



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:

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(401) 274-7400

WAKEFIELD:

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(401) 783-0000

WARWICK:

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WOONSOCKET:

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Free Parking, Easy Access

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Jennifer L. Belanger

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.

MARASCO & NESSELBUSH'S 2009 Cases Demonstrate Our Firms Commitment to Social Justice and Dedication to Injured Clients

A review of the cases handled by our attorneys during 2009 demonstrates our firm's continued commitment to injured and disabled clients. Our attorneys diligently represented more than 550 clients who were victims of medical negligence, were injured in auto accidents or who suffered other personal injuries.

Our 2009 pending cases include efforts to recover damages for those whose lives have been changed due to negligent care rendered by hospitals, anesthesiologists, emergency room physicians, primary care physicians, obstetricians, surgeons, nurses and radiologists. Our attorneys have fought to provide financial security for our clients and their families.

Notable in the list of cases resolved this year is an \$800,000 recovery on behalf of

an 11-day old infant in a medical malpractice trial and a \$500,000 (maximum policy limit) recovery for a Rhode Island resident who met his premature demise in Pennsylvania as a result of an automobile accident. Other notable cases include 34 wrongful death claims which we are pursuing on behalf of families who have had loved ones taken from them due to the recklessness or carelessness of others.


We also consider it an honor to represent clients whose quality of life has been diminished by negligent, impaired or reckless drivers. Many new clients have sought our legal representation only after being treated unfairly by insurance companies who refused to deal with them in good faith. The majority of these cases were resolved by aggressive

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MARASCO & NESSELBUSH: Featured Speakers at Rhode Island Bar Association's Annual Meeting

This spring, attorneys Donna M. Nesselbush and Joseph P. Marasco were invited to address the membership of the Rhode Island Bar Association at its annual meeting.

The presentation focused on Social Security Disability law and other medical/ legal matters. The partners provided detailed information to the Bar membership regarding cutting edge and innovative strategies to obtain benefits for disabled Rhode Islanders. Together, the partners were able to provide a unique perspective regarding the interplay between Social Security disability, personal injury and medical malpractice law. Topics discussed also included the relationship between Social Security disability and the receipt of Workers' Compensation benefits and GPA/Medical Assistance.

Marasco & Nesselbush was invited to address the Rhode Island Bar Association as a leading Social Security Disability law firm and a superior presence in the medical/legal arena. The partners founded, and Ms. Nesselbush currently chairs, the Rhode Island Bar Association's Social Security Disability Committee. Attorneys and Marasco and Nesselbush are sustaining members of the National Organization of Social Security Claimants' Representatives and the Rhode Island Association for Justice. 



DID YOU KNOW...

SOCIAL SECURITY:

- About half of those who would be eligible for Social Security disability benefits never apply.
- If you are not receiving the full SSI rate (over \$700 per month), you may be able to take steps to increase your benefit. Many SSI recipients receive a reduced rate because they lived with others while their SSI application was pending. However, after being approved to receive SSI, if a recipient moves and lives alone, they may be eligible for the full, unreduced rate of over \$700 per month.
- If you are receiving Social Security disability benefits (SSDI not SSI), you can work part-time, earning up to \$980 per month, and you can still receive SSDI. However, such work activity may be part of a “trial work period,” or it can trigger a “Continuing Disability Review.”



Social Security disability claims are on the rise. In Rhode Island, during the first 9 months of 2009:

- Initial disability claims are up from 3,300 to 4,680 (a 41.8% increase over 2008)
- Reconsideration disability claims are up from 711 to 1,304 (a 83.4% increase)
- Requests for hearings are up from 4,486 to 6,570 (a 46.5% increase)
- 20% more people retired in the past year than retired the year before.

AUTOMOBILE SAFETY:

- RI drivers are less likely to use seat belts than US drivers. 65 people died on our state’s roads last year. Ten of these lives may have been saved had drivers and passengers been using their seatbelts. (NHTSA, 2009) Buckle up—it’s the law.
- 25 people died in alcohol impaired driving crashes in RI in 2007. All of these tragedies were preventable (if drivers had not chosen to get behind the wheel after consuming alcohol). Some of the victims were people hit and killed by impaired drivers. (NHTSA, 2008). For safety’s sake, please do not drink and drive.


If you have any questions about Social Security Disability or Personal Injury law, please call us. We will be happy to help you evaluate your case.


*The Chinese symbol for “crisis” is one part “danger” and one part “opportunity.”
In a crisis, be aware of the danger,
but also be sure to recognize the opportunity.*
~ John F. Kennedy


TRUE OR FALSE: Medical Malpractice Claims Drive Up Health Care Costs

As Congress works on federal health care policy, there is much debate about medical malpractice, tort reform and defensive medicine. Has the cost of medical malpractice litigation significantly impacted the cost of health care? It may be popular for some politicians to answer “yes,” but Tom Baker, a prominent professor of law and health sciences at the University of Pennsylvania’s School of Law, disagrees.

In a recent New York Times interview,¹ Baker contends that only 1 to 1.5 percent of all medical costs are due to malpractice litigation and malpractice insurance. The number of annual malpractice claims is about the same now as it was in the late 1980s, and the volume of cases has not changed significantly during the past four decades. The rate of medical malpractice claims is actually declining as the nation’s population increases. Finally, only a tiny fraction of injured patients—4 to 7 percent—typically pursue a medical malpractice claim.


