe adverse reactions. Always consult your physician before stopping or changing the doseage of any drug.

Question: Does everyone who suffered a heart attack (myocardial infarction or MI) or ischemic stroke qualify for the Vioxx settlement?

Answer: Not necessarily. Current settlement terms require that you were dispensed at least 30 pills and took Vioxx within 14 days of suffering an MI or ischemic stroke.

Dr. Jeb Wait, a licensed physician as well as an attorney, is of counsel to **Matthews & Associates**.

Vioxx Settlement *(from p. 1)*

Merck & Co. has agreed to pay $4.85 billion to settle claims filed or tolled before Nov. 8, 2007. Claims must meet the following criteria:

1.) Objective, medical proof of Myocardial Infarction (heart attack or ischemic stroke; 2) Use of at least 30 Vioxx pills; and 3) Proof of receipt of pills in sufficient number and proximity to the event to prove Vioxx use within 14 days before the injury.

Each case will be examined by independent administrators of the process to determine qualification based on documented facts provided by claimants, including records sufficient for evaluating independent risk factors. Merck's payment is a fixed amount, though the exact number of claimants covered by this agreement is not yet determined. At this stage, we have no exact information as to what your claim will be worth.

Please be patient, and do not submit anything independently. For the best and quickest results, fill out only the paperwork that we request.

Matthews Legal News gives clients across the country up-to-date information about our firm's litigation and late-breaking national news. **Matthews & Associates** is a law firm of trial lawyers, consultants, investigators and medical personnel. We help people harmed by negligence, greed or incompetence. With more than 70 years of combined legal experience, we have represented victims in most of the 50 states and Puerto Rico. We have the financial resources to handle injury cases of any size.

Call us for a Free Consultation.

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