

THE  
LAWYERS  
OF

HILL • BOREN PC

Issue 117  
**LEGAL BRIEF**  
Dec 2011

## The Lawyers Of Hill•Boren

T. Robert Hill  
Ricky L. Boren  
Jeffrey P. Boyd  
James R. Krenis  
Tamara L. Hill  
Mike Hartup  
Laura Bailey

## Featured In This Issue

1. Holiday Message
2. Diabetes Medication May Cause Bigger Problems
2. FDA Changes Position on Pelvic Mesh
3. News & Notes
4. New Movie Takes on Hype Around "Frivolous Lawsuits"
5. Death of the American Dream
6. Social Security: Back Pain Disability Claims
6. Recent Settlements
7. Cell Phone Ban for Truckers May Soon be Reality
7. Update – Kentucky Accident May Have Been Related to Cell Phone Use
8. Dangerous Products Docket



T. Robert Hill

Christmas. There's no other holiday quite like it. Christmas is a time for families to reunite and be grateful for all that they have. The cold outside is just one more reason to seek refuge indoors with family and loved ones.

During this time of the year, it seems more important than ever to reach out to those less fortunate than us. Organizations like the Salvation Army and RIFA always need volunteer support, like serving in soup kitchens, stocking food pantry shelves or passing out items to the homeless. There are even opportunities for teaching and tutoring. By simply donating items you no longer use, like coats and bedding, you can help make someone's winter a little easier. In addition, we all need to express our thankfulness to those who have impacted our lives for the better.

I believe that, in difficult times like these, the kindness, compassion and respect with which we treat others defines our character. I encourage you and your family to give something back this holiday season, and to see what you get return.

*'Tis The Season....*



**Members of the Hill-Boren family will be ringing the bell for Salvation Army on Saturday, Dec 3rd from 10am - 7pm at the Old Hickory Mall in Jackson.**

**JACKSON**  
Civil Justice Building  
1269 North Highland Ave  
Jackson, TN 38301  
731-423-3300 • 800-727-0622

THE  
LAWYERS  
OF

HILL • BOREN PC



Tamara Hill, R.N. J.D.

## Diabetes Medication May Cause Bigger Problems

Your medicine shouldn't make you sicker. However, for a number of diabetics prescribed Actos, that is exactly what happened. Prescribed to about 2.3 million people between January and October of 2010, Actos is intended to improve control of blood sugar in adults with type 2 diabetes.

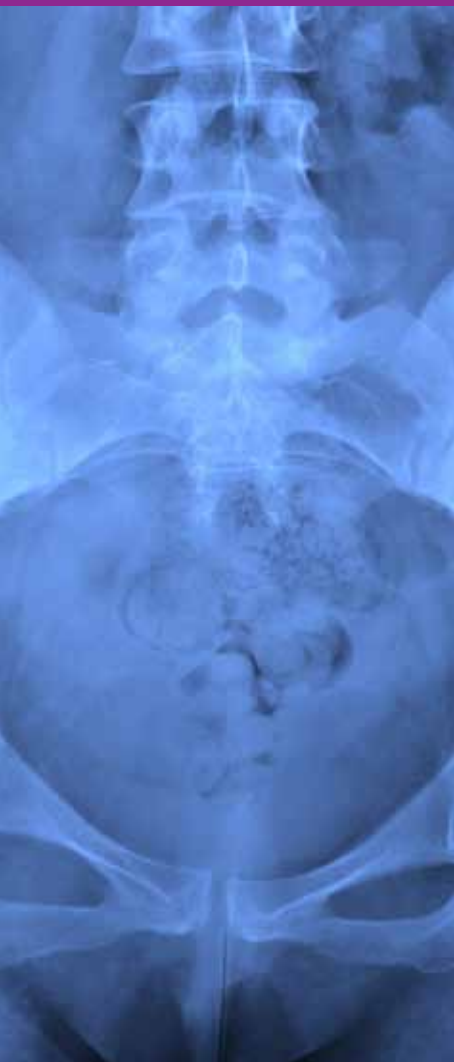


However, according to the results of the FDA's ongoing safety review, released in July, Actos is connected to an increased risk of bladder cancer among patients with long-time exposure and high cumulative doses. The chemical name for Actos' primary ingredient is pioglitazone and is included in other diabetes control medications: Actoplus Met, Actoplus Met XR and Duetact.

