



## Welcome to Our Newsletter

- We hope to provide practical and useful information.
- We want to share what we are doing with you.
- Let us know if there is something you want us to write about.
- We appreciate the business our clients refer.

KAFOURY & MCDUGAL, LAWYERS 320 SW Stark Street, Suite #202, Portland Oregon 97204

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**Our focus is:**  
wrongful death,  
personal injury,  
medical malpractice,  
defective products,  
construction injuries,  
sexual harassment,  
and false arrest cases.

We appreciate referrals.  
Please let your family, friends  
and neighbors know that if they  
need a lawyer, they should call  
Kafoury & McDougal first!

## You Need to Know

### WHAT HAPPENS IF YOU ARE HIT BY AN UNINSURED DRIVER?

What happens if you are hit by an uninsured driver? Oregon law provides that your insurance company has to pay you for damages caused by the uninsured driver up to the limits of your uninsured motorist (UM) coverage. These are good cases, because the named defendant is an insurance company. There are many pitfalls to a UM claim, so you should call a lawyer immediately.

Similarly, if you are hit by a driver who has low policy limits, you can get full compensation under your underinsured motorist coverage (UIM). For instance, if the other driver has only \$25,000 in liability

coverage, but you have \$100,000 in UM/UIM coverage, you may be able to collect the \$25,000 from his company, plus \$75,000 from yours.

We see many tragic cases where clients are terribly injured, but underinsured. You have no control over the coverage limits of other drivers, but you can protect yourself against the misfortune of being both injured and broke.

High levels of UM/UIM coverage are your best investment, ever. Coverage of \$250,000 and even \$500,000 is available. This protection for you and your family is much less expensive than you might imagine. Check your policy, check with your insurance company, shop around, and protect yourself and your loved ones.

## Kafoury & McDougal Case Leads to Safer Vaporizers

### CASE SPOTLIGHT: JOHANSEN V. KAZ

Can a single lawsuit make the world a safer place? Consider the case of Jonah Johansen. As an infant just able to crawl, he suffered nearly catastrophic injury to both hands when he placed them on the steam vent of a Vick's Vaporizer. The manufacturer, KAZ Corporation, has 70% of the world's vaporizer market, and had been manufacturing essentially the same machine for more than 70 years, a machine which emitted steam at 212 degrees, hot enough to destroy flesh instantly. Jonah's parents had carefully read the instructions, which advised them to place the vaporizer on the floor.

Once we took the case, we sought to discover what other injuries had been caused by these machines. We took the videotaped deposition of the chief engineer at KAZ, Robert Girard, who testified that he kept records of prior injuries, but that he had "discarded them" — threw them away — once



Jill and Jonah Johansen fought for consumer safety and won.

*If I can sing Greg and Mark's praises for a moment, my only intention in pursuing a lawsuit was to stop other children from being burned, and the reception I got from the other attorneys I contacted or worked with was that I was overly idealistic and it really was just about money. I can't tell you the despair I felt at their cynicism, because I felt an absolute obligation to do something to keep other children from being burned and going through what we had suffered. Meeting Greg and Mark and having them take me seriously was such a lifeline for our family. Here's to Kafoury & McDougal and all their staff for doing the dirty, exhausting work of making the world safer for the rest of us!*  
— Email from Jill Johansen

they were two years old. He explained that they were taking up "too much space." We took a break, Girard met with the defense attorney, and when he returned, he admitted that injury files going back more than 15 years were still in his possession!

When we reviewed those files, they showed that KAZ had been told of more than 50 severe burns from their vaporizers, just in recent years. Based on the number of injuries and the attempts to conceal the evidence, the Court allowed us to request millions of dollars in punitive damages to punish KAZ for gross misconduct.

The case settled after more than a week of trial.

Most importantly, within a month of Girard's testimony, KAZ had a new design for its vaporizer, and soon began producing the new models, while ending production of the old. The new models are a major safety

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## Attorney Spotlight: Lourdes Sánchez



Our firm is pleased to act as trial counsel in personal injury cases in partnership with other law firms. In this issue we wish to give thanks to Lourdes Sánchez for our long-standing

relationship working as trial counsel on a variety of cases for her firm.

Through our relationship with Lourdes, we have handled a wrongful death case against Yamhill County, major injury auto accidents, employer liability law claims, construction injuries and UM/UIM claims against insurance companies.

Lourdes Sánchez is a bilingual attorney. She represents numerous clients, and has offices in Eugene, Salem, Albany, and Roseburg. Lourdes was born in Puerto Rico, and moved to Eugene, Oregon in 1985 with her family. She attended the University of Oregon School of Law from 1994 to 1997, worked as a law clerk at Lane County Legal Aid, worked for the honorable Gregory Foote, Lane County Circuit Court Judge, and as an assistant summer law clerk for Justice Edward N. Fadeley at the Oregon Supreme Court. Lourdes also was an associate in the firm of Rasmussen & Tyler, and a partner of the firm Kasubhai & Sánchez. Mr. Rasmussen and Mr. Kasubhai are now judges in Lane County.

If you are a lawyer, we invite your firm to explore associating with our firm as trial counsel on some of your cases. We also urge you to refer Ms. Sánchez and our firm any clients needing a Spanish-speaking lawyer.

## Why No Trials? Perhaps Fear. Continued

improvement, releasing vapor at 155 degrees, rather than 212.

We should note that ours was the first trial against KAZ for vaporizer injuries, despite the fact that their dangerous machines had been burning children since the 1920s. Why no trials? Perhaps fear. Jonah's mother learned about the intimidation tactics used by KAZ when she reported Jonah's injuries to KAZ's insurance carrier. She was told KAZ had only seen injuries as serious as those suffered by Jonah when the parents had burned the child on purpose. (At trial, KAZ was forced to admit that small children lacked the motor skills to remove their hands in time to prevent the destruction of the flesh on their tiny hands.)

