



Rick Bisher Phil Ryan Pat Ryan

RYAN BISHER RYAN

1-800-725-2222 OKC 1-877-410-1234 TULSA

Our thoughts are with those that are defending this great nation. We wish their speedy return to their families and loved ones.

RBR - "Day In The City"

RBR is proud of John Valentine's community service work. John devotes an enormous amount of time and effort in assisting our workers' compensation clients. He also devoted some of his "weekend time" time to assist the elderly perform tasks around their homes as part of the "Day in the City" volunteer community project. John helped perform repairs to a home in Blanchard. He assisted in repairing the roof and with other volunteers, painted the entire house. He

also worked up a sweat clearing brush around the home and replaced the steps and handrail to the front porch, which were most appreciated by the home owner. The new flower beds John helped build were a welcomed improvement to the home and will be enjoyed by the resident for many years. Thanks John.

If you know of others that would benefit from this type of volunteer work, give John a call at 1-800-725-2222.

OKLAHOMA SUPREME COURT HOLDS MALPRACTICE LEGISLATION IS A "SPECIAL LAW" - AND IS UNCONSTITUTIONAL

Some of you were probably aware that as a result of extensive lobbying efforts by physicians and the nursing home industry the legislature passed special legislation affecting the rights of an injured victim to pursue a claim against such medical providers. The Oklahoma Supreme Court on December 19, 2006 held that the legislation requiring an injured victim to spend from \$1,000 to \$5,000 to obtain a report from an expert before filing suit against a doctor was unconstitutional, and amounted to nothing more than special legislation making it cost prohibitive for victims of medical negli-

gence to gain access to the court system.

The legislature then sent the Governor one of the most one sided bills to ever come out of that body. *There was not a single provision in the bill that helped injured Oklahomans.* The bill only assisted insurance carriers and corporations to continue to increase their profits. [Insurance company profits in this state exceed the national average.](#)

The Governor was asked to veto the bill by various consumer groups and the state Attorney General, and thankfully for all citizens of this state that is what he did.

THANK YOU FOR YOUR COMMENTS

Larry & Joyce Stevens were nice enough to send us their comments regarding the information about tort reform that appeared in our last news letter. Their comment that "The people that are for tort reform do not understand how much money it will take to take care of an injured or sick person", is well taken.

PARTNER'S - "JUST A THOUGHT"

The rules relating to social security disability are to say the least complex. The approval or denial of an application for disability benefits is based upon a multitude of factors including a person's age, education and past work experience. One of the most important factors is the applicant's age at the time they claim they became disabled. Applicants over the age of 50 are much more likely to be approved for benefits without an administrative hearing. An individual seeking social security disability who is under the age of fifty will almost routinely be denied benefits at the first two stages of the application process. Their only alternative is to seek an administrative hearing on the matter. Many of these "younger" applicants are denied even at the hearing level.

The Social Security Administration rationalizes their decision making process by arguing that a younger individual should theoretically be able to adapt to a larger number of jobs that are available in the national economy. However, one can't help but notice that when the Social Security Administration approves a younger individual for benefits, the total amount of monies paid

over that person's lifetime can be quite substantial. For example, if an individual becomes disabled at age 40 and is entitled to \$1,000 per month, assuming a normal life expectancy, Social Security can expect to pay out over a half a million dollars in disability benefits over that individuals lifetime (and that doesn't even include medical benefits most disabled individuals receive through Medicare).

It's just a thought, but maybe the harsh criterion for the approval of a younger individuals claim has more to do with Social Security's financial exposure than with the number of jobs that are actually available in the national economy. One thing is certain, if a person under the age of fifty thinks they are entitled to social security disability they should probably (1) plan on appearing at an administrative hearing, and (2) know that they are going to need very strong medical evidence to prevail.

Philip Ryan

NEW PRACTICE AREAS

RBR wants to remind all of our clients that we now handle family and criminal law matters.

If you are experiencing a family law problem, let us help you. Call David Hood, who will be happy to assist you with your child custody, divorce or other family related matter. David's experience in family law matters will successfully help you succeed in this difficult and emotional type of litigation.

