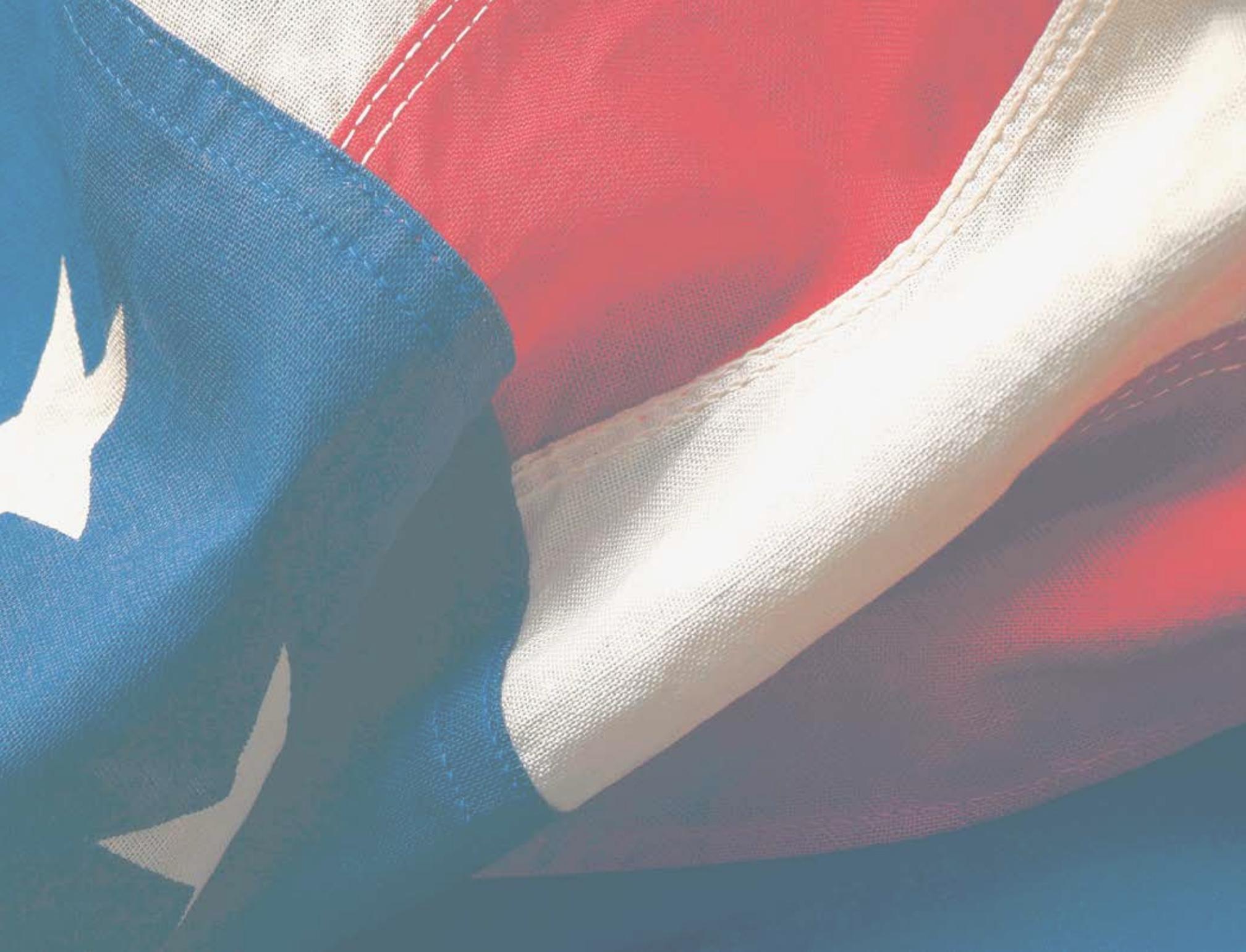


THE AMERICAN ASSOCIATION *for* JUSTICE

WHY WE
NEED A
STRONG
CIVIL JUSTICE
SYSTEM



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and the importance of what we do.



America's civil justice system gives people a fair chance to receive justice through the legal system when they are injured by the negligence or misconduct of others—even when it means taking on the most powerful corporations. This is more important now than ever because the drug and oil industries, big insurance companies and other large corporations dominate our political process—and thus, people cannot depend on the political system to hold corporations accountable. When corporations and their CEOs act irresponsibly by delaying or refusing to pay fair and just insurance claims, producing unsafe products, polluting our environment or swindling their employees and shareholders, the last resort for Americans to hold them accountable is in our courts.

