



THE  
LAWYERS  
OF

HILL • BOREN<sup>PC</sup>

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**Ricky Boren**

## NOTICE IN A WORKERS COMPENSATION CASE

Under Tennessee law you have thirty days from a date of injury to advise your employer that you have been injured on the job. Where an injury occurs at one specific time, it is extremely important to advise your employer as soon as you have any suspicion that you may have been injured. The longer you wait, the more likely it is that a trial judge will be suspicious as to whether you really were injured on the job.

When an employee has sustained a gradually occurring injury due to their work activities, it presents special problems for the employee in terms of advising their employer. It often takes a period of many months or even longer for the employee to realize that they have a problem beyond normal aches and pains. As soon as the employee suspects that their problem may be due to the repetitive nature of their job, they should immediately go to their supervisor and report that their job activities may be causing their problem. They should also request that they be given a panel of physicians to select from. At that point, it is very helpful for the employee to obtain legal assistance so that they may choose the best doctor off of that panel as their treating physician.

Gradually occurring injuries involve a multitude of differing medical conditions. The most common of these injuries is carpal tunnel syndrome in the wrist. Caused by repetitive use of the hands, this condition results in hand numbness and tingling, often to the extent that it wakes sufferers in the night. The other most common gradually occurring injuries are shoulder injuries due to repetitive use. These injuries often result in torn structures, like the rotator cuff or the labrum, requiring surgery. Some employees will also develop foot or leg problems due to long periods of standing or walking, particularly on hard surfaces. These conditions are especially difficult for an employee to identify as work-related.

If you notice symptoms of muscle and joint pain and suspect it may be due to your work, it is extremely important to give the earliest possible notice to your employer and to seek guidance from an attorney experienced in the workers' compensation field.





Tamara Hill, R.N. J.D.

## The Healthcare Bill: What it Means for You

With the onslaught of media buzz on all sides of the issue, the recently passed healthcare bill, titled the Affordable Care Act, has been the subject of confusion for many average Americans. In an effort to unveil the truly groundbreaking nature of the plan, we've listed just a few of the elements that will vastly improve the way most Americans receive healthcare. All of this information and more is available at [www.healthcare.gov](http://www.healthcare.gov).

### 2010

- Job-based health plans and new individual plans won't be allowed to deny or exclude coverage for your children (under age 19) based on a pre-existing condition including a disability. Starting in 2014, these same plans won't be allowed to deny or exclude anyone or charge more for a pre-existing condition including a disability.
- Insurance companies won't be able to drop you if you get sick just because you made a mistake on your coverage application.
- Insurance companies can't include lifetime limits on your coverage.
- If a new insurance plan doesn't pay for services, that you believe are covered, you will have new, clear options to appeal the decision.

### 2014

- Job-based and new individual plans won't be able to exclude you from coverage or charge you a higher premium for a pre-existing condition, including a disability.
- If your income is less than the equivalent of about \$88,000 for a family of four today, and your job doesn't offer affordable coverage, you may get tax credits to help pay for insurance.



James Krenis

## Workman's Comp

Don't let the workers comp insurance company or your employer tell you that your injury was pre-existing or that your work did not cause it. If you have had an injury in the past to some area of your body, you still may get a new injury that allows you to recover money if that same area is made worse due to your work. Call me and I will discuss the facts of your case with you for free. In many cases, the employer or insurance company is just trying to get out of paying for a legitimate injury claim. They may just be ignorant of the law, especially regarding gradually occurring injuries. Those injuries occur over time, where every day you work doing activities that hurt your body is considered a new injury date. This area of the law is complicated, and even trial courts and higher courts struggle with these laws. An experienced attorney who stays on top of the latest interpretations of the law and understands how to use those laws may mean the difference between winning or losing a difficult case.



## Personal Service Makes a Difference

When I represent a client, I meet with them personally when I take their case. I try to answer any questions they may have about their case and the Social Security claims process. I also assure them that they can call and speak to me any time I am not in Court or meeting with another client. If I can't speak to them immediately, I always try to return calls promptly. I meet with every client again to prepare them personally for their hearing. I can do this because I live and practice here in the local community, not several hundred miles away.



