



# Matthews Legal News



The Official Newsletter of Matthews & Associates Law Firm

2905 Sackett St., Houston, Texas 77098

## First Lawsuit Filed in Fatal Spanair Crash

**LOS ANGELES** – Lawyers for two injured survivors and several surviving family members of the 154 people killed in a Spanair jet crash last summer filed the first crash-related lawsuit in June in U.S. Federal Court in Los Angeles. Plaintiffs’ attorneys David Matthews and Michael Gallagher of Houston and local counsel Girardi & Keese named the Chicago-based Boeing company as the principal defendant. The suit alleges that Spanair Flight JK5022 crashed due to mechanical defects in the flaps and slats on the wings. The MD80 jet veered hard right just as it got airborne, then crashed. (p. 2)

## Raptiva Drug Withdrawn

**USA** – The psoriasis drug Raptiva was withdrawn from the market on April 9 after it was found to be linked with a rare, but often fatal brain disorder, progressive multifocal leukoencephalopathy (PML). Other “side effects” include potentially fatal infections such as bacterial sepsis, viral meningitis, invasive fungal disease and other opportunistic infections. (p.2)

## First Reglan Suits Filed

**USA** – Matthews & Associates filed the country’s first post blackbox lawsuits, in October, against the makers of Reglan, a gastrointestinal drug known to cause a neurological syndrome called Tardive Dyskinesia. (p. 4)

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## Gadolinium/MRI cases Filed

**USA** – The firm has filed more than two dozen cases – in state courts and in federal court in Cleveland, Ohio – for victims of gadolinium-based contrast dyes used in magnetic resonance imaging. The firm will argue that the makers failed to properly study and research gadolinium and the impact it could have on people with impaired kidney function, and failed to warn of gadolinium dye’s potentially fatal problems. (p.2)

## First Toxic Drywall Cases Filed in Federal Court

**NEW ORLEANS** – Matthews & Associates filed toxic drywall cases on June 17 for 14 families from four different states in the Federal Court established in New Orleans on June 15. Petitions from the firm claim the families have been victimized by toxic Chinese drywall. The drywall is alleged to corrode refrigeration coils and other copper elements, and to trigger the emission of toxic sulfuric gases. (p.3)

## Injured Baby Case Filed

**AUSTIN** – The firm has filed suit in Travis County on behalf of parents whose baby boy was brain damaged in July 2007. The suit charges that doctors failed to respond to pregnancy complications which injured the baby after a 15-hour delay in the delivery. In addition, doctors and nurses didn’t properly ventilate the baby after delivery, hence contributing to his injuries.

## Motorcycle Crash Settled

**HUMBLE, TEXAS** – The firm attained insurance limits in May for a 34-year-old Humble man whose ankle was crushed when he was forced to lay down his motorcycle after a negligent driver pulled out from a median. It was the firm’s third cycle case in 2009.

*Hablamos Español* 888/520-5202

## Mesothelioma Death Case

**ALABAMA** – Matthews & Associates Law Firm has been retained by the wife of a ship fitter who died in St. Elmo, Alabama from asbestos exposure. The man spent nearly 40 years building and repairing ships for one of the largest military contractors in the United States. He succumbed to mesothelioma in July 2007.

The firm represents his 73-year-old widow and their adult children against several companies that made products and machinery containing asbestos and machinery that called for the use of asbestos-containing products.

## A Tragedy of Misplaced Trust

*Thousands of Reglan users who had gastrointestinal problems now have a much greater concern: a neurological syndrome known as Tardive Dyskinesia. This devastating illness causes involuntary, repetitive movements of extremities and/or lip smacking, grimacing, blinking, puckering and pursing of lips or impaired movement of the fingers.*



*Reglan was approved back in 1980, but several generic versions that followed contain the same medication: metoclopramide. On Feb. 26, 2009 the FDA issued a black-box warning about the drug, the most serious warning the agency issues.* (p. 2)

**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.**

## **Gadolinium/MRI** *(from p. 1)*

The FDA has indicated all five available Gadolinium/MRI contrast agents can cause several serious problems, including nephrogenic systemic fibrosis (NSF). Most NSF victims are on dialysis. If the kidneys can't expel gadolinium-based dye fast enough, it breaks free of its chelate; then it can infect skin, muscle tissue, bone and organs.

The skin of patients with NSF often swells and tightens on the extremities and sometimes the trunk. The condition may develop in days or months after an MRI. The FDA first warned medical professionals about the link between gadolinium-based dyes and NSF in June 2006. The gold standard for diagnosis is a punch biopsy of skin tissue for microscopic analysis. Call our toll-free MRI hotline: **1-888-527-5722**.

