



# MN MARASCO & NESSELBUSH LLP

## LAW OFFICES

Rhode Island's Trusted Personal Injury & Social Security Disability Law Firm

### AREAS OF PRACTICE

#### Personal Injury Law:

- ☞ Auto Accidents
- ☞ Medical Malpractice
- ☞ Motorcycle Accidents
- ☞ Wrongful Death
- ☞ Uninsured Motorist
- ☞ Premises Liability
- ☞ Alcohol Related Accidents

#### Social Security Disability Law:

- ☞ Social Security Disability Insurance (SSDI)
- ☞ Supplemental Security Income (SSI)

### FOUR CONVENIENT LOCATIONS

#### PROVIDENCE:

685 Westminister Street  
(401) 274-7400

#### WAKEFIELD:

231 Old Tower Hill Road, Suite 206  
(401) 783-0000

#### WARWICK:

51 Jefferson Boulevard, 3rd floor  
(401) 738-7700

#### WOONSOCKET:

2168 Diamond Hill Road  
(401) 762-9800

Free Parking, Easy Access

### ATTORNEYS

Joseph P. Marasco  
Donna M. Nesselbush  
Mariam A. Lavoie  
Joseph P. Wilson  
Mark H. Grimm  
Jennifer L. Belanger  
Paul E. Dorsey  
William Elderkin, Jr.  
A. Chace Wessling  
Timothy P. Lynch  
Jane R. Duket  
David H. Leveillee  
Kyle E. Posey  
Philip M. Weinstein, *Of Counsel*

*This newsletter is intended for current and former clients of Marasco & Nesselbush. We thank you for your many kind referrals, and for placing your trust and confidence in our firm.*

## SOCIAL SECURITY LAW

### How to Prove Your Depression is Disabling

Depression can disrupt a person's family life, work life, sleeping and/or eating habits. There are many causes of depression, including the loss of a loved one, loss of a relationship, poor health, a family history of the disease, and even vitamin deficiencies. Alcohol and/or drug use can also cause depression. Some suffer from depression with no clear cause.

Depression is not just feeling "down" occasionally. It is a persistent low mood that significantly affects a person's ability to function. Depressed people may find themselves preoccupied with negative thoughts, such as feelings of worthlessness, helplessness, hopelessness or guilt. Problems with memory, focus, concentration and sleep are common. Many depressed peo-

*Continued on page 3- Depression*



## SPECIAL ADVISORY TO CLIENTS WHO HAVE USED THE MEDICATION AVANDIA

Recently, UnitedHealthcare sent a letter and survey to all of its members who were prescribed the drug Avandia. The survey references cardiovascular injuries and asks whether you have retained an attorney if you believe your health has been compromised by use of this dangerous drug. UnitedHealthcare framed its survey as a means by which to contain its own costs by recovering your treatment expenses to reimburse itself. This would reduce your potential litigation award. Essentially, UnitedHealthcare is attempting to assert a lien or interest on its insureds' settlements. If you have used Avandia and have suffered adverse health consequences, to preserve your legal rights, please consult with us before discussing your Avandia case with UnitedHealthcare or any other health insurer.

As a service to our clients, we are pleased to offer free legal consultation to anyone who has suffered adverse consequences from Avandia, or to the survivors of those whose deaths may have been caused by, or related to, Avandia. We will help you determine whether your claim is legally viable. If you believe that you may have such a case, please call our Avandia specialist, Karen U., at (401) 274-7400 to request a complementary Avandia case screening.



## MEET OUR ATTORNEYS **Mark H. Grimm, Esq.**

**M**ark Grimm is an Associate Attorney who joined Marasco & Nesselbush in 2007. Attorney Grimm has practiced law for more than 25 years, focusing on civil litigation in the areas of personal injury and medical malpractice. He has

taught law at the undergraduate level and has contributed a chapter called “Creating a Discovery Plan” to the professional reference book *A Practical Guide to Discovery and Depositions in Rhode Island* (2010). He graduated with honors from Brown University and from Boston College School of Law.

### *What do you love the most about your job?*

I practice personal injury and medical malpractice law. The best part of this job is that it allows me to help people struggling after being harmed due to another’s carelessness. My clients often have very serious medical issues that have profoundly affected them, and they truly need assistance. When I achieve an award or settlement for them, it’s gratifying to know that I have helped to improve their quality of life. My work also serves to improve health care quality for everyone, in that it inspires physicians and hospitals to evaluate and change their practices in order to avoid additional lawsuits.

