

# POLITO & QUINN LLC

NATIONAL BOARD CERTIFIED TRIAL ATTORNEYS

## Did you do what your mother told you?

*"Remember to wash your hands..."*

There are many injuries and losses that occur in our lives because we fail to follow basic instructions that our parents taught us. One such instruction has to do with washing our hands throughout the day. The medical basis for this practice has never been stronger or more urgent. Today in America, countless infections and illnesses are transmitted as a result of the failure of people to follow the most basic hand-washing measures.

Hospitals, more than most institutions, require vigilance by their own staff when it comes to hand washing. Hospitals care for the most sick and vulnerable, who are least able to fend off further infection and disease. Nevertheless, "nosocomial," or hospital-acquired, infections are prevalent and sometimes cause a sick person further illness or death. Proper hand hygiene is absolutely necessary for safety in all health-care settings. The Hand Hygiene Resource Center has estimated that hospital-acquired infections contribute to the deaths of nearly 90,000 hospital patients per year and \$4.5 billion in medical expenses.

*What does this mean for us today?*

- First, do what your mother told you—wash your hands regularly throughout the day and especially after using the bathroom and before meals.
- Secondly, use warm water and soap, and scrub for at least 20 seconds.
- Finally, when you or a loved one is hospitalized, require vigilance of yourself, loved ones, and hospital staff because the consequence of infection is potentially more lethal.

For further information on the subject of hospital safety and state report cards with regard to safety performance, please go to [www.ConsumerReports.org](http://www.ConsumerReports.org) and the Joint Commission on Accreditations of Healthcare Organizations at [www.jcaho.org](http://www.jcaho.org). In addition, I highly recommend that you visit the Web site of the Hand Hygiene Resource Center (HHRC) at [www.handhygiene.org](http://www.handhygiene.org). The mission of the HHRC is to advance the quality of patient care and reduce infection by improving hand-hygiene practices in health-care settings.

*Humbert J. Polito, Jr., Esquire*

### Polito & Quinn LLC

567 Vauxhall Street Ext.  
Suite 230  
Waterford, CT 06385  
860-447-3300  
FAX: 860-447-3389

*Personal Injury  
Practice*

*No Fee  
Without Recovery*

*Home and Hospital Visits*

OFFICE HOURS  
Monday-Friday  
8:30 a.m.-5:00 p.m.

## Should I get a home inspection?

Today, homes cost twice and even three times what they did just a decade ago. Low interest rates have allowed people to take on larger and larger mortgages. Buying a house is always a nerve-racking experience, but in the current environment, where bidding wars among potential buyers are commonplace, the buyer has few protections against the purchase of a house with substantial defects—defects that may undermine the most valuable asset people will ever have.

A prospective buyer does not hire a home inspector, but a home inspection company. That company hires individuals with varying degrees of competency to do the inspection. A home inspector may be a person who was a general contractor, was a carpenter, or merely someone who has taken some training in home inspection. The home buyer is unlikely to ever learn whether the inspector was competent at what he or she did before becoming a home inspector.

The home inspector generally has a checklist of items and systems to review. The "contract" between

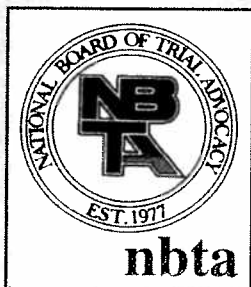
the home buyer and the home inspection company always has an exclusion that the inspection does not cover things the inspector cannot see.

The home inspector may or may not be insured. This is an important issue to determine before hiring him or her. The real problem arises when a home has significant structural problems that are not identified by the inspector. This leaves the home owner with costly problems and a potential lawsuit.

### ALTERNATIVES TO CONSIDER...

- Find a good home improvement contractor whom you trust to inspect the home.
- Never use the home inspector for insect and septic inspection.
- Have an oil company look at the furnace.
- If you hire a home inspector, insist on meeting the inspector before you sign the contract. At the meeting, ask the inspector what his background is and how many homes he has inspected.
- Be present at the inspection and ask questions.

*Michael J. Quinn, Esquire*



# What's wrong with "tort reform"?

**The real meaning of "tort reform": taking away the legal rights of American families**

Some federal and state lawmakers want to pass "tort reform," or litigation-limiting, legislation to give insurance companies and corporations more power to overturn the rights that the average citizen has to seek redress for harm through our court system.

If elected officials legislate away our citizens' right to trial by a jury of their peers in a courtroom, the new power that big insurers and companies will acquire will affect us all.

## Lawbreaker protection

By limiting victims' rights, "tort reform" protects negligent drivers, greedy corporate managers, and polluters by bypassing the effective, centuries-old approach of using citizen juries to hold wrongdoers accountable for the harm they cause to others.

