

**NF****NASH & FRANCISKATO****ATTORNEYS AT LAW****WINTER 2008**

Brought to you by
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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

Nash & Franciskato settles wrongful death lawsuit against two companies for \$2 million

Nash & Franciskato was retained by a family to represent them in a wrongful death action against a trucking company after a 39-year-old mother was killed when struck in a crosswalk. The mother was taking her two daughters, ages three and nine, on a bicycle ride. The three-year-old girl was in a trailer attached to the mother's bicycle. The truck, which was hauling asphalt, failed to come to a complete stop at a red light and started to make a right turn when it struck the mother, killing her instantly. The truck continued on with the three-year-old trapped underneath until other motorists were able to get the driver's attention and force him to stop. Miraculously, the girl was not physically injured.



The trucking company eventually offered \$1 million to settle the case against its driver. However, the attorneys at Nash & Franciskato were able to obtain an additional \$1 million in settlement from another company that had hired the truck company to deliver the asphalt. Both payments represented the companies' insurance policy limits.

Nash & Franciskato obtains \$1.1 million for injured driver after discovering the defendant truck driver violated federal trucking regulations



Nash & Franciskato represented a truck driver who was struck from behind by another semi-tractor trailer, causing him to be knocked over a bridge and fall 40 feet to an underpass below. The client sustained a fractured pelvis, broken ribs, broken wrist, bruised spleen, and other severe internal injuries requiring multiple surgeries. The client incurred over \$150,000 in medical bills and missed six months of work.

The attorneys at Nash & Franciskato discovered the defendant truck driver had violated federal trucking regulations, having driven seven hours in excess of the daily limit, and falsified his log books. The trucking company settled the case one month before trial for \$1.1 million.

Let our experience get you the results you want!

LEGAL DICTIONARY

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

Expert witness

Someone with special skills or expertise who can give accurate testimony at a trial, even though he or she did not see the event in question.

Jury

Citizens who listen to evidence and swear to pronounce a verdict on matters of fact.

Peremptory challenge

Prosecution and defense attorneys can eliminate a limited number of juror candidates without providing a reason. Judges oversee peremptory challenges to prevent keeping members of a certain race or sex off the jury.

Sequester

To insulate juries from improper influences or pressures during deliberations, judges may place jurors in secure locations.

Voir dire

Interviewing jurors to be sure they understand the basics of a case and will tell the truth. From the French "to tell the truth."

Defamation

An individual suffers the harm of defamation when someone makes an untrue remark about them that assails their reputation or good name, or opens them to public derision, hate, or censure.

Damaging false statements that appear in print or broadcast media are called libel. Spoken defamation is slander.

Defamatory comments may refer to the subject's business practices, health, honesty, morals, sexual life, and more.

First Amendment rights make defamation cases difficult to prove. Those believing they have been harmed by defamation should contact an attorney experienced in libel and slander.

Employer defamation



A jury awarded significant damages to a sales engineer who sued when a former employer defamed him by communicating false information. The jury came to its decision after

learning the previous employer, pretending he represented a debt-collection agency, sent false accusatory letters warning the plaintiff's current boss that the employee had sued a number of previous employers.

FOR YOUR SAFETY

Recalled product roundup

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

✓ **Mega Brands America, Inc. (formerly Rose Art Industries, Inc.)** has voluntarily recalled 4 million Magnetix Magnetic Building Sets. Children who swallow tiny, powerful magnets detached from plastic building pieces can suffer serious perforations and blockages if several magnets or metal pieces attach to each other in a child's intestines.

✓ **The Holmes Group** has recalled 300,000 Holmes® Oil-Filled Electric Heaters with poor electrical connections that can overheat and burn users.

✓ **Lamson & Sessions** asks buyers to return 100,000 Carlon® Drop-In Floor Boxes that are incorrectly wired and can shock or electrocute consumers.

✓ **Sears** warns consumers to remove the "Craftsman" logo labels from the outside of the upper blade guards of 308,000 Craftsman Circular Saws. This label can detach, expose the saw's blade, and injure operators.

✓ **Oeuf LLC** recalled 1,400 Infant Bouncer Seats with tubular metal frames that can break and cause infants to fall from the seat.



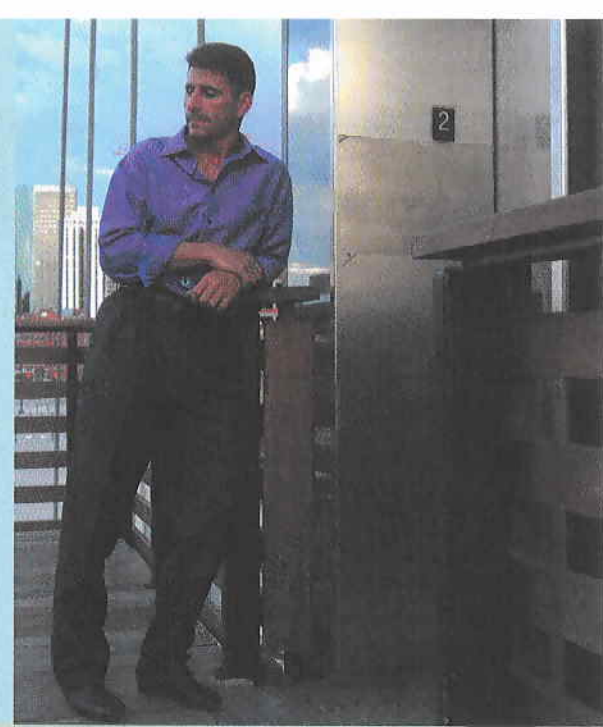
Premises **LIABILITY**

Property owners are legally responsible for maintaining their buildings' entrances, common areas, stairways, escalators, and elevators in reasonably safe condition so that visitors will not suffer injuries. Owners must also keep buildings' surrounding walks and parking lots in reasonably good care as well.