### *Think about a case that meant a lot to you.*

#### *What was it about that case that makes it stand out in your mind?*

I had a medical malpractice case against a dentist who had performed a root canal. The patient came back several

times, complaining he still had pain; the doctor kept telling him he just needed antibiotics. Finally the man returned with a swollen face and jaw. He was seen by another dentist in the practice, who realized that not only had the root canal treatment been performed on the wrong tooth, but that the patient now had an abscess requiring surgical drainage and treatment on an emergency basis, before the swelling caused him to stop breathing. The patient was seen at the hospital, which had difficulty intubating him. His throat closed up, preventing breathing. A tracheotomy was attempted, but the swelling made this difficult, and he died before his airway could be opened.

There were several errors, all of which were brought out during the lengthy trial. In the end, the simplest explanation for this man’s tragic death was the one the jury accepted. The dentist had not carefully examined the x-rays, had performed a root canal on the wrong tooth, and then failed to re-examine the area after the patient continued to complain of pain. A simple dental procedure became a life and death illness which tragically cost a 35 year old man his life. The dentist had not acknowledged his wrongdoing until the facts came out at trial. As he testified, I could see in his face a slow realization that he had caused his patient’s death. The jury found against the dentist. I am confident that this dentist will be more attentive to patients in the future.

### *What do you like to do when you are not practicing law?*

I enjoy playing keyboards in a local band. I also enjoy water skiing with my family.

“I WAS SELDOM ABLE TO SEE AN OPPORTUNITY UNTIL IT HAD CEASED TO BE ONE.” ~ Mark Twain

## **Rhode Island Traffic Deaths Increase Dramatically**

**T**he National Highway Traffic Safety Administration (NHTSA) reported recently that even as national traffic fatality statistics fell by 9.9%, Rhode Island traffic deaths rose by 28%. Based on the most recent data available, Rhode Island was one of only four states to experience an increase of more than 5%. Most other states reported significant decreases in traffic fatalities. According to NHTSA, 83 people died in traffic accidents in Rhode Island in 2009.

Experts speculate that a potential cause is Rhode Island’s continued relatively low seat belt use. Many of these deaths might have been prevented if occupants of vehicles had been wearing seat belts. Statistics indicate that 19 of Rhode Island’s traffic fatalities were not wearing seat belts. For safety’s sake, we urge everyone to buckle up every time they occupy a vehicle.

## Highway Accident Victim Receives \$900,000 Settlement

**M**arasco & Nesselbush recently recovered \$900,000 for a client involved in a horrible motor vehicle accident. The client, a young man in his twenties, was driving on a local highway one evening when his car was struck at a high rate of speed in the high speed lane. The collision caused our client's vehicle to crash into the Jersey barrier, after which both vehicles came to a stop in the road. When his engine caught fire, our client quickly exited, only to be struck by a second vehicle. His body was crushed upon impact, and he crashed through the windshield. Shockingly, the driver who hit him continued driving at full speed with our client embedded in his windshield. When the ambulance finally arrived, miles from the initial crash site, our client was barely conscious, severely injured and in unbearable pain.

Our client sustained multiple fractures to his face, nose, both legs and his right arm, as well as numerous cuts. Fortunately, he received extraordinary care from the trauma and orthopedic surgeons at the hospital, and he slowly recovered. Still the accident impaired his ability to perform his job and adversely affected his social and recreational life. The driver of the second vehicle, which shattered the body of our client, had no insurance and no assets. The insurance company for the first car that hit him argued that their insured had not caused him significant harm.

By litigating to settlement, Marasco & Nesselbush ensured that our client was fully compensated for his severe injuries, pain, lost earnings, medical bills, and the horrible toll the accident exacted on his quality of life. We aggressively pursued the case against the driver of the first vehicle. Under Rhode Island law, where two or more persons are jointly responsible for causing injury, they are both liable for the full amount of the damages. In this case, had the driver of the first vehicle not struck our client, he would never have been out on the highway in a position to be struck by the second car. Attorneys Joseph P. Marasco and Mark H. Grimm worked to compel the insurance company to pay this substantial award in full. While the settlement obtained will not erase the nightmare our client endured, we are heartened that it will allow him to heal knowing that his future is secure.