*Because of the civil justice system, our cars are safer,
the environment is cleaner, and medicine is safer.*

Read about everyday examples of why we need a strong civil justice system, and its role in protecting American workers, consumers, and families.

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A woman with dark hair is driving a car at night. She is looking forward with a slight smile. The car's interior is visible, including the steering wheel and dashboard with illuminated gauges. The background is dark, suggesting nighttime driving.

In the 1960s, court cases began highlighting the dangers of car design and the willful negligence of manufacturers in designing cars that they knew to be unsafe. Since then the civil justice system has worked hand-in-hand with regulation to protect Americans, while spurring generations of safety innovations.

The drop in car crash fatalities is due in large part to the fact that cars are getting safer.

What would CARS be like without the civil justice system?

* GAS TANKS



GM could have fixed their gas tanks for **\$8.40 per car**, but calculated that paying for 500 fatal accidents would cost only **\$2.40 per car**.

Several car manufacturers, including GM and Ford, designed defective gas tank placement, which resulted in fires and explosions even in minor collisions. As a result of litigation, gas tanks are now universally located within rigid frames.

* DOOR LATCHES

Ford's own engineers identified the problem with its "paddle-style" handles, which allowed the doors to accidentally open in collisions. But rather than fix the design, Ford covered up the problem until held accountable in court.

* AIR BAGS

Auto manufacturers began developing air bag technology in the 1950s, yet were extremely slow in installing it. By 1988, only two percent of new cars came equipped with air bags. Courts found that manufacturers knew their cars were safer with air bags and that many lives could have been

saved had they been included. Eventually, manufacturers were forced to install air bags in all cars.

* TIRES

Tire manufacturers from Firestone to Good-year tried to cover up problems with defective tires and have been held accountable in the courts. Firestone's defective tires caused 271 deaths, and the resulting litigation brought tires and their manufacturers under increased scrutiny.

* SEATS



GM admitted that seats costing just **\$1 more** could reduce injury levels by up to **90 percent**.

Safety engineers call the prevalence of weakened seats the "most egregious, widespread defect to be found." Weak seats can collapse in even low-speed impacts and kill rear passengers. Without adequate regulatory standards, only court cases were able to highlight manufacturers' negligence and force them to install stronger seats in all cars instead of just certain models.

* SEAT BELTS

Court cases went a long way in highlighting

the dangers of inferior seat belts, or no seat belts at all. One example was Chrysler's defective Gen 3 seat belt, installed in more than 14 million cars and proven to unlatch in accidents. Both seat belts and seats themselves were redesigned in response to litigation.

* POWER WINDOWS

As power windows became more common, so did deaths associated with them. Children were especially vulnerable through accidental depression of rocker-style window switches. The inexpensive solution, a lift-up style switch, was ignored by several manufacturers in order to cut costs, but litigation eventually forced universal acceptance of the safer switches.

* ROOF CRUSH

Vehicle manufacturers, particularly makers of SUVs, had long known roof strength was a critical weakness during rollovers. Without adequate regulatory standards, it was only litigation that forced manufacturers to begin strengthening roofs.

* IGNITION SWITCHES

As early as 2001, GM knew that an ignition switch used in its cars was defectively designed and could allow the ignition to slip from the "run" position to the "accessory" position while the car was in motion,

causing the engine to lose power and leaving the driver unable to adequately steer or brake. A lawsuit filed by the family of a woman who died when her 2005 Chevy Cobalt lost power exposed the problem and forced GM to recall more than 2.6 million cars.



IN THE COURTS: *Grimshaw v. Ford Motor Company* (1981)

The Ford Pinto became the most notorious example of a corporation putting profits ahead of safety after court cases highlighted a design flaw that left the gas tank unprotected, resulting in explosions, even in minor rear-end accidents.

Litigation revealed that Ford knew of the design problem and determined it could be fixed for as little as \$11 per car, but calculated it would be more profitable to sell the car as is and let occupants burn to death.

The Pinto's design met all government standards at that time. Had compliance with federal standards been a complete defense, as many in the auto industry have proposed over the years, Ford could not have been held responsible for the many burn victims that the company itself anticipated. Litigation spurred the adoption of requirements for fuel tank performance in rear-end collisions.

Since 1974, the Consumer Product Safety Commission (CPSC) has issued more than 850 recalls for toy products, many for hazards like magnets, lead and other dangers hidden in our children's toys. In the face of such risks, and with so few resources at hand, American parents have come to rely on consumer groups and the civil justice system to serve both as an early warning system and an enforcement mechanism against negligent corporations.

