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MJnotes

### Summer flies by...



We are grateful Kelly and Andrew shared some of their summer break with us.

Martin & Jones had two wonderful interns this summer. For the first part of the summer, rising third year law student Kelly Elder worked with the medical malpractice group. After finishing her summer with a second internship in Connecticut, Kelly headed back for her third and final year of law school at George Washington University. Kelly said she reached out to Martin & Jones because her family had been a client and she wanted "to learn litigation tactics and skills from some of the best legal minds in North Carolina."

Rising high school senior Andrew Withrow worked part time for six weeks of his summer as well. "He's been a huge help! Very perceptive and intuitive," noted Esther Sanchez. Andrew worked with Esther in the asbestos claims group doing scanning and filing.

MJnotes  
NEWSLETTER

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**WE HELP PEOPLE WITH THE FOLLOWING CLAIMS:**

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- 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
- Consumer Rights
- Burn & Explosion Injuries

### Traumatic Brain Injury – The Frequent and Sometimes “Invisible Injury”



By Forest Horne

According to the Centers for Disease Control and Prevention (CDC), every year traumatic brain injuries (TBIs) are responsible for tens of thousands of deaths, hundreds of thousands of hospitalizations, and millions of emergency room visits. The CDC estimates that in the United States 1.7 million people sustain a TBI annually. Of those, 52,000 people die, 275,000 are hospitalized and nearly 1.5 million are treated in emergency rooms. About 75 percent of TBIs are considered “mild” brain injuries, but even mild brain injuries can lead to dysfunction and disability. Direct and indirect medical costs of TBIs total 60 billion dollars annually.

Traumatic brain injury legal claims are challenging and complicated. The injuries may not only be difficult for the injured person to notice, but also difficult for healthcare professionals to diagnose, and difficult to prove in court because the symptoms can be subtle and subjective. TBIs, however mild, can have a major adverse impact on a person's daily life. Our attorneys have helped clients who have suffered permanent and life-changing brain injuries resulting from medical mistakes, motor vehicle and tractor trailer collisions, falls and explosions at construction work sites, and other traumas.

Symptoms of TBI are similar to those from a concussion; however, a TBI is a more severe brain insult and the adverse effects are longer lasting. TBIs can range from the most severe such as those causing death, coma, paralysis, or seizures, to moderate or mild that cause more subtle effects, but no less life-changing, including cognitive changes, short-term memory loss, inability to concentrate or focus, headaches, difficulty reading, mood swings, dizziness, hypersensitivity to sound, sleep disturbances, and emotional and behavioral changes. While the most severe TBIs are obvious because of visible injuries to the head and neck, it is the mild brain injury that is often overlooked by healthcare providers and legal professionals. It takes time to diagnose, treat and recover from these conditions.

Any trauma to the scalp, skull or brain is considered a head injury and can range from a bump on the head to a penetrating type brain injury. A closed head injury occurs from a blow to the head that does not break or fracture the skull. Any head injury can

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## Traumatic Brain Injury

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cause a traumatic brain injury which would be classified as mild, moderate or severe. Most brain injuries are mild, but that does not mean they are not serious.

When most of us think of head injuries, we imagine fractured skulls and open head wounds. This is why mild brain injuries can be missed. Even if there is no visible trauma to the head, like a cut or bruise, the brain can be damaged in what are called “closed head injuries.” A closed head injury occurs when something strikes the head or jostles the brain but does not cause an open wound, or when a strong force – like a car accident – causes the head to jerk violently without hitting anything.

Although the skull protects the brain from most external forces, our soft brains have little protection against many types of violent forces and can suffer injury in a variety of ways. When the head is in motion and suddenly stops or is violently jerked in one or more directions, the brain can momentarily be compressed toward one side of the skull. You can literally “sprain” your brain. The shock these forces generate can cause bleeding of the brain, interrupt blood flow in the brain, damage connections between brain tissue and cause other types of brain trauma. Damaged brain cells can result in the formation of scar tissue that can impede the functioning of healthy brain tissue, and cause cognitive and functional disabilities.

The symptoms of a TBI usually depend on what part of the brain is injured and the degree of severity. A TBI can take weeks, months or years to heal, but can also be permanent. Most recovery from a severe head injury takes place within the first six months, and while improvement may continue for two years, there can be permanent impairments. Seizure disorders may develop as long as four years after a severe head injury.

It is important for those who have suffered a brain injury due to the negligence of another person to receive compensation for their brain injuries. Compensation ensures that an injured person is in the best position to obtain treatment of a brain injury and achieve the best recovery possible.

