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## MYTHBUSTER!

### LAWSUITS SAVE THE LIVES OF SENIORS ...

#### WHILE INSURANCE COMPANIES ABDICATE THEIR SAFETY RESPONSIBILITIES

**Senior citizens across the country have suffered tremendously as a result of defective and dangerous products and practices.** Many of these products and practices were made safer only after the families of sick and injured seniors filed lawsuits against those responsible.

**Insurance companies have callously abdicated their loss prevention responsibilities.** With their vast resources and influence, insurance companies should be controlling and minimizing hazards that cause injury and death to seniors. For example, they should be disclosing information about hazards to those responsible for ensuring safety and to the public, and using their own rating functions to penalize insureds who do not improve safety. But even repeated litigation arising from well-known and identical hazards has not prompted the insurance industry to insist on the elimination of avoidable dangers for seniors. Instead, these companies are using their resources in a malevolent campaign to restrict the rights of sick and injured seniors who suffer malnourishment in nursing homes and other devastating harms.

**As the following examples show, the lives of countless other seniors and many millions of dollars in future health care costs have been saved as a result of lawsuits.** Laws that make it more difficult for seniors and their families to sue (so-called “tort reform”) would be devastating for our nation’s seniors.

- A 78-year-old woman, admitted to a nursing home for short-term hip and wrist rehabilitation, died after suffering severe pressure sores, malnourishment and dehydration. As part of the settlement, the company changed its patient monitoring and care procedures in each of its 65 nursing homes.<sup>1</sup>
- A 72-year-old man contracted a bacterial infection from a fellow patient after undergoing knee replacement surgery; his leg lost all mobility. This lawsuit and similar cases caused health care facilities around the country to be more attentive to infection control.<sup>2</sup>
- A 63-year-old Alzheimer patient was strangled to death by the restraints in her bed rails while sleeping. As part of the settlement, the nursing home agreed to numerous

operational reforms, while the bed rail manufacturer agreed to warn its customers about the dangers of entrapment.<sup>3</sup>

- A 79-year-old woman was crushed to death after a Home Depot forklift operator knocked lumber and other merchandise stacked several feet above her. After the case settled, Home Depot announced plans to change its merchandise-stacking policies.<sup>4</sup>
- A 79-year-old nursing home patient suffering from Alzheimer's disease drowned in a bathtub after being left unattended. As a result of this lawsuit, the nursing home installed safety strips in bathtubs and exercised closer supervision of its elderly patients.<sup>5</sup>
- An 81-year-old woman died after taking the anti-arthritis drug Oralflex manufactured by Eli Lilly. As a result of this lawsuit, Lilly and its executives were held criminally responsible for mislabeling and failing to report fatal side effects and illnesses related to the drug.<sup>6</sup>
- An 80-year-old was legally blinded in her left eye when a twist-off aluminum cap blew off a plastic two-liter Diet 7-Up bottle and struck her in the eye. As a result of lawsuits, the company converted to using plastic pre-formed caps that greatly reduced the likelihood of caps blowing off and added a specific warning on the bottles.<sup>7</sup>

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## NOTES

<sup>1</sup> *Olson v. Chisolm Trail Living & Rehabilitation Center*, No. 98-0363 (Caldwell County Ct., Tex., verdict August 26, 1999).

<sup>2</sup> *Widmann v. Paoli Memorial Hospital*, No. 85-1034 (E.D. Pa., verdict December 9, 1988).

<sup>3</sup> *Trew v. Smith & Davis Mfg. Co.*, No. SF 95-354 (Santa Fe County Jud. Dist. Ct., N.M., verdict July 19, 1996).

<sup>4</sup> *Hamilton v. Home Depot U.S.A., Inc.*, No. SC060655 (Los Angeles County Super. Ct., Cal., settlement August 2, 2000).

<sup>5</sup> *Beale v. Beechnut Manor Living*, No. 90-18826 (Harris County Dist. Ct., Tex., verdict May 21, 1992).

<sup>6</sup> *Borom v. Eli Lilly & Company*, No. 83-0038-COL (M.D. Ga., verdict November 21, 1983).

<sup>7</sup> *Roberts v. Aluminum Company of America*, No. C86-0013 (Salt Lake County Ct., Utah, verdict December 5, 1987).