



MJ *notes*

WE HELP PEOPLE WITH THE FOLLOWING CLAIMS:

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- Inadequate Security
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- Environmental Contamination
- Assisted Living Negligence
- Premises Liability
- Consumer Class Action
- Product Liability
- Pharmaceutical Claims
- Asbestos-Related Diseases
- Vehicle Accidents
- Construction Site Negligence
- Land Condemnation

If you have legal questions,
call us at **800-662-1234**.

**Martin
& Jones**
TRIAL LAWYERS

Landowners Entitled To Fair And Just Compensation

by Forest Horne

Recently you may have noticed an increase in road building and public works projects in your town. Whether the government is adding a by-pass, cutting a new road or expanding a community college campus, sometimes the government must "take" private property for the project. This "taking" of private property is called "condemnation" or "right of eminent domain." Essentially it means that the government is taking private lands for the public good. The law permits the government to do this, even if the owner does not want to give up the land.

The Constitution and state laws, however, provide that the government, when taking private property for the public good, must pay the landowner fair and just compensation for his land. Frequently what the government believes is fair compensation is far different from what the landowner believes is fair. When this happens the government will file a condemnation lawsuit, and the owner is entitled to ask a jury to decide what is fair and just compensation.

The condemnation process varies depending on the government entity involved and the character of the property being condemned. In general, an agent for the condemning organization ("condemnor") will approach the landowner to discuss the value of the land. The condemnor will usually obtain an appraisal of the land from an appraiser who has worked with them before. With the appraisal in hand, the owner is typically offered the appraised value. If the landowner and condemnor cannot agree that the appraised value is fair compensation, then the condemnor will usually file a lawsuit against the landowner. The landowner must respond to the lawsuit within a certain period of time or the offer is deemed accepted,

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and the landowner is forever barred from arguing that he did not receive just compensation for the land.

Just compensation is supposed to be the fair market value of the taken property. Fair market value is defined as the amount of money a landowner would receive if he sold the land at its highest and best use. The most common way to determine if the government has made a fair offer is to compare its appraisals with appraisals obtained privately.

Sometimes when only a small piece of land is condemned it can result in a decrease in the value of the remaining land. If condemnation of a portion of land results in the value of the rest of the land decreasing, then a landowner may be entitled to additional compensation for the damage to the remainder of the property.

Land condemnation is a complex area of law. There are a variety of statutes and prior court rulings that determine how land is to be condemned and how much a landowner may be entitled to receive. Each case is unique. Landowners have certain deadlines and required filings depending on the type of condemnation involved. There are time limits, called Statutes of Limitation, in which a landowner must respond to the condemnation proceeding or he loses the right to challenge the amount of compensation paid.

Martin & Jones Protects Landowners' Rights

The North Carolina Land Law Center is a part of Martin & Jones that represents landowners in condemnation cases. The purpose of the Land Law Center is to protect the rights of North Carolina landowners and ensure they receive fair compensation for their property. The North Carolina Land Law Center handles condemnation cases from preliminary negotiations to settlement or jury verdict.

The attorneys and staff of the Land Law Center represent landowners during all phases of the takings process. We work with expert appraisers, engineers, surveyors, realtors, developers, and land planners to assure that land is fairly valued at its highest and best use.

The North Carolina Land Law Center at Martin & Jones represents clients on a contingent attorney fee basis. We charge an attorney fee only if we recover **more** for the landowner than the government originally offered. For example, if the government's initial offer is \$100,000 and we obtain a settlement or a jury decides the value of the land is actually \$500,000, then the attorney fee is based on the difference between the initial offer of \$100,000 and the settlement or verdict of \$500,000.

The 19 attorneys and more than 45 other professionals at Martin & Jones have been dedicated to protecting people's rights for more than 20 years. The Land Law Center of our firm is led by experienced attorneys, including Spencer Parris, Forest Horne, Mike Riley and Julia Dixon. A team of paralegals trained in litigation and real estate law support our land condemnation lawyers.

If you, family or friends need legal advice or counsel on any condemnation matter, please give us a call.


North Carolina
Land Law Center
EMINENT DOMAIN
LAND CONDEMNATION
RIGHT-OF-WAY

Protecting Landowners' Rights

MJ

A NEWSLETTER FROM THE LAW

Work Injuries Have Reporting Requirements

By Tammy Nance

The North Carolina Workers' Compensation Act has strict guidelines regarding the reporting of work injuries. When a claim is denied, more often than not one of the reasons cited by the insurance company for the denial is the failure of the employee to timely report the injury. By understanding and complying with the reporting requirements, an employee can avoid the long legal process of proving that the injury entitles him to compensation from his employer.

The Workers' Compensation Act (G.S. Section 97-22) states that "every injured employee . . . shall immediately on the occurrence of an accident, or as soon thereafter as practicable, give . . . to the employer a written notice of the accident. . . ." While the Act calls for written notice, if the employee immediately reports the injury verbally to his supervisor, he has satisfied the reporting requirements.

The purpose of this notice requirement is to allow the employer to provide immediate medical treatment and to investigate the facts surrounding the injury. When the employee fails to immediately report the injury verbally or in writing, the employer and/or insurance company often suspect that the injury occurred outside of work. Therefore, it is very important that the employee report the injury to his supervisor immediately, regardless of how minor it may seem at the time.

*Report any injury
to a supervisor
as soon as possible.*

If the employee fails to give notice of his injury immediately, he is not entitled to medical treatment or compensation through his employer until he does give notice to the employer. If, however, he does not give written notice of his injury within 30 days of the accident, his claim can be barred altogether, unless he is able to show that he had a reasonable excuse for failing to give notice, and that the employer was not prejudiced in its efforts to investigate the claim or direct the medical treatment by the employee's failure to report the injury.