Civil actions by parents across the country have consistently forced corporations and regulators to take action.



What would TOYS be like without the civil justice system?

★ CHOKING HAZARDS

The choking hazards of small toy parts, small balls, and balloons have long been one of the leading causes of toy-related fatalities.



196 children died from choking on toy parts, small balls and balloons.

Between 1990 and 2007.

Choking hazards were the leading cause of CPSC toy recalls in 2009. Yet the millions of recalled toys may just be the tip of the iceberg. Many toys still on shelves barely meet the CPSC standard for small pieces. Of particular danger are objects that are narrow in shape, such as toy nails or darts, because they can more easily cause suffocation. In 2007, at least two boys died after asphyxiating on soft darts from Chinese-made toy guns. The toy's importer refused to recall the gun. At least one other child died under the same circumstances before a civil action by one of the families persuaded the retailer to pull it off shelves.

★ CSI: ASBESTOS

The CSI Fingerprint Examination Kit—a toy based on the hit CBS show CSI: Crime Scene Investigation—allowed children to look for fingerprints with a special powder

and brushes. The powder in question turned out to contain up to five percent asbestos. The alarm was sounded in November 2007, but the toy's maker, CBS Consumer Products, decided to leave it on shelves in the run up to Christmas. Rather than wait for the CPSC to negotiate a recall, the Asbestos Disease Awareness Organization filed a civil action to stop sales of the kit.

★ MAGNETS

Over the last several years, toy manufacturers have increasingly used small, powerful magnets, creating a new category of deadly toys. These magnets can come loose and be swallowed by small children. Unlike other small objects, which are often passed through the body, magnets pose a unique risk. If two or more magnets are swallowed, they can attract to each other through intestinal walls. This can result in pinched, blocked or twisted intestines. The effect is fast and devastating. Magnets quickly erode through the intestinal wall, spilling bacteria into the body. Serious infections, blood poisoning, and even death may result. The family of a toddler who died after ingesting nine tiny magnets filed a lawsuit that prompted the CPSC to recall the dangerous toy and raised awareness across the nation about the hidden dangers of magnetic toys.

★ LEAD

The danger most frequently encountered with toys is invisible to even the most watchful parent's eye: lead contamination. Lead is the second-most deadly household toxin in existence, after arsenic, and no level of exposure is safe. Yet every holiday season is marked by incidences of children being sickened by lead-tainted toys. Most were still on store shelves and allegedly passed toy manufacturers' internal tests. A series of lawsuits in the late 2000s not only helped remove lead-tainted toys from store shelves, but also helped establish quality assurance programs overseen by the courts.

★ CHILDREN'S JEWELRY

Children's jewelry is more likely to contain lead or other toxic metals than many other toys. Even after 18 million pieces of children's jewelry were recalled between 2005 and 2007, CPSC tests still found that 20 percent of children's jewelry contained unsafe levels of lead. And the danger was not over once manufacturers stopped using lead, as many began to use the carcinogenic metal cadmium as a replacement. What's more, the vast majority of recalled items were never actually returned, meaning toxic jewelry remains on children's dressers. With the CPSC's testing and enforcement actions hampered by

inadequate funding, the civil justice system is often the last line of defense for parents to protect their children. In fact, insurers have warned manufacturers of the risks they will face in court by allowing the use of cadmium.

★ THE UNEXPECTED



Nearly a quarter of a million children are treated at U.S. emergency rooms for toy-related injuries every year.

Injuries from scooters, choking hazards, and lead-contamination are always in the news, but beyond the headlines lie a myriad of dangers: beads that contain date rape drugs, asbestos, uranium, and other toxins, baby boats that drop their infant occupants under water, toy helicopters that catch fire, or aromatherapy kits that detonate with acid. Every year brings new hazards to confound even the most cautious parent. Time after time, the civil justice system has served as both a warning system to parents and federal agencies, and is the only mechanism capable of consistently holding corporations accountable.

A photograph of a man lying in a hospital bed, receiving medical attention. He is lying on his back, and a medical professional is using a clear plastic oxygen mask over his face. The man has a red ECG electrode on his chest and a blue blood pressure cuff on his left arm. The background shows other medical staff in scrubs. The overall scene is a clinical setting.

The civil justice system gives families of patients who have died or been injured by medical negligence an avenue to seek accountability. It also drives the development of patient safety systems that help prevent injuries before they occur. Hospitals, health systems, and even entire medical fields have reformed dangerous practices because of the civil justice system.

