

LEGAL BRIEFS

A QUARTERLY NEWSLETTER DEDICATED TO PERSONAL INJURY LAW

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FIGHTING FOR THE RIGHTS OF THE INJURED FOR 21 YEARS

Consumer group Texas Watch says many Texans only get "junk" insurance policies since deregulation

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A leading consumer organization claims that many Texas drivers and homeowners have "junk" insurance policies, and it has taken an aggressive step to prove its allegations.

Texas Watch recently filed an open records request with the Texas Department of Insurance, requesting all automobile and residential policy forms and endorsements that are currently in use in this state.

And endorsement is a provision that either adds or deletes specific coverage from an insurance policy.

Texas Watch also requested information about any policies that were not approved by TDI and policies for which TDI withdrew approval, and it seeks any memoranda prepared by TDI staff related to its deliberations on policy form approval/disapproval.

Texas Watch asserts that research conducted by the Department of Insurance shows that the deregulation of policy forms that occurred in the early 2000s in Texas has led to significantly less coverage for most homeowners, "who are being forced to pay good money for what are aptly described as 'junk policies,'" said Texas Watch Executive Director Alex Winslow, referring to a report released by the department of insurance in early 2011.

In a letter to state senator Leticia Van de Putte, D-San Antonio, Texas Watch claims that the 2011 TDI report reveals that current homeowner's policies, when compared to the standardized HO-B policy that the great majority of Texas homeowners used to purchase, provide significantly less coverage. For example:

- *87 percent of policies provide less coverage for continuous or repeated leakage from plumbing, heating, or air conditioning.*
- *72 percent provide less coverage for backup of sewers and drains; and*
- *67 percent provide less coverage for damage to foundations and slabs.*

Texas Watch calls these numbers "staggering." Further, it says, major carriers are dramatically increasing deductibles.

One answer, says Texas Watch, is to once again standardize policies by using forms that provide comprehensive coverage for home and auto.

New federal rule bans use of cell phones by interstate truckers and bus drivers

Beginning in January of this year, a new federal regulation imposed a ban on the use of handheld cell phones by interstate truckers and bus drivers.

Intended to curb crashes that result from distracted driving, the ban falls short of a recommendation issued last September by the National Transportation Safety Board. That agency had urged that nearly four million commercial drivers be prohibited from using handheld or hands-free cell phones on the road, except for emergencies.

The trucking industry opposed such a blanket ban of communication devices and was able to convince federal agencies to implement a scaled-back version.

The two units of the U.S. Department of Transportation that issued the new rule - the Federal Motor Carrier Safety Administration and the Pipeline and Hazardous Materials Safety Administration - justified their action by saying that either reaching for, or dialing, a hand-held phone poses a specific safety risk.

They admitted, however, that they were unsure if simply talking on a mobile phone

presents a significant risk while driving.

Various safety studies have shown that use of hand-held or hands-free phones slows driver reactions and raises the risk of accidents. The cognitive demands of a phone conversation may cause "inattention blindness," or a failure to respond to visual cues because the mind is focused on something else.

Still, in a news release, the Department of Transportation characterized the new federal rule as "a giant leap forward."

"Drivers must keep their eyes on the road, hands on the wheel and head in the game when operating on our roads," the DOT release said, calling the use of hand-held phones "too dangerous."

Many of the biggest truck and bus operators - including UPS, Wal-Mart and Greyhound - already ban their drivers from using hand-held phones.

Drivers who violate the federal cell-phone restriction will face federal civil penalties of up to \$2,750 for each offense. After two violations, drivers can have their commercial licenses suspended.

Damages caps reduce incentive to lessen medical risks

The Cato Institute, a political think tank with a conservative/libertarian philosophy, released a white paper last fall that concludes that caps on medical malpractice damages are bad for patients because they remove incentives for medical liability insurers and physicians to reduce risk associated with the practice of medicine.

The Cato paper is written by Shirley Svorny, an economics professor at Cal State-Northridge and an adjunct scholar at Cato. Dr. Svorny writes:

"Policies that reduce liability or shield

physicians from oversight by carriers may harm consumers. In particular, caps on damages would reduce physicians' and [insurance] carriers' incentives to keep track of and reduce practice risk . . .

"I conclude that important consumer protections could be lost were caps on economic and noneconomic damages to reduce industry incentives to evaluate and minimize risk . . ."

Thus, by reducing the threat of legal action, damage caps may actually increase the risk of medical errors for patients.

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DeSimone Law Office handles a variety of injury cases

DeSimone Law Office has been serving Houston and the greater Gulf Coast area for 20 years.

The firm's primary focus has been the representation of persons who have been injured.

Along with personal injury cases, attorneys Ronald DeSimone and Donald DeSimone handle criminal defense and selected domestic cases.



Ronald DeSimone

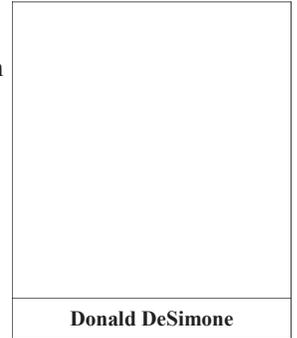
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- **RAILROAD WORKER INJURIES**
- **BOAT ACCIDENTS/DROWNINGS**
- **OFFSHORE ACCIDENTS**

Ronald DeSimone graduated from the University of Florida with a chemistry degree in 1984. He entered the University of Houston Law Center the following fall and

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Donald DeSimone graduated from the University of Florida with a business degree in 1986, and, after enrolling at the University of Houston Law Center in the fall of that year, he was licensed to practice law in 1989.



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