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## Nightmare On the Hill

T. Robert Hill  
Certified Civil Trial Specialist

This spring, Tennessee Legislature passed a series of destructive, discriminatory bills with no concern for the average Tennessean. Despite the governor's campaign promises to create jobs and cut the budget, no new tax breaks or other job-creating programs were introduced and the budget was only cut by a pitiful 4%.

The Republican controlled legislature targeted our teachers, stripping them of their right to bargain regarding job benefits. No effort was made to improve education for our children.

### Court House Doors Closed

Perhaps the most devastating piece of legislation this spring was the cap placed on non-economic damages in civil lawsuits. Non-economic damages are those that cannot be given a price tag, like loss of a loved one, disfigurement, pain or physical impairment.

What the Republican Legislature passed:

- A \$750,000 cap on the amount that can be awarded for non-economic damages in civil suits
- An end to formal negotiations between the teacher's union and school boards
- New rules for teacher tenure and charter schools
- Restricting local governments from creating non-discriminatory laws
- Allowing direct corporate campaign donations to politicians

What the Republicans will likely pass in the 2012 session:

- Ban on using the word 'gay' to describe homosexuality in elementary and middle school
- Immigration checks when people are stopped by the police
- Laws that allow guns on workplace parking lots and on Tennessee college campuses

### Tennessee a Joke

Tennessee is now the target of jokes on late night television and You Tube, thanks to Republican politicians who think more about their next corporate donation than about the education of our children and jobs for our citizens. Our teachers have no voice in how our schools are run and how our children are educated. We will soon be dead last in education but first in the amount of money giant corporations can use to buy influence in our legislature.

The future of our state and the next generation is at risk. Less than 50% of our clients are registered to vote! Only you can make a difference. Get registered to VOTE!

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# REGLAN *update*

On March 30, the Supreme Court heard arguments in two cases against Reglan and its generic counterparts. The drug is prescribed to treat gastrointestinal disorders, but has been associated with a crippling nerve disorder called tardive dyskinesia.

Currently, the Supreme Court is deciding whether Wyeth (the makers of Reglan) or generics makers are to blame for inadequate warning labels on the drug's packaging. The Supreme Court is expected to rule on the case in July. The ruling will affect thousands of Reglan cases. The Supreme Court case could have even deeper implications for the pharmaceutical industry as a whole, helping to define the liability limits of all generic makers of medications.

