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## Focus on Safety While Traveling with Tractor Trailers This Holiday Season

The Federal Motor Carrier Safety Administration shares these tips for driving safely around large trucks. **Stay out of the “no zones”** – the blind spots around the front, back and sides. **Pass safely.** Make sure you see the driver in the mirror before passing. Signal clearly and pass promptly and don’t linger in the blind spot. Be sure you can see the truck in your rear mirror before pulling back in front. AVOID passing on a downgrade where trucks tend to pick up speed. **Don’t cut it close.** Cutting in too close is especially dangerous and the truck may not be able to slow quickly enough to avoid a crash. **Stay back.** Don’t tailgate a truck. Not only will you be in their blind spot, but also if you fail to stop in time, your vehicle could slide under the truck. **Anticipate wide turns and be patient.** **Buckle up and stay focused.** Driving distracted can be the same as driving impaired. **Don’t drive fatigued and never drive under the influence** of alcohol or drugs.

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NEWSLETTER

If you do not wish to receive this newsletter, please call Martin & Jones toll-free at 1-800-662-1234 and request to be removed from our mailing list. Or, if any of your contact information changes, please let us know so that we can be sure this and other mailings reach you.

If you have legal questions, call us at:  
**800-662-1234**  
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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
- 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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## Most Cited Violations Remain Largely Unchanged in 2017

The Occupational Safety and Health Administration (OSHA), an agency of the United States Department of Labor, is responsible for assuring safe working conditions and enforcing safety standards throughout the country. Each year, OSHA publishes a list of the top ten most cited violations of their standards. For fiscal year 2017, the top violations were virtually the same as 2016, with the exception of Fall Protection – Training cracking the top 10. The most cited violation, for the sixth year in a row, was Fall Protection – General Requirements, with 6,072 citations issued. For context, the next most cited violation was Hazard Communication, with 4,176 violations.

Fall-related injuries were already three (scaffolding, ladders, and fall protection-general) of the top ten over the last decade, and now these violations amount to nearly half of the most commonly issued OSHA citations.

“Fall-related injuries are some of the most common that we encounter in our practice,” noted workers’ compensation attorney Steven Corriveau. “Often, these are injuries that could have, and should have, been prevented through better protection and safety practices. Unfortunately, these injuries are also often some of the most severe that we come across.”

OSHA is authorized by federal law to issue workplace health and safety standards, which covered employers are responsible for abiding by. Employers are also responsible for complying with the General Duty Clause, which requires employers to keep their place of employment “free from recognized hazards that are causing or are likely to cause death or serious harm.”

OSHA is also responsible for enforcing its standards on covered employers, and violations are met with citations and fines. Inspections are routinely performed for high-hazard industries or worksites with higher rates of injury and illness and may also be triggered by a workplace fatality, hospitalizations, and complaints.

The top ten list is published annually to give employers “a place to start for finding and fixing hazards,” and “to address the biggest safety risks facing their employees.” According to National Safety Council President and CEO Deborah Hersman, “the OSHA Top 10 is more than just a list; it is a blueprint for keeping workers safe.”





## What Is Underinsured Motorist Coverage? How Much Should I Have?

How much insurance you should have in place to protect yourself and your family can often depend on your household valuables, net worth, and other similar details. However, there is one type of auto insurance that is a no-brainer, and it's called "Underinsured Motorist Coverage." Second only perhaps to health insurance, underinsured motorist coverage is likely the most important type of insurance protection available to you and your household.

Motor vehicle wrecks consistently remain one of the top five leading causes of death or serious injury among most age groups in the United States. Thus, the chances of a person needing protection from a catastrophic motor vehicle injury are much higher than other categories of unintended injury. This is fundamentally why most states require auto insurance, so that there are some basic protections in place when an unsafe driver inevitably hurts another motorist.

Underinsured motorist protection works like this: If you or a member of your household/family is harmed by the carelessness of another motorist, your underinsured motorist protection could potentially protect you up to your policy limits. That's right; your own insurance policy can protect you even when it was somebody else's carelessness. One of the single most important benefits when using underinsured motorist protection in North Carolina is that you control the coverage. The minimum amount of liability coverage a motorist must carry in North Carolina is only \$30,000. This is drastically inadequate for many serious injury claims, usually not even covering medical expenses.

Importantly, this is not a technicality or a "loophole." People may at first hesitate when using their own policy to cover harms caused by someone else. But this is a benefit that you pay for, it's not free. The next time you review your insurance policy bill, take a look at the underinsured motorist protection benefits listed there. It will most assuredly have a premium associated with that benefit. This is a benefit that you pay for as part of your overall premiums in your policy.

