

CERTIORARI

Journal of Consumer Advocacy

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● **CASE FILE**

Insurance Company Denies Accidental Death Policy Claim

By George Miles

On August 18, 2013, an American Airlines employee was killed in a single vehicle motorcycle accident. He had purchased accidental death insurance through American. The widow made claim for benefits under the policy and was denied by the insurance company, which claimed that the death was not accidental.

The widow hired Frasier, Frasier & Hickman, LLP, to pursue the accidental death policy benefits. Because this policy was a part of the employee's benefits at work, the rules for making a claim for benefits are governed by federal law. The insurer based its denial on its reading of the policy and on law from other jurisdictions.

The Firm asked for a copy of the policy and other materials upon which the denial was based. After reviewing them, the denial was appealed. In that appeal the correct policy language and local law were pointed out to the insurance company. It reversed its decision and paid the benefits afforded by the policy, together with interest.

If you or a loved one believes you are entitled to benefits under any insurance policy, you can request in writing a copy of the policy and they must provide that to you. This is true whether the insurance comes through work or otherwise. Also, if you are



**Never accept their decision
without seeing the policy,
getting a written state-
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consulting with a lawyer.**

denied benefits, the company must provide you in writing with its reasons why the claim was denied.

Never accept their decision without seeing the policy, getting a written statement of their reasons, and consulting with a lawyer.

● CONSUMER

7th Amendment Creates Corporate Accountability Through Access to Courts

The 7th Amendment is your right to a trial by jury. It allows you to access the civil justice system and hold corporations accountable when they injure and kill innocent Americans, pollute our environment and endanger our children. As we know all too well, if no one is accountable, no one is safe.

- Thanks to Americans exercising their rights under the 7th Amendment, flammable pajamas were pulled off the market.
- For years, Johnson & Johnson failed to publicly disclose that Tylenol turns toxic and destroys the liver when mixed with alcohol. Thanks to the 7th Amendment, Johnson & Johnson was held accountable in court and now puts warnings on its products.
- The 7th Amendment paved the way for three of the major candy makers, including Hersheys and Mars, to enter into a settlement in 2006 that established strict standards for protecting children from lead exposure in candies imported from Mexico.
- The exploding Ford Pintos were redesigned after the manufacturer was taken to court by burn victims exercising their 7th Amendment rights.
- Holding crib manufacturers accountable in court helped step up the public notification effort that old designs were dangerous. The 7th Amendment prevented more babies from dying.
- After an accident left a woman a quadriplegic her subsequent lawsuit under the 7th Amendment revealed design defects with the Ford Explorer and its Firestone tires.
- After residents filed a lawsuit using the 7th Amendment, Pacific Gas & Electric ended the practice of dumping hexavalent chromium into the water and reached an agreement to clean up the affected area.

Do you know of products that have been made safer because of the 7th Amendment? Have you exercised your right to a trial by jury to uphold justice? If so, tell us your story! E-mail info@takejusticeback.com.

Reprinted from TakeBackJustice.com.

● CONSUMER

About Take Justice Back

Powerful corporations have spent billions to evade accountability when they hurt and kill Americans. Take Justice Back is a public education and grassroots campaign to restore accountability, promote safety and ensure Americans have access to justice.

For too long, access to justice and accountability though our courts have been under attack by powerful corporate interests. Their goal is to evade accountability when they injure and kill Americans. The consequences for us can be deadly because when no one is accountable, no one is safe.

Take Justice Back is a grassroots campaign launched by the American Association for Justice to restore accountability, promote safety and ensure Americans have access to justice.

The fact is, our environment is cleaner, our medicine is better and our cars are safer today, thanks to Americans who stood up to big corporations and held them accountable in the courts.

Take Justice Back uses straightforward facts to directly take on the myths and propaganda pushed by



corporate front groups like the U.S. Chamber of Commerce. The campaign encourages Americans to join the fight to take back their rights.

The Take Justice Back website includes easy-to-read information about how the Constitution's 7th Amendment (see companion article) guarantees citizen rights to the courts that are under attack by big corporations.

Information is bountiful on the easy-to-navigate website and includes such topics as corporate groups that promote so-called

"tort reform", the campaign to replace court access with forced arbitration and other ways citizens' rights are threatened. The increasing number of deadly truck accidents, asbestos and questions of liability regarding generic drugs are among the issues explored at www.TakeBackJustice.com.

When Americans' access to justice is denied, unscrupulous insurance companies, Wall Street banks, reckless drivers, dangerous hospitals and other wrongdoers can get away with the worst. We must act to make sure they clean up their acts.