**Mike Hartup**

Anyone seeking local representation for Social Security benefits should ask a few things about the firm they are choosing. Can you tell me the name of the lawyer who will actually represent me? Will I get to meet with the attorney before the hearing? Do you actually maintain an office and staff here in West Tennessee?

I think people would be surprised to know how many "firms" who are currently advertising in our local community cannot answer "yes" to even one of those questions. Hill-Boren can. We've been serving West Tennessee for 40 years. Our local telephone numbers connect you to attorneys and staff right here in Jackson and Memphis, not hundreds of miles away.

If you want the personalized service that you deserve for you Social Security disability claim, give us a call, and I will meet with you.

## News & Notes



### MLK Day

On January 17, many people enjoyed a day off in celebration of Martin Luther King Jr Day. In keeping with tradition, many Hill-Boren employees participated in a Day On! Two teams split shifts at the Jackson RIFA's Soup Kitchen. Volunteers helped prepare and serve lunch along with cleaning up and re-stocking the pantry. Volunteers also held a short devotion and led in songs and scripture reading before lunch was served.

Back row: Leanne Sims, Lisa Jenkins, Laura Bailey, Mr. Dan Ward - RIFA Soup Kitchen Manager, and Erin Mount. Front row: Marie Townes, Keisha Johnson, Sheila Bland, Morgan Gullett (Sheila's Granddaughter), Tracy Brunner, LeeAnna Fewell (Hal's Daughter), Sharon Rose Center: Hal Fewell



### Christmas Toy Drive

Making the holiday brighter for children in need, the Hill-Boren family donated a generous collection of toys and clothes to the Department of Child Services' Christmas Wish List Program.

Pictured is Hill-Boren Employee, Leah Jones, with representatives from the DCS Christmas Wish List Program.



# Don't Rush To A

Handling a serious automobile accident involving catastrophic injury or even death can be a harrowing experience. Too often, families in these situations chose an attorney who pushes for a quick settlement. These types of attorneys regularly settle cases for less than their full value, cheating their clients out of the settlement they deserve.

To illustrate the point, Hill-Boren recently settled a Carroll County case involving the death of an elderly passenger for \$950,000. The vehicle topped a hill on a two-lane highway and was confronted with a construction truck, hauling a long trailer of telephone poles, parked on the highway. The automobile struck the truck, killing its passenger and leaving the driver uninjured. Hill-Boren called on a professional traffic control engineer to prove that the company failed to put out proper safety warning devices like cones and lights and it did not have a flagman. Hill-Boren sued the construction company and proved that the death could have been prevented. The Hill-Boren team's tireless efforts resulted in a settlement over nine times the original offer.



**T. Robert Hill**

The attorneys at Hill-Boren fought for this family's rightful compensation, just like they fight for each of their clients. They will take the time needed to thoroughly examine your case and recover every penny you deserve. Do not let your family be victimized twice. Taking just a little more time, the Hill-Boren attorneys may be able to get you a lot more money.

## Product Recall

### DePuy Hips

An estimated 93,000 people will be affected by Johnson & Johnson's latest product recall, the DePuy Hip Replacements. The replacements have required an extraordinary number of recipients to require repeat surgeries. Patients who reported problems in the first five years and had revision surgery reported a variety of symptoms, including pain, swelling and problems walking. These symptoms are normal immediately following a hip replacement procedure, but indicate problems if they recur frequently. Metal debris spreading in the hip area has been reported. The DePuy ASR XL Acetabular System and the DePuy ASR Hip Resurfacing System have also been recalled.





# Quick Settlement



**Jeff Boyd**

## Serious Motorcycle Crash Results In Million Dollar Settlement

On a clear spring day, a recent client of Jeffrey Boyd set out for a ride on his motorcycle. A recent retiree, he had been riding for years and never had any serious incidents on the Tennessee roadways. On this day, all of that, and his life, changed forever. On this same spring day, a young lady in her 20's was leaving school and on her way home. A typical 20 year old, her mind was on anything and everything all at once.

Attempting to pull onto the 45 By-Pass, she became distracted—most likely by the radio or her cell phone. The young lady pulled directly into the path of the Hill-Boren client and the result was a horrific crash. The client's pride and joy—his motorcycle—was reduced to a pile of twisted metal and parts. The client, seriously injured, was flown to Memphis for emergency surgery. Upon leaving the ground, the emergency personnel contacted the client's wife to break the news and send her on a head-long dash for the hospital. She knew all too well that the chances of her husband surviving were probably very slim. Fortunately for all, the client was alive when his wife arrived, and the doctors managed to keep him that way.

