

LEGAL BRIEFS

A QUARTERLY NEWSLETTER DEDICATED TO PERSONAL INJURY LAW

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FIGHTING FOR THE RIGHTS OF THE INJURED FOR 21 YEARS

Federal medical malpractice bill simply follows trend of denying patients' rights

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A bill intended to turn state medical malpractice laws into federal - H.R. 5- was recently introduced into the U.S. House of Representatives by House Republicans.

The goal of the legislation, said Lamar Smith (R-Tx.), Chairman of the House Judiciary Committee, is to stop "frivolous" medical malpractice lawsuits. Typically, the bill's solution is to put caps on non-economic damages (e.g. pain and suffering) that an injured patient may recover.

All of this, of course, is simply Congressmen doing the bidding of their big insurance donors. People who understand the situation know that, in truth, there is rarely anything frivolous about a medical malpractice lawsuit. Victor Schwartz, general counsel of the American Tort Reform Association in Washington, D.C., admitted as much to the subscriber-only insurance trade publication, Business Insurance.

Schwartz told the periodical that "it is rare or unusual for a plaintiff lawyer to bring a frivolous malpractice suit because they are too expensive to bring."

This statement supports the findings of a recent study conducted by the Harvard School of Public Health. The lead author of the study, Associate Professor of Law and Public Health David Studdert, found that "portraits of a malpractice system that is stricken with frivolous lawsuits is overblown."

In announcing the study, Studdert said the malpractice system is not a "lottery" for Plaintiffs, saying "These findings cast doubt on that view by showing that most malpractice claims (do) involve medical error and serious injury, and that claims with merit are far more likely to be paid than claims without merit."

Documentary *Hot Coffee* gives true account of McDonald's case, tort deform

You've heard of the McDonald's coffee case, right? Most people have. It remains a cultural joke and a symbol of what tort reform groups claim to be wrong with our civil justice system.

It's the case where the old lady spilled hot coffee in her lap, sued McDonald's, and (incredibly, tort reformers say) was awarded \$2.9 million at trial. ("Tort deform" is a term coined by Ralph Nader to describe the true intent of tort reformers).

But do you know any more about the case than that? Most people don't.

The documentary *Hot Coffee*, which will be released in 2011, tells you the whole story of the case and a lot more about how our civil justice system is being eroded through corporate lobbying and the dangers that presents.

Through interviews with the family of Stella Liebeck - the 79-year-old woman who suffered third-degree burns on her thighs and genitals after spilling a cup of McDonald's coffee on herself - as well as her doctor, her lawyer and witnesses, the movie

explores the complete set of facts behind the case. And you will see that it was not a frivolous lawsuit. To make its audience painfully aware of how serious Stella Liebeck's injuries were, it shows medical photographs of the burned areas of her body.

Ms. Liebeck was badly burned by coffee that McDonald's kept at 190 degrees as a matter of policy. A McDonald's quality control manager testified at trial that any food item served at more than 140 degrees presents a burn hazard. Ms. Liebeck spent eight days in the hospital and underwent debridement (the removal of dead tissue) and multiple skin grafts.

From the McDonald's case, *Hot Coffee* moves on to explore the public's diminishing freedoms through the stories of three other people. They illustrate the ways in which corporate interests are taking control of the civil justice system, leaving the public with ever-shrinking means of redress.

Hot Coffee is a film that everyone should see. It will change your view of the civil justice system and "tort deform."

DOT considering technology to disable cell phones in vehicles

The U.S. Department of Transportation is exploring the possibility of using technology to disable cell phones in vehicles.

"I think the technology is there," U.S. Transportation Secretary Ray LaHood recently told Discovery News. "And I think you're going to see technology become adaptable in automobiles to disable these cell phones."

Last year, LaHood launched an online video series entitled *Faces of Distracted Driving*. The video series explores the tragic consequences that can result from texting

and talking on cell phones while driving.

In 2009, the DOT reported that nearly 5,500 people died and 500,000 were injured in vehicular accident involving a distracted driver. A university of Kansas expert on distracted driving suspects that these numbers are really significantly higher.

The consideration of cell-phone disabling technology is a response to these increasing numbers.

No federal law prohibits cell phone use while driving. LaHood thinks it's better to fight "technology with technology."

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DeSimone Law Office handles a variety of injury cases

DeSimone Law Office has been serving Houston and the greater Gulf Coast area for 20 years.

The firm's primary focus has been the representation of persons who have been injured.

Along with personal injury cases, attorneys Ronald DeSimone and Donald DeSimone handle criminal defense and selected domestic cases.



Ronald DeSimone

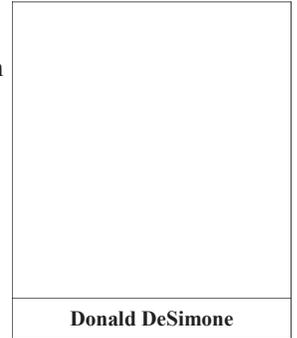
The DeSimones handle the following types of personal injury cases:

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- **SHOOTINGS AND ASSAULTS AT APARTMENTS/BUSINESSES**
- **RAILROAD WORKER INJURIES**
- **BOAT ACCIDENTS/DROWNINGS**
- **OFFSHORE ACCIDENTS**

Ronald DeSimone graduated from the University of Florida with a chemistry degree in 1984. He entered the University of Houston Law Center the following fall and

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Donald DeSimone graduated from the University of Florida with a business degree in 1986, and, after enrolling at the University of Houston Law Center in the fall of that year, he was licensed to practice law in 1989.



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