## **Spanair Case Filed** *(from p. 1)*

The complaint also addresses the possibility of pilot or technician error. A Spanish aviation agency investigation found that the flaps and slats of the aircraft were never extended, and therefore never allowed the plane to achieve proper lift on takeoff. Attorneys believe the flaps and slats malfunctioned, and that the system designed to warn the pilots that the flaps and slats were positioned improperly did not sound. Boeing continues to investigate the cause of the crash.

The Spanair flight was headed from Madrid to Gran Canaria Airport in the Canary Islands on Aug 20, 2008. It was Spain's worst air disaster in 25 years.

## **Cycle Crash Settled**

**HOUSTON** – A 32-year-old man from Porter, Texas was severely injured in March when a black Tahoe ran him over from behind on the Southwest Freeway in Houston. The SUV was traveling approximately 30 mph faster than the motorcycle. The cyclist suffered head lacerations that required 12 staples. He was bruised over most of his body, and his cycle was totaled. The firm settled the case for insurance policy limits.

## **Dangerous Drugs**

### **Raptiva** *(from p. 1)*

Genentech, Inc., the drug's maker, disclosed that three cases of PML had turned up in patients taking Raptiva since October, including two that were fatal. A fourth patient taking Raptiva died of unknown cause after developing neurologic symptoms. Each of the four had been taking the drug for more than three years, according to Genentech.

### **Elidel/Protopic**

The Food and Drug Administration has said that research shows these creams are absorbed into the body and can cause skin cancer and lymphoma. The creams work by suppressing the immune system. They will carry a "black box" warning, the strongest carried on drugs and medicines.

### **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 New England Journal of Medicine. As leaders in the US with similar cases involving **Rezulin**, we handle Avandia cases.

### **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. We are currently litigating these cases.

### **Trasylol**

A blood-clotting agent used in heart surgeries, Trasylol can increase the risk of heart attack, kidney complications and stroke not only during surgery but up to five years after. It costs up to 50 times more than two alternative clotting drugs, neither of which carries the same risks. We have filed several Trasylol cases in the U.S. thus far.

**Call us for a free consultation.**

## **Misplaced Trust** *(from p. 1)*

*Reglan was only established as a safe and effective treatment when used for treatments of no more than 12 weeks, but the makers of the brand-name drug were aware that many doctors prescribed the medication off-label for substantially longer periods of time.*

*Given that these longer periods of use were well known, manufacturers did not fully inform the medical community or patients. The manufacturers placed their desire for profits ahead of their obligation to provide complete warnings about the safe use of a product. Manufacturers clearly knew that informing patients and doctors about the devastating problems Reglan can cause – when used at high doses or for longer than 12 weeks – would negatively impact sales, their all-important bottom line. The victims, again, were people whose only crime was trusting the company and the FDA.*

## **Lobbyist Locusts**

In 1968, only 62 lobbyists worked our nation's capital to influence lawmakers. By 1985, they numbered about 8,000. Now, more than 15,000 lobbyists descend on Washington. That unelected swarm affects legislation at the expense of citizens. It affects the cleanliness of our air and water; ways we work and retire; policies that impact our security, finances, food; and the cost of drugs.

Public Citizen reports that the drug industry alone has two lobbyists for every member of congress: "Lobbyists and special interest groups outnumber all congressional representatives and senators – and their staffs – by a margin of two to one." From 1998 to 2004, corporate lobbyists spent nearly \$13 billion to impact legislation. Many slither through a revolving door between government "service" and corporate jobs. Roughly 2,390 former public officials now work as lobbyists, including some 240 ex-members of congress. Many lobbyists cash in by lobbying their former colleagues. Call or write your representatives and demand real change.

## Mesothelioma/Asbestos

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

Even minor exposure to cancer-causing asbestos can result in malignant mesothelioma. However, mesothelioma has a latency of up to 40 years. Many people previously exposed to asbestos are only now showing symptoms; the typical age range of meso victims is 50 – 70.

Asbestos consists of tiny fibers that can find their way to the outside lining of the lung and damage the cells of which pleura is made. These fibers can also be carried on clothing, which also makes them dangerous to family members.

Symptoms may include, but are not limited to, respiratory distress and a lasting cough and pneumonia. 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.

**Call us for a free consultation**

## Mall Death Case Settled

**HOUSTON** – Attorney Adam Funk settled a violent death case in October for a substantial undisclosed sum, per agreement with defendants. The case stemmed from a Nov. 27, 2007 incident in which 20-year-old JoAnna Gonzalez was shot and killed at a north side Houston mall. Plaintiffs were the woman's parents. The firm argued that the mall had inadequate security, especially given its history of violent crime.