The FDA recommends the following guidelines for patients taking Actos:

- There may be an increased chance of bladder cancer when you take pioglitazone.
- You should not take pioglitazone if you are receiving treatment for bladder cancer.
- Tell your doctor right away if you have any of the following symptoms of bladder cancer: blood or red color in urine; urgent need to urinate or pain while urinating; pain in back or lower abdomen.
- Read the Medication Guide you get along with your pioglitazone medicine. It explains the risks associated with the use of pioglitazone.
- Talk to your healthcare professional if you have questions or concerns about pioglitazone medicines.
- Report side effects from the use of pioglitazone medicines to the FDA MedWatch program.

Big drug companies should not be let off the hook for playing Russian roulette with your life. If you or someone you love has developed bladder cancer after prolonged use of Actos, or any other drug containing pioglitazone, contact Hill-Boren.



## FDA Changes Position on Pelvic Mesh

It may not sound threatening, but "pelvic mesh" has dramatically impacted the lives of nearly 4,000 women, after they were injured as a result of this commonly faulty product. Pelvic, or transvaginal, mesh has been used to treat pelvic organ prolapse (POP) and stress urinary incontinence (SUI) in hundreds of thousands of women. The U.S. Food and Drug Administration first brought national attention to the issue in 2008, after a three-year study garnered more than 1,000 reports of injuries and complications. Problems with the mesh were associated with many different manufacturers.

When cases continued pouring into the FDA, a July 2011 update was released. In the update, the FDA admitted that "serious complications associated with surgical mesh for transvaginal repair of POP are not rare. This is a change from what the FDA previously reported on Oct. 20, 2008."

Although transvaginal mesh (TVM) implants have not been recalled in full, it is important for women to understand the risks involved with TVM procedures. Complications reported to the FDA for surgical mesh devices for POP repair have included: pain, infection, bleeding, pain during sexual intercourse (dyspareunia), organ perforation, and urinary problems. There were also reports of recurrent prolapse, neuro-muscular problems, vaginal scarring/shrinkage and emotional problems. Many of these complications require additional intervention, including medical or surgical treatment and hospitalization.

Because these complications are so painful and traumatic, many are suing the makers of these faulty devices. Mesh producers being sued for faulty TVM implants include: C.R. Bard, Johnson & Johnson, Boston Scientific Corporation and American Medical Systems Holdings, Inc. If you or someone you love has suffered as a result of TVM implants, call Hill-Boren for a free consultation today.

## Time Is Running Out!

If you lost your job in 2011, the time allowed for you to file for certain claims is running out! If you or someone you know have any of the following claims, do not wait any longer. PLEASE CALL HILL-BOREN TODAY!

- **Hearing Loss Claims** - Hearing loss is a serious concern for those who worked in plants. Even though an employee may have worn ear protection, it does not rule out the possibility of serious, noise-induced hearing loss. If you had to wear ear protection or your company routinely tested your hearing - you could have occupational hearing loss.
- **New On-The-Job Injury Claims** - If you received an injury during your employment, but have not yet filed a claim for this injury, you may be entitled to worker's compensation and/or social security disability benefits.
- **Old Worker's Compensation Claims** - If you have been laid off or if your plant has closed and you had a previously settled worker's compensation claim, you may be able to reopen that claim for more benefits.

You must act quickly. There is a time limit for filing. If you think you may be entitled to benefits, contact Hill-Boren today.



## News & Notes



Hill-Boren attorney Jeff Boyd recently became a Fellow of the Tennessee Bar Foundation. The Foundation is an organization of attorneys from across the state, active since 1982, that serves to honor attorneys who have distinguished themselves in the profession and to use the contributions of these Fellows to support selected, law-related public interest projects.



James Krenis, Hill-Boren attorney, was recently named a Mid-South Rising Star for 2010, the third year in a row Krenis has won the award. The Rising Star award recognizes the top up-and-coming attorneys in the state—those who are 40 years old or younger, or who have been practicing for 10 years or less.