### MARASCO & NESSELBUSH IN THE COMMUNITY:

*Our staff were very pleased to participate in the Gloria Gemma Breast Cancer Resource Foundation's annual 5K walk recently. Our firm contributed \$1,000 to support programs and services for cancer survivors. Find more information at [www.gloriagemma.org](http://www.gloriagemma.org)*

**Depression** - *continued from page 1*

ple withdraw socially from others. In extreme cases, a depressed person can become psychotic (suffer hallucinations) or suicidal.

Many depressed people suffer silently, choosing not to get treatment because they feel embarrassed or ashamed. Sadly, more than 3% of people suffering from depression commit suicide every year. If you have depression, don't ignore it. Make sure to tell your doctor; help is available. Your doctor may recommend medications, called anti-depressants, and/or suggest that you meet regularly with a therapist or counselor. Your doctor may also suggest diet, exercise and sleep routines that can help you feel better.

Sometimes depression is so severe that a person cannot work. In determining whether your depression is disabling, the Social Security Administration (SSA) considers what you are able or unable to do in three areas: activities of daily living (shopping, cooking, cleaning, etc.), social functioning (getting out of the house, interacting with others, co-workers or supervisors), and attention, concentration, persistence and pace. The SSA also considers whether you have experienced "episodes of decompensation," which are essentially periods of in-patient hospitalization. To prove a disability case based on depression, it is essential to have a "mental status examination" performed by a psychiatrist or other mental health professional. It is also critically important to get treatment for depression: if your doctor doesn't know you are depressed, he or she cannot document your depression, and SSA will not receive vital medical evidence demonstrating the impact and extent of your illness.

The attorneys at Marasco and Nesselbush have extensive experience representing disabled clients suffering from depression. If you or someone you know cannot work due to disabling depression, please call today for a free consultation.

**WE'VE MOVED OUR WOONSOCKET OFFICE!**



Effective **OCTOBER 1, 2011**

**MARASCO & NESSELBUSH Woonsocket Law Office**

will be located in the same plaza as the  
Social Security Administration office:

**2168 Diamond Hill Road, Woonsocket, RI**

*Please continue to send all correspondence to our main office:*

**Marasco & Nesselbush, 685 Westminster Street, Providence, RI 02903**

## Our Legal Assistants Team

We are very proud of our legal assistants and paralegals. We have chosen them because of their intelligence, skills and abilities, attention to detail, and ability to help win cases. If you are changing addresses, health insurers, doctors or phone numbers, or if you are going back to work, please contact your legal assistant. All of them can be reached at (401) 274-7400, or by email.

### Personal Injury / Medical Malpractice

Diana dstratis@M-N-Law.com  
Karen kurias@M-N-Law.com  
Lindsey lgastelbondo@M-N-Law.com  
Natasha nlubo@M-N-Law.com  
Taneka tparham@M-N-Law.com

### Social Security

Alex ahanao@M-N-Law.com  
Ariana atejeda@M-N-Law.com  
Caroline cmurphy@M-N-Law.com  
Johanna jdean@M-N-Law.com  
Karin kking@M-N-Law.com  
Mikela malmeida@M-N-Law.com  
Nataly npemberthy@M-N-Law.com  
Ray rlannon@M-N-Law.com  
Ruth rtoribio@M-N-Law.com  
Sara sorleck@M-N-Law.com



Partner Donna M. Nesselbush with Pawtucket Red Sox left fielder Daniel Nava after throwing out a ceremonial first pitch at a PawSox game this summer. Marasco & Nesselbush was very proud to sponsor the 2011 International League Northern Division champs this season.

## SOCIAL SECURITY DISABILITY...

### Did You Know?

The Social Security Administration's Rhode Island Office of Disability Adjudication and Review (ODAR) ranks second to last in New England in terms of the percentage of disability cases awarded. Before you apply for SSI or SSDI, please make sure that you consult with one of Marasco & Nesselbush's experienced and skilled disability attorneys so that you have the best possible chance of winning the disability benefits you need and deserve.



**Visit Our Brand  
New Website at**

**[www.M-N-Law.com](http://www.M-N-Law.com)**

### Client Testimonial

*"This law firm has excellent staff and great referrals from quite a few people I know. After today's visit, I am completely satisfied with my decision to retain your firm."*

*~ Note from Client, 2011*