



# 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 Westminster 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:

603 Park Avenue  
(401) 762-9800

Free Parking, Easy Access

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*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.*

## \$1.4 Million Awarded To Family For Loss of Teenage Son

In a horrific case involving the tragic death of a teenager in a high-speed accident, Marasco & Nesselbush clients were awarded \$1.425 million for the loss of their teenage son. While no amount of money can undo the harm caused to these parents, our firm is proud to have assisted the grieving family through this difficult process and has obtained a sum allowing, among other things, the creation of a memorial park in the young man's honor.

Unfortunately, our client was the victim of alleged reckless or negligent conduct by another teenage driver. There

were allegations that the operator may have been drinking, though there was no proof of legal intoxication. The defendant's insurance company initially argued that the victim was partially responsible for his death because he had chosen to ride with the defendant and had not gotten out of the vehicle after the defendant began to drive recklessly, as had another passenger. They also argued that the value of the family's loss was low due to the fact that the decedent would have been an adult soon after his death.

Under Rhode Island's wrongful death statute, the parents of the deceased are

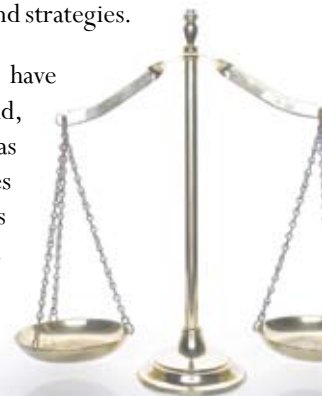
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## DONNA NESSELBUSH

### Chairs Rhode Island Bar Association's Social Security Disability Committee

Donna Nesselbush has agreed to serve again this year as the Chair of the Rhode Island Bar Association's Social Security Disability Law Committee, a committee which she and law partner, Joseph Marasco, helped to found in 2005. The Committee meets quarterly at the Rhode Island Bar Association and provides an opportunity for those practicing Social Security law to meet and to exchange information and strategies.

Each meeting hosts a guest speaker. In the past, guest speakers have included Honorable United States Magistrate Judge Lincoln Almond, Hearing Office Chief Administrative Law Judge Barry H. Best, as well as representatives from Disability Determination Services and from each of the local area District Offices. These meetings provide a venue for Social Security attorneys to interact with and offer suggestions to representatives from the Social Security Administration, all in an attempt to better serve our disabled clients.



# PROTECT YOURSELF...

## Purchase Uninsured Motorist Coverage

**M**arasco & Nesselbush strongly recommends that you check your auto insurance policy to ensure that you have uninsured/underinsured motorist (UM/UIIM) coverage. Rhode Island's mandatory auto insurance provisions require liability insurance coverage of at least \$25,000. However, unfortunately, the type of insurance coverage that most often protects non-negligent drivers is not legally required: uninsured/underinsured motorist protection.

UM/UIIM coverage can protect you, in case of accident, from someone who does not have insurance or whose insurance is not sufficient to compensate you for your damages.

In today's economy, we are seeing two distressing trends. First, there are more uninsured motorists on the state's highways, and more motorists chose to forego UM coverage to obtain lower premiums. The unfortunate result is that

many injured individuals are without any source of recovery for their medical expenses, lost wages, pain and suffering or injuries.

The Rhode Island General Assembly requires insurance companies to offer UM/UIIM protection in the amount of the liability protection purchased. The Rhode Island Department of Business Regulation recommends this coverage. In fact, the state requires anyone who elects not to have it to sign a written waiver of coverage.

Unfortunately, in an effort to gain a competitive advantage—namely, lower premiums—some insurance agencies are encouraging consumers to forego this vital protection. We join the state in strongly encouraging our clients to purchase UM/UIIM protection so that if you are injured by an uninsured or underinsured motorist, you will have some way of recovering damages. If you have any questions, please feel free to contact Marasco & Nesselbush.

*Accident - Continued from page 1*

entitled to recover loss of familial society damages valued through his 18th birthday, any provable pre-death pain and suffering and lost economic value to the estate.

Our firm retained economic experts to establish the financial losses to the estate based upon the young man's demonstrated work ethic and academic performance. Most importantly, however, the \$1.4 million award included damages for familial loss of society for the parents of the seventeen year old. The key to establishing the damages in this case was demonstrating the strong, loving relationship that both parents had with their son.

After filing a lawsuit and proceeding to an arbitration, Marasco & Nesselbush resolved the case for the maximum available from the defendant's insurance company together with the maximum available from the two underinsured motorist policies. While we acknowledge that no amount of money can ever really make such a loss bearable, at least this young man's family can now do things to dignify his life and preserve his memory.

*Words to live by*

# Pray for the dead and fight like hell for the living.

Mary Harris ("Mother") Jones, Community Organizer

**M**arasco & Nesselbush strongly supports those organizations that work to make our clients' lives better. During 2008, Marasco & Nesselbush was pleased to support the worthy charitable organizations and initiatives below.