It is often difficult to prove a reasonable excuse for failing to report an injury. To avoid these pitfalls, it is always best for the injured worker to go directly to the supervisor and make a specific report of injury, even if immediate medical attention is not required.

*File a Form 18
with the Industrial
Commission.*

In North Carolina, in addition to reporting an injury to the employer, the employee also needs to report the injury to the Industrial Commission, on a Form 18. The employer will file its own report of injury on a Form 19, but the employer will not file a Form 18 for the employee. That form must be filed by the employee. Failure to file the Form 18 with the Industrial Commission within two years of the date of injury can result in outright denial of a workers' compensation claim. A Form 18 may be obtained from the Industrial Commission, or by calling our office at 1-800-662-1234.

These materials have been prepared by Martin & Jones for informational purposes only and are not to be considered legal advice.

HOYT TESSENER FIGHTS FOR HIS CLIENTS' SAFETY

A nine-year-old girl goes swimming for the first time in a plastic pool bought the night before by her grandparents. As she goes up the molded ladder, she holds the rail. Due to a design defect the screw saws through the rail. The rail breaks and the young child falls onto the upright jagged edge. The edge injures her severely in a most sensitive area. Hoyt not only obtains the money necessary to cover her medical care, but also forces the manufacture to redesign the pool according to his expert's recommendations.

An ex-football player works as a bouncer at a bar. When he tries to do his job and stop a fight, a customer stabs him. Hoyt learns that the bar management has knowingly allowed the customer to enter the bar with the weapon. After Hoyt obtains the largest verdict in Franklin County history for his client, he has the troublesome bar shut down.

A young mother leaves work at a nearby mall at 11:30 p.m. The mall makes her park about a mile away and does not provide an escort to see her safely to her vehicle. Additionally, employees must exit side doors that lock automatically behind them. As she leaves work, she notices a car full of predators circling the mall. She hurries to her car, but it is too late. She is attacked. Hoyt forces the mall to compensate her for her anguish and to provide escorts for employees walking to their vehicles.

When you look at our logo, Martin & Jones, and see the description "Trial Lawyers", you may cringe. Politicians, insurance companies, doctors and corporations routinely assault trial lawyers. They tell you that trial lawyers are responsible for rising insurance costs and doctors leaving the state.

After a period of time, even we trial lawyers feel beaten down. When I feel beaten down, I remember what my friend, Gerry Spence, a famous trial lawyer from Wyoming says, "Trial lawyers are the warriors for the people." People in power strive to turn the people against their warriors. We trial lawyers must fight even for those who fight against us.

What good are trial lawyers? We make insurers pay losses when they are due. We force automakers to design safer cars, require polluters to clean up the environment, and make tobacco companies stop marketing their products to children. Trial lawyers stop sexual predators in therapists offices, hospitals, work places and churches. We stop the use of dangerous drugs, products and activities. Trial lawyers influence product safety and professional conduct.

In an ideal world, product safety and professional conduct would not need the supervision of trial lawyers. Greed would not motivate corporate officers. Insurance companies would put people above profits. All companies would operate, as many do, consistent with our morals, our environment and our expectations, and still make a profit.

It is interesting that many who seek to dismantle our justice system are the first to use it. Many legislators and corporations support tort "reform" except when they become the victims of wrongdoing. When they become a victim of wrongdoing, they do not hesitate to turn to the courts with a demand for justice, illustrating hypocrisy at its worst.

Those who attack civil justice do not understand that they attack the legal system that protects them. When we stop and think, we realize that our justice system sets us apart from all other countries. It is why America remains a shining beacon to people all over the world.

The next time you are confronted with a statement about trial lawyers, put you or your family member in the position of someone who has been wronged. Who will you turn to for help? The next time you hear about the evils of "Trial Lawyers," think of the alternative. Without trial lawyers, who will protect us.

How Much Car Insurance Should You Have?

Most of us do not think about the amount of insurance we have and certainly not how much insurance someone else has - until we need it. There are several types of insurance that you can purchase for your automobile: liability, collision, comprehensive, medical payments, uninsured, and underinsured.

North Carolina law requires you to have liability insurance. Everyone must have minimum liability insurance coverage of \$30,000 per person up to 60,000 per accident. Liability insurance pays anyone hurt or damaged as a result of your negligence up to the policy limits.

Other types of insurance are voluntary. Collision coverage pays you for your damages when you are negligent. If a claim is made under liability or collision insurance, your insurance premiums will increase. Comprehensive coverage reimburses you for property damage due to a true accident, such as a tree falling on your car. Medical payments coverage reimburses you and anyone in your vehicle for medical expenses up to the coverage limits. Uninsured motorist coverage pays you if a negligent driver injures or damages you and does not have any liability insurance. Underinsured motorist coverage pays you if the negligent driver does not have enough liability insurance. If you make a claim under comprehensive, medical payments, uninsured, or underinsured motorist, your insurance does not go up. As you can see, your insurance premiums do not increase if you or someone driving your vehicle is not at fault.

On an annual basis, sit down with your insurance agent and review your policy coverages. Ask questions about how much coverage is needed and how much it costs. Always ask what the insurance company is charging new customers for the same coverage. Many times insurance companies charge new customers less than long-time customers. Their statistics show that if they get you signed on, odds are you will never leave.

We recommend that you have a minimum of \$100,000 in liability, uninsured and underinsured coverage. You should also have at least \$5,000 in medical payments coverage. The increased liability coverage protects your assets. The increased uninsured and underinsured will protect you, your passenger and your family members from uninsured and underinsured drivers.

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A NEWSLETTER FROM THE LAW OFFICES OF MARTIN & JONES

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