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## HAPPY THANKSGIVING!

Obviously, this has been a very difficult year for many.

The economy has shown few signs of improvement, and I continue to encounter people that have recently lost their jobs or who have been out of work for quite some time.

Central Texas has also experienced the biggest natural disaster in our history. I'm sure most of us personally know people that were affected by the fires and maybe even some who lost everything they own.

I have also watched too many friends and family members struggle with health issues or situations that I find unimaginable.

But it is also these tough times that make me really stop and take stock about how much my family has to be thankful for.

We have a roof over our heads, and

we don't have to worry about where our next meal is coming from. In fact, while we feel like we live modestly, we still realize that we really have too much.

We're also blessed with our family. My kids are lucky enough to have a great-grandfather, grandparents, and all kinds of aunts, uncles and cousins who are more than

willing to come play with them on a moment's notice.

And my family is no different than most. While we can all find things we wish were better, in truth, if we take a few moments to really inventory the important things in our lives, we'll all realize that we have any number of things to be thankful for during this holiday season.

Brooks Schuelke



## Insurance Companies Deny, Delay & Defend

As Deputy Sheriff Ed Martin sat by his squad car in a fast-growing pool of his own blood, he called his wife and woke her at 3:30 a.m. He knew he might die from the point-blank shotgun blast that greeted him moments earlier when he knocked on a door for a 911 call in a tiny east Texas town called China.

“It’s pretty bad and I don’t know how it’s gonna turn out,” Martin told his wife as he awaited a helicopter medical evacuation. “Get the kids and meet me at the hospital.”

When they arrived, Martin was on a gurney and covered with a white sheet splotted red. His wife clutched their sleepy 2-year-old daughter to her chest as their sons, 6 and 10, stood at her side.

“I know it was tough for them,” Martin says, retelling the story of that night in June 2006 in the flat monotone of cop-speak. “But I wasn’t sure if I’d make it through surgery and I wanted to at least tell them ‘Hello’ and ‘I love you.’ ”

Doctors say Martin’s life was saved by his ballistic vest and the swift trip to the hospital in Beaumont, near the Gulf Coast and the Louisiana border. But the blast vaporized the skin of his inner arm down to bare muscle and tendons, and tore out the main artery.

A couple of weeks later, Martin got a phone call from an insurance adjuster handling his workers’ compensation claim. He was told the \$7,300 helicopter ride was “not medically necessary” and likely would not be covered.

That’s the beginning of a recent article in the American Bar Association Journal that really exposed the Texas Worker’s Compensation System

I can vouch that Deputy Martin’s story is not an anomaly. While we don’t do worker’s comp work, we represent a number of people who are injured in on-the-job injuries, and I see insurance companies fight valid

claims on a daily basis.

For example, I represent one client who was in a car wreck while on the job. His physician recommended surgery, but the worker’s compensation carrier didn’t want to pay for it so they sent him to another doctor. That doctor too gave the opinion that the need for surgery was related to his on-the-job car wreck. Still not wanting to pay, they sent the worker to yet another doctor in hopes of finding a doctor that would support the company’s denial of the claim.

According to Kim Ross, a former vice president of the Texas Medical Association, these are the types of problems you get when you find “insurers running the system with no offset or balance.”

The ABA Journal article details that these difficulties are the result of a long-systematic effort from the insurance companies and our state politicians. In 1991, the insurance lobby was successful in persuading the Texas Legislature to make wholesale changes to the Texas Worker’s Compensation System. These changes seriously affected claimants’ rights and made it difficult to bring claims.

But the insurance industry wasn’t satisfied. In 2005, they sought additional changes that brought the Division of Worker’s Compensation, at the time a stand alone agency run by an equal group of insurers and representatives of employees, into the Texas Department of Insurance, where it is run by a single commissioner appointed by the governor. Not surprisingly, the appointment often goes to someone with close ties to the insurance industry.

