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Martin & Jones Would Like To Hear From You

Have you visited the Martin & Jones website lately? We recently updated the design and are always working to make the website easier to use and the content as helpful as possible. Our website is now mobile friendly as well. You can use our website to get directions to our offices on your mobile phone. If you think of something you'd find helpful on our website, please let us know. Send your idea to email@m-j.com or call 800.662.1234.

You can also find Martin & Jones on Facebook, Google+, Twitter and LinkedIn. Find links to these social media sites at the bottom of our website. We'd love for you to like and follow us, even give us an online review so that others can read how we've helped you. Referrals are the greatest compliment, and we appreciate the trust and confidence you demonstrate when you recommend a family member, friend, colleague, client or patient to Martin & Jones. Visit www.MartinandJones.com today.



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NEWSLETTER

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If you have legal questions, call us at:
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A NEWSLETTER FROM THE LAW OFFICES
OF MARTIN & JONES, PLLC

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WE HELP PEOPLE WITH THE FOLLOWING CLAIMS:

- Trucking Accidents
- Car & Motorcycle Accidents
- Wrongful Death
- Medical Malpractice
- Nursing Home Abuse
- Traumatic Brain Injury
- Harmful Products
- Defective Prescription Drugs
- Mesothelioma
- Asbestos-Related Lung Cancer
- Railroad Injuries/FELA
- Construction Site Accidents
- Workers' Compensation
- Insurance & Investment Fraud
- Small Business Litigation
- Whistleblower Lawsuits
- Wrongful Conviction/Civil Rights
- Consumer Rights

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

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Please Welcome Our Newest Attorney – Karl Amelchenko

Martin & Jones is pleased to announce that Karl Amelchenko has joined the firm. Karl's practice will concentrate on professional malpractice, personal injury and wrongful death, trucking accident litigation, products liability and other complex litigation including qui tam, class action and mass torts. Karl is a member of both the American Association for Justice and the North Carolina Advocates for Justice. He has been recognized annually since 2013 by Super Lawyers as a Rising Star. He is licensed to practice law in North Carolina, Kentucky and Tennessee.



Karl obtained dual undergraduate degrees in philosophy and political science from the University of North Carolina at Wilmington, focusing in the areas of formal logic and international political economy. Karl earned his law degree from Wake Forest University, where he captained the American Association for Justice Trial Team. He also earned the Roger Goldberg Award in Trial Advocacy, which is awarded annually to a Wake Forest law student who shows the highest aptitude and ethics in trial advocacy.

After completing law school, Karl began his legal career working for a large, prestigious defense firm in Memphis, Tennessee. He quickly realized, however, that he was ill-suited to represent large insurance companies, hospital corporations, and Fortune 500 companies. Karl wanted to represent people who had been harmed or otherwise wronged by the types of clients he had represented in Memphis. Therefore, he voluntarily gave up his job in Memphis and moved back to North Carolina in search of an opportunity to represent plaintiffs. Before coming to Martin & Jones, he worked with one of North Carolina's preeminent plaintiff lawyers, where he successfully represented people who had been seriously harmed by medical malpractice and other negligence. Since 2013, Karl has co-hosted The American Association for Justice Student Trial Advocacy Competition, a yearly national mock-trial competition for law students.

In his free time, Karl enjoys both recording and listening to music, running through Umstead Park with one of his Belgian Malinois dogs, cooking, golf and waiting for Liverpool Football Club to end their drought and win another league title.



Martin & Jones Obtains \$6.9 Million Settlement for Paralyzed Victim of Tractor-Trailer Crash

Martin & Jones recently recovered \$6.9 million for a client who was catastrophically injured in a motor vehicle collision involving a tractor-trailer that occurred in December 2013. Our client, who was 23 years old at the time of the accident, was injured when he ran into the back of a tractor-trailer stopped in the highway. The insurance company denied the claim outright before Martin & Jones became involved. While many details of the settlement remain confidential, our client was paralyzed as a result of the crash.

Our client was driving his Toyota Prius along the highway on his way to work, when a pickup truck traveling in front of him abruptly swerved into the other lane. Our client didn't see the stopped tractor-trailer that the pickup swerved to miss and had no time to avoid crashing into the back of it. The tractor-trailer was stopped in the travel lane in the early morning hours without any warning or hazard triangles placed to alert other motorists. The big rig driver brought his truck to a stop in the highway because of a minor accident with another motorist. The case settled just prior to trial.

