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## Lawsuits can save lives

### Police body armor

A lawsuit filed by the widow of a police officer killed in the line of duty because his Second Chance® Body Armor failed to protect him has saved the lives of countless other law-enforcement officers.

California Officer Tony Zeppetella died when a criminal's bullet penetrated his bulletproof vest. His widow sued the manufacturer. A lawsuit by another officer and a class action filed by other police departments all showed that the manufacturer marketed a vest it knew had fundamental safety flaws. As a result, the manufacturer recalled 100,000 defective Zylon vests.

These lawsuits have potentially saved the lives of thousands of police personnel. Even President George W. Bush and his wife, Laura, who had worn the defective vests at public events until they were recalled in 2005, have benefitted.

Congress should learn from these cases and reject or repeal legislation that provides immunity to corporations who sell or even donate defective products.

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**Mr. and Mrs.  
Tony Zeppetella**

## Vioxx punitive damages

In the first Vioxx® trial, jurors found that executives at Merck & Company, Inc., were aware of the cardiac risks of its money-making painkiller as early as 1997, but continued to aggressively market the drug as safe.

Texas jurors determined their \$229 million punitive-damages award by calculating how much money Merck made by delaying changes to the drug's warning label, after a study showed that Vioxx caused five times as many heart attacks as a competitor's drug.

### Some numbers

What does the \$229 million punitive-damages award really mean to Merck? Despite the jurors' clear message, **Texas law automatically reduced the punitive damages to \$1.6 million.** That's how much Merck made in Vioxx sales **every 6 hours and 40 minutes** marketing the drug.

*Other numbers?*

- **\$11.77 billion**—total worldwide Vioxx sales.
- **\$37.8 million**—how much Merck's CEO, Raymond Gilmartin, earned in 2004 from salary, bonus, and stock options. That's 22 times Merck's reduced punitive-damages verdict.

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*Personal attention for your personal injury.*



## ARE YOU LOSING IMPORTANT LEGAL RIGHTS?

Friends, colleagues, or relatives sometimes ask us, “Do trial attorneys think that Americans are losing important rights because of pressures to change our justice system?”

Our answer is yes. Trial lawyers wholeheartedly recommend and support every opportunity to make changes that are fair to everyone affected by the law. We support all improvements that will make justice more accessible and effective for individuals and families who are harmed or injured by others’ negligence. Our centuries-old, fair, and impartial civil justice system was originally designed to hold people and organizations accountable when their behaviors breached society’s expectations of how we should treat one another.

But many current legislative and lobbyist

proposals for changing civil justice strive to limit wrongdoer accountability. What these proposals really are, and what trial attorneys deeply oppose, are alterations that masquerade as healthy changes to our justice system, but in actuality diminish or even take away many of our rights.

The most common proposals are those that limit—regardless of the legal facts of the case—compensation that a jury made up of members of a community provides for people who have been injured through no fault of their own. Proponents of these changes strive to remove accountability for harm, most often to the benefit of large companies and their CEOs.

Trial lawyers support our civil justice system as a fundamental check on the power of businesses and governments, and oppose efforts to limit the legal rights of citizens.

## 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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## Lawsuits improve protection for American workers

When corporations put the bottom line ahead of worker health and safety, our civil justice system provides accountability.

Supervisors at Phelps Dodge in New Mexico knew that safely retrieving a ten-foot-tall vessel of molten metal would mean shutting down operations for several hours. Instead, they ordered 33-year-old Reynaldo “Junior” Delgado to drive a flammable vehicle into a pool of molten slag to retrieve the container.

Delgado was burned alive trying to accomplish the totally unnecessary task. Although the company’s actions were negligent enough to meet the state’s test of second-degree murder, supervisors’ management actions did not permit Delgado’s wife, Michelle, to sue outside the state’s workers’ compensation system.

Michelle’s attorney fought her case all the way to New Mexico’s Supreme Court, winning compensation for her family. New Mexico’s workers also can now hold the state’s employers accountable for transgressions outside the state’s workers’ compensation system.



Reynaldo Delgado

## Workers' compensation

Workers' compensation regulations are state-based insurance programs that handle claims from workers who are injured on the job or suffer work-related diseases or illnesses.

Most work injuries are minor, and workers are happy to return to jobs after short recoveries. When an illness or injury is severe, however, an employee may be disappointed by any of three reactions to his or her workers' compensation claim:

- An insurance carrier refuses to grant benefits to which the worker is entitled. Carriers may downplay an illness's seriousness or contend there was very little injury.
- A doctor declares him or her eligible to return to work even though the employee still feels ill or is hurt. Physicians referred by employers may not have workers' best interests at heart.
- The insurance carrier denies extended benefits or permanent disability benefits even though the worker has suffered a seriously disabling illness or injury.