Anyone injured in an unsafe building or its surroundings may deserve compensation for harm done to them.

An elevator accident

A building visitor riding in an elevator was injured when the elevator's handrail came loose and caused the man to fall to the floor. His attorney sued after the man required lumbar fusion surgery and suffered continuing chronic back pain. A petty officer in the military, the victim was medically discharged from the U.S. Navy and can now perform only light work. The parties settled prior to trial.



Made in China



American consumers are alarmed about the growing list of defective and dangerous products being imported from China. More than 60 percent of all U.S. products recalled were made in China, with the number of recalled Chinese products doubling in the past five years.

In late summer 2007, Mattel's Fisher-Price unit, in cooperation with the U.S. Consumer Product Safety Commission (CPSC), recalled millions of children's toys because toxic lead-contaminated paint had been applied by Chinese suppliers on about 80 different toys, including Dora the Explorer®, Elmo®, and other Sesame Street® character toys.

Previous Chinese products presenting dangers to U.S. and international consumers were vehicle tires, contaminated pet food components, medication ingredients, farm-raised seafood, and many others.

Anyone who has suffered serious harm from imported products should contact an attorney experienced in products liability.

Jury duty and blogs

Every American can cast two votes to participate in our democracy. We encourage everyone to do both.

The first is casting ballots on Election Day for candidates, laws, government spending, and public questions. The second is equally important—voting as a juror. Jurors safeguard everyone's legal rights and protect us all.

Recently, some jurors have run afoul of Internet "blogs." Short for "Web log," a blog is a user-generated Web site where participants enter journal-style comments on topics anyone can read. In a recent New Hampshire case, a jury foreperson wrote a blog entry—four days prior to his being named to a jury in a sexual-assault case—stating that he would have to "listen to the local riffraff try and convince me of their innocence," among other comments. Learning of the

blog, the defendant's attorney entered it into evidence to show juror bias after the jury reached a guilty verdict. The judge refused to throw the case out.

Legal experts are debating jury duty, blogs, free speech, and related legal issues. It is probably best to avoid blogging while on jury duty.



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You will feel better if you call.

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The information included in this newsletter is not intended as a substitute for professional legal advice. For your specific situation, please consult the appropriate legal professional.

Take medications **SAFELY**

Before taking a prescription or over-the-counter drug, following some simple guidelines should help your medication work efficiently and safely:

- ✓ Ask your doctor to inform you about the medication.
- ✓ Get all prescriptions filled at one pharmacy you trust.
- ✓ Read the medication information flyer.
- ✓ Read the drug label carefully.
- ✓ Take the medication as directed.
- ✓ If you have reactions or side effects, call your doctor.

Misfilled prescription

Even when patients comply with

medication instructions, they can still experience problems. A patient suffered kidney failure requiring multiple transplants after following a pharmacist's instructions to take five times the amount of a medication prescribed by her doctor. She sued, alleging the pharmacy misread instructions and transferred the incorrect prescription to a second pharmacy, which also filled it.



Sleep-aid problem

Ambien®, a sedative-hypnotic medication, is often prescribed to treat insomnia. Doctors wrote 26.5 million prescriptions in 2005, making it the most popular prescription sleep aid in America.

Marketed as safe and effective when used properly, Ambien has been linked to surprising episodes of users discovering that they ate meals or drove cars while asleep.

Four users who injured themselves have filed a 2006 class action alleging that although research linked Ambien to sleepwalking behaviors, its manufacturer neither monitored nor investigated reports and failed to test the product for them. Seeking compensatory and punitive damages, plaintiffs claim that marketers were aware of risks but failed to warn class members, the public, government agencies, and the medical community. They also charge that the manufacturer published false and misleading information about the drug's safety and potential adverse side effects.

Those suspecting they may have been harmed by Ambien use should obtain legal counsel.

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The annual "Blanket Project" was a big success!

For the past several years, **Nash & Franciskato** has organized an annual "Blanket Project" for distribution to the homeless of Kansas City, which has grown to also include gently worn and new coats, hats, and gloves. With the generosity of acquaintances, friends, and family, December 2007's collection was a rewarding success! We were able to provide many appreciative recipients at the City Union Mission with approximately 170 blankets, 55 hats, 50 pairs of gloves, and numerous coats to help

warm Kansas City's homeless. This year's "Blanket Project" collections are already under way and greatly anticipated for Saturday, December 6, 2008.

As always, everyone is welcome to participate, and all donations are appreciated, so mark your calendars! If you would like to join us or make a donation, please contact **Stephanie Robinson**, either by e-mail at srobinson@nashfranciskato.com or phone at **(816) 221-6600**. Thank you.

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.