



# Bottaro, Morefield & Kubin, L.C.

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Attorneys At Law

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#### AREAS OF PRACTICE

- Personal Injury
- Wrongful Death
- Defective or Dangerous Products
- Business Disputes
- Workplace Injuries
- Nursing-Home Neglect and Abuse

## Meet Christopher C. Thompson



We are extremely pleased to announce that **Christopher C. Thompson** has joined the firm as an associate. Chris practices in the areas of workers' compensation and civil litigation. He received his Juris Doctor in 2003 from Washburn University School of Law in Topeka, Kansas. While in law school, Mr. Thompson was an active member of the American Bar Association, the Phi Alpha Delta Legal Fraternity, the Student Bar Association, and the Sports and Entertainment Law Society.

Chris is admitted to practice in Kansas; the U.S. District Court for the District of Kansas; and the U.S. Court of Appeals, Tenth Circuit. He is an active member of the American Bar Association, the Kansas Bar Association, and the Johnson County Bar Association. Chris will take the Missouri Bar Examination in July 2004.

Prior to joining the firm in 2003, Chris completed a successful yearlong internship with the Johnson County District Attorney's office, where Chris worked as an Assistant District Attorney. Chris is also a former Deputy Sheriff with the Johnson County Sheriff's Department.

**A**t Bottaro, Morefield & Kubin, L.C., we believe that the quality of our legal work and the experience we can give to our clients set us apart from other firms. **Pat Bottaro**, **Rick Morefield**, and **Kip Kubin** all have over 15 years in legal practice representing clients of all sizes, from individuals to large corporations. In fact, Kip Kubin has been named one of the *Best Lawyers in America*. **Tom Munsell** will be starting his tenth year of practice in May 2004 and has been with the firm for nine of those years. **Jackie Morant** has practiced for four years, after having graduated from law school, with honors, in 2000. Our newest attorney, **Chris Thompson**, was a Johnson County Deputy Sheriff prior to attending law school.

Our lawyers also believe that involvement in state, local, and national bar associations is another benefit to our clients. Rick Morefield is extensively involved in the American Bar Association, and has been for many years. In addition, beginning this summer, Rick will be the President of the Lawyers Association of Kansas City. Congratulations, Rick. Tom Munsell has been a member of the Young Lawyers Section Counsel of the Missouri Bar for seven years and has served on the Missouri Bar Board of Governors. Pat Bottaro and Kip Kubin have also been past presidents of local bar associations.

If you have a legal problem, please do not hesitate to give us a call. Our former clients know that we provide quality and aggressive legal representation. We would be happy to discuss your case with you. Furthermore, if we cannot represent you, we will utilize our bar association connections and put your case in the hands of another quality attorney to protect your rights.

### Our Martindale-Hubbell rating

**Bottaro, Morefield & Kubin, L.C.**, has earned an AV rating in the *Martindale-Hubbell® Law Directory* for our legal capabilities and devotion to professional ethics. Since Martindale-Hubbell bases assessments on surveys of members of the bar and of judges, we take pride in our colleagues' recognizing and respecting the quality of our legal work.

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# HORMONE THERAPY

## *Troubling research findings*

**R**ecent troubling findings question the effectiveness of hormone-replacement therapy. Early on, manufacturers' marketing campaigns convinced doctors and their female patients that menopause was a medical disorder that could be successfully treated with prescription medications that had virtually no side effects.

Now, evidence suggests medications—particularly combination hormone-replacement therapy—not only can cause cancer, heart attacks, and other serious side effects, but also may be much less effective at treating menopausal symptoms than previously believed.

Although dozens of firms manufacture medications for estrogen-replacement therapy (ERT), generally used by women who enter menopause following surgical removal of the uterus, Wyeth Laboratories' Premarin® is the most widely prescribed. For combination hormone-replacement therapy (HRT), prescribed for women who enter menopause naturally through aging, the most commonly prescribed medication is Wyeth Laboratories' Prempro®.