## 10+ Years Employees

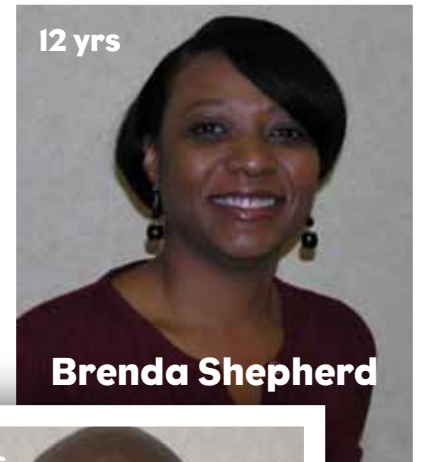
This time of year, it is more important than ever to reach out and thank those who have given tirelessly and selflessly to help others. In that spirit, we would like to offer our deepest thanks to our employees who have been with us ten or more years.

16 yrs



**Cristy Gilbertson**

12 yrs



**Brenda Shepherd**

26 yrs



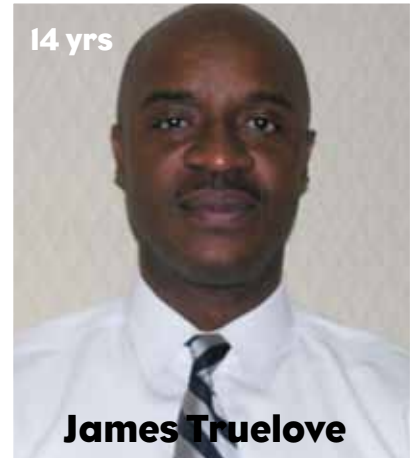
**Hal Fewell**

25 yrs

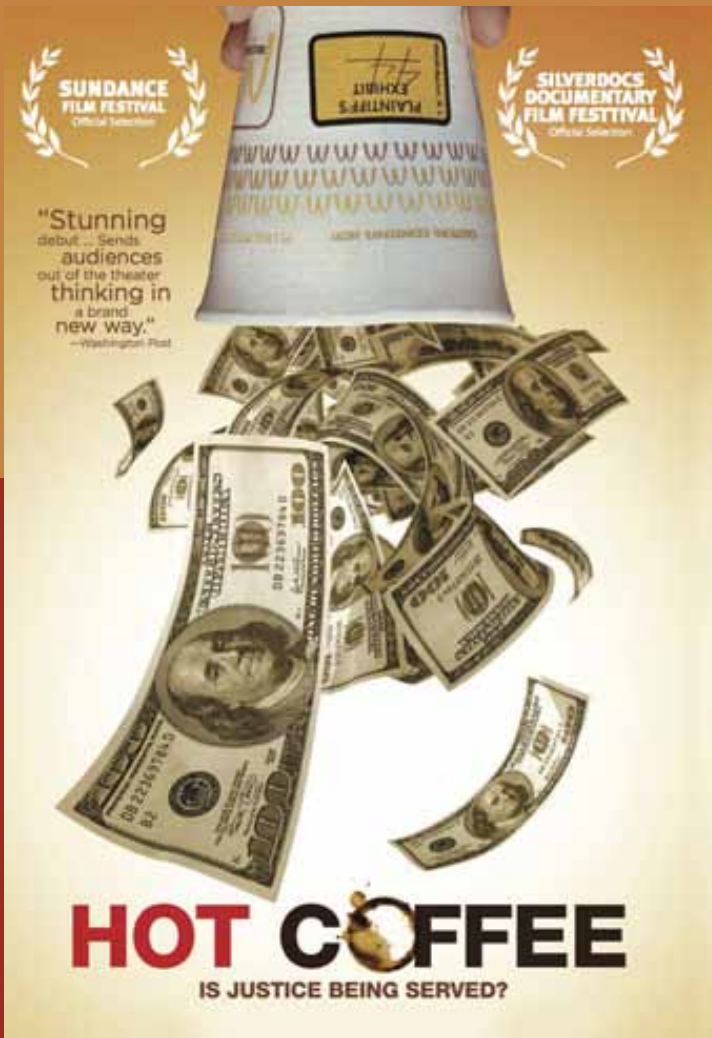


**Shelia Bland**

14 yrs



**James Truelove**



# WE CAN HELP!

In recent years, our legal system has received a lot of flak in the press. Politicians blast the legal system for encouraging frivolous lawsuits. The media accuses excessive malpractice lawsuits for the high cost of healthcare and insurance.

Some lawmakers are pushing for an overhaul of the legal system, an initiative often referred to as "tort reform." In legal terms, a "tort" is a wrong that involves a breach of a civil duty owed to someone else.