Better patient safety is the key to lower health care costs.

What would HEALTH CARE be like without the civil justice system?

* MEDICAL ERRORS



As many as **440,000** people die every year in hospitals from preventable medical errors, making them the **third leading cause of death** in the nation.

Journal of Patient Safety, September 2013

The civil justice system not only provides injured patients the ability to hold those responsible for their injuries accountable, but also encourages the adoption of patient safety systems that help prevent injuries before they happen. Specialties like anesthesiology have drastically improved patient outcomes by identifying system failures and implementing comprehensive practice changes. Individual hospital systems have also reduced errors after undergoing comprehensive safety studies. The civil justice system has served as a valuable deterrent to malpractice and a powerful motivator for patient safety.

* HOSPITAL-ACQUIRED INFECTION

Dickson Clark became infected with the lethal bacterium MRSA after back surgery in Nevada in 2005. The infection led to four years of hospitalizations and

surgeries, and then a second superbug infection. Clark died in 2010. Two million hospital patients acquire infections each year, and as many as 90,000 die. In response to civil actions, hospitals have introduced mandatory hand washing programs and other hygiene initiatives.

* NEGLIGENCE



More than half of all instances of medical negligence are caused by the same **five percent of doctors**.

Arturo Iturralde's surgeon was in a hurry to complete his spinal surgery, only to discover the titanium rods he needed were not in the operating room. Rather than wait for replacements to be delivered, he instead cut up a screwdriver and inserted the stainless steel pieces into Iturralde's spine. The screwdriver broke and Arturo later died. It was revealed that Arturo's surgeon had a history of drug addiction and malpractice. Medical negligence lawsuits are the only way to identify serially negligent physicians like Arturo's.

* PHARMACEUTICALS

When three-month-old Gage Stevens

suffered from heartburn and diarrhea, a specialist recommended the anti-heartburn drug Propulsid. Gage died from a cardiac arrhythmia, a side effect of the drug known to its manufacturer, Johnson & Johnson. Three hundred people died from Propulsid while its manufacturer reaped over \$1 billion in profits. Litigation highlighted Propulsid's problems, and the drug was eventually pulled from shelves.

* ANESTHESIOLOGY

In response to lawsuits, anesthesiologists undertook a comprehensive analysis of common errors. Today, the number of anesthesiology errors has been cut in half, and anesthesiologists pay far lower insurance premiums than before the analysis took place.

* ITEM INVENTORIES



As many as **1,500** sponges and surgical instruments are left inside patients after surgery every year.

Florida judge Nelson Bailey was in excruciating pain following abdominal surgery. For five months following the operation, he endured repeated trips to the doctor

and numerous tests until the source was revealed: a surgical sponge measuring a square foot had been left in his abdomen and rotted part of his intestines. In response to medical negligence lawsuits, hospitals now often take a complete inventory before and after operations to ensure no items are missing.

* WRONG-SITE SURGERY



Approximately **40** wrong-site surgeries occur every week in the U.S.

After suffering a fall at home, 87-year-old Ivory Andrews entered a hospital to have hip surgery. Her surgeon inserted a metal pin and a stabilizing plate, but did so in the wrong hip. The formerly healthy hip became infected, and Andrews was forced to spend the next 45 days in the hospital. Now, many operating teams use preoperative checklists to minimize the chance of a mistake.

* MEDICATION ERRORS

Many hospitals and pharmacies now use computerized prescriptions and barcoding equipment to decrease the chance of a medication error.

Nursing homes are big business. An increased emphasis on profits has led to a distressing rise in neglected and abused seniors. With regulatory and legislative bodies unable to cope with a groundswell of neglect and abuse, the civil justice system has stepped into the breach. Attorneys who represent our nation's seniors and their families play a critical role in uncovering abuse and neglect.

The civil justice system is the most effective force to compel corporate nursing homes to fix their conduct.



What would ELDER CARE be like without the civil justice system?

* CHEMICAL RESTRAINTS

The use of chemical restraints—drugs used to subdue or even restrain patients—has increased dramatically in nursing homes over the last several years, although the vast majority of these patients have no psychiatric diagnosis. Trial attorneys have not only helped get patients off stifling anti-psychotics, but also taken on the huge pharmaceutical giants that illegally market these medications to control senior populations.

* NEGLECT



14,000 nursing home patients died nationwide of malnutrition and dehydration.

Stories of neglect are all too common in American nursing homes. In addition, nearly 160,000 residents had at least one pressure ulcer, yet only 35 percent of those with the most severe ulcers received special care for their wounds. Trial attorneys acting on behalf of injured and neglected residents have obtained agreements from nursing home corporations to greatly improve patient monitoring and care procedures.