Sometimes circumstances cause us to run afoul of the law, if that should occur rest assured that RBR is here to help you. Criminal matters are serious, and John Langford is ready to devote the time and resources required to ensure that you are provided the best possible defense.

DID YOU KNOW?

J. Robert Hunter, director of insurance for the Washington, D.C.-based Consumer Federation of America and a former Federal Insurance Administrator under former Presidents Jimmy Carter and Gerald Ford, at a press conference Monday gave us some true statistics versus the false facts touted by Doctors, insurance companies and corporations. Compiling information from credit-rating firm A.M. Best Co. and other reliable sources, Hunter determined the insurance industry as a whole paid out in losses only 67.5 cents on every dollar collected in premiums in 2005, reporting an industry-wide **profit of \$48.8 billion**. Oklahoma insurers did better than the national average, with a 55.2-percent loss ratio in 2005.

Want to know more about the firm, go to www.rbrlawfirm.com



EXPERIENCE, SKILL AND KNOWLEDGE TIPS THE SCALE IN FAVOR OF OUR CLIENTS. We get results, it's just that simple! RBR has collected over \$500,000,000.00 for our clients. We do our best to obtain successful results each and every day for our clients!!

FEDERAL COURT FINDS THAT INDIVIDUALS HAVE NO RIGHT OF PRIVATE CAUSE OF ACTION FOR PUBLIC DISCLOSURE OF PERSONAL MEDICAL RECORDS

We have all seen it countless times. Visit any hospital or doctor's office and you are asked to sign a HIPAA form. The HIPAA form is allegedly to protect your private medical information from being provided to others without your consent. So what can an individual do or expect should her own doctor disclose her private medical records to another? Apparently, not much.

The US Congress apparently neglected (or perhaps forgot) to include an individual's right to pursue an action in the HIPAA law. In 1996 the United States passed into federal law the Health Insurance Portability and Accountability Act; (HIPAA). HIPAA generally provides for the confidentiality and protection of those patient's medical records from wrongful disclosure.

In a ruling issued by the United States Federal Court for the Fifth Circuit on November 13, 2006, the Court held that individuals have no private rights of action under HIPAA should they allege their medical records were wrongfully disclosed. Acara v. Banks, M.D., No. 06-30356 (5th Cir. 11/13/06). Acara, the patient, alleged that her doctor, Banks, M.D. wrongfully disclosed her private medical records to others without her consent. Acara brought a federal lawsuit alleging violation of her HIPAA rights. The federal court promptly dismissed her claim. The Court found that HIPAA, as enacted by the US Congress, failed to provide any private cause of action for individuals. The Court found that

HUNGRY?

Tortilla Rollups: 12 flour tortillas; 8oz cream cheese (softened; 1 cp sour cream; 3tbs chopped green onion; salsa. Combine all ingredients except salsa & mix thoroughly. Spread onto tortillas, roll up and cut into 1 inch sections (cut best when chilled for 2 hours). Serve with salsa for dipping. Enjoy

COMMENTS

We would like to hear your comments/suggestions regarding our newsletter or how we can better serve you. Send us an email or drop us a line. Or, if you have a story or other event you wish us to publish in the Newsletter, we would like to hear from you.

while HIPAA does provide civil and criminal penalties for improper disclosures of medical records, the HIPAA limits enforcement of those penalties only to the US Secretary of Health and Human Services. The Court found that since the Congress delegated enforcement of HIPAA to the Secretary only, then Congress did not intend to provide any enforcement rights to the individuals whose private records were being wrongfully disclosed. Acara thus had no right under HIPAA to sue her doctor for his wrongful disclosure of her medical records without her consent.

Thus for all intent and purposes, due to the US Congress' wording of the HIPAA law, or better, lack of wording by the US Congress, the very persons whose private medical information is supposed to be protected under the law, apparently have no rights to pursue action if their private medical information is not protected under the very same law!

This is not to say that there may be a private state cause of action available outside of HIPAA that would allow recovery (based on state law). If medical providers have provided protected information to third parties you should probably discuss the situation with an attorney.