



## WELCOME OUR NEWEST ATTORNEY Jonathan M. Bailey

**Jonathan M. Bailey** is an attorney-counselor who has lived in Lewisville, Texas since 1983. He and his wife, also a long-time Lewisville resident and his high school sweetheart, have been blessed with a wonderful daughter and son.



**Education:** Jonathan attended Flower Mound Marcus High School and graduated from Lewisville High School in 1988. He received his Bachelor of Science degree from Texas A&M University in 1993. He received his Doctor of Jurisprudence from Texas Tech University School of Law in 1997.

**Licenses and Certifications:** Jonathan was licensed by the Supreme Court of Texas in 1997 to practice in all Courts of the State of Texas. He is *Board Certified in Criminal Law by the Texas Board of Legal Specialization*.

**Professional Experience:** *Assistant District Attorney for Denton County, Texas, 1997-1998;* Jonathan prosecuted misdemeanors in all Denton County Criminal Courts, including more than thirty-five criminal jury trials. *Assistant District Attorney for Dallas County, Texas, 1998-1999;* Jonathan prosecuted misdemeanors and felonies in Dallas County Criminal Courts, including more than sixty-five criminal jury trials. *McCauley, MacDonald, Devin and Huddleston, P.C., 1999-2000;* Jonathan was an associate in a Dallas insurance defense law firm, handling cases including personal injury, automobile accidents, trucking accidents, toxic torts, premises liability, and products liability. *Hammerle Finley, P.L.C., 2000-2003;* Jonathan was an associate in a general practice law firm located in Lewisville and Denton, responsible for defending hundreds of criminal and juvenile cases in Denton, Dallas, Collin and Tarrant Counties, including dozens of criminal jury trials and contested hearings, as well as handling family and civil cases.

**Activities, Honors and Awards:** Jonathan was a member of the Corps of Cadets at Texas A&M University, where he was appointed to serve as the Inspector General during his senior year. He was also elected by his peers to the Ross Volunteer Company (The Governor's Honor Guard and the oldest student organization in Texas). Jonathan received an ROTC scholarship and completed all training required for commission with the United States Air Force. During Air Force field training, he received the Superior Performance, Athletic Performance and Marksmanship Awards.

During law school, Jonathan was active in trial advocacy programs, including client counseling, negotiation, mock trial, and moot court. He advanced to the final round of the mock trial competition twice, and was the winner of one competition. Jonathan earned membership to the Board of Barristers and was elected by his peers to serve as the Chairman for Trial Advocacy.

Jonathan is currently a member of the State Bar of Texas, Denton County Bar Association, Texas Criminal Defense Lawyers Association, Dallas County Criminal Defense Lawyers Association, Denton County Criminal Defense Lawyers Association. He is a 2002 graduate of the Leadership Lewisville program, sponsored by the Lewisville Chamber of Commerce, and serves on the Board of Directors for the Denton County A&M Club.

## Pharmacy Malpractice

By Janice Fulks, R.N.

When most of us think about malpractice we think of medical malpractice or malpractice against a physician or a hospital. Many people don't realize that pharmacies and pharmacists are liable for their actions as well. Millions of prescriptions are filled every day. Studies indicate that the percentage of misfilled prescriptions in the U.S. may be as high as 2 or 3 percent. Most of these misfilled prescriptions do not result in obvious harm to the patient, but a significant percentage result in serious harm.

The majority of malpractice claims against pharmacists involve filling the prescription with the **wrong drug**. Most patients do not realize that they received the wrong drug until they begin to have symptoms from taking the medication. Filling the prescription with the right drug but the **wrong dosage**, is also negligent and accounts for about 25% of all claims. Pharmacists can also be negligent if they give the **wrong instructions** for taking the drug or fail to give the patient adequate warnings about the drug. Giving the wrong instructions, failing to review the drug and inadequate counseling accounts for the rest of liability claims.

If you or anyone you know have been harmed by the actions of a pharmacist involving giving the wrong drug, the wrong strength or failure to provide adequate instruction, please call our office.