### Here is a brief chronology of hormone therapy's history.

1959—A *Journal of the American Medical Association* (JAMA) article reports a 25-year study showing that estrogen protects bones and relieves menopausal symptoms.

1962—Brooklyn gynecologist Robert Wilson's best-seller, *Feminine Forever*, recommends estrogen as the "cure" for "the tragedy of menopause."

1975—Thirty million prescriptions of Premarin are being filled annually.

1976—The *New England Journal of Medicine* (NEJM) reports a link between estrogen therapy and breast cancer.

1980—Pharmaceutical manufacturers market ERT and HRT from a new angle, claiming they prevent bone loss.

1985—Drug makers promote the first of several studies which say that hormone replacement therapies prevent heart disease and bone loss without risk of cancer, strokes, or blood clots.

2000—The Women's Health Initiative, part of the National Institutes of Health, reports that women taking Prempro experience a small increase in heart attacks, strokes, and blood clots.

2001—JAMA reports that a 20-year National Cancer Institute study found that long-term ERT use significantly increased the risk of ovarian cancer.

2002—Another JAMA article reports that Prempro may stem Alzheimer's disease.

2002—The National Institute of Environmental Health Sciences, of the United States Department of Health, places estrogen on the government's roster of known human carcinogens.

### The most recent studies present additional worrying findings.

May 2003—NEJM reports a new study which shows that hormone-replacement therapies failed to improve sleep, vitality, and sexual satisfaction or reduce depression.

May 2003—A JAMA article says that hormone therapy nearly doubles the risk of Alzheimer's disease.

June 2003—JAMA reports that even short-term use of HRT increases the risk of breast cancer and makes the disease more difficult to detect.

Throughout 2003, class actions have sought damages for injury and death among women who took Prempro, alleging its manufacturer failed to use due care in designing and manufacturing it to

reduce health risks, failed to conduct sufficient clinical testing and monitoring to determine safety, and failed to provide proper warnings to users about potential side effects.

The HRT situation continues to vary from month to month. For more information, please consult your attorney.

## If you slip and fall

**S**lips and falls can be funny in slapstick comedies when stunt specialists, protected with padding and knowing how to fall properly, take on-screen tumbles.

But in real life, slips and falls are a leading cause of serious injury. Even the smallest trip-up can result in a great deal of damage to ankles, legs, arms, hands, the back, or the head.

What causes falls? Among the many contributing factors are ice and snow, slippery materials on floors, stairs with faulty handrails, uneven concrete or slate sidewalks, improperly secured carpets or mats, and objects placed unsafely in people's paths.

Anyone who has a slip-and-fall accident and experiences injury should try to do several things. First, get immediate medical assistance. Second, ask for the names, addresses, and phone numbers of witnesses who saw the fall. Third, try to save any evidence related to the fall, such as a squashed piece of fruit and the shoes worn at the time. Fourth, contact legal counsel.

### *Carpet hides drain*

A woman underwent arthroscopic knee surgery and missed several months of work after tripping and falling in a railway tunnel. Her attorney achieved a settlement for her with the owners of the railway station tunnel after demonstrating that they had negligently created a dangerous condition by installing carpeting that obscured the grate of a drain depression from her view.





## AUTO ACCIDENTS

### *Seven slip-ups*

**T**ime and experience have shown that drivers can make seven mistakes that forfeit rights and limit opportunities for fair restitution in auto accidents.

- 1. Failing to call the police.** Without an official police accident record, it is, unfortunately, one driver's word against the other's about what happened. All claims bear equal weight.
- 2. Consenting to working out auto-damage repairs and medical-injury care with a trusting handshake.** People change their minds and tell different stories.
- 3. Declining an immediate checkup and ongoing medical assistance.** A neck that starts hurting a week after the collision is harder to justify. Also, insurance companies often counter that delayed pain may come from an existing condition or an earlier or subsequent occurrence.
- 4. Failing to collect or exchange information with other drivers, passengers, or eyewitnesses.** The document trail of evidence and statements can make or break a claim.
- 5. Forgetting to notify your insurance company.** You paid the insurance premiums, but by forgetting to call, you may incur out-of-pocket costs that the insurer should cover.
- 6. Saying "It was my fault."** Be fair to yourself. This accident may really not have been your responsibility.
- 7. Not consulting an attorney.** It's often said, "He who defends himself is foolish." Omitting legal representation cedes your rights to the other driver's insurance company.

