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NASH & FRANCISKATO

ATTORNEYS AT LAW

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
 - Joint Replacement Failures
- Medical Malpractice
- Commercial Litigation
- ERISA and Insurance

OUR *FIRST* NEWSLETTER!

We are sending our first newsletter to you because we care about your family's security and well-being.

In each issue, we will give you information to help keep you and your family safe and healthy. Our newsletter will suggest protective steps to reduce the chances of harm or injury in your car, at home, work, school, or play. We also will update you about legal issues and cases you will find helpful and which can improve everyday living.

Should you or a loved one suffer personal injury—and find you need us—you will learn a lot here about what your legal options and what your remedies may be.

We hope you enjoy this newsletter. We have prepared it with the same personal and professional touches that you feel when you visit our practice. We also thank those who ask us to represent their legal needs and those who recommend us to others. We encourage you to share this information with friends and neighbors.

Welcome to our new Law Firm!

Dean Nash and Brian Franciskato are pleased to announce the opening of **Nash & Franciskato Law Firm**. We represent individuals and businesses in serious personal injury and commercial litigation throughout the United States. Our firm's practice areas include personal injury, trucking litigation, medical device litigation, product liability, fraud, bad faith, wrongful death, contract disputes, commercial disputes, and other complex litigation.

Dean is a lifelong Kansas City-area resident. He is a *summa cum laude* graduate of William Jewell College and a 1992 graduate of the University of Michigan Law School. Dean began his career as a law clerk with the Jackson County Circuit Court and with Honorable William E. Turnage of the Missouri Court of Appeals, Western District. Dean has represented plaintiffs and defendants in many types of civil litigation matters, including product liability cases, employment discrimination matters, automobile accidents, and highway defect cases. Dean also has experience representing clients in matters regarding business torts, including negligent trust administration. He is a member of the Missouri Bar, the Kansas Bar, the Association of Trial Lawyers of America, the Kansas City Metropolitan Bar Association (Sustaining Member), and the Missouri Association of Trial Attorneys.

Brian is also a lifelong resident of the Kansas City area. He graduated *summa cum laude* from William Jewell College in 1990 and received his law degree from the University of Missouri-Columbia School of Law in 1993. While in law school, Brian served on the Board of Advocates and the Missouri Environmental Law and Policy Review. Brian received numerous honors for his trial skills, including receiving the *Order of Barristers* award, given to the top students in trial advocacy. Brian has distinguished himself through his legal career, devoting his practice to representing plaintiffs in serious personal injury, wrongful death, trucking, and medical device litigation. In 2005, Brian was selected to serve on the Board of Governors for the Missouri Association of Trial Attorneys. Additionally, Brian is a member of the Missouri Bar (serving on the Civil Practice and Tort Law Committees), the Kansas Bar, the Kansas City Metropolitan Bar Association (Sustaining Member), and the Association of Trial Lawyers of America (serving on the products liability and medical device litigation sections).



Dean Nash and Brian Franciskato

Let our experience get you the results you want!

Premises Liability

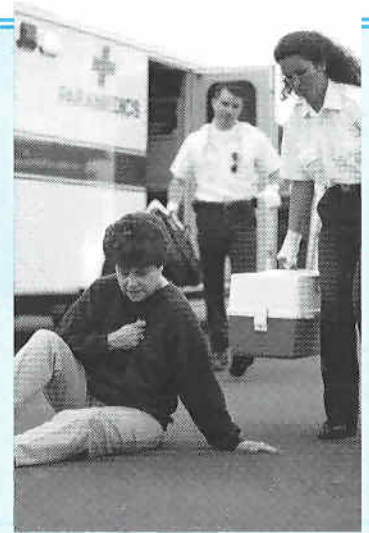
Slips and falls can be funny in slapstick comedies when stunt specialists, protected with padding and knowing how to fall properly, take on-screen tumbles.

But in real life, slips and falls are a leading cause of serious injury. Even the smallest trip can result in a great deal of damage to the ankles, legs, arms, hands, back, or head.

What causes falls? Among the many contributing factors are ice and snow, slippery materials on floors, inadequate lighting, stairs with faulty handrails, uneven concrete or slate sidewalks, improperly secured carpets or mats, and objects placed unsafely in people's paths.

If you slip and fall:

- **First**, get immediate medical attention.
- **Second**, ask for the names, addresses, and phone numbers of witnesses who saw the fall.
- **Third**, try to save any evidence related to the fall, such as a spilled shampoo bottle and the shoes worn at the time.
- **Fourth**, contact legal counsel.



Recent cases involving slip and fall

Case 1: In a recent case, an elderly female client sustained severe injuries when she fell down stairs at a local pharmacy. Until the accident, our client was self-sufficient and lived with her husband at their home in Kansas City. Unfortunately, the injuries required the client and her husband to move from their home of 30 years into a nursing home. The expert engineer obtained by **Nash & Franciskato** was able to prove that the stairs were defective and violated code requirements because:

- **The** carpet was ripped and not attached;
 - **The** tread rise of the bottom step was too high;
 - **The** handrail was not continuous; and
 - **The** handrail did not meet graspability requirements.
- The case settled for a confidential amount.

Case 2: Another elderly female client fractured her hip when she fell down the stairs of the Iron Horse Restaurant in Blackwater, Missouri. After her hip replacement surgery, she developed postoperative respiratory failure and other complications that required her to be hospitalized for almost two months, which ultimately led to her death. The attorneys at **Nash & Franciskato** were able to prove the stairs were defective because of inadequate lighting and the installation of an improper handrail.

The case settled for a sum of \$450,000.

