



CKRK & M Briefs

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A newsletter for friends and clients of Cusimano, Keener, Roberts, Kimberley & Miles, P.C.

BROUGHT TO YOU BY

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OFFICE HOURS

Monday-Friday

8:00 a.m.-5:00 p.m.

Fen-Phen

deadline approaching

by Michael L. Roberts

Fen-Phen is a term for Pondimin and also for Redux, which are diet drugs made by American Home Products Corporation. In 1992, AHP began making Pondimin, which was given in combination with Phentermine in order to deal with side effects associated with Pondimin. AHP implemented marketing programs that skyrocketed sales in 1995 and in following years. In 1997, AHP began to combine Pondimin and Phentermine into one pill, sold under the name of Redux.

Evidence established in litigation during the last several years showed that AHP hid many studies from the FDA about heart problems associated with the use of Fen-Phen. A class-action settlement has made substantial funds available to compensate people who have used this medicine and who have sustained heart valve damage.

Someone who took Fen-Phen might have developed heart valve damage but not even know it, since certain types of valvular problems may not present painful symptoms. Former Fen-Phen users may qualify for substantial benefits even if they are not experiencing effects of valve damage at the present time. Many of the damage awards available are intended for people who have the damage but have not yet felt the effects of it.

Attorneys at **Cusimano, Keener, Roberts, Kimberley & Miles, P.C.**, are assisting people throughout Alabama who have claims under this class-action settlement fund. However, deadlines for submitting claims will be expiring during the next few months, so Fen-Phen users interested in exploring entitlement to benefits under these funds should act quickly.

Cusimano, Keener, Roberts, Kimberley & Miles, P.C. attorneys can provide further information at **1-877-510-8696**.



Coosa River I-759 bridge named for Senator Larry Keener

Years of work by former State Senator and CKRK&M partner **Larry H. Keener** was recognized in a recent ceremony in which the Interstate 759 bridge in Gadsden was named in his honor.

Keener served in the Alabama State Senate from 1979 until 1983, and during that time was instrumental in leading efforts for the addition of a third bridge across the Coosa River in Etowah County. Larry's efforts in the Joint Legislative Highway Committee and the Senate Finance and Taxation Committee were pivotal in getting the bridge. The bridge had been sought by residents, businesses, and local governments in this area for many years.

We take your family's safety and security personally.



WORKERS' COMPENSATION

Workers' Compensation acts are state-regulated insurance programs that help workers who are injured on the job or suffer diseases related to their occupations. Benefits customarily include weekly compensation to disabled workers; fair hospital, surgical, and medical expenses; and payment of death and burial expenses. Getting a worker back on the job is the goal of most programs.

On occasion, employers and their workers' compensation insurance company disagree on employees' injury claims. When that happens, it's usually best to try to answer questions and resolve disputed issues informally. If that fails, workers have the right to seek legal assistance and to seek resolution proceedings, which may include reviews, appeals, and even arbitration. Because Workers' Compensation is expensive for employers, they naturally monitor claims carefully. Employees often may need an attorney's assistance to obtain fair treatment after a work-related injury.

An employer terminates benefits

A utility company employee was hurt on the job and received workers' compensation benefits following surgery to repair a shoulder injury. After a year and a half, his employer determined the employee had reached his maximum medical benefits and terminated them. The employer simultaneously notified the employee's *private* disability insurance carrier that the claim was settled, but also added that it suspected the employee was working elsewhere. The private carrier terminated the contract; the employee ran out of money and declared bankruptcy. The employee sued the utility, alleging bad faith in refusing to pay benefits due on a legitimate workers' compensation claim and for intentionally inflicting emotional distress. A jury agreed, and awarded the employee both compensatory and punitive damages.

SUSPICIOUS MAIL

It's always a good idea to remember these key United States Postal Service suggestions about suspicious letters and packages.

WHAT MAIL SHOULD YOU SUSPECT?

- Unexpected mail from unknown sources.
- Pieces addressed to names not at the address.
- Mail with no return address.
- Addresses handwritten in block lettering.
- Lumpy or lopsided mail.
- Heavily taped packaging.
- Anything marked "Personal" or "Confidential."
- Mail with too much postage.



WHAT SHOULD YOU DO WITH SUSPICIOUS MAIL?

- Avoid handling it.
- Never shake, bump, or smell it.
- Wash hands after touching.
- Notify law enforcement.

What is *loss of consortium*?

When victims suffer injuries, they can lose many important things. Seriously injured people may suffer financial difficulty from losing their ability to work or walk readily, or to get a good night's sleep. Those less seriously injured may forfeit a day-or-two's pay or may have to pay for accident reports out of their own pockets.