But is our system so broken? The following article looks at a new film that uncovers the truth behind "tort reform" and the Big Business it really benefits.

## New Movie Takes on Hype Around "Frivolous Lawsuits"

You may have heard of a new documentary called "Hot Coffee." This film examines the dangers of so-called "tort reform" and its threat to our civil justice system. More than 15 years later, the McDonald's coffee case continues to be used as a prime example of how citizens use "frivolous" lawsuits to take advantage of America's legal system. But is that an accurate portrayal of the facts? First-time filmmaker and former public interest lawyer Susan Saladoff uses that case to investigate the truth behind America's zeal for tort reform.

Big Business has managed to make the term "frivolous lawsuit" a part of our regular vocabulary, and use it to increase profits and escape responsibility for wrongdoing. Many were convinced consumers and patients who won large awards were doing it at a cost to the American consumer—those frivolous lawsuits were picking our pockets and tying up valuable court time.

The documentary also reveals how corporations force us to sign away our rights for legal compensation if we are wronged. You think you're not affected? If you have a cell phone or a credit card, think again. If you work for a large corporation, you are also likely to have signed away rights.

We encourage you to watch this movie and learn more about the reality behind the push for tort reform. Don't stand by and let big corporations strip you of your rights to compensation for injury or wrongdoing.

## Death of the American Dream

When American Servicemen returned from World War II, they came home to a nation that was the most powerful and prosperous in the world. Soldiers went to college or technical school on the GI Bill and found good-paying jobs that allowed them to join the middle class. They had every expectation that their children would have a better life than they did. In most cases that turned out to be true. However, there has been a shift in the American economy.



**Ricky Boren**

Globalization has allowed manufacturing jobs, particularly in the shoe, garment and other labor intensive industries to be sent to third world countries. Even skilled jobs, such as those at Goodyear, are being shipped to China or other Asian countries. Many West Tennesseans are now struggling with the results of these changes in our economy. In order for our people to provide a good life for their families, they will increasingly be required to have a higher educational attainment and a greater level of technical training. Unfortunately, it is difficult to achieve this in one generation's time.

Our firm is now engaged in representing many former employees of Goodyear, who are struggling to put their lives back together again. Many of them will, through hard work and perseverance, manage to achieve great things. Unfortunately, some may fall by the wayside.

Our society needs to devote more assets to re-training our workforce and to providing incentives for American companies to keep jobs in America. The same people who have devoted their lives to working hard and providing for their families are now faced with the difficult task of moving into a different type of employment, often when they are middle aged. Our firm will do everything we can to assist people who have lost their jobs due to displacement or movement overseas. The same ingenuity and hard work that made America the greatest nation on Earth can remake us, if we all work together.

THE  
LAWYERS  
OF

HILL · BOREN<sup>PC</sup>



**Mike Hartup**

## Social Security: Back Pain Disability Claims

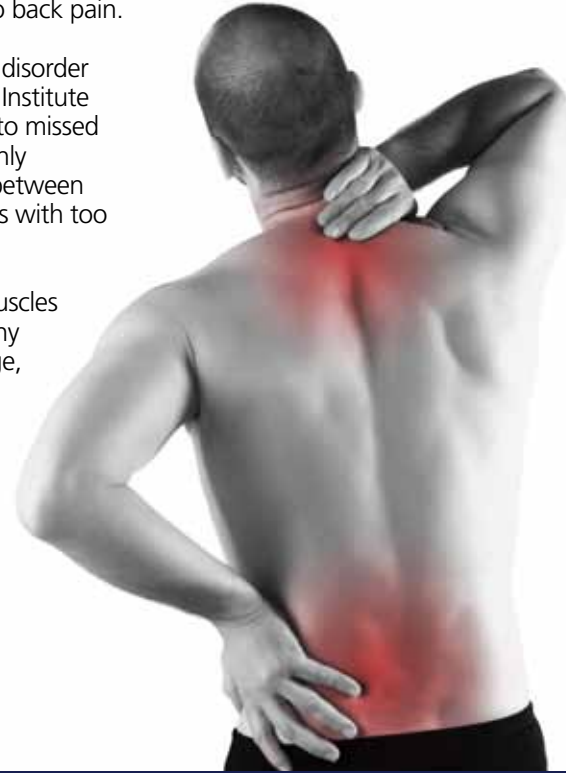
I recently read an article that claimed that more than 50% of the new Social Security disability recipients in 2010 reported back pain or mental problems as their disabling injury. The article argued that both ailments have the potential for fraudulent claims because the degree to which an individual suffers from them is inherently difficult to evaluate. But, the writer really wanted the reader to believe that the sheer number of these types of claims alone was evidence of their fraudulent nature. I disagree.

