

Volume 2 Issue 5

May 2003



THE KUZMICH LAW FIRM, P.C. 335 West Main Street, Lewisville, TX 75057 940-566-1622 (Local) 972-434-1555 (Metro)

# FRIENDS & CLIENTS NEWSLETTER

## YOU SAY YOU'LL CHANGE THE CONSTITUTION!!

By STEVE KUZMICH

In the ongoing battle between insurance companies and injured individuals, insurance companies have recently won major victories in the Texas House with the passage of House Bills 3 & 4. This recent legislation, if approved by the Senate, will make it harder (if not impossible) for injured individuals and their families to obtain justice. The only thing still standing in the way is THE TEXAS CONSTITUTION.

Everyone agrees the proposed legislation is unconstitutional. In a proposed special election on September 13, 2003, with an expected ridiculously low voter turnout, an amendment to the Texas Constitution will be voted upon to make the unconstitutional legislation soon to be passed, constitutional. For the last 150 years the Texas Constitution has protected and endorsed the jury system. If passed, this constitutional amendment will allow the Texas Congress to pass the currently proposed and future laws to protect certain special interests from being accountable to a jury.

For example, the currently unconstitutional legislation waiting to become constitutional will cap doctor's liability for pain and suffering damages. Sounds like a good idea? If a doctor were to unnecessarily remove a woman's breast, make a woman sterile by unnecessarily removing her uterus, kill a child or retired person, the only damages that are available are for pain and suffering. Should these damages be arbitrarily capped at \$250,000.00 or should a jury decide?

With the constitution out of the way, the next step is legislation that would protect other special interest groups and broad sweeping laws that limit damages in all cases. Children who are burned over large portions of their bodies, mangled by pit bulls, or deformed by terrorists have only pain and suffering damages to recover. Damages a Texas jury should decide.

Vote "no" to the constitutional amendment and preserve your right to trial by jury not only yourself, but for future generations of Texans. Contact your State Senator and tell them that you oppose House Bill 3 & 4.

HOW MUCH ARE YOUR LOVED ONES WORTH?  
NO MATTER HOW MUCH THEY WERE HURT,  
NO MATTER HOW LONG THEY SUFFERED,  
NO MATTER HOW THEY DIED,  
NO MATTER HOW SENSELESS THEIR DEATH?

\$250,000?  
\$200,000?  
LESS?!

THE TEXAS LEGISLATURE WANTS TO CAP  
DAMAGES IN ALL PERSONAL INJURY CASES.

**DON'T LET SOMEBODY ELSE TELL YOU  
WHAT YOUR LOVED ONES ARE WORTH**

## INTOXICATION RELATED INJURIES

By Nicole Gordillo

Victims of drunk drivers have claims not only against the drunk driver, but also against the bar that served the drunk. The Texas Dram Shop Act holds alcohol servers responsible for harm that their intoxicated patrons cause to other people. The law covers all entities that sell or serve alcoholic beverages. Such providers of alcohol can be liable for other types of harm than just drunk driving accidents.

Many people call our office worried that these laws could make them responsible for the acts of their houseguests. Under Texas law, individuals are not liable for alcohol consumed by their social guest over twenty-one (21), so long as they do not sell the alcohol to their guests, or provide a “cash bar”.

If you or someone you know was the victim of intoxication related injury, please call us. If you are concerned about possible criminal issues related to the sale or provision of alcohol from your home or business, please feel free to call us regarding that as well. Our staff is ready to assist you.

## YOUR RIGHTS WITH TELEMARETERS

By Stephen Howard

You don't have to be a victim of telemarketers. The Federal Communications Commission (FCC) prohibits telephone solicitors from calling your home before 8 a.m. and after 9 p.m. When telemarketers do call, they must provide their name or the entity they represent. They also have to give you a telephone number or address where the person or entity calling you can be contacted. In addition to these requirements, you can also seek to be taken off of telemarketer call lists.

The FCC requires telemarketers to keep a record of all people who request to be taken off of a call list, or ask to be placed on a do-not-call list. The record of that request is kept on file for ten years. Asking to be placed on a do-not-call list won't keep away all solicitations though. Individuals that have had any previous relationship established with you or your business are free to call you until told otherwise, and tax-exempt non-profit organizations are not required to keep do-not-call lists at all.

If you want to take the initiative and seek to be placed on do-not-call list prior to receiving any unwanted calls, you can register with the Texas do-not-call list at [www.texasnocall.com](http://www.texasnocall.com), or call 866-TXNOCALL (866-896-62255). You can also register with the Direct Marketing Association's (DMA) Telephone Preference Service and join its do-not-call list. This prevents all DMA members from placing you on their call lists for five years. You can register online at [www.the-dma.org/cgi/offtelephonedave](http://www.the-dma.org/cgi/offtelephonedave) or by mailing your name, phone number and signature to DMA Telephone Preference Service, Box 643, Carmel, NY 10512.

If you keep getting calls after you've requested to be added to a do-not-call list, you can make a complaint to the FCC at [www.fcc.gov/cgb/complaints.html](http://www.fcc.gov/cgb/complaints.html), by phone at 1-888-CALL-FCC (1-888-225-5322), or by mail to the Federal Communications Commission Consumer & Governmental Affairs Bureau Of Complaints, 445 12th St., SW Washington, DC 20554.

You should note that calls from collection agencies are not telephone solicitation calls and are controlled by different rules and regulations.

## Lawn Mower Safety

By Sherry Brown

Every year, thousands of children, adolescents, adults and elderly people are injured by power lawn mowers. Most of the injuries are sustained by adults 25 to 64 years old. More than 22 percent of lawn mower injuries involve the wrist, hand or fingers. Nearly 14 percent were foot, ankle and/or toe injuries.

Here is a list of some safety guidelines for using lawn mower equipment:

- \* Never use fingers to remove grass or debris from lawn mower blades.
- \* Children should not be permitted to use lawn mower equipment. Children should not be in the yard while the lawn is being mowed.
- \* No riders other than the operator, regardless of age, should be allowed on a riding mower.
- \* Wear proper protective boots, clothing and eye protection when using a lawn mower.
- \* Never add fuel to a hot mower.
- \* Do not tamper with safety release switches.
- \* Always disconnect the spark plug if working on or touching the blade of the mower.

## Injuries from Auto Accidents

By Sherry Brown

Auto accidents can cause numerous types of neck and back injuries which can be as serious as broken vertebrae and herniated discs, or as minor as sprains, strains, bruising, etc.. The first symptoms can begin with neck pain, back pain, headaches, or stiffness.

It is important to receive prompt treatment after the onset of the first symptoms. This can help minimize the length or extent of the treatment. If symptoms are left untreated or uncorrected, more serious problems can develop, such as scarring of the tissues or arthritic degeneration.

Whether a serious or minor accident, we recommend immediate treatment by either medical doctors, chiropractors or licensed physical therapists. The most common treatments performed are x-rays of the injured area, physical therapy, spinal manipulations and rehabilitation. If symptoms are persistent or become more complex referrals for diagnostic testing and specialists may be required.

If you have been involved in an accident and are experiencing pain, please contact our firm for assistance.

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