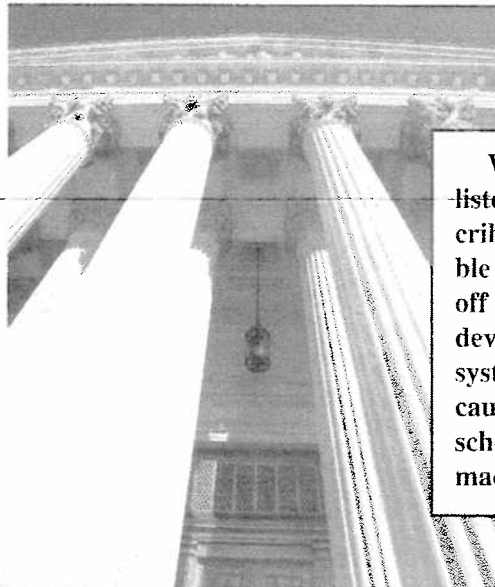
## Wrongdoer defense

"Tort reform" will provide a trump-card defense for pharmaceutical companies that market drugs which injure or kill people. It will give manufacturers

who sell unsafe products an automatic shield against liability. Reform will even give nursing homes that negligently cause our elderly to suffer a "free pass" from legal action.

## Unprotected victims

The most insidious effects of "tort reform" are that our civil justice system will no longer protect those who have been seriously injured or killed by careless medical errors or defective products or drugs...and no one will have the right to hold wrongdoers accountable.



When juries speak, corporate America listens. That's why...defectively designed cribs no longer strangle infants; flammable children's pajamas have been taken off the market; once-harmful medical devices have been redesigned; auto fuel systems have been strengthened; cancer-causing asbestos no longer poisons homes, schools, and workplaces; and farm machinery has safety guards.

## Red-light runners

In 2002, drivers who ran red lights were responsible for 207,000 crashes, 178,000 injuries, and 921 fatalities in the United States. Red-light runners are irresponsible and dangerous drivers who put us all at risk.

The National Campaign to Stop Red Light Running believes that this problem is epidemic, particularly in urban areas.

Here are a couple of injury cases that show the extent of potential injuries and compensation from red-light runners.

### A taxi driver

A cab ran a red light, striking a motorcyclist. The rider suffered multiple rib fractures, lung contusions, a fractured femur, a dislocated shoulder, chronic pain, numbness, stiffness, and scarring. The parties settled for an amount which included medical expenses and an additional award for loss of consortium.

### Trucker

An oil truck sped through a red light and collided with a car. A passenger suffered a subarachnoid hemorrhage, multiple fractures requiring jaw surgery, a tracheotomy, and memory loss, as well as loss of employment. The parties agreed to a major settlement.

## A civil justice system MYTH

### ➤ MYTH

Jurors are not rational. Because they don't understand the subtleties of law, they get swept away by the emotional pleas of lawyers and their clients. As a result, juries give lawsuit plaintiffs huge punitive damages awards on a regular basis.

### ➤ FACT

You, your friends, neighbors, and coworkers are America's juries. And you are not irrational. Contrary to common belief, juries rarely award punitive damages. Only 3 of every 100 juries hearing personal injury cases ever award punitive damages. Furthermore, when juries grant punitive damages, the amounts jurors award tend to be small. In fact, the U.S. Department of Justice reports a decreasing trend in payout amounts for personal injury cases. Between 1992 and 2001, the median payment for personal injury cases dropped 56 percent, to \$28,000.

## Can a new accident affect an old injury?

Many of us live with preexisting or acquired injuries and congenital illnesses that range from dormant conditions to severe limitations. What happens when one of us suffers an injury in an accident that involves this preexisting condition? Is it fair to hold another driver responsible if the condition already existed? Should someone who causes an aggravation of a condition he or she already had be permitted to bring a claim for money damages?

The law in Connecticut addresses this issue with refreshing clarity and common sense: "You take your victim as you find her." In other words, the law recognizes that if you have a condition that makes you more susceptible to further injury and someone causes you harm, then the at-fault person should be held accountable for the worsening of that injury. Modern medicine recognizes that numerous orthopedic and neurological injuries can be worsened due to trauma.

If you suspect an injury has been worsened due to trauma, then you should consult with your treating physician to consider your condition both before and after an accident in order to fairly assess the impact of a new accident on an old condition. In certain cases, you may even find that a long-standing but dormant condition, such as degenerative arthritis in your back or within a particular joint, has been triggered due to a trauma. In that case, the law in Connecticut recognizes that a person is fully responsible for triggering this preexisting but dormant condition. Your physician is in the best position, once provided with your medical history, to assess the impact of an accident on any preexisting condition.

*Humbert J. Polito, Jr., Esquire*



## But I only drive my motorcycle on weekends in good weather

### *It is a familiar story...*

One of our clients on his or her motorcycle on a beautiful Sunday morning gets cut off by a motorist who did not see the motorcycle. The motorcyclist is badly injured and is transported by Life Star with significant orthopedic injuries, keeping them out of work for six months.