And things continue to get worse in the courts. As insurers took advantage of their lack of regulation, some victims began suing them for bad faith — alleging that workers comp insurance companies violated duties to be fair as required in the Insurance Code. But this summer, the Texas Supreme Court took the opportunity to re-write years of law and issued an opinion saying that

## Delay, Defend cont.

workers' compensation claimants couldn't file bad faith claims.

You can imagine how willing an insurance company is to pay a claim when there's no punishment for not paying the claim timely.

But if we don't do workers' compensation insurance, why am I telling you this?

Because if the insurance industry has its way, this trend will continue to all civil justice cases.

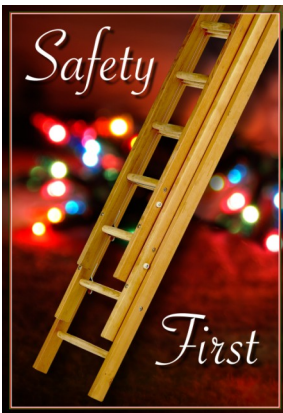
We're already seeing many of these tactics spread to standard cases. For example, Dr. Nick Tsourmas,

identified in the article as Dr. No — a consulting doctor who is a favorite of the insurance industry, has appeared in some of my cases and is seemingly hired more and more by insurance companies to claim that victims aren't hurt.

We're also seeing the legislature and courts go out of their way to limit your rights.

While this legislative session has just ended, the Texas Trial Lawyers Association and Texas Watch, two groups I support, are already working to help keep the insurance industry in check. And I continue to work hard to help educate other lawyers on ways to protect their clients from these continued assaults on our clients' rights.

## HOLIDAY SAFETY



My family's Thanksgiving weekend always includes a start on putting up our Christmas decorations.

I became a lot more conscientious about those routines a couple of years ago. At that time, a lawyer friend of mine was taking down his Christmas lights, slipped on his ladder, and shattered his leg.

Sadly, he's not alone. Climbing ladders, climbing on the roof, reaching up to put the star on top of the tree, and lighting Christmas candles are all dangerous activities. Experts estimate that 12,500 people a year go to the emergency room for Christmas decorating-related injuries.

The Home Safety Council gives these instructions for ladder safety:

\*Check the ladder for loose screws or rungs before taking it outside.

\*Don't place your ladder on ground that is uneven or very soft. Put boards on the ground for a solid ladder base.

\*Stay in the center of the steps when you climb and don't lean too far in either direction.

\*Never step on the top of the ladder, or the rung below it, because your center of gravity will be too high. Get a taller ladder if you need one.

\*Avoid carrying too much up the ladder at one time. A study by the Bureau of Labor Statistics shows that half of ladder accidents occur because people carry too much when going up or down.

\* Always hold on to the side rails.

\* Skip the beer and cocktails. Drinking before climbing increases the likelihood that you will lose your balance and fall.

A survey by the council and Werner Ladders shows that many people don't use ladders safely, especially for Christmas decorating. Of 1,000 people interviewed, 52 percent say they have worked on uneven ground; 47 percent admitted reaching farther than they should; 38 percent said they hang decorations outside after dark; 36 percent said they use the top two steps of the ladder. About 20 percent admitted to drinking while climbing.

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This newsletter is informational and not legal advice. If you need legal advice, feel free to call us to set up a consultation.

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## THANKS FOR YOUR REFERRALS

I've repeatedly written here that I really appreciate your referrals. Most of our clients come from referrals from past clients, other lawyers, and doctors. Not only are referrals critical to the growth of the firm, but I take referrals as the highest compliment. I understand that when you make a referral, you're going out on a limb and taking your own risks by suggesting us so we try to treat all our clients in a way that reflects well on us and on you.

Sometimes clients remember who referred them to our office, and sometimes they don't. But when they do remember, I always do my best to personally thank those of you who made the referrals. Today, I'd like to specifically thank the following people for their recent referrals:

Dr. Mike Bandy

Glenn Doehring

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