* ABUSE



As many as 1.5 million seniors are abused every year.

Experts believe that for every case of abuse that gets reported, five more go unreported. Many nursing home residents are afraid of the repercussions of reporting abuse to largely ineffectual regulatory authorities. Trial attorneys have proven to be the most effective representatives of abused seniors.

* BED RAIL DEATHS

Over the last quarter-century, bed rails have been known to cause nearly 500 deaths and experts believe that may just be the tip of the iceberg. Bed rails are often poorly designed and leave seniors vulnerable to asphyxiation. The dangers are well-known to nursing homes, but federal minimum standards are voluntary. Lawsuits over poorly designed beds and inappropriate use of rails have improved their design and greatly reduced their use.

* INSURANCE DENIALS

Thousands of seniors who faithfully paid their long-term care insurance premiums have found their benefits

cut just when they needed them most. Insurers calculate that few of their terminated policyholders will ever complain, and those who do will eventually die if they delay payment long enough. Trial attorneys have uncovered insurers' actions and spurred Congressional investigations into the industry.

* FORCED ARBITRATION

Under a little known practice called forced arbitration, many families unknowingly sign away their rights in order to get care for their loved ones. These clauses, buried in the fine print of admissions documents, prevent families from going to court even if a family member is severely injured or killed in the care of a nursing facility. Trial attorneys have challenged forced arbitration clauses to hold nursing homes accountable for the pain and suffering they inflicted.

* SCAMS

Seniors have long been a target for unscrupulous insurance executives and fraudsters. While regulators are often powerless to act, trial attorneys have taken on everything from fraudulent agents to huge life insurers, recouping money for seniors, rolling back

premiums and ensuring future dishonest behavior is banned.

* MEDICAL ERRORS



Preventable medical errors kill 440,000 people a year and seriously injure tens of thousands more.

While representing just 13 percent of the population, seniors account for 34 percent of all adverse drug events, most of which are preventable. The civil justice system not only allows patients to seek justice for their injuries, but also encourages medical providers to institute patient safety systems that prevent negligence before it occurs.



Laws passed in the 1960s and 1970s were supposed to protect the environment, but lax enforcement left corporations with little incentive to comply. Ultimately, trial attorneys were the ones who sought justice for communities destroyed by corporate polluters.

Without the civil justice system, many corporate polluters would never have been held accountable for the disaster they caused.

What would the ENVIRONMENT be like without the civil justice system?

* DIRTY AIR



More than **50 million** U.S. residents live with unhealthy air.

Even after Congress passed the Clean Air Act, corporations continue to pollute the air we breathe with chemical and carcinogens from arsenic to zinc. In the face of weak federal enforcement, it has been trial attorneys who have led the fight, seeking justice against all the odds for communities such as the cancer-ridden town of Globeville, poisoned by the cadmium-spewing smelter that rose above it for 100 years.

* POISONING THE POOR

For decades, corporations handling waste disposal and hazardous materials have targeted low-income communities as locations for processing plants, dumps and landfills. State and federal agencies were of no help, routinely allowing permits for sites in economically vulnerable communities without any oversight. Trial attorneys have worked on behalf of targeted communities, such as Camden, New Jersey, which was forced to accept an industrial plant producing over a million tons of hazardous waste a year in a neighborhood already marked

by 15 contaminated sites. Trial attorneys were successful on behalf of Camden and continue to stand up on behalf of many other similar communities.

* OIL SPILLS

Incidents such as the Exxon Valdez and BP's Deepwater Horizon disasters have poured billions of gallons of oil into waterways worldwide. Trial attorneys worked for two decades to force Exxon to clean up its mess and have worked to hold BP accountable for its negligence and the environmental and economic disasters it caused.

* CONTAMINATED WATER



As many as **49 million** Americans have water supplies that contain levels of arsenic, radioactive substance and coliform bacteria

Trial attorneys were the first to take action in the 1970s, holding Velsicol Corp. accountable for contaminating drinking water in Tennessee with 300,000 barrels of chemical waste. While federal agencies pursue only three percent of the more than 23,000 companies that violate

federal law by contaminating rivers, streams and groundwater sources, it continues to be trial attorneys who offer the best protection of America's water supply.

* CHEMICAL DUMPING



U.S. corporations produce more than **25 billion** pounds of hazardous waste every year.