Over the next year of treatment, he endured multiple surgeries that required the placement of countless screws, pins and fixators to hold his shattered bones together. He endured countless hours of physical therapy, coaxing his broken bones and ligaments and muscles to work again. He was tortured by the instant that transformed his glory years of retirement into a steel cage of doctors and physical therapists. His wife experienced a full range of emotions. Joyful that her husband had survived, she was horrified at the pain he had to endure. Happy that he was going to spend the rest of his life with her, she had no idea what that life would be like or how long it would last.

All of the trauma in this case boiled down to the negligence of a 20 year old. There was no ill will towards the young lady. She did not cause this crash on purpose. Nonetheless, she had changed the lives of this family forever. In ancient times, the law required an "eye for an eye" in cases like these. However, the civil justice system has evolved into one that demands monetary compensation to victims of negligence. Hill-Boren fought to get this family the compensation they deserved for the physical and emotional trauma they endured. The case settled for \$1,000,000, enabling the client and his wife to recover the best years of their lives.

# Big Pharmaceutical Companies in Big Trouble



Consumer advocates at the Public Citizen released a report recently, finding the pharmaceutical industry guilty of being the biggest defrauder of the federal government under the False Claims Act (FCA).

The study found that pharmaceutical cases accounted for at least 25 percent of all federal FCA payouts over the past decade, compared with 11 percent by the defense industry. The report also found that the frequency with which the pharmaceutical industry allegedly violated federal and state laws has increased at an alarming rate.

Many of the infractions and the single largest category of financial penalties stemmed from the practice of off-label promotion of pharmaceuticals – the illegal promotion of a drug for uses not approved by the Food and Drug Administration (FDA).

This does not come as a surprise after the recent avalanche of law suits mounted against big pharmaceutical companies.

## Avandia

GlaxoSmithKline's popular diabetes drug, Avandia, has recently been found to cause serious heart failures and even death. The FDA recently determined that there was "sufficient evidence to be concerned that Avandia increased the risks for heart attacks and strokes." Further, there is evidence that the company took great strides to conceal what they knew about the drug's dangers. You may be entitled to financial compensation through an Avandia lawsuit if you or someone you love has taken Avandia and suffered from a heart attack, congestive heart failure, stroke, sudden death or health problems directly related to one of those injuries.

## Darvon and Darvocet

The U.S. Food and Drug Administration has announced that Xanodyne Pharmaceuticals, Inc., the maker of prescription pain medications Darvon and Darvocet, has agreed to withdraw the medications from the U.S. market, due to a study showing the drug puts patients at risk of potentially serious or even fatal heart rhythm abnormalities. The drug, Propoxyphene, was first approved by the FDA in 1957 and until very recently, has been sold to unsuspecting victims to treat pain.

## Reglan

Used to treat gastrointestinal disorders like heartburn, Reglan has recently acquired the FDA's black box warning linking the drug directly to tardive dyskinesia. This disease includes involuntary and repetitive movements like tongue thrusting, eye blinking and head jerking. There is no known treatment for tardive dyskinesia and the plague of symptoms is rarely reversible.

# WE CAN HELP!



# RECENT SETTLEMENTS



## Jeff Boyd

Jeffrey Boyd represented a Lauderdale County man who was working part time cutting large mechanical items into scrap metal. Unknown to him, and against the scrap yard policy, a machine with a fuel tank had been allowed into the cutting area. When the client lit his torch, fumes from the fuel leaking out of the tank caught fire and caused an explosion. The client was burned over 61% of his body and a majority of those burns were 3rd degree. The client spent a month in the hospital and has recovered with ongoing problems from restricted movement of his arms and legs, along with massive scarring. Hill-Boren successfully negotiated a settlement for **\$500,000**.

Jeffrey Boyd represented a client who initially came to Hill-Boren to discuss a work related hearing loss claim. During the course of the discussions, Mr. Boyd learned that the client also had injured his back but that the employer was telling him that they were not responsible for that injury. The employee had strained his back and continues to have flare ups from time to time, but remains on the job. The case settled at mediation for approximately **\$47,000**, including a small amount for the hearing loss case.