The article was trying to shock the reader with an out-of-context statistic. I will try to put some context to the 50% statement in regards to back pain.

Low back pain, which has multiple causes, is a musculoskeletal disorder that affects 80% of the population. According to the National Institute of Health, it is the most common cause of job-related disability and a leading contributor to missed work. Back pain is the second most common neurological ailment in the United States. Only headache is more common. Men and women are equally affected. It occurs most often between ages 30 and 50, due in part to the aging process, but also as a result of sedentary lifestyles with too little exercise followed by sudden exertion or strain.

The pain can result from mild conditions such as a sprain, strain or spasm in one of the muscles or ligaments in the back, which usually resolves after a period of treatment. However, many times the underlying condition is much more serious such as spinal compression, disc bulge, disc herniation or disc rupture. This rupture may put pressure on one of the more than 50 nerves rooted to the spinal cord that control body movements and transmit signals from the body to the brain. When this happens, significant and debilitating functional limitations and associated neuralgia can and do result. While treatment for such conditions may include anesthetic, steroid or narcotic injection blocks, electrical spinal cord stimulation, or a number of back surgeries including discectomy, foraminotomy, nucleoplasty, radiofrequency lesioning, spinal fusion or laminectomy, often the individual is left with chronic and debilitating pain.

Given the above statistics, the number of disability claims involving back pain and disorders makes more sense. When a disabling condition affects such a large portion of the population, it only makes sense that it will be the source of a large portion of legitimate disability claims.



## RECENT SETTLEMENTS



**Jeff Boyd**

Jeff Boyd represented a Goodyear worker who sustained an injury to his right shoulder in 2005. He settled his case on his own without representation. When the plant closed in July 2011, the employee hired Hill Boren to pursue his "rights to reconsideration." At the mediation of the case, we were able to secure an additional **\$89,000** settlement for the client, to be paid in a lump sum with future medical benefits to remain open for his lifetime.

Jeff Boyd represented a truck driver that severely injured his hip while working as a truck driver for a factory. He slipped and fell during an ice storm in Missouri. Mr. Boyd engaged, at no additional cost to the client, co-counsel to assist in the litigation of the case in the State of Missouri. At mediation, the case was successfully resolved for **\$150,000**.

Jeff Boyd represented a client who alleged that he had sustained work-related, noise-induced

hearing loss. The client was seen by an ear, nose and throat specialist, who confirmed that he had a significant high frequency hearing loss. However, the medical impairment rating for the client was limited because current guidelines do not adequately represent the type of high frequency hearing loss experienced by the client at his work. The doctor stated that the client, in spite of the low "book rating," had incurred a medical impairment of 20% to the hearing system. This matter was taken to trial and the client was awarded a 40% disability to the hearing system. It is anticipated that this case will be taken up on appeal to the Tennessee Supreme Court and that new law on the issue of hearing loss claims will be created.



**James Krenis**

James Krenis recently represented a Madison county woman who injured both arms and feet doing repetitive work on an assembly line. Due to her injuries, she could no longer perform her previous work. Even though her employer

denied all claims, Krenis fought to get all of her bills reimbursed. Because the woman is now unable to return to her previous work, she received an additional **\$60,000**.

James Krenis recently represented a woman who was hit by another car while on-the-job. She suffered severe back and neck injuries. Krenis settled her worker's comp case for about \$30,000, in addition to another **\$70,000** at mediation for her car wreck lawsuit.



**Ricky Boren**

Ricky Boren recently represented a man who fell off of a ladder while doing construction work. He suffered severe injury to his leg and shoulder and developed carpal tunnel syndrome in his wrist. The case was tried and the Court found that this injury has rendered him totally and permanently disabled. The client will receive benefits until he reaches the age of 67.