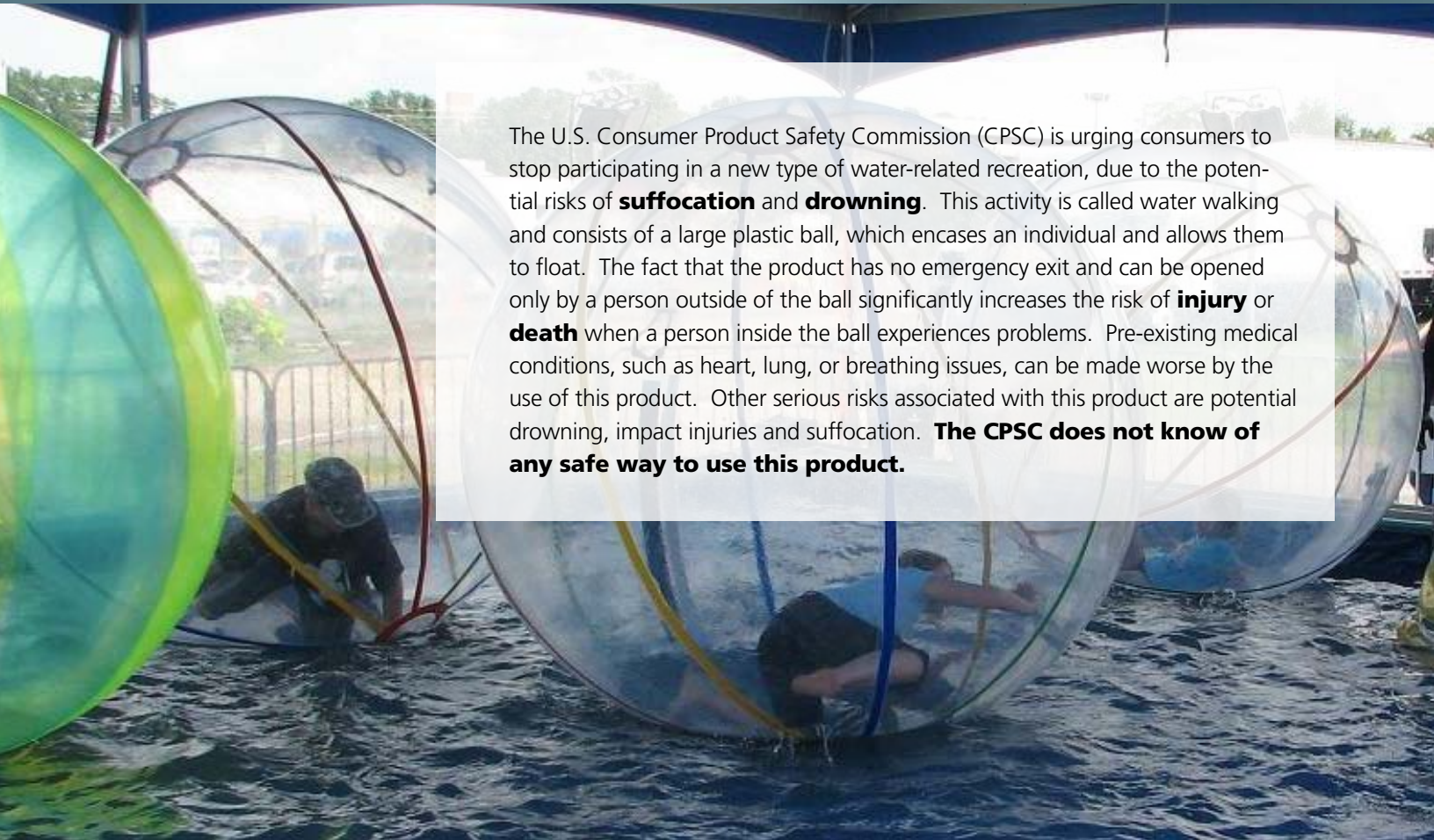
**If you or a loved one have taken Reglan and have been diagnosed with tardive dyskinesia, contact us for a free evaluation of your case.**



Tamara Hill, R.N.  
J.D.



## CONSUMER ALERT - WATER WALKING BALL INJURIES

A photograph showing several large, transparent plastic balls floating in a body of water. People are inside the balls, some appearing to be struggling or in distress. The scene is outdoors, possibly at a water park or recreational area.

The U.S. Consumer Product Safety Commission (CPSC) is urging consumers to stop participating in a new type of water-related recreation, due to the potential risks of **suffocation** and **drowning**. This activity is called water walking and consists of a large plastic ball, which encases an individual and allows them to float. The fact that the product has no emergency exit and can be opened only by a person outside of the ball significantly increases the risk of **injury** or **death** when a person inside the ball experiences problems. Pre-existing medical conditions, such as heart, lung, or breathing issues, can be made worse by the use of this product. Other serious risks associated with this product are potential drowning, impact injuries and suffocation. **The CPSC does not know of any safe way to use this product.**



**Ricky Boren**

## Prior Worker's Comp Claim?

If you have settled a prior worker's compensation claim, you may be entitled to additional benefits, possibly six times your highest disability rating. If a judge determines you are no longer employable, you might even receive total, permanent disability. Employees who experienced involuntary layoffs and have been unable to find new employment are eligible.

When closing plants, an employer may offer voluntary layoffs, buyouts or severance packages that will ultimately prevent you from filing claims. If you have a settled worker's compensation claim, call Hill-Boren to learn if you are eligible for more benefits. We will review your case for free and guide you through the process of reopening your case to get you every penny you deserve. At Hill-Boren, we're here to help and we know how.