Jeffrey Boyd represented a 29 year-old employee who sustained a shoulder injury while on the job. He had surgery and was placed on light duty and then full duty restrictions that kept him from returning to his prior employer. The case was settled for approximately **\$45,000**.



## James Krenis

James Krenis recently represented a Carroll County man who was awarded over **\$60,000** for a repetitive use injury. Despite the fact that his employer and the insurance company had denied him, claiming it was a pre-existing injury, Mr. Krenis took the case to trial and got the client the compensation he deserved. It took a couple of years to finally get his trial, but he assured Mr. Krenis it was worth it!

James Krenis represented a client who was struck by a vehicle while taking a walk. The driver attempted to flee the scene, but

was apprehended by police. The client had suffered some serious injuries. Mr. Krenis settled the case directly with the insurance adjuster for an undisclosed amount.

James Krenis recently argued a case he had already won at trial in Madison County, but was appealed by the employer to the Court of Appeal Workers' Compensation Panel. Depositions of the doctors taken by Mr. Krenis and the other attorney, convinced the trial judge that her injuries were related to her work, and he awarded over **\$100,000**. The appeal by the defendant/employer/workers' compensation insurance company got the award reduced, but after interest was paid the award was still about \$65,000 more than the \$5,000 offered by the defendant.



## Ricky Boren

Ricky Boren recently represented a 42 year-old Gibson County woman who was injured when a car pulled out in front of her, causing a devastating collision. The client required extensive shoulder surgery as a direct result of this accident. The case was settled for **\$100,000**.



## Shannon L. Toon

Shannon L. Toon represented a 28-year old who sustained injuries to his right shoulder while lifting an 18-wheeler tire. After the workers' compensation insurance carrier denied the surgery recommended by the authorized treating physician, Mr. Toon filed a Request for Assistance with Department of Labor and surgery to the right shoulder was ultimately approved. After surgery, the employee continued to have decreased range of motion in his shoulder. Mr. Toon was able to negotiate a settlement of the workers' compensation claim in the amount of **\$44,295** with lifetime future medical care for his injuries.

Shannon L. Toon represented a 33-year old respiratory therapist who sustained injuries to her neck and back when she tripped and fell over a box at work. She was diagnosed with a herniated disc in her neck and sprains/strains in her upper and lower back. Mr. Toon was able to settle her workers' compensation claim for **\$49,401** along with lifetime future medical treatment for the injuries to neck and back.

Shannon L. Toon represented a 59-year old scanner who injured her right shoulder lifting a bundle of magazines to scan. She was diagnosed with a right rotator cuff tear and underwent surgery. She settled her right shoulder claim for \$19,404 without an attorney. Upon returning back to work, the employee began to experience pain in her left shoulder as a result of over compensating for her right shoulder injury. She was diagnosed with a left rotator cuff tear. Mr. Toon negotiated a total settlement of **\$89,689** for the employee for reconsideration of her right shoulder claim and her new left shoulder claim along with lifetime future medical treatment for her shoulder injuries.

Shannon L. Toon represented a truck driver who was injured when his truck was rear-ended by another tractor-trailer. He was treated for lower back pain radiating down both legs. After surgery, the treating physician assigned a 10% permanent partial physical impairment to the body as a whole. Mr. Toon settled the truck driver's personal injury claim against the negligent driver for **\$250,000**.



## Chris Taylor

Chris Taylor recently represented a Memphis employee who injured her lower back engaging in repetitive bending on the job. The claim was denied by the employer on the basis that the employee had a pre-existing condition. The employee required surgery on her lower back. Prior to trial, the case settled for **\$105,500**. Additionally, the employer agreed to pay back pay of \$19,190, pay back medical treatment relating to the surgery and lifetime future medical treatment for her lower back.

Chris Taylor recently represented an employee who was injured while operating a motor vehicle on the job. The employee was diagnosed with a herniated disc and underwent a cervical fusion. Prior to trial, Mr. Taylor negotiated a **\$135,000** settlement, along with back pay of \$14,135, medical expenses and lifetime medical treatment.