Here are some important considerations and steps to keep in mind if you are faced with a TBI:

- Pursuing a legal claim for negligent brain injury involves a thorough review and understanding of how the injury occurred.
- Seek prompt medical help from healthcare providers who are trained to diagnose and treat brain trauma.
- Obtaining a clear picture of who the injured person was before the accident and how he or she lived, worked, and behaved is needed in order to provide a clear idea of how that person and his or her life has changed as a result of the injury.
- What is more, the brain injured person may not even know it. That is why it is important to use family and close friends as historians to give “before” and “after” descriptions of the injured person.
- Vocational evaluation and neurocognitive testing may be required, as well as assistance from professionals such as a neuropsychologist, a life care planner and an economist. A biomechanical engineer may even be needed to explain how the brain injury occurred.

**This article originally appeared in the Brain Injury Association of North Carolina’s newsletter Strategies. Martin & Jones is a proud sponsor of BIANC and its mission.**

**“The BIANC is a 501(c)(3) non-profit organization and an affiliate of the Brain Injury Association of America. Founded in 1982 by families and concerned professionals, BIANC has a mission of offering help, hope, and a voice for people with brain injury and their families.**

**BIANC strives to create a better future for the approximately 200,000 North Carolinians living with brain injury through prevention, support, education, and advocacy programs.”**

## Driver Rear-Ended by Officer Receives \$1 Million

On June 12, 2018, a unanimous opinion by a panel of North Carolina’s full Industrial Commission affirmed a lower court’s award of \$1,000,000 in favor of a 79-year-old man who was seriously injured when he was struck by a speeding North Carolina Highway patrol officer in Halifax County.

On May 13, 2013, just outside the town of Roanoke Rapids, Wilson Jarrell was traveling west on Highway 158 toward his nearby home. Mr. Jarrell, who had lived in this neighborhood just outside the city of Roanoke Rapids his entire adult life, had just finished mowing the lawn of a local business on his small John Deere tractor. Mr. Jarrell finished mowing the lawn and headed west back toward his home, as he often did in this area.

As Mr. Jarrell was heading west, he pulled over to let several fire trucks pass him on the highway. Unbeknownst to Mr. Jarrell, a small car accident had occurred just up the road and the local volunteer fire department was responding. At about the same time that the fire trucks passed Mr. Jarrell, four members of the North Carolina Highway Patrol were conducting a routine license check point several miles away near Everett School Road. Having heard mention of the car accident over their radios, they decided to voluntarily respond. As the troopers made their way to where they thought the accident was, they came to know its exact location through a radio call from another trooper already on the scene.

As soon as they heard the new location, which was only a mile from where they were on Highway 158, Trooper Alston Lucas, a new member of the highway patrol at the time, performed a u-turn on Highway 158 and began speeding toward the location of the wreck. Trooper Luca accelerated his patrol car to speeds of at least 97 miles per hour in both a 45 mph and 55 mph rural highway. Unfortunately for Mr. Jarrell, who was still headed west on his way home and nearly to his driveway, Trooper Lucas violently crashed into the rear of Mr. Jarrell’s tractor. Mr. Jarrell’s body was ejected from the tractor and ultimately came to rest in a ditch off the roadway. He suffered terrible, permanent injuries, including multiple fractures of his ribs and spine, internal bleeding, and a traumatic brain injury.

Mr. Jarrell brought claims against Trooper Lucas and the North Carolina Department of Public Safety, which is the state agency that oversees the North Carolina Highway Patrol. In North



Hunt Willis



Steven Corriveau

Carolina, when a member of a state agency is responsible for harming a member of the public during the operation of his or her duties, North Carolina law requires that such claims be brought under the State Tort Claim Act. Under the State Tort Claim Act, the North Carolina Industrial Commission serves as the court of record and jurisdiction for all such claims. Our attorneys successfully pursued claims against the trooper and the department. On July 27, 2017, the North Carolina Industrial Commission, following two separate trials in the matter, awarded Mr. Jarrell the statutory maximum of \$1,000,000 in damages as a result of the incident.

The award was immediately appealed by the North Carolina Attorney General’s office, who represented the trooper and the Department of Public Safety in the case. On June 12, 2018, a panel of the North Carolina Full Commission affirmed in all respects the decision and award of the lower court, finding the trooper’s excessive speed and reaction that day amounting to both negligence and gross negligence and affirming the statutory maximum award to Mr. Jarrell of \$1,000,000. Mr. Jarrell was represented by Hunt Willis and Steven Corriveau.

Hunt noted, “Mr. Jarrell suffered devastating injuries and he is lucky to be alive. Our law enforcement officers do great and thankless work all across our state, but this case highlights the importance of following the safety protocols and department policies that are in place for a reason, which is to keep the public safe. It’s our hope that this incident can serve as a teaching point and learning experience for the trooper, and that it highlights the importance of following department guidelines when deciding to conduct dangerous patrol vehicle operations.”