Nearly half a billion pounds of that hazardous waste is so toxic that it will not break down in the environment. In cases such as Love Canal, Hooker Chemical Co. dumped 20,000 tons of chemical waste in an unlined canal and then sold the land to the local school board. Time and again, it has been trial attorneys who have worked to stop corporations from dumping toxic waste and held them accountable for the injuries they have caused.



IN THE COURTS: Exxon Valdez

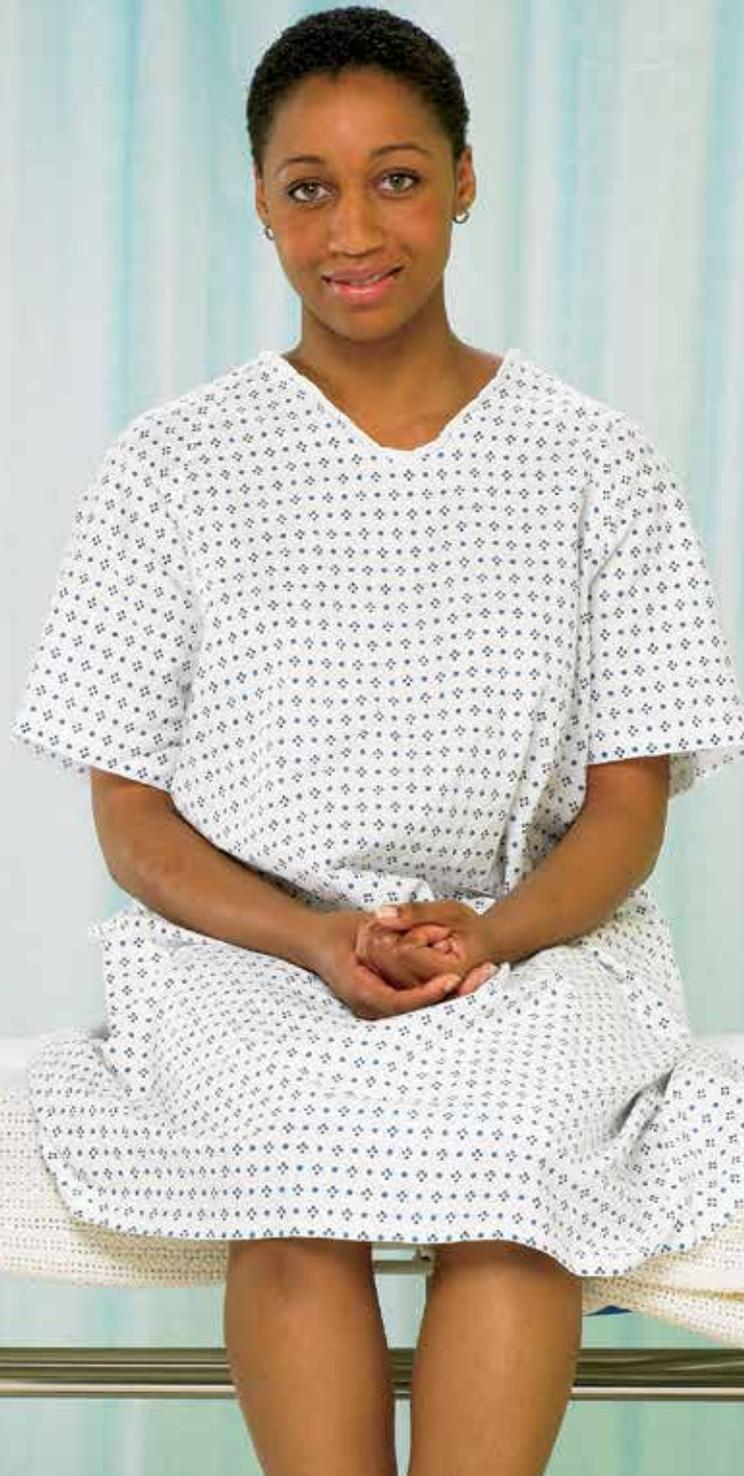
In 1989, the Exxon Valdez struck a reef off the Alaskan coast and spilled more than 10 million gallons of oil over 1,000 miles of remote coastline. Exxon's immediate response to what would become one of the most devastating man-made environmental disasters ever to occur was to embark on a campaign to avoid responsibility that would last decades.

BP adopted Exxon's playbook decades later and thousands of miles away on the Gulf of Mexico. The British oil giant has fought to evade accountability in the wake of the Deepwater Horizon explosion, even after corporate officials repeatedly promised Americans they would take responsibility for their actions.

