

TREE STAND INJURIES