



# MJ *notes*

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**MARTIN & JONES**  
PLLC

*Attorneys at Law*

## Post Claim Underwriting Can Leave You Without Insurance

*By Hoyt G. Tessener*

Post claim underwriting is something you hope to never hear. Underwriting is the insurance company's process of determining the likelihood of making a claim. The insurance company uses the underwriting process to presumably set its premiums. In other words, the underwriting process is the insurance company's attempt to assess your risk. The insurance company determines your risk and sets its premiums to insure a profit.

Post claim underwriting involves underwriting after a claim is made. Instead of going through the time and expense of assessing your risk at the time a policy is purchased, in post claim underwriting, the insurance company waits until after you make a claim to determine your risk. For example, suppose you complete a health insurance application and indicate that you had never previously suffered any chest pains. Two years later, you have a heart attack and must have open-heart surgery. After the surgery you are faced with hundreds of thousands of dollars of medical bills. The insurance company then documents post claim underwriting and determines that 5 years before the application you had mentioned to your family doctor that you had shortness of breath. The insurance company then denies your claim and rescinds your policy. The insurance company returns your premiums but states that you were not properly insured.

Of course, right at the time you are fighting for your life and facing astronomical medical bills, you learn that you no longer have insurance. The tremendous benefit to post claim underwriting allows insurance companies to avoid the expense of proper underwriting at the time the policy is completed and allows it to cancel any policy upon which it has to pay a claim. The insurance company seeks to avoid the very risk it insures.

Post claim underwriting typically happens in life insurance and disability policies. It can also arise in health insurance policies. It is very important that you are careful in completing your application. In some instances, the insurance agent, who purportedly works for you, is actually an agent for the company. The agent may complete the application policy in a way that allows the policy to be written. The agent has an incentive that the policy be written so that the agent gets the commission. Whenever you are filling out a policy either audiotape the conversation with the agent, or at least make sure someone else is with you.

## Non-Profit Organization Gives Kids a Chance

Kids' Chance of North Carolina makes a significant difference in the lives of North Carolina families affected by tragic work injuries. Established in 2004, the mission of Kids' Chance is to provide educational scholarships to the children of North Carolina workers who have been catastrophically or fatally injured in work-related accidents.

Originally established in 1988 by the Workers' Compensation Section of the Georgia State Bar, Kids' Chance programs have been organized in 27 states, including North Carolina. As each state funds its own programs, all funds raised in North Carolina benefit North Carolina students. Scholarship funds are donated by individuals, groups, organizations, foundations and medical, legal and other professionals. Other funds originate from special activities organized by volunteers, such as an annual silent auction and an annual golf tournament.

Scholarship awards vary for high school, technical school and college depending on the needs and educational expenses of the student. Scholarships may cover tuition, books, housing, meals, transportation, and/or supplement the income of the family to compensate for money the student would earn by dropping out of school. Any student between the ages of 16-25 whose parent's on-the-job injury or death resulted in a substantial decline in family income is eligible. The applicant must meet adequate academic standards set by the selection committee.

You may contact the organization in writing at Kids' Chance of North Carolina, P. O. Box 470426, Charlotte, NC 28247-0426, by email [info@kidschancenc.org](mailto:info@kidschancenc.org), or by phone at 704-264-9111.

You may also find a link to the Kids' Chance of North Carolina's website by visiting the "Community Involvement" page on our website [www.MartinandJones.com](http://www.MartinandJones.com).



## Attorneys and Staff Celebrate With Children at Masonic Home

Martin & Jones attorneys and staff once again had the privilege of sharing a Christmas celebration with some very special children at the Masonic Home for Children at Oxford. Allison Rogers, claims adjuster for the workers' compensation practice area, has organized this gift-giving event on behalf of Martin & Jones for a decade.

"I'm not sure what to say," Allison said, "except this is what Christmas is about—making kids happy and giving without reserve. It's all from the heart."

Chris Richardson, Director of Financial Development for the Masonic Home, honored Allison and Martin & Jones for ten years of support with a plaque recognizing the firm as a "Super Santa." The plaque reads, "Proudly given from the family at MHCO, with all the love and joy of Christmas."