Trial attorneys worked for 20 years in court to hold Exxon accountable, as the corporation did everything it could to avoid liability. Even so, Exxon was forced to pay over \$3 billion in clean-up costs and civil and criminal settlements. Meanwhile, BP, which has been convicted of multiple felonies—including 11 counts of manslaughter—associated with the Deepwater Horizon disaster, has signaled that it is ready to dig in and fight back against all attempts to hold it accountable for the disaster its reckless actions caused.

Throughout modern history, women have suffered disproportionately from the effects of dangerous and defective drugs and medical devices. Corporations have consistently rushed products to market with little safety study, or worse, concealed known issues for the sake of profits. Even when the dangers become public knowledge, companies frequently continue to market them and play down the problems, anticipating that any repercussions will be more than justified by a continuing stream of profits.

The civil justice system plays an invaluable role in keeping corporations in check when they prove unwilling to protect the health of women.



What would WOMEN'S HEALTH be like without the civil justice system?

★ HORMONE REPLACEMENT THERAPY

The pharmaceutical industry has marketed estrogen supplements as “menopause treatments” since 1942, even with known links to breast cancer, heart attacks and blood clots. Despite recommendations from health experts, the global HRT market is expected to be worth \$3 billion by 2017. The only thing standing in the drug companies’ way is the civil justice system. In 2012, Pfizer was forced to pay \$896 million to settle claims its HRT drugs caused cancer. The company faces another 4,000 cases.

★ THE DALKON SHIELD



More than **230,000** women suffered pelvic infections, miscarriages, stillbirths, infertility, and even death due to the Dalkon Shield.

A.H. Robbins knew that its contraceptive IUD, the Dalkon Shield, caused fatal infections, but fought to keep the device on the market. By 1975, the FDA reported it knew of at least 15 fatal and 245 nonfatal septic abortions, among a host of other problems. But it was not until 1980, after

lawsuits publicly revealed the extent of the problem, that the company finally agreed to issue a letter to doctors recommending the removal of the device.

★ SURGICAL MESH

As many as 70,000 women have vaginal mesh devices implanted each year. However, the devices cause organ perforation, infection and numerous other side effects. Early models were eventually recalled, but later versions went to market without FDA approval—and sometimes even without FDA’s knowledge—because of rules that allow medical device manufacturers to sell products claimed to be similar to prior products, even if they are known to be dangerous. By 2011, the FDA knew of at least 2,874 adverse events and warned doctors that complications were “not rare.” Facing 4,000 lawsuits from injured patients, Johnson & Johnson stopped selling its mesh device in 2012. Other mesh implants, however, are still heavily marketed and surgically implanted.

★ DEPUY ARTIFICIAL HIP

DePuy Orthopaedics—a division of Johnson & Johnson—began receiving complaints about its ASR XL Acetabular hip replacement system immediately after its 2005 introduction. Doctors



Studies found that women have a **29 percent** higher risk of metal-on-metal hip implant failure than men.

reported the device shed large quantities of metallic debris and frequently caused infection, fractures, dislocations, necrosis, and nerve damage. DePuy’s internal documents showed the company expected 40 percent of the devices to fail, but decided not to fix its flaws. The device remained on the market for five years until sales were finally halted in 2010. In 2013, Johnson & Johnson agreed to pay over \$4 billion to settle thousands of cases.