## The Serious Problem of Hearing Loss; Take Action Now



**Jeff Boyd**

Hearing loss is a serious concern for those who work in plants. Even though an employee may wear ear protection, it does not always prevent the possibility of serious, noise-induced hearing loss. In a plant setting, hearing loss can be extremely dangerous. If you cannot hear fire alarms, emergency warnings or back up horns on tow motors and forklifts, you can suffer serious injury. Beyond the hazards in the workplace, hearing loss affects your quality of life.

### Ringling In The Ears

One of the most common signs of hazardous noise exposure is ringing in the ears following a shift. In order to comply with regulations, many plants routinely test hearing. However, they often do not inform employees that hearing loss is related to noise exposure at the plant.

### Can't Hear

Worker's compensation benefits are available to those who have hearing loss as a result of their work. Under Tennessee worker's compensations law, permanent, work-related hearing loss entitles you to disability benefits and future medical coverage for hearing aids and regular exams. Even if you are retired, were laid off or your plant closed, you may still be eligible to file a hearing loss claim.

### You Must Act Now

If you or someone you know has suffered from hearing loss as a result of their work, Hill-Boren can help you get the compensation you deserve. We're here to help and we know how.



# DEFRAUDING THE GOVERNMENT

From identity theft, telemarketing cons and internet scams, Americans are more aware than ever of the dangers of fraud. However, there is one type of fraud that happens every day, to every taxpayer and to the tune of billions of dollars a year. Known as false claims, these cases involve individuals or companies who have systematically cheated the government out of taxpayer dollars, for which they did not provide tangible products or services.

The False Claims Act helps the government reclaim the stolen money and rewards the person who comes forward to report the fraud. In 2010, an estimated \$3.1 billion in taxpayer money was recovered, thanks to whistleblowers protected under the False Claims Act. In fact, whistleblowers may sue companies on behalf of the government. If successful, the government receives three times the amount of the fraud. In turn, whistleblowers are entitled to 15-30% of the damages. The whistleblower often receives millions of dollars for reporting the fraud.

Approximately 80 percent of all fraud recoveries under the False Claims Act occur in health care, but significant amounts of fraud are also found in defense, education, transportation, and the oil and gas industries.

The following article offers overviews of some of the most common types of False Claims that lead to large awards.

## Healthcare Fraud

Healthcare is the largest offender. Fraud against federal Medicaid and Medicare programs accounts for 80 percent of False Claims recoveries in 2010. Healthcare fraud is committed in a number of different ways, but some of the most common frauds include:

- **Services Not Rendered:** Making claims for procedures or tests that the patient did not receive.
- **Ghost Patients:** Making claims for a patient who does not exist.
- **Up-Coding Services:** Submitting a claim for a more serious and more expensive procedure than that which actually was performed.
- **Bundling and Unbundling:** Billing separately for procedures and tests that are less expensive when “bundled,” which results in larger reimbursement than the group rate for these procedures.
- **Lack of Medical Necessity:** Submitting claims for procedures that were not medically necessary, under the pretense that they were.

If you have witnessed any of these offenses against the U.S. Government, you should call Hill-Boren for a confidential consultation.

# Help Stop Fraud: Call Hill-Boren

## Financial Industry Fraud

Some of the most common false claims in the financial (bank, insurance and mortgage companies) industry:

- **Federal Bailout Program:** Mis-using funds set aside under the 2008 Troubled Asset Relief Program, or TARP. This \$700 billion dollar fund has been the target of false eligibility fraud, conflicts of interest, use of funds for personal financial gain and failure to comply with TARP regulations.
- **Mortgage Fraud:** Acquiring federal backing of mortgages through the Federal Housing Authority (FHA) by using false or forged information for borrowers.
- **Fraud Impacting Government Pension Funds:** Insider trading and securities fraud that affects government pension funds.