## Criminal Law - Legislative Update

By Jonathan M. Bailey

The 78th Texas Legislature is currently in session and considering many bills which affect criminal law and procedure. Many of these bills may be of interest to you, and a couple of them are listed below:

**Senate Bill 44** would authorize law enforcement agencies to establish DWI roadblocks to stop drivers randomly for sobriety tests. The initial stop and detention would be allowed **without** any reasonable suspicion or probable cause to believe that the driver is intoxicated. The statute would allow drivers to be stopped for *up to ten minutes while waiting to pass through the checkpoint* and an *additional three minutes* for the police to determine whether there is probable cause to detain the driver further for investigation of DWI. If this bill is passed by the legislature, you can bet that driving on weekends and evenings will frequently subject you to the inconvenience of being stopped at a DWI roadblock. This proposed bill will allow police to stop you whether you have been drinking alcohol or not, whether you have violated any traffic laws or not, and whether you are in a hurry or not!

**Senate Bill 348** would authorize juries to sentence a capital murderer to life *without parole*. Texas is one of only four states who do not give juries this option. Texas law currently provides juries with only two options: life (which means eligibility for parole after serving 40 years) or death. This third option would give juries, victims and society the security of knowing that a convicted murderer will truly spend their life behind bars, without necessarily having to put them to death.

If you would like to review additional legislation currently being considered by your legislature, and locate or contact your State Senator or Representative, please go to [www.capitol.state.tx.us](http://www.capitol.state.tx.us). Remember, you have a voice!

**We're on the web at [www.kuzmichlaw.com](http://www.kuzmichlaw.com)**

## TORT REFORM

By Stephen Howard

A recently proposed amendment to the Texas State Constitution would allow the legislature to limit the amount that juries can award in all manner of civil litigation. This amendment to the constitution is being pushed by lobbyists for the insurance industry and health care providers. Although a number of limits already exists under Texas law on jury awards (Such as the ability of Judges to reduce excessive jury awards and laws that cap jury awards) the current action will go one step further and to actually amend the state constitution.

The Texas constitution states that all Texans have a right to go to court. That right protects you if you or someone you love is the victim of a catastrophic injury. Should this constitutional amendment be passed, the legislature could state that regardless of the facts or nature of an egregious injury, your recovery could be limited.

The lobbyists argue that the drive behind this amendment is to lower malpractice and other insurance rates but other jurisdictions, which have taken similar actions have not had a change in insurance rates. Instead such protection for negligent doctors, trucking companies, and corporations, does less to punish and prevent dangerous conduct. Additionally, such legislation could limit your claims for pain, suffering, mental anguish and even the loss of the people you love dearest. It is hard to put a price on these things, but harder still to accept what the government tells you it is worth.

If you would like to know more, please call us, or go direct your browser to <http://www.fixtexasinsurance.org/media/aas011703.htm>.

## Boating Injuries

By Stephen Howard

Boating is an extremely popular activity on Texas lakes. However whether fishing, skiing, or just having fun, all types of watercraft can be dangerous, especially in the hands of inexperienced or intoxicated drivers. Sometimes the watercraft themselves can be dangerous. Unfortunately, water related injuries are often gruesome or deadly.

Some of the typical accidents that can occur are prop injuries, collisions, being thrown from the craft, drowning, disfigurement, or soft tissue injuries from being jarred about violently.

Some of the defects in watercraft that have caused injury include the lack of prop guards and “kill-switches,” as well as improper seating. For information of boating accident statistics you can go to [http://www.uscgboating.org/statistics/accident\\_stats.htm](http://www.uscgboating.org/statistics/accident_stats.htm).

There are laws against operating a watercraft while intoxicated or drinking. There are also insurance policies that cover watercraft related injuries. For Texas specific information on boating safety, rules, and regulations, visit <http://www.tpwd.state.tx.us/boat/boat.htm>.

If you or someone you know was injured in a boating accident that was the result of negligence, defects, drugs, or alcohol, give us a call.

**If you'd like to contribute to our Newsletter, call us and ask how.**