## Workplace injuries

### *Workers' compensation not always enough*

**F**or a worker severely injured on the job, workers' compensation is often a key source of financial support during recovery and rehabilitation. A workers' compensation program is a state-operated and -guaranteed insurance plan that covers medical bills and replaces lost wages for employees.

But many workers' compensation programs limit benefits for seriously injured employees. Most replace, at maximum, only two-thirds of salary, exclude fringe benefits, and may be capped for cost-of-living adjustments. Workers' compensation also usually offers no or little compensation for pain and suffering.

Seriously injured workers face other restrictions as well. Workers' compensation benefits may be cut or ended if the worker is judged to still be able to earn money. Employers may also require a worker to take additional medical and vocational examinations to assess the extent of disability and lost earning power.

### *Other protections*

Injured workers, confronted by restrictions imposed by workers' compensation plans, can seek legal counsel, which can sometimes identify other sources of financial compensation and recovery equal to the cost of the employee's injuries. In some cases, investigating the accident scene and talking to witnesses can lead to third-party claims for compensation.



### INJURY SOURCES

**Product liability**—Manufacturers of machinery, equipment, or safety gear may be held liable for failing to exercise all possible care in the products they market.

**Inadequate warning or instructions**—Some products have built-in hazards that cannot be eliminated from design since they would inhibit cost-effective operation. Warnings must be included for such products.

**Contractor negligence**—Outside vendors engaged to install equipment, design workstations, provide lighting, or support work processes may contribute to injuries.

**Premises liability**—Dangerous conditions at the worksite or elsewhere, such as a poorly designed loading dock or inadequate safety considerations, may also cause or contribute to an injury.

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The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

## CHILD DAY CARE

When selecting a day-care center, parents can learn much by asking specific questions and inspecting documentation covering licensure, staff qualifications, and policies. They can also review procedures for emergencies, first aid, and fire drills.

Parents can also learn more by the “feel” they get by walking around and watching caregivers and children interact. They can see if staff members enjoy being with youngsters, if they treat them fairly, and if children feel happy and safe.

### Here are several general safety and security considerations for parents...

- ✓ Are fire regulations met?
- ✓ Do steps have safety treads and handrails?
- ✓ Is lighting adequate?
- ✓ Are outdoor play areas fenced and clean?
- ✓ Is someone always watching the children?
- ✓ Are playrooms warm or cool enough?
- ✓ Are child drop-off and pick-up secure?

## BE CAUTIOUS

No matter how carefully parents inspect a day-care facility, problems can always arise. After a toddler drowned in a pool located at a day-care facility, his father sued the owner, alleging negligent supervision. His lawyer demonstrated that the child died because he had been placed in an unauthorized and unlocked play area adjacent to the pool.



## Workers' comp

Workers' compensation rates to employers are on the rise due to increasing health-care costs, insurance-industry price wars, and poor insurance-industry investments made during boom-and-bust cycles over the past dozen years.

As their insurance rates have increased, most businesses have tried to control costs of state-run programs through awareness, training, and accident monitoring to reduce workplace injuries.

Some less scrupulous companies are trying to keep workers' comp premiums low through dishonesty and unfairness to employees. A common response is to reduce staff and give fewer workers more duties. Industry investigators found that some businesses downgrade the risk-level classifications of some employees. If these higher-risk workers are hurt, employers then attempt to pressure them into not reporting injuries or seeking medical attention. If that doesn't work, the employer can deny the employees' right to file claims, or even terminate that right.

Contact an attorney for assistance about workers' rights to receive benefits under workers' compensation laws.