## Disaster Relief Fraud

Massive government spending in response to natural disasters is often accompanied by widespread fraud, including: hundreds of thousands of dollars in hotel rooms for phantom victims; inflated renovation costs; billions spent on mobile homes that were never used; millions for rental assistance by prisoners; and double charging for construction and renovation work.

## Government Contractors

In theory, the government should receive the best possible prices on goods and services. However, defense contractors have a long history of fraud against the taxpayers. This type of fraud is one of the most active areas of false claims litigation.

- **Cross-Charging:** Shifting costs from one project to another, in order to receive additional benefits.
- **Improper Product Substitution:** Supplying the government with a product that does not meet the standard required.
- **Inflation of Costs and Charges:** Inflating costs in order to increase the revenue earned on the project.
- **Violations of the Truth-In-Negotiations Act:** Inflating costs for contracts when that contractor is the only company which can provide the goods or service.

*If you know a company (or person) who is stealing (making false claims) against the government, contact Hill-Boren for a consultation today. You may be rewarded with a million dollar payday.*

# RECENT SETTLEMENTS



## Jeff Boyd

Jeff Boyd represented a client who worked for a large vegetable producer in West Tennessee. He sustained a shoulder injury on the job and settled his claims. Subsequently, he sustained a new injury to the same shoulder and was unable to perform his work. We were able to re-open his first case and obtain more money on the first claim. Thereafter, a settlement was reached on the new injury for an additional **\$100,000**.

Jeff Boyd represented a client with a hearing loss claim who worked for a local manufacturer. The manufacturer had a strict policy that all employees were to wear ear plug hearing protection while on the plant floor. The employee always wore her hearing protection, but a plant supervised hearing test was conducted, showing a decrease in hearing from the prior year. The employee filed a workers compensation claim, but was denied by her employer. The matter was taken to trial and a judgment was obtained in favor of the employee for 32.5% permanent partial disability to the hearing system.

Jeff Boyd represented a nursing home LPN who gradually developed pain in her neck dispensing medications. Over time, her pain got so severe she reported to the director of nursing. When she was finally diagnosed with a herniated disc in her neck, she informed her employer. However, by then workers compensation denied her claim. After a cervical fusion several months off, she attempted to return to work for the nursing home but could not physically do the job. The client received **\$80,365** plus payment of the medical charges she incurred, temporary benefits for her time off and mileage to the doctors' appointments.



## Tamara Hill

Attorney Tamara Hill represented a woman who was injured when she received an injection, not only inappropriate for her symptoms, but also given in the wrong place. Because of her injury, the client was no longer able to perform her duties required in her career and had to chose another profession. Additionally, the client could not adequately take care of her children and participate in their daily activities. This case was sent to mediation and settled for a confidential amount.



## T. Robert Hill

Attorney T. Robert Hill represented a lady against a physician that failed to render a correct diagnosis to her husband and as a result, her husband died unnecessarily. The physician ignored her husband's relevant medical history, ignored reports by the patient and his wife of his continuing symptoms and failed to render a proper diagnosis. This negligence led to the death of her husband. This case was settled just prior to trial and the details are confidential.



## James Krenis

Attorney James Krenis represented a 55 year old Dyersburg man who had injured his back at work and was permanently laid off. Mr. Krenis was able to settle his back injury case for **\$35,203**. At the same time, Mr. Krenis reopened a 2009 worker's compensation case that he had settled for the gentleman with regard to a shoulder injury due to the fact that he was now permanently laid off. This resulted in an additional settlement of his shoulder injury in the amount of **\$19,796**, which was more than his original 2009 settlement.

Attorney James Krenis represented a 21 year old college student who was involved in an automobile accident when the other vehicle nearly hit her head on. He was able to resolve the case for her in the amount of **\$50,000**.

Attorney James Krenis represented an employee who hurt his back on the job three years ago at the age of 34, requiring several years of medical treatment and ongoing pain management. Mr. Krenis was able to settle his case for 5 times the employee's disability rating, or **\$74,000** with lifetime future medical treatment.