Alzheimer's Garden Project	Nuweetooun School
Amos House	Ocean State Action
Armenian Relief Society of Providence	PetPals Northeast
Arthritis Foundation	The Providence Center
Brain Injury Association of RI	Providence Community Health Centers Association
Camp WAVE/ Juvenile Officers Association	Providence In-Town Churches Association
Colombian American Association	RI Association of Justice
Crossroads RI	RI Police Chiefs Association
DARE	Rhode Island Pride Committee
Day One	RI Coalition Against Domestic Violence
KDMF 5K Run	St. Joseph's Hospital
Lincoln High School	Woonsocket HS Music Department
Narragansett Little League	Youth Pride, Inc.
National MS Society— RI Chapter	

*Shown right: Our staff participates in RI Brain Injury Association Walk, Fall 2008*



SUPPORT

# recently settled ...

A man was struck by a car in Massachusetts while exchanging insurance information on the roadside with a driver who had just rear-ended him. The second accident resulted in serious injuries. Marasco & Nesselbush settled the case for \$925,000, after refuting claims that the accident was caused by natural conditions and after strengthening the case by retaining an accident reconstruction expert.



Marasco & Nesselbush successfully sued the Social Security Administration on behalf of a client who suffered from fibromyalgia and was wrongfully denied her disability benefits four times. We filed a law suit in the US District Court for the District of RI and ultimately won our client \$80,000 in retroactive disability benefits, as well as Medicare health coverage.



A person who had retained another attorney after suffering a motor vehicle accident came to our firm expressing concern that her attorney had declined to proceed with litigation and recommended settling her accident case for \$9,000. After reviewing the case, our firm agreed to represent the client. After further legal research and after retaining appropriate experts, Marasco & Nesselbush the case was settled for \$50,000—the maximum available under all insurance policies.



An elderly woman sustained injuries to her ankle, slipping and falling as a result of her landlord's failure to properly maintain an outdoor "common area" in a reasonably safe condition. Our firm recovered \$80,000 for this client.



Marasco and Nesselbush recently settled a head injury claim against a liquor establishment for \$135,000. Our complaint alleged that the bar continued to serve alcohol to our client despite his obvious intoxication and then negligently "escorted" him outside, causing him to fall and sustain a head trauma. This client's \$135,000 recovery was based upon legal theories involving liquor liability and general negligence.



An 82-year-old man was negligently supervised and monitored while on a respirator at the Veterans Administration Hospital in Providence. Our firm pursued a medical malpractice claim filed on behalf of his estate under the Federal Tort Claims Act and the Rhode Island wrongful death statute, resulting in a \$250,000 recovery for our client's estate.



Marasco & Nesselbush resolved a case for our client, a fisherman, for \$125,000 for a knee injury sustained when he slipped on the deck of his employer's fishing boat. We alleged that the deck material was defective, resulting in a dangerous condition that caused his fall and injury. Marasco & Nesselbush prevailed under the provisions of the Jones Act, a federal maritime statute.



## WHAT TO DO If You Are In An Auto Accident



Call 911 right away.  
Do NOT move your vehicle until a police officer says it's OK, unless it's necessary for safety reasons.



If you or your passengers are hurt, get medical help right away. If paramedics, EMTs, or police officers advise you or your passengers to take an ambulance to an emergency room, do it.



Get the names, addresses, and phone numbers of everyone who saw the accident happen (including other drivers and people walking on the street).



Get the names, addresses, drivers' license numbers and insurance information from all the other drivers involved in the accident.



If the person who hit you flees the scene before the police arrive, try to get the license plate number. Write down the plate number, state, color and model of car, if possible.



If possible, take pictures of the accident scene and damage to all vehicles with a camera or cell phone.



Never talk with an insurance company (even your own) before you talk with your attorney.

Please visit our website

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

or call us at

**(401) 274-7400**

for more information or a free legal consultation about a car, truck or cycle accident.



# Our Best Wishes for the New Year



## Facts and Stats...

**Social Security Disability:  
Did You Know That...**

### **Cost of Living Adjustment (COLA):**

The 2009 Social Security cost of living adjustment will be 5.8%, the largest increase since 1982. By contrast, the 2008 COLA was 2.3%.

### **Maximum SSI Payment Increases:**

The maximum SSI payment rate went from \$694.35 in 2008 to \$713.92 in 2009. The federal government's contribution to that amount rose from \$637 in 2008 to \$674 in 2009, and the State of Rhode Island's contribution went *down* from \$57.35 to \$39.92 for 2009.

### **Social Security Denial Rates High:**

In Rhode Island, in 2007, Social Security denied 60.3% of all initial applications. If a claimant appealed by requesting Reconsideration, Social Security denied 85.5% of those appeals.

### **Long Waits for Social Security Disability Hearings:**

According to the latest data available, after being denied at the initial and reconsideration levels, in Rhode Island, a client must wait, on average, 350 days for a hearing of her/his disability application, 16<sup>th</sup> fastest in the nation.

## OUR TEAM

### LEGAL ASSISTANTS

#### **Social Security**

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We are very proud of our legal assistants. 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.



*In Spring of 2008,  
Marasco & Nesselbush staff  
volunteered at and  
our firm sponsored the  
National MS Society's 5K Walk  
in Narragansett.*