



SPRING 2007

Brought to you by
Nash & Franciskato
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- Appointments available on evenings and weekends
- Free initial consultation

AREAS OF PRACTICE

- Automobile Accidents
- Trucking Litigation
- Wrongful Death
- Product Liability
- Highway Defects
- Slip and Falls
- Burn Injuries
- Pharmacy Malpractice
- Medical Device Failures
- Medical Malpractice
- Commercial Litigation
- ERISA and Insurance
- Railroad Crossing Litigation
- Automobile Crashworthiness
- Tire Tread Separation
- Aviation Litigation

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NASH & FRANCISKATO

ATTORNEYS AT LAW



A Successful 2006 at Nash & Franciskato Leads to Immediate Growth



The **Nash & Franciskato Law Firm** is pleased to announce the addition of **Mark E. Parrish** as "Of Counsel" and the opening of a satellite office in Lee's Summit, Missouri. Mark has been in practice for more than 14 years. He has significant experience in representing individuals against insurance companies and against manufacturers of dangerous and defective products. Mark has handled cases throughout the United States and has obtained substantial verdicts and settlements on behalf of his clients.

Mark is originally from Camdenton, Missouri, but has been working as an attorney in the Kansas City area since 1995. He is a member of the American Association for Justice, the Missouri Association of Trial Attorneys (serving on the Board of Governors), the Kansas Trial Lawyers Association, the Missouri Bar Association, the Eastern Jackson County Bar Association, the Public Justice Foundation, the Kansas City Metropolitan Bar Association (as a sustaining member), Lawyers Encouraging Academic Performance (serving on its Board of Directors), Justice for Missouri Families (serving on its Board of Directors), and the Lee's Summit Chamber of Commerce (serving on its Board of Directors). He resides in Lee's Summit with his wife Klara and their two children, Lukas and Kristina.

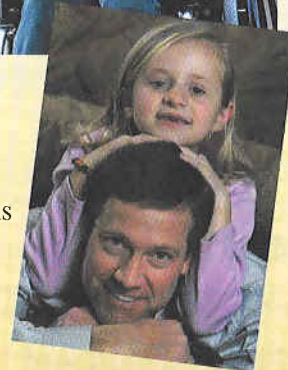
We're always here for you

When a person or a family is seriously injured in a seemingly larger-than-life situation, we offer them the hope and promise of fair treatment and compensation for harm.

Victims of a person's or a business's negligence may be so injured, upset, confused, or traumatized that they cannot speak out for themselves. That's when we become their voice.

We will bring our experience, resources, and, most importantly, our passion and heartfelt concern to bear for those harmed by insensitive wrongdoers to compensate them for the harm they have suffered.

In consultation with our clients, we may recommend several alternate paths to injury-case resolution. However, when circumstances call for it, we will represent our clients in court, presenting evidence in the cases to judges and jurors in a convincing manner to help them perceive victims' plights as the victims themselves feel them.



Let our experience get you the results you want!

Workers' compensation When insurers refuse to pay

Workers' compensation regulations are state-based insurance programs that effectively cover claims by workers injured on the job or who suffer work-related diseases or illnesses. Insurers regularly handle claims with understanding and efficiency.

On occasion, an insurer may deny claims benefits, as the following case illustrates. Workers should consult an attorney experienced in workers' compensation law for counsel.



Fall from a ladder

When a retail store employee fell from a ladder and severely injured her back, her physician recommended surgery. When she filed a workers' compensation claim, the insurer denied her petitions and an independent Industrial Commission's confirming orders for several years. The employee's attorney sued the insurer, demonstrating it had not acted in good faith.

A jury held for the plaintiff, stipulating a significant award, and held the insurer liable for lifetime medical care and disability benefits for the underlying injury under the state's Workers' Compensation Act.