The lawsuit was vigorously defended, with strong allegations of contributory negligence against the victim. Under North Carolina law, if a plaintiff bringing a lawsuit for injuries is found to have contributed to the incident that caused his or her injuries, that person would be entitled to nothing. North Carolina is one of only a handful of states in which such a doctrine remains.

Injury claims involving commercial trucks and commercial trucking companies are significantly different than injury claims involving standard automobiles. Both state and federal laws are implicated in such cases, and the insurance relationships tend to be much more complex. In this case, Hoyt Tessener, Forest Horne and Hunt Willis represented the client.



A NEWSLETTER FROM THE LAW OFFICES OF MARTIN & JONES, PLLC

What Happens When You Are Injured at Work and There Is More Than One Employer

By Steven Corriveau

When an employee is hurt while providing a service to more than one employer, a common question is which employer should be responsible for paying workers' compensation benefits to the injured employee. This issue usually arises when the injured employee is working through a staffing agency or temporary employment agency, or when there are multiple employers on a job site.

The North Carolina Court of Appeals recently provided some clarification on the issue of "joint employment" and "lent employment." In *Whicker v. Compass Group*, the court explained that joint employment occurs where an employee is (1) under contract with two employers, (2) under their simultaneous control, and (3) where the service being provided is for the benefit of both employers. In that case, both employers are responsible for paying workers' compensation benefits to the injured worker.

The lent employment doctrine applies where one employer lends its employee to another employer, called the "special employer." In that situation, the special employer will be liable for paying workers' compensation benefits if: (1) the claimant has entered into a contract with the special employer, (2) the work being performed is "of the same nature" as the work performed by the special employer, and (3) the special employer maintains the right to control the manner and details of the work being performed. If all three elements are met, both employers may be liable for workers' compensation benefits.

Both of these tests for determining who is responsible for paying benefits requires a contract of employment



between the employee and the second employer. That contract may be implied, so a written contract is not necessarily required. Often, our courts look to the contract between the direct employer and the second employer to determine whether an implied contract exists. In *Whicker*, the contract between the direct employer and the second employer stated that personnel, including the injured employee, would be employees of the direct employer. Based in large part on that contract, the court held that there was no implied contract between the claimant and the alleged second employer. Accordingly, the direct employer was responsible.

These legal doctrines are important to employees who believe their injuries were caused by the negligence of a second employer, or one of the second employer's employees. If the court finds that both employers are responsible for workers' compensation under one of these tests, then the employee is probably barred from bringing a personal injury lawsuit against the second employer. Generally, if an employer is liable for workers' compensation benefits, workers' compensation is the injured worker's only remedy against that employer.

Medical Errors are the Third Leading Cause of Death in America and the North Carolina Legislature Doesn't Care

By Karl Amelchenko

In a recent study published in The BMJ (formerly the British Medical Journal), one of the foremost medical journals in the world, two researchers from Johns Hopkins concluded that medical errors account for more than 250,000 deaths every year in the United States. This places these preventable errors as the third leading cause of death for Americans, behind only heart disease and cancer.

Why this is the case and what can be done to prevent these numbers from growing are the most important questions this study attempts to answer. The authors present their arguments for improving outcomes, including better reporting requirements when adverse events occur, standardization of healthcare delivery and better sharing of information gathered via investigations of known errors. Along with these ideas to improve the system, the study also provides a brand new opportunity to reflect on the scope of the disastrous "tort reform" legislation enacted by North Carolina lawmakers in 2011.

Most troubling in our current law, enacted in 2011, is the \$500,000 cap on non-economic damages. For the non-lawyers reading this, think of economic damages as lost wages and medical bills, and non-economic damages as "pain and suffering." By capping non-economic damages, what the Legislature is saying to all North Carolina citizens, is that the life of a person killed by medical negligence who was paid a high salary is worth more than the life of someone who was also killed by medical negligence but wasn't paid as much. This charade, passed under the guise of "lowering insurance premiums" and "stopping a mass exodus of doctors from our state," does neither, but in reality disproportionately affects women, children, the elderly and others who either have no income or are paid less than their male counterparts.

By taking away these individuals' access to the courts, our legislators have sent a clear message – they are more concerned with protecting insurance company profits than the rights of North Carolinians whom are negligently injured. In a rational world, it would seem that lawmakers would see this study, process that medical negligence was the third leading cause of death for those they've been elected to represent, and move to address their earlier mistake. As it is, don't hold your breath.