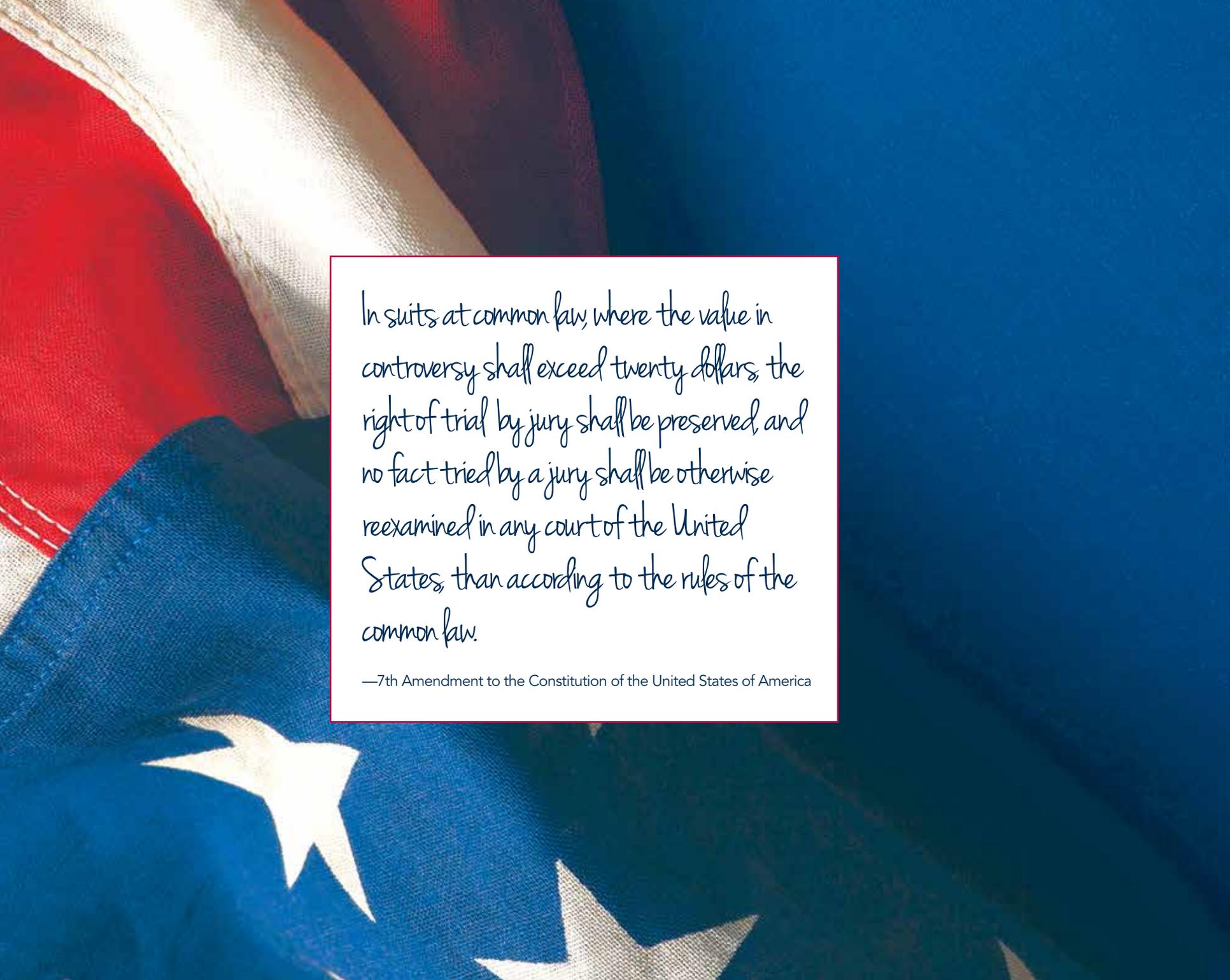
★ CONTRACEPTIVES

Some of the most dangerous drugs and medical devices ever sold have been contraceptives. In the 1970s, poorly designed IUDs caused hundreds of thousands of pelvic infections, miscarriages, stillbirths, infertility, and even death. Modern contraceptives have often been similarly flawed. Users of the Ortho Evra patch were 18 times more likely to suffer blood clots than those on the pill, while contraceptives that used so-called third and fourth generation hormones, such as Yasmin/Yaz and the NuvaRing, have killed hundreds of women and

seriously injured thousands more. In each of these cases, the civil justice system protected women when corporations were unwilling to do so.

★ ACCUTANE

In the 1960s, Hoffman-LaRoche’s cancer treatment division discovered that isotretinoin was effective against acne, but could cause severe birth defects. The company rebranded isotretinoin as the acne cure Accutane, and excluded women from pre-market testing so that it could release the drug with a label that claimed there had been no evidence of birth defects in children. In reality, 40 percent of pregnancies exposed to Accutane resulted in spontaneous miscarriage, and a quarter of babies carried to full term suffered major congenital deformities. In 1988, an internal FDA memorandum was leaked suggesting as many as 1,300 Accutane babies had been born, but Hoffman-LaRoche fought to keep Accutane on the shelves, settling confidentially with victims to keep documents out of the public eye. In 2009, amidst claims that Accutane was linked to inflammatory bowel diseases and suicide, as well as birth defects, Hoffman-LaRoche finally pulled the drug from the market. Accutane is still available in generic form.



In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

—7th Amendment to the Constitution of the United States of America

The Mission of the American Association for Justice, formerly the Association of Trial Lawyers of America (ATLA®), is to promote a fair and effective justice system, and to support the work of lawyers in their efforts to ensure that any person who is injured by the misconduct or negligence of others can obtain justice in America's courtrooms, even when taking on the most powerful interests.



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