# Cell Phone Ban for Truckers May Soon be Reality

As a result of mounting evidence on the dangers of cell phone use with commercial truck drivers, the National Transportation Safety Board (NTSB) has issued a recommendation to ban all cell phone use for truck drivers on the road. With accidents like the 2010 Kentucky tragedy piling up, the public outcry for safer roadways is getting louder.



The 85-page NTSB report on that accident included the recommendation that truckers and bus drivers be barred from using a cell phone while operating a vehicle, one of the most significant highway safety measures recommended since the push for mandatory seat belts decades ago.



The main recommendation in the report, that states ban all commercial drivers' license holders from using a cell phone while driving a commercial vehicle, has been sent to the Federal Motor Carrier Safety Administration and all 50 states for action. The ban, if adopted as proposed, would apply to both hand-held and hands-free phones.

The Department of Transportation is considering the ban, which would affect 3.7 million truck drivers. Even the American Trucking Association agrees with the ban in part, having put out statements supporting a ban on texting and hand-held phone devices for all drivers.

Hands-free devices are seen by some as a get out of jail free card for truckers. However, the evidence is contradictory. Some studies say that the use of a hands-free device, like a Bluetooth headset, does not increase risk of distraction, but others find that drivers are unable to fully focus on both the road and their

conversations, even if they do not need their hands to talk.

If passed, the ban on cell phone use by commercial drivers will save lives. This negligence should not be allowed to continue unchecked. If you or someone you love has been injured by a distracted truck driver, you have an advocate at Hill-Boren. Call us today for a consultation.



## Update – Kentucky Accident May Have Been Related to Cell Phone Use

According to a recent report from the National Transportation Safety Board, the 2010 Kentucky highway accident that cost 11 people their lives was likely related to the truck driver's use of a cell phone. On March 26, 2010, an Alabama truck driver had just picked up his cell phone to make a call, when his truck and trailer lost control, sliding through the median and into oncoming traffic.

The driver struck a 15-passenger van containing an extended family of Mennonites from south-central Kentucky, on their way to a wedding in Iowa. As a result of the accident, 10 of the family members died, along with the driver of the truck. Investigators concluded that at least two people were ejected from the van, while

others were thrown from their seats inside the van. Two small children in safety seats survived the crash.

The NTSB found that the truck driver had made or received 69 calls or text messages while driving in the 24 hours before the fatal wreck and was on the phone at the time of the crash. It was only a matter of time before tragedy struck. It is truly unfortunate that so many – including the driver himself – had to lose their lives to bring national attention to this serious problem.

**WE'RE HERE TO HELP, AND WE KNOW HOW.**



La primera consulta es totalmente gratuita. Le ofrecemos la máxima confidencialidad. Hablamos español.

Return Service Requested

visit us at [www.hillboren.com](http://www.hillboren.com)

# CAUTION DANGEROUS PRODUCT DOCKET CAUTION

## TOULOUSE-LAPTREC MAGNETIC SKETCHBOARDS

In November, Battat Inc., in conjunction with the U.S. Consumer Product Safety Commission, issued a recall of the Toulouse-LapTrec magnetic sketchboards. This recall affects about 95,000 in the U.S. alone. After 19 reports of the toy pen's magnetic tip falling off, the company has chosen to recall the item, due to a choking hazard. The toy was sold in nationwide retail stores from March 2010 to March 2011 for about \$16. If your child has been injured while using the magnetic sketchboard, contact Hill-Boren today.



## CHEFMATE 6-SPEED BLENDER

The U.S. Consumer Product Safety Commission and Target have issued a joint recall of the Chefmate 6-Speed Blenders, specifically model BL-10. The plastic pitcher can separate from the blade assembly, exposing the rotating blades. As a result, seven people have reported serious lacerations to their fingers and hands. The blender was sold in Target stores nationwide from September 2007 to February 2011 for about \$14. With the potential for very serious harm, it is suggested that consumers stop using the blenders and return them to any Target store to receive a full refund.



## EMBARK RESISTANCE CORDS AND CORD KITS

About 447,000 Embark Resistance Cords and Cord Kits have been recalled by the U.S. Consumer Product Safety Commission and Target Corporation. A black plastic ball attached to the resistance cord's door anchor can unexpectedly release and strike the user. The recall was issued after two reports of permanent vision loss as a result of use. The product was sold in Target stores nationwide and online from July 2009 to August 2011. If you were injured while using Embark Resistance Cords, contact Hill-Boren for a consultation.