Drunk-driver accident victims

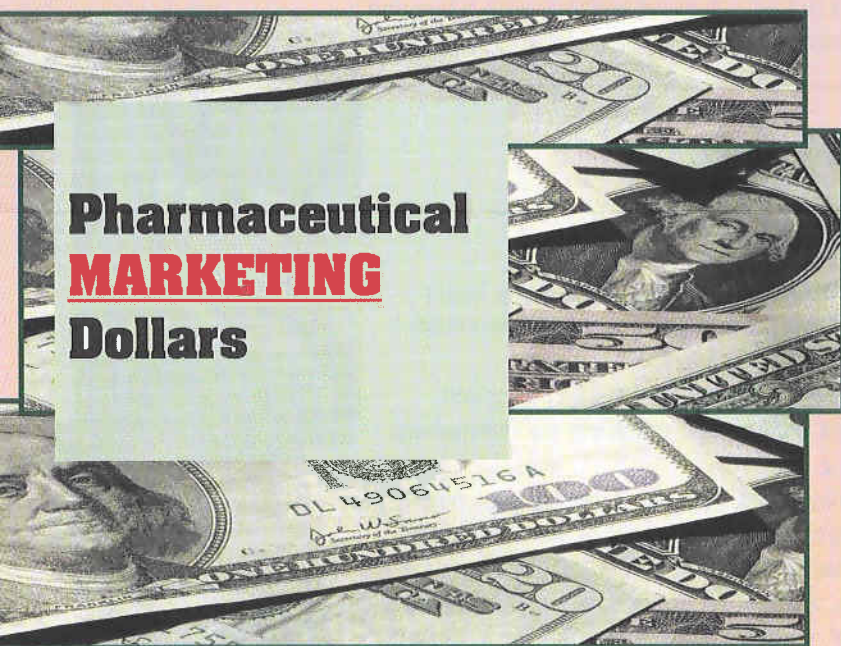
U.S. transportation authorities claim that motor vehicle accidents involving alcohol kill one victim every 30 minutes. Alcohol-related accidents also seriously injure other victims every two minutes. Annually, more than a million Americans and their families suffer at the hands of drivers who are impaired by alcohol.

Anyone injured in an alcohol-related auto accident should seek the counsel of an experienced attorney to obtain compensation for medical treatment, lost income, emotional distress, and other damages.

Third-party responsibility

In addition to seeking recompense from negligent drivers and their insurance providers, personal injury attorneys may also uncover liability of third parties, such as restaurants and other establishments that serve or sell alcohol.

A drunk driver ran a stop sign, collided with another vehicle, and killed its driver. When the victim's wife and estate sued for wrongful death and emotional distress, the plaintiff's attorney also made a claim against a nightclub that served the drunk driver alcohol immediately before the accident. The parties settled before trial.



Pharmaceutical MARKETING Dollars



Pharmaceutical RESEARCH Dollars

Pharmaceutical marketing

U.S. drug manufacturers spend 2.5 times more money on marketing drugs to consumers and doctors than they invest in pharmaceutical research.

To make windfall profits on prescription drug sales, pharmaceutical companies spend billions influencing physicians and other health-care providers to prescribe and utilize their medications.

In one case, former Medtronic employees blew the whistle on the company's marketing generosity, which included giving doctors financial kickbacks. Their case settled in federal court in August 2006 for \$40 million.

In other lesser instances, medical-school professors claim that drug representatives often provide many doctors' offices free lunches, some costing as much as \$250, to buy access for sales.

Access costs American consumers millions and adds billions to drug companies' marketing annually. In 2004, Merck alone spent \$7 billion in marketing, compared with \$4.01 billion in research. Public Citizen, a consumer advocacy group, reported that in 2005, the pharmaceutical industry committed more than \$60 billion to marketing efforts.

FOR YOUR SAFETY

Recalled product roundup

Here are some recently recalled products you may have in your home or at work:

- ✓ **Target Stores** is voluntarily recalling 185,000 Firestreet Scooters. The handlebars, wheels, and brakes can break and detach, causing rider injuries.
- ✓ **Acuty Specialty Products Group, Inc.**, asks consumers to return 6,800 five-gallon pails of “Zep Industrial Purple Cleaner & Degreaser” and “Zep Heavy-Duty Floor Stripper” cleaning products, which can crack, leak corrosive products, and harm users.
- ✓ **Atico International USA, Inc.**, has recalled 209,000 folding picnic tables with legs that can unexpectedly buckle, break, fold, or collapse, injuring users.
- ✓ **Fun Express, Inc.**, has called back 340,000 bendable toys given away at libraries. The toys are decorated with paint containing excessive levels of lead, which is banned under federal law. Lead is toxic and, when ingested by children, can cause adverse health effects.
- ✓ **Black & Decker** has requested buyers to return 160,000 cordless electric mowers. An electrical component in the lawn mower can overheat, catch fire, and burn users.