The driver of the car carried only a minimum policy, that is, \$20,000/\$40,000, with Allstate. In this situation, the first thing we do is look at our client's policy on the motorcycle. What we are looking for is the amount of underinsured motorist coverage. Underinsured motorist coverage is the amount of coverage available to our client from his own policy. Unfortunately, like most motorcycle policies, it is written separate from the client's car coverage, and the underinsured coverage is the minimum.

### **Here is a profile of our client's coverage:**

#### **Liberty Mutual Policy**

Auto I & II	
Liability	<b>\$500,000</b>
Underinsured/Uninsured Motorist	<b>\$500,000</b>

#### **Progressive Policy**

Motorcycle	
Liability	<b>\$20,000/\$40,000</b>
Underinsured/Uninsured Motorist	<b>\$20,000/\$40,000</b>

What most clients do not know and what most insurance companies never tell the client is that by writing the coverage on different policies, the motorcycle is limited to the coverage on that policy. In this case, nothing. In addition, Progressive would get a credit for the Allstate coverage.

### **Here, an illustration helps:**

Car driver's policy with Allstate	<b>\$20,000</b>
Progressive Underinsured/Uninsured Motorist	<b>\$20,000</b>

Progressive gets a credit for the coverage paid by the driver of the car. Thus, our client can get nothing from the Progressive policy. Our client also gets nothing from the Liberty Mutual policy because of something called the owned vehicle exclusion. And because it is not uncommon for people to only use their motorcycles occasionally in good weather, the temptation is to insure them for the minimum while carrying significant coverage on their autos.

## SOLUTIONS

Talk to your agent. Ask to have all coverage written on a single policy. If they won't write the coverage on a single policy, then have them write significant underinsured coverage for the motorcycle. Anyone who rides a two-wheeler knows that when there is an accident, it is always the operator of the bike that gets hurt, and the injuries are often significant.

*Michael J. Quinn, Esquire*

© Copyright 2005. Newsletters, Ink. Corp. All rights reserved. Printed in the U.S.A. www.newslettersink.com  
The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

## Our Martindale-Hubbell rating

Polito & Quinn, LLC, has earned an AV rating in the *Martindale-Hubbell® Law Directory* for our legal capabilities and devotion to professional ethics. Since Martindale-Hubbell bases assessments on surveys of members of the bar and of judges, we take pride in our colleagues recognizing and respecting the quality of our legal work.

Copyright © 1996-98 Reed Elsevier Inc.

## Preventable medical errors

A 2004 hospital study of 37 million patient records conducted by HealthGrades® showed that an average of 195,000 people in the United States died due to potentially preventable, in-hospital medical errors in each of the years 2000, 2001, and 2002.



HealthGrades is a health-care quality-monitoring company. The 2004 report nearly doubled the estimated number of deaths from medical errors found by the 1999 Institute of Medicine's (IOM) report "To Err is Human," with an associated cost to society of \$17-29 billion per year.

IOM's study was based on data from three states, and another study looked at 7.5 million patient records from 28 states over one year. HealthGrades' study, by contrast, looked at three years of Medicare data in all 50 states and Washington, D.C. This Medicare population represented approximately 45 percent of all hospital admissions (excluding obstetric patients) in the United States from 2000 to 2002.

## FOR YOUR SAFETY Recalled product roundup

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

✓ **Philips PC Peripherals** has recalled 15,000 Hewlett-Packard (HP) L2035 Flat Panel Monitors. Incorrectly installed back-panel ground clips can electrically shock users.

✓ **Wal-Mart Stores, Inc.**, has asked buyers to return 600,000 **GE Oval and Double Dish Slow Cookers**, which have handles on bases that may break, spill hot food, and burn consumers.

✓ **Royal Appliance** has recalled 20,000 **Dirt Devil® Sweeper Vac™** vacuum cleaners. The vacuum's rotors can lock and overheat, causing smoke and fire hazards.

✓ **Swing-N-Slide® Corp.** asked consumers to return 72,000 extra-duty and heavy-duty swing seats with defective seat-attachment grommets, which can break and injure users.

✓ **American Suzuki Motor Corp.** recalled 27,000 2004-2005 Eiger and Vinson ATVs. Incorrectly mounted fuel tanks can leak and burn riders.

## REFERRALS

**Bert and Michael** would like to thank those of you who have referred potential clients to our law office.

If you have legal matters that need attention, please let us know. If we cannot handle the matter, we will refer you to a competent firm that can.

Please feel free to refer us to your family, friends, and neighbors for their legal needs.

We welcome the opportunity to help. If someone you know asks you for the name of an attorney, we hope that you will consider us. Thank you.