Join the effort to Take Justice Back by clicking www.takejusticeback.com and learn how you can make a difference!



“The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little.”

**–Franklin D. Roosevelt
January 20, 1937**

After George Bush Jr. was elected to his first term as president, his running mate Vice President Dick Cheney went behind closed doors with energy industry cronies and companies that had contributed to their campaign for the White House. From the secret meetings with representatives and lobbyists from the petroleum, coal, electricity industries emerged a new national energy policy.

The rest is history, as they say ... The 9/11 terrorist attacks, the war in Iraq, tax breaks to wealthy corporations and deregulation that has not

helped consumers.

Fast forward a decade, and now state officials are doing the bidding for energy czars who enjoy massive tax breaks while they make enormous profits.

Right here in Oklahoma – where we can’t afford to properly fund our public schools or maintain safe roads and bridges – the top law enforcement official in the state has used his position to help energy companies relax regulations that enforce health and safety for the public.

The New York Times has exposed Attorney General Scott Pruitt as one

of the principal skills among his colleagues in the Republican Attorneys General Association in a campaign to fight the Environmental Protection Agency. Not only did Pruitt spend taxpayer resources to sue the Department of Interior in its plan to expand the endangered species list, he signed letters written by lawyers for Devon Energy protesting EPA regulation.

When will these abuses of the public trust stop? The citizens of our state and country can make a difference ... get registered to vote; and then vote!

– Jim Frasier

● WORKER

Employers Required to be Family Friendly

For a couple of decades, the Family & Medical Leave Act (FMLA) has been in effect. For employers with 50 or more employees within 75 miles, an employee who has worked at least 27 hours a week for the prior year is entitled to 12 weeks off for either their own “serious” medical condition or that of a spouse, parent or child.

Also, the Fair Labor Standards Act (FLSA) generally sets a minimum wage and overtime requirements. In addition, it has provisions for nursing mothers.

Under the FLSA, a nursing mother is to be allowed reasonable time during the work day to express milk, for up to a year after birth. The employer is to set aside a place, free from intrusion and other than a bathroom, for this purpose.

There are two conditions, however. If the employer has 15 or fewer employees and can show that allowing the time off will create a hardship on the business, it can deny the nursing mother. Second, the employer is not required to pay the employee for time spent gathering milk.

● EDUCATION

Scholarship Applications are Now Available

The Julia Fredin Frasier Foundation is accepting scholarship applications from high school seniors preparing to continue their education.

Applications for new scholarships may be obtained by calling, writing or coming into the office of Frasier, Frasier & Hickman, LLP. The application deadline is June 1, 2015.

Julia Fredin Frasier passed away in 1996. She was married for 50 years to the firm’s founding partner, Tomy Dee Frasier. The Foundation was organized in recognition of her great interest in the education of young people. Annually, the Foundation gives 40 or more scholarships at \$1,000 each.

During her life, Julia Frasier financially helped many students and encouraged many more to continue their education. She set an example that the Foundation aspires to continue.





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● SPRING 2015

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certiorari, (ser-she-eh-ra-re) noun [Latin, to be informed]; to be informed as a means of gaining appellate review; a common writ.

When at least four of the nine U.S. Supreme Court justices vote to hear a case, the court issues a writ of certiorari.

● SOCIAL SECURITY

Attorney, Nurse Combine Expertise

Recently Frank Frasier attended a conference of leading advocates and lawyers for those helping persons with Social Security Disability Benefits. The conference, coordinated and hosted by the American Association of Justice (AAJ), was a forum to discuss recent issues and tendencies of the Social Security Administration in how it awards Social Security Disability and Social Security Supplemental Income Benefits.

"This was an excellent opportunity for me to discuss with other preeminent lawyers in this field recent trends and new theories for helping people before administrative law judges of the Social Security Administration", Frasier said. The intensive two-day session included workshops on cross-examining vocational experts and other medical experts the Social Security Administration utilizes to determine

whether an applicant should receive Social Security Disability Income.

"The information and knowledge gained through this conference will definitely help me help our clients," Frasier said.

Frasier has been practicing Social Security law since law school in Washington, D.C. Further helping Frank with these cases is Barbara Graham, R.N.

"Having a nurse sort through sometimes complex medical history really helps me better evaluate our clients' claims and produce the information the Social Security Administration needs in order to find our clients disabled," Frasier explained. "Having Barbara attend this conference will benefit how she approaches this work."

If you or any of your loved ones have questions about Social Security Disability Benefits, please do not hesitate to contact one of the lawyers at Frasier, Frasier & Hickman, LLP.