When sick or injured workers discover that their employers' knowledge of workers' compensation laws puts them at a significant disadvantage, they should seek the counsel of experienced attorneys to obtain fair benefits.

*Please call our office with workers' compensation questions.*

## Jurors safeguard everyone's rights

Juries protect us all. The judge in the second Vioxx® trial in Atlantic City, New Jersey, permitted jurors to submit questions to both defendants and plaintiffs.

The October 2005 trial followed a Texas case in which a jury found drug marketer Merck & Company, Inc., responsible for the death of a patient who took the painkiller Vioxx.

New Jersey Superior Court Judge Carol E. Higbee allowed jurors to seek clarifications from witnesses after plaintiff and defense lawyers finished their questioning. Jurors submitted written questions, some of which Judge Higbee read aloud, to ensure juror anonymity.

Observers noted that jurors demonstrated a commitment to fairness and a willingness to ask challenging questions to help them understand the medical and legal issues involved in their deliberations.

Newspaper reports said that jurors asked questions to settle issues in their minds about potential causes of heart attacks other than Merck's medication.

© Merck & Company, Inc.

## Auto accidents...

## What caused them?

Drivers injured in automobile collisions may sometimes be victims of unseen causes that only attorneys experienced in accident investigation can help identify.

### Truck driver's accident record

A driver suffered multiple leg fractures when a tractor trailer crossed a center median, striking her car head-on. The driver's attorney sued the tractor-trailer driver and his employer for negligence and wantonness in failing to keep a proper lookout and drive safely. When a jury heard that the truck driver had been involved in 11 prior collisions, jurors provided the plaintiff a significant award, plus punitive damages. The parties subsequently settled for a confidential amount.

### Water pooled on roadway

A car slid off a road, then rolled down an embankment. Although the driver survived, his passenger died of severe head injuries. His wife sued a road-repair construction company that had created a dangerous, high-water condition which endangered drivers. Her attorney obtained a confidential settlement after demonstrating that the contractor was allegedly aware of a dangerous water-pooling situation because 18 other auto accidents had occurred at this location during the 24-hour period in which the plaintiff's husband had suffered his injuries.



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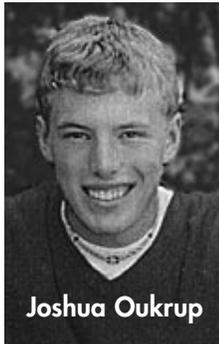
## Faulty medical devices

In 2004, Joshua Oukrup, a college student who had a Guidant Prizm 2 defibrillator implanted, died when his device short-circuited. Guidant and the FDA knew the device was faulty. They issued a “voluntary recall,” knowing that a newspaper article would be published the next day linking the device’s performance to Joshua’s death.

As early as 2002, corporate executives at Guidant Corporation, the nation’s second-largest maker of heart defibrillators, knew their implantable heart defibrillators were short-circuiting.

Four months after Joshua’s funeral, the U.S. House passed a medical malpractice bill that granted sweeping liability protection to Guidant and other device manufacturers.

Legislation made manufacturers immune from punitive damages and limited liability for ending lives of Americans like Joshua to \$250,000.



Joshua Oukrup

## “Certified Pre-Owned” cars

With razor-thin new-car sales margins, auto dealers identify some used cars as “Certified Pre-Owned” (CPO) and sell them at premium prices.

Buyers get good CPO deals, purchasing late models for less than new cars. Salespersons assure inspection by CPO-certified mechanics, and CPO cars have extended warranties and other special features.

However, some investigators have found that CPO cars, marketed as mechanically sound and sold at premium prices, were no better than other used cars. Several lawsuits have been filed based on claims that CPO cars...

- sold as inspected actually had bent frames and brake- and steering-problem records.
- had misleading manufacturer-inspection certificates.
- were inspected by “trained” mechanics who watched a short video, read a brief instruction booklet, and took a 20-question test.
- were sold as “local,” but were actually out-of-state repaired wrecks.

Consumers can file CPO car complaints with their state’s attorney general.

## Premises liability *Keeping customers safe*

Business property owners and renters customarily have the responsibility to do all they can to make sure that customers invited to enter their properties are safe from a variety of dangers.

Laws usually require owners to fix dangerous conditions as soon as they find them. Further, retail establishments also must remain vigilant and anticipate dangers by monitoring their premises to identify and eliminate threats that customers might encounter.

## **Shopper trips on worker’s ladder**

When a department-store maintenance employee quit a work site to answer a phone call, he left a ladder extending into an aisle. A shopper tripped on the ladder and severely injured her thumb and forefinger, rendering her unable to grasp anything or perform daily life functions. Her attorney sued for negligence, and a jury awarded significant damages for pain and suffering.