### CASE SPOTLIGHT: WOMAN WINS WAL-MART LAWSUIT

A Multnomah County jury unanimously awarded an 81-year-old Wal-Mart shopper

\$331,000 for injuries she received when a store display dropped on her foot, breaking it.

"They gave us every nickel we asked for, and they gave it to us in 35 minutes," attorney Greg Kafoury said, referring to the time jurors spent deliberating.

Lois Whitmore, who was 78 at the time, had been pushing one of her grandchildren in a shopping cart at the Wal-Mart at 4200 S.E. 82nd Avenue on the day of the mishap. As they passed through the store's pharmacy section, a rack holding brochures dropped onto her foot, causing lasting injury.

"Because it healed improperly, it hurts with every step she takes," Kafoury said, adding that his client, a retired nanny, used to walk two to three miles a day.

Attorneys for the superstore couldn't be reached for comment Wednesday, and a company spokeswoman in Arkansas said she wasn't familiar with the case.

Kafoury said Wal-Mart attorneys had tried to stop him from seeing the store's incident reports, which three employees filled out shortly after the woman was injured three years ago.

He said those reports directly contradicted the employees' later depositions and testimony.

The incident reports said the employees found Whitmore sitting on a bench after the display fell on her. But during depositions and testimony, the employees said they encountered Whitmore sitting on an electric cart. They said they suspected she drove the cart into the display, causing it to fall, Kafoury said.

"All three changed their story," Kafoury said.

The jury award of \$331,000 included an award of medical expenses in the amount of \$3,600.

—From *The Oregonian*, June 12, 2008



## The Dragon Says...

How wicked are the big insurance companies? You know that **AIG** took billions in bailouts from the taxpayers, then shoveled hundreds of millions in bonuses to the executives who brought the world economy to its knees. But, are you aware AIG has spent millions lobbying to limit jury awards as "tort reform"? Ralph Nader correctly calls it "tort deform!"

Maurice Greenburg, then top-dog at AIG, testified to Congress that damages for pain and suffering should be limited to \$250,000, *no matter* how catastrophic the injury. He said that any more amounted to "greed."

None of the members of Congress asked his salary. It was \$250,000 a week, not including stock options and bonuses. Soon thereafter, it doubled. You get the idea.

## What NOT to Do

Accidents can be scary and upsetting. After everyone's safety is addressed, it is important to exchange driver information, and write down any witness contact information. If possible, take photographs.

Equally important is what not to do:

- Don't give any statements.
- Don't discuss fault or responsibility for the accident.
- Don't discuss your injury claim with anyone other than your attorney.
- Don't agree to be evaluated by an insurance company's doctor.

As soon as possible, call us.

## What's New

### JASON KAFOURY JOINS FIRM

Jason Kafoury, Greg's son, graduated Tulane Law where he led the Moot Court team to third in the nation out of 224 law schools. After Lincoln High and Colorado College, Jason worked with Ralph Nader for five years, and helped run Mr. Nader's 2004 and 2008 presidential campaigns.

### CHARLEY MERTEN, OF COUNSEL

Charley Merten joined us in 2007. Recognized as the father of modern Oregon employment law, he won \$6.3 million in the whistleblower case *Banaitis v Mitsubishi Bank*, and \$8.7 million in *Turner v Hallberg*, where a city employee used his position to deprive the plaintiff of her house. Merten has twice been awarded the ACLU MacNaughton Civil Liberties Award, and was privileged to receive the trial lawyers Public Justice Award in 2003.



Staff photo (Left to right): Dustin Hawkins, Mark McDougal, Dennis Hall, Christopher Gorton, Sandi Kucera, Dani (The World's Most Dangerous Legal Assistant), Jason Kafoury, Linda Williams, David Hess, Charley Merten, Gregory Kafoury

## Lies from the Insurance Industry

We all know that insurance companies drag out claims for years, constantly coming up with excuses to delay or deny paying claims. Now—thanks to some aggressive lawyers—we have written proof of how cynical these companies are. Allstate has finally been forced to disclose the orders they gave their employees on how to handle claims. The documents confirm that their marching orders were to “deny, delay, defend.” Allstate actually had charts showing how much profit they could make by delaying and denying legitimate claims for year after year.

Allstate's hand was forced after it was suspended from practicing business in Florida for failing to produce the documents, and was also hit with a \$25,000 a day penalty in Ohio.

To no surprise, Allstate has been named America's worst insurance company. The ugly truth about how they operate was outlined in a new book, *From Good Hands to Boxing Gloves* by David J. Berardinelli.

## Political Corner

In 2006 Oregon voters enacted tough limits on political campaign contributions. But the politicians have tied them up in court. Our 2010 ballot measure amends the Oregon Constitution to enforce the 2006 limits and bans changing them—without a vote of the people.

Get Involved! Go to [www.fairelections.net](http://www.fairelections.net) or email [info@fairelections.net](mailto:info@fairelections.net) or call 503-246-2906. Sign up for the email alerts. **Right now you can sign the 2010 initial petition at [www.fairelections.net/2010](http://www.fairelections.net/2010).**

Get Big Money Out of Oregon Politics.

### CONSUMER ALERT

Thousands of consumers are being billed monthly by electronic funds transfers from their bank accounts without their permission or proper notice from their banks. The amounts are usually \$11.99 or \$12.99/month. **This rip-off is called “cramming.”** If you see charges for “Identity Theft Protection,” “Travelers Advantage,” “AutoVantage,” “BuyersAdvantage,” or some other “service” you did not authorize, please call Kafoury & McDougal and ask about the **Bogus Bank Charge Class Action**. Help us stop this scam.