Medical malpractice litigation does not add significantly to the cost of health care. Despite the current climate, at Marasco & Nesselbush, we believe that patients who have been injured, or families who have lost loved ones due to negligent medical treatment or the failure to correctly diagnose, deserve fair compensation. If you have any questions about your legal rights regarding medical negligence, please feel free to contact us. 

¹Underwood, A., “Would Tort Reform Lower Costs?” *The New York Times*, August 31, 2009

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negotiation, while others required arbitration, mediation or trial to achieve the appropriate results. We have successfully advocated for our clients against formidable opposition including the United States Government (wrongful death action) and taken on national and multinational corporations, including Kawasaki for the negligent design and manufacture of motorcycles, Walmart, Swiss Air, Lloyds of London and virtually all other significant insurance companies.


Marasco & Nesselbush also handled a wide array of Social Security disability claims for those suffering from physical and mental impairments. We represented claimants at all levels of the Social Security process, from Initial Application to Reconsideration, to Request for Hearing, to Request for Review before the Appeals Council. Marasco & Nesselbush attorneys also won an impressive number of disability cases litigated in the United States District Court, effectively creating new and good disability law for Rhode Islanders. As a result of our work, we our disabled clients have obtained much needed retroactive and monthly cash benefits and medical insurance and have secured financial security.

Our clients are the very heart of our practice. Thank you for the trust and confidence you have placed in our firm. We look forward to the opportunity to serve you in 2010 and throughout the coming years. 

FIRM RESULTS

Below please find a representative sample of personal injury and medical negligence verdicts, settlements and awards obtained for clients by members of our firm. No one can really compensate another adequately for the tragic and unnecessary loss of a loved one, or for negligence or accidents resulting in life-changing harm. However, just compensation can offer some measure of solace for loved ones, or for clients who have suffered, while they rebuild their lives. It is in this spirit that we share some of the results of our legal work.

- \$1.425 million wrongful death award won for family of adolescent automobile accident victim
- Failure to diagnose cardiac emergency and subsequent discharge from Emergency Room results in a confidential settlement against doctor and hospital
- \$1.1 million settlement against transportation company on behalf of a pedestrian seriously injured when struck by bus
- Case against bar and drunk driver results in \$975,000 total recovery for family of injured adolescent
- \$925,000 recovery for automobile accident victim who sustained serious fractures to pelvis and leg
- \$850,000 settlement for the death of an unborn child due to a physician's failure to diagnose and treat the mother's pre-eclampsia
- Retained surgical sponge after abdominal surgery results in abdominal infection; the parties reached a pre-trial confidential settlement
- Wrongful death claim results in recovery of \$500,000 (insurance policy limit) on behalf of man killed in an automobile accident
- Failure to diagnose meningitis in child results in confidential settlement against pediatrician
- Wrongful death claim successfully resolved against primary care physician and physician's assistant after failure to properly read an elderly woman's electrocardiogram (EKG) and failure to diagnose heart attack
- Negligently performed episiotomy results in confidential settlement in Federal District Court against hospital and surgeon
- \$300,000 settlement for a teenage passenger who suffered compression fractures in a motor vehicle accident
- Liquor liability and general negligence claim results in \$175,000 recovery for injured bar patron
- \$175,000 uninsured motorist recovery on behalf of youth struck by unidentified vehicle while waiting to enter insured's automobile
- \$135,000 recovery for fisherman who sustained a knee injury on employer's vessel due to negligent maintenance case; the settlement hinged on lack of seaworthiness claim pursuant to federal maritime law
- Inappropriate antibiotic treatment results in vestibular dysfunction; pretrial confidential settlement reached with hospital and infectious disease specialists
- \$80,000 recovery for tenant who fell on ice which landlord allowed to accumulate on property

Please visit www.M-N-Law.com for more examples of our firm's work. 



The Dangers of **DISTRACTED** DRIVING

The federal government recently released a long-term study of behind-the-wheel cell phone use by more than 10,000 drivers. The results are shocking: based upon the study, researchers estimated that cell phone use by drivers caused 955 fatalities and 240,000 accidents across the nation.

Those who talk on a phone while driving are four times as likely to crash as non-distracted drivers. They are as likely to cause accidents as drivers with .08 blood alcohol content (the legal limit for driving while intoxicated). The study conclusively found that throughout the United States, distracted driving is a major cause of motor vehicle accidents. People who talk or text while driving are not only dangerous to themselves, but also pose serious risks to others. Rhode Island recently passed a law making texting while driving is now illegal in Rhode Island.


Marasco & Nesselbush has provided legal representation to increasing numbers of clients injured as a result of distracted drivers. Distracted drivers have slower reaction times and are therefore more likely to rear-end others, swerve into another's path, ignore traffic lights or stop signs, forget to use turn signals or fail to take evasive action so as not to endanger others. In the interest of safety, we urge all of our clients to exercise extreme care and limit or avoid cell phone use while driving.

Best Wishes for a Safe and Healthy New Year!



Keep Kids Safe:

Avoid Most Dangerous Toys

During the holidays, many children request toys that they have seen advertised, and families purchase them without evaluating their safety. We encourage our clients to become familiar with the safety notes provided by World Against Toys Causing Harm (W.A.T.C.H., found at www.toysafety.org/reportCard.shtml), which lists dangerous toys each year on its website. If there is a child on your holiday list, please take a few moments to familiarize yourself with this list, so as to avoid any toys that can potentially harm the ones you love. 



OUR TEAM

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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.

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In October, Marasco & Nesselbush was very pleased to support AIDS Project/Rhode Island, a division of Family Services, by participating in the Providence AIDS Walk. Here Ray, Anita, Kelly and Ken prepare to tackle the 5K.