Sidewalk Falls

A trip and fall can happen anywhere. Shoppers have slipped on grapes in supermarket produce departments; winter walkers slide on icy walks.

Uneven sidewalks of all kinds are major culprits, with slate, brick, and concrete sidewalks often taking their toll on walkers.

Sidewalks may become dangerous when several conditions occur. Soil may compact from weight or poor drainage, causing concrete slabs to sink or separate, then lift a dangerous ridge. When trees are planted near sidewalks, roots can grow over several years and lift one sidewalk panel

several inches. In cold weather, meltwater can penetrate minute cracks in poorly mixed concrete, refreeze overnight, and ultimately open a hazardous hole. Frigid-weather frost heaves can lift a sidewalk section overnight.

A leg fracture

A condominium visitor fractured her leg and required knee replacement surgery after she tripped over a sidewalk with a ¼-inch height separation. She sued the condo association for an unsafe condition and received a monetary settlement to cover her extensive medical expenses.

TRUCKING ACCIDENTS

“Whether the rock hits the pitcher or the pitcher hits the rock, it is going to be bad for the pitcher.” So it is when trucks wreck with cars.

Although, per mile, professional truck drivers are the safest of any group on our highways, the immense number of miles they drive and the size of their vehicles mean that many serious trucking accidents occur every year.

According to the Federal Motor Carrier Safety Administration 2003 Report, more than 4,900 people died on America’s roads in crashes involving large trucks. When cars and big trucks collide, automobile drivers and passengers suffer 98 percent of the fatalities.

Trucks are big, up to 60 feet long and weighing up to 120,000 lbs., so they can’t maneuver or stop as quickly as cars, making them very dangerous. Further, truck drivers face incredible pressure to make long-distance deliveries as fast as they can. As a result, lack of sleep and driver fatigue contribute significantly to crashes and driver deaths. A study showed that nearly three out of five drivers violated rules regarding how many hours they could drive each day, with many drivers falsifying mileage log books to conceal their time on the road.

Our experience in trucking litigation ranges from defending the largest trucking companies in the nation to suing on behalf of families who have lost their loved ones. The skills are the same: an understanding of the trucking industry, relationships with experts in fields from brake dynamics to accident reconstruction, and knowledge of what works in the courtroom.



Safety tips when driving on the highway

- *Wear seat belts and drive the speed limit.*
- *Avoid truckers’ blind spots.* Don’t tailgate or drive on a truck’s right side. If you can’t see the driver in the truck’s rearview mirror, the driver can’t see you.
- *When you must pass a truck,* signal first, then drive on the left and leave lots of room before getting back in your lane.
- *Keep your distance from trucks,* and pull over when a truck merges onto the highway in front of you.
- *Be alert to trucks* that pull off to register at weigh stations or get into truck lanes on hills.
- *If you drive slowly on multilane highways,* stick to the right lane and use flashers so that trucks can pass you in the other lanes.
- *Slow down* when visibility or weather conditions require it.

Recent cases involving big trucks

Case 1: A client, who was a back-seat passenger in an automobile driven by a friend, was rendered quadriplegic in an accident with a truck. At first, it appeared the driver of the automobile was entirely at fault for the accident. However, after extensive investigation, the attorneys at **Nash & Franciskato** were able to

prove that the truck driver had been “racing” down the highway with another trucker, and that the trucker’s speed, when passing the automobile, created wind turbulence that caused the automobile driver to lose control. The trucking company settled the case for a confidential amount.

Case 2: A client was severely injured when his truck was struck from behind by a semi-tractor-trailer, causing him to be knocked over a bridge, falling 40 feet to an underpass below. The attorneys at **Nash & Franciskato** discovered that the truck driver had violated federal regulations, having driven seven hours in excess of the daily limit and falsified his mileage log books.



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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.

FOR YOUR SAFETY

Recalled product roundup

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

- ✓ **International Comfort Products, LLC**, voluntarily recalled 28,700 Packaged Gas Furnace and Air Conditioning Units that have control boards which can ignite and set fire to nearby flammable materials.
- ✓ **Target Corp.** has asked consumers to return 176,000 jumbo pencils with sharpeners. When the cover is removed, the sharpener's razor blade is exposed, and children may fit their fingers into the pencil sharpener hole and cut themselves.
- ✓ **Hewlett-Packard Company** has recalled 135,000 HP and Compaq Notebook Computer Battery Packs. An internal short can cause battery cells to overheat, melt, char the plastic case, and catch fire.
- ✓ **A.O. Smith Water Products Company** recalled 5,000 75-Gallon Propane Gas Water Heaters. Soot buildup on burners can pose a fire hazard.
- ✓ **Pacific Market International, LLC**, has requested that buyers return 45,000 Stanley® thermos bottles with handles that can break and release organic, nontoxic charcoal powder insulation. Consumers who inhale the powder may suffer short-term vision and breathing difficulties.

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Auto insurance

Are you fully covered?

Even responsible drivers who believe they have adequate auto insurance protection may come to learn that their coverages don't fully protect them in an accident.

Uninsured motorist coverage protects you when another driver who is at fault in an automobile collision has no insurance. It covers lost wages, medical costs, and other expenses associated with injuries.

Underinsured motorist coverage safeguards you if you are injured by a careless driver who has only minimal insurance. Since uninsured motorist coverage doesn't apply, the other driver's minimal liability policy may not cover all of your injuries. Your own policy may not cover injuries, either.

Protect yourself and your family

Obtain sufficient auto coverage for all family drivers. Your auto insurance agent can outline the extent to which your uninsured and underinsured motorist coverages will safeguard your family. If they are inadequate, increase this relatively inexpensive protection.

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.