Additionally, when using these benefits, your premiums will not automatically increase. That's because the triggering event for your underinsured motorist coverage is somebody else's carelessness, not your own. As a general rule, your



By Hunt Willis

insurance rates should only be increased by your insurance company when you or a policy holder becomes an increased risk to insure, like getting a traffic citation or causing a collision.

We encourage all of our clients to carry a minimum of \$100,000 in underinsured motorist benefits. In North Carolina, this benefit even extends to you and members of your household even if you're not inside your own vehicle. As long as another careless motorist is what caused the harm, you can look to your own underinsured benefits for protection.



## Helping Students in Need Start School Year Off Right

Martin & Jones has been participating in the Back to School with Pride Backpack Project sponsored by the Friends of the Guardian ad Litem Program since 2007, and most of that time under the leadership and coordination of Wendy Kriebel who works as a claims administrator in the firm's asbestos claims practice area. This year, Wendy collected enough donations to fill 45 backpacks

## Can You Sue The Military For Medical Malpractice?

Millions of Americans receive their healthcare through the military. For example, service men and women and their families typically receive medical care at a hospital, clinic or other medical facility operated and staffed by the military. The vast majority of the healthcare providers in such facilities are either on active duty themselves or employed by the government.

People injured by medical malpractice at military medical facilities may be entitled to obtain compensation, and military medical malpractice claims arise under the Federal Tort Claims Act (FTCA). Under the FTCA, the responsibility for military malpractice rests with the federal government, and as a result, the defendant in FTCA cases is the United States government instead of the individual medical provider. If you feel that you have been injured by medical malpractice at a



By John Alan Jones

military facility, you must file an administrative claim (Standard Form 95) within two years of the medical malpractice. The Attorney General of the United States and an appropriate United States District Attorney must receive notice of the claim,

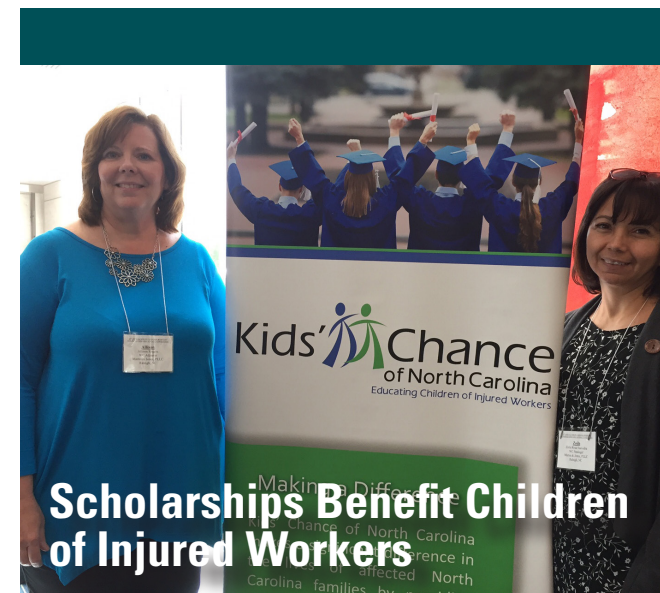
and that claim must specify an exact amount of compensation being sought. After your administrative claim is filed, there is a six-month window within which the government may conduct its investigation. If the government does not complete its investigation and reach a decision within six months, the injured person can then file their FTCA claim in federal court.

Generally speaking, military dependents and/or family members who are not active duty can file a medical malpractice claim under the Federal Tort Claim Act if they are injured by medical malpractice of a military and/or government healthcare provider.

However, "active duty" military personnel cannot recover for medical malpractice of a physician, nurse or other healthcare provider if that provider was on active duty or an agent of the United States government. Active duty military personnel do not have a medical malpractice claim, even if they are injured by malpractice, under a body of law known as the Feres Doctrine. The Feres Doctrine bars claims against the federal government by members of the armed forces.

There are rare exceptions to the general rule that active duty military personnel cannot recover for medical malpractice, and the laws concerning these exceptions are very complicated. For example, active duty personnel who are injured while receiving medical care at a non-military facility may have a malpractice claim outside of the FTCA government.

Military medical malpractice claims arising under the Federal Tort Claims Act are governed by a strict two-year Statute of Limitations. If a claim is not filed before the Statute of Limitations expires, it is forever barred.



## Scholarships Benefit Children of Injured Workers

Martin & Jones is pleased to be a sponsor of the fundraising auction for Kids' Chance of NC, a non-profit group that provides school scholarships to children of injured workers. The auction takes place at the NCIC Workers' Compensation Educational Conference in October. Case managers Allison Rogers and Zoila Saavedra attended. Learn more at KidsChanceNC.org.