### Ricky Boren

Ricky Boren recently represented a man that developed obstructive lung disease and/or byssinosis from being exposed to cotton dust in the work place. The case settled just prior to trial for the payment of **\$283,329**.

Ricky Boren represented a lady who had two separate work related injuries while working at a hospital. She originally injured her neck, shoulder and low back in a fall. While recovering from those injuries she was accidently struck in the jaw by a patient and sustained injuries to face and neck. The case settled at mediation for the payment of **\$160,000**.

Mr. Boren represented a State of Tennessee employee who sustained a disabling injury to his knee and low back in the course and scope of his employment. The case was tried and the Judge found the employee to be totally and permanently disabled. He will receive permanent partial disability benefits until he reaches the age of 66 years and 6 months, estimated at **\$231,137**.

## Social Security In The Digital Age:



**Mike Hartup**

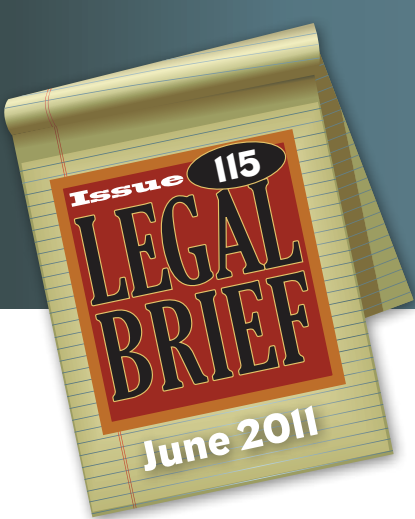
In recent years, Social Security has made several technological advances intended to make the disability claims process more efficient for claimants. They have developed what I consider to be a very user-friendly and informative website at [www.ssa.gov](http://www.ssa.gov). The website can answer many questions about benefits eligibility, but more importantly it allows individuals to file claims online at any time of the day.

Claims files are now stored and accessed electronically by the Social Security Administration, which allows for faster processing of claims. As an attorney with access to claims folders I can look at my clients' Social Security files in real time once they reach the Hearing level. I can submit medical evidence instantly online. I can also file my clients' appeals electronically.

Even Social Security Hearings have become high tech and can be conducted via video tele-conferencing. Meaning the claimant and their attorney can be in one city while the Judge conducts the hearing from another city. I have mixed feelings about video hearings, but they certainly can reduce driving time for claimants and can sometimes speed the scheduling of hearings.

Despite these advancements, though, there still remains a huge backlog of cases and waiting times for hearings are significant. Sometimes, these technological advances, while well intended, actually can make the claims process more difficult for people who are not computer savvy. If you would like help filing your disability appeal, give us a call.





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## **DANGEROUS PRODUCT DOCKET**

**CAUTION**

**CAUTION**

### **DOREL JUVENILE GROUP MULTIPLE OFFENDER**



The Dorel Juvenile Group, manufacturers of multiple children's product brand lines, has announced a number of product recalls this year, with over 1 million affected products. On February 14, the company announced the recall of nearly 800,000 child safety seats due to a hazardous flaw in the harness lock. Then, on May 5, 445,000 bunk beds were recalled due to collapse and fall hazards. If you or someone you know has one of these hazardous products, call Hill-Boren for a consultation.

### **RYOBI SHEET SANDERS**

On May 5, One World Technologies, in cooperation with the U.S. Consumer Product Safety Commission, announced a voluntary recall of about 300,000 Ryobi brand sheet sanders, model S651D. The company has received more than 30 reports of broken fan pieces being ejected from the sander, some causing minor lacerations. If you have been injured by a Ryobi sheet sander, or any recalled product, contact a Hill-Boren attorney today.



### **TOY STORY 3 BOWLING GAME**

This bowling game was released as part of the popular children's movie franchise and sold between September 1-25, 2010. In a specific product line, red paint used on the pins was found to have above legal lead concentrations. When the recall was announced on May 5, no injuries had been reported. However, even exposure to low levels of lead can severely harm children. If you believe your child has been exposed to lead paint by this product, contact Hill-Boren for a consultation.