Often, it's not only the injured person who loses something. The rest of the injured person's family is deprived of vital noneconomic valuables, such as affection of a spouse, companionship or parental guidance of children, or the camaraderie of brothers and sisters.

Loss of consortium is a term that our legal system uses to recognize and compensate those who have suffered losses due to the negligence of others. For instance, parents sometimes sue doctors for loss of consortium with their baby if negligence was involved in the infant's death. Another example might be a wife suing an employer should her husband lose his ability to have sexual relations following an accident that can be attributable to a business's disregard for safety.



Auto breakdown?

If you run out of gas or your car breaks down on a highway, you can take several steps to make sure your wait for help is a safe one.

Preparation and prevention

- ✓ Take out a membership in a roadside assistance program. Many new cars come with them.
- ✓ Purchase a cell phone for emergencies.
- ✓ Keep your car in good operating condition.
- ✓ Carry safety triangles or flares.
- ✓ Keep the spare tire in good condition.
- ✓ Know your route and don't risk getting lost.

Breaking down

- ✓ Guide the car to as safe a location as possible, and as far off the road as you can.
- ✓ Raise the car's hood and place a handkerchief in the driver's window to signal a breakdown.
- ✓ If safety is a concern, stay in the car, lock the doors, and call for help.
- ✓ If people offer assistance, have them call law enforcement. Never accept a ride.
- ✓ Take cab fare and pay-phone change.

A fatal accident

Even though a driver pulled far onto a shoulder when he ran out of gas, he was killed when his van was struck by a tractor-trailer that wandered off the road. The deceased's wife and children filed suit and received a postverdict settlement after their attorney demonstrated that the truck driver had falsified his driving logs and was driving while fatigued.

Know your heart risk factors

How much do you know about heart disease? Pick the true or false next to each answer.

- True** **False** Being more than 30 pounds overweight puts you at greater risk for heart attack
- True** **False** One year after you quit smoking, your risk of a heart attack will be no greater than if you had never smoked.
- True** **False** Burning at least 2,300 calories per week through exercise can help prevent heart disease.
- True** **False** Eating a diet high in animal fat increases your risk of getting heart disease.
- True** **False** Having your family physician check your blood pressure periodically will help you keep it under control.

All answers are *true*. However, even if you take good care of your heart, you can still run into problems. When a patient suffered a fatal heart attack a week after having an EKG, his survivors sued for medical negligence. They won a verdict when their attorney proved that the doctor and the medical center failed to disclose that testing showed the patient had had cardiovascular problems and a mild heart attack.



You always need a witness

If a tree falls in a forest and there's no one there to hear it, does it make any sound? Do you remember this old conundrum?

When it comes to personal injuries, such as a slip and fall or an auto accident, it's always best if there is an observer to affirm that the event took place and to bear witness to its details.

If you're upset or in discomfort following an injury, the last thing you're probably interested in is finding someone who will say they saw or heard what happened. But think of this: Should you need to sue to receive compensation for medical bills and pain and suffering, a witness's testimony may be the most important single verification of the injury that you have going for you. When a case is before a jury, the other side's lawyer will look for witnesses to say the accident happened in a way that differs from your recollection. The opposing lawyer may look for details that may even suggest you were at fault for what happened. Talk about blaming the victim!

So here's what to do. Try your best to get the names, addresses, and telephone numbers of any witnesses to any accident in which you are involved.

You always need a witness.



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Water park safety

Water parks are great fun, especially when the weather's hot. However, fun-seekers need to take several serious safety precautions.

- Closely supervise youngsters at play at all times. Discourage roughhousing.
- Teach children to swim or make them wear approved life jackets.
- Be sure lifeguards are on duty and attentive.
- Understand and follow all park rules.
- Carefully evaluate the unique features of each water attraction. Don't go on any that are inappropriate.
- Pay particular attention to water slide safety, and be sure users start in the proper position.



A pelvic injury

When a man exited a "Bonsai" water slide, he received serious pelvic tendon-tear injuries, even though he obeyed park rules and lifeguard instructions. His attorney earned a monetary jury verdict after demonstrating that the waterpark ride failed to comply with industry exit-speed standards, that there had been numerous previous injuries, and that park employees never received waterslide-use safety training.

Assisted living home/nursing home concerns

by Philip Miles

Government statistics show that one out of every four nursing homes is cited each year for causing serious injury or death to a resident. News media attention has highlighted a number of serious problems with substandard care that residents received in certain facilities.

If you have a loved one in an assisted living home or nursing home, you should make sure the home is properly licensed, is adequately staffed to provide care (especially at night and on weekends), and that the staff is properly trained to deal with recurring problems.

If necessary, legal measures can be taken to address problems with substandard care that has caused injury or death.