The plaque was presented just before sharing a traditional Christmas meal with all the residents of Masonic Home and all the other donors. After dinner, the staff of Martin & Jones enjoyed watching six girls and four boys gleefully open presents.

"This is like Christmas morning to me," explained Allison. "Kids are tearing

open gifts and running around showing their friends what they got. It is just the best!!

Chris described the night as "one of the most wonderful evenings on our campus all year. For these three hours, which pass so quickly, it is an excitement-filled, paper-ripping, dessert-eating frenzy centered around our kids and you, our friends and donors."

Fifteen-year-old Jordan may have best expressed the emotion of the evening. He said, "This was my best Christmas ever. I will never forget it. I wish I could wrap it up and do it all again."

Hoyt Tessener, a partner at Martin & Jones, agreed, saying, "The Masonic Home provides such a wonderful environment for these children in need. It is a joy to share in the Christmas spirit. It is truly a highlight of our Christmas Season."

According to its website, the mission of the Masonic Home for Children at Oxford is "to assist families in need by providing a safe, home-like setting for children until they are reunited with family or achieve independence."

## Juries Hold Accutane Manufacturer Responsible

by Greg Martin

Accutane is a synthetic form of vitamin A approved by the FDA in the 1980s for the treatment of serious, nodular acne. Because of its high toxicity and serious side effects, Accutane was intended to be used as a “drug of last resort” to prevent scarring in the most severe acne cases, but after approval the drug became widely used in less severe cases. The side effects of Accutane include serious birth defects, and the FDA required users of Accutane to enroll in a patient registry for that reason. (The only other drug that has ever required a patient registry was Thalidomide.)

In addition to a long list of less serious side effects, Accutane has been implicated in causing inflammatory bowel disease (ulcerative colitis), a serious condition involving open sores in the bowel which can cause diarrhea, bleeding, and other abdominal problems. In severe cases, surgery to remove part or all of the colon is necessary to treat the effects of the drug.

The manufacturer of Accutane, Hoffmann-La Roche, is part of an international conglomerate known as “the La Roche group” with operations in 150 countries. Roche is one of the largest pharmaceutical companies in the world and for many years Accutane was one of its top sellers, with estimated annual sales exceeding \$1.2 billion. Accutane has been the subject of extensive litigation in recent years, and Roche

voluntarily removed the drug from the market in November 2009, primarily as a result of adverse verdicts against the company.

In May 2007, a patient who required colon surgery after taking Accutane obtained the first verdict against Roche in the amount of \$2.5 million. That judgment was followed in October 2007 by a verdict of \$7 million in favor of a man who had his colon removed after taking the drug. In April 2008, a 24-year-old woman who had part of her intestines removed received a \$10 million verdict against Roche. The most recent case, tried in February 2010, resulted in a \$25 million verdict for the plaintiff. Although Roche has vowed to appeal, those verdicts have so far all been upheld.

Martin & Jones has more than 20 years experience successfully handling pharmaceutical cases against some of the largest drug companies in the world, including A. H. Robins (Dalkon Shield), American Home Products (Fen-Phen), Warner-Lambert (Rezulin), Wyeth (Reglan), Merck (Vioxx), Eli Lilly (Permax), and Bayer (Trasylol). If you or a loved one suffered ulcerative colitis after taking the drug Accutane, Martin & Jones can help. You can call toll-free to speak to us by telephone at 1-800-662-1234.



### Greg Parent Joins Atlanta Office

Greg was born in Texas but grew up in Fayetteville and Gastonia, North Carolina. He received his undergraduate degree in journalism from the University of North Carolina at Chapel Hill in 1992, and earned his law degree from UNC School of Law in 1998.

Prior to earning his law degree, Greg worked as an insurance claims adjuster and served on a national catastrophe response team in both 1994 and 1995. After law school, Greg made Atlanta his home and for more than 11 years focused his law practice on insurance defense matters. SuperLawyers recognized Greg in 2005 as one of Georgia's Rising Stars.

Feeling the need to refocus his practice to helping individuals and their families, he joined the Atlanta office of Martin & Jones in 2009. Greg welcomes the opportunity to put his many years of experience in the insurance industry to use representing people in their personal injury and property damage claims.

He lives in Atlanta with his wife, son and daughter.



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