Legal dictionary



Many clients find legal terms mystifying. From time to time, we'll provide easy-to-understand definitions to help clear things up. This time, you'll learn the meanings of several important terms used in courts to help you better understand our legal responsibility concepts.

Liability

A person's, group's, or business entity's legal responsibility for an injury or loss for which they are responsible.

Negligence

The failure to exercise the kind of sufficient care that a reasonably prudent and careful person would use under specific circumstances. If an injury results from another's negligence, that person or entity may be liable to pay damages for any injury they caused.

Statute of limitations

An arbitrary time limit—in years—that cuts off a plaintiff's ability to file an injury case after a certain period of time from the date of the injury, even if the injury is not detected until much later.

Statute of repose

Another arbitrary time limit—in years—that terminates a corporation's responsibility for marketing faulty or dangerous products.

Damages limitations

Can lawsuit damages caps harm those injured? Damages-cap legislation restricts amounts a jury can award for injuries, no matter what case facts may be. Some state legislatures have enacted caps in civil cases, while others have not. Some caps apply to specific kinds of cases, such as medical malpractice. Other caps limit only noneconomic damages, and some limit punitive damages.

In states that cap damages, a jury's or judge's award is automatically reduced to the amount of the cap—even though the jury

or judge may believe the plaintiff should be awarded more than the cap as compensation, or even if the circumstances of the case show that a negligent or malicious defendant should be punished with a significant punitive-damages award. There is generally no way to raise a damages award beyond the cap once it is written into law.

Here is an example of how a cap of \$250,000 on noneconomic damages may be incredibly unfair to some victims.

Who is harmed	The victim's injuries or losses	The amount the jury originally believed should be awarded	The amount the victim is awarded based on the legislature's cap
VICTIM A	After being hit by a drunk driver, the victim's car caught fire. Her husband (a passenger) was killed, she was burned and left disfigured, and lost the use of her right arm. She was a homemaker and can no longer work.	\$1.2 million noneconomic damages	\$250,000 noneconomic damages
VICTIM B	After being hit by a drunk driver, this victim suffered two broken legs, had to have surgery to repair them, and was forced to wear a full body cast for two months.	\$250,000 noneconomic damages	\$250,000 noneconomic damages

VICTIM A, who suffered worse injuries than VICTIM B, nonetheless takes home the same compensation for her losses as VICTIM B. Even though the jury thought VICTIM A deserved far more compensation, the jury's judgment was overruled by a cap put in place by the legislature long before VICTIM A's case ever arose.

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Referrals



Please call us if you have legal needs. If we can't help, we will try to refer you to someone who can. Although we handle only major litigation matters, we have relationships with other attorneys who specialize in other matters, and we can recommend them to you.

You will feel better if you call.

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The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

Nash & Franciskato Law Firm obtains over \$1 million in two trucking cases

Case 1: Our client was a front-seat passenger in a dump truck that was struck from behind by a semi on Interstate 29 in Platte County, Missouri. The force of the impact knocked the dump truck off the highway, causing it to roll several times, ejecting the client and the driver. Our client suffered a head injury, which required brain surgery at KU Medical Center. The trucking company settled the case for \$560,000.

Case 2: Our client was the victim of a tired trucker who failed to see slowing vehicles in front of him and crashed into our client's car. The traffic was slowing because another truck had spilled lumber on the highway. Our client's left ear was severed in the accident and could not be reattached. We obtained settlements totaling \$575,000 from the two truck companies.



18-wheeler truck accidents

Annually, more than half a million 18-wheeler trucks are involved in accidents. About 5,000 accidents result in fatalities. Many who die drive autos that collide with trucks.

Anyone involved in an accident should consult an attorney familiar with semi-truck/auto accidents, since a number of special considerations may apply. An experienced attorney investigating an accident may review...

- applicable insurance-coverage issues.
- driver medication or illicit drug use.
- driving-time logs and records.
- GPS-device recordings of minute-by-minute speed, braking, location, and other factors.
- independent-contractor truck and driver-liability defenses.
- overlapping or conflicting federal and state regulations guiding truck safety.
- proper materials loading and safety rules.
- roadway speed, lane use, and passing regulations.
- trucking-company maintenance records.

The attorneys at Nash & Franciskato Law Firm believe that the choice of a lawyer is an important decision and should not be based solely on advertisements. Past results afford no guarantee of future results. Each case is different and is judged on its own merits.