## Please Update

**USA** – We often need to call our clients or send mail to meet legal deadlines. Most cases involve a statute of limitations that leaves no room for error. *If you move or change your phone number, please let us know right away.*

## Toxic Drywall Cases Filed in New Orleans MDL (from p.1)

The gases are believed to cause a wide array of health problems, but no toxic drywall signature injury has yet been proven.

The Multi-District-Litigation court, presided over by Judge Eldon Fallon, was established in New Orleans to consolidate the country's numerous drywall cases. Shipping records indicate at least 550,000 tons of toxic Chinese drywall were imported into the US during the housing boom of 2003-2007.

Plaintiffs's attorneys seek compensation for victims of the defective drywall that may cause a complete loss in home value. Toxicity studies show many affected homes may need to be stripped to the rafters or even the slab.

"We don't yet know the exact mechanism of how this drywall damages houses and people," said attorney David Matthews. "We won't be able to perform proper discovery of how it causes the destruction of wiring, electrical appliances and plumbing fixtures until we sue the manufacturers, distributors, suppliers and construction companies that used it."

## Do you need a probate attorney? Probate 101 by Geoff Sansom

Probate is the process of determining who is entitled to the property of a deceased person. Probate is also the process that transfers legal title of property from the estate of a deceased person to his or her proper beneficiaries. The term "probate" refers to a "proving" of the existence of a valid will or of determining and proving who one's legal heirs are in the event that a person dies *intestate* – without having made a will. For clients who are bringing a lawsuit based on the death of a loved one, some form of probate is required before the suit can proceed or before any settlement funds can be distributed.

Not all of a person's property is required to go through probate. Some property must go through probate in order to transfer legal title from the deceased's name to his or her beneficiaries or heirs. Other types of benefits – such as life insurance proceeds, annuities, 401k accounts and IRAs – can bypass probate. Bank accounts set up as payable-on-death accounts ("POD") or as joint-tenancies-with-right-of-survivorship can also pass to a beneficiary without probate.

Generally, even if a will has been drafted, it is necessary to go through probate (or other less formal procedures under the supervision of the probate court) before the deceased's property can be distributed. Even if a person dies with a will (known as dying *testate*), a court generally must have an opportunity to allow others to object to the will and, if there are any objections, to determine if the will is valid.

## The Need for a Will

You need a will yourself because it lets you specify who you wish to receive property (including any money that might be received from a personal injury lawsuit) when you pass away. A will allows you to name an "executor" who will act on your behalf once you pass away (similar to a Power of Attorney). If you die without leaving behind a will, then state law will determine who will receive your property. As you might imagine, such a scenario can result in someone receiving your property whom you would never, in a million years, have named in your will. Dying *intestate* can also result in someone whom you don't trust representing your entire estate. With a proper will, however, you can control (through the probate process) who will act on your behalf and who will inherit your property. Anyone with questions can call me direct at 713/238-7767.



*Geoffrey Sansom*

## First Reglan Cases Filed

(from page 1)

Matthews & Associates filed eight Reglan lawsuits in the Philadelphia Court of Common Pleas against Teva Pharmaceuticals, Inc. and three in California Superior Court in Riverside County against Watson Laboratories, Inc.. All lawsuits included the original creators of Reglan, Wyeth Pharmaceutical Company. Reglan has been on the market since the 1980s, but generic versions also exist. In February 2009, the FDA cautioned about the key ingredient, metoclopramide:

"Chronic use of metoclopramide has been linked to tardive dyskinesia, which may include involuntary and repetitive movements of the body, such as lip smacking, grimacing, tongue protrusion, rapid eye movements or blinking, puckering and pursing of the lips, or impaired movement of the fingers, even after the drugs are no longer taken. These symptoms are rarely reversible and there is no known treatment."

## The Firm Settles 18-Wheeler Death Case

**HOUSTON** – A jury trial was underway in Harris County in October when Matthews & Associates reached a settlement with a trucking company. Corporate lawyers defended the employer and driver of an 18-wheeler that plowed through a stop-lighted intersection in a school zone on Old Beaumont Highway in 2003, killing a 33-year-old mother and 12-year-old son. Attorneys David Matthews and Julie Rhoades represented the child's father and grandparents.

The 18-wheeler hit the woman and child at 2:10 p.m. on a Friday just before Christmas as they exited the school, less than 200 feet from an intersection. Defense argued the light was not flashing on the yellow school sign which read, "Speed Limit 35 when flashing," and that the woman failed to yield. The case settled for an undisclosed sum.

*Hablanos Espanol*

**Matthews Legal News** gives clients and other friends across the country up-to-date information about our firm's litigation, as well as 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 100 years of combined legal experience, our lawyers have practiced law in nearly all 50 states and Puerto Rico. We have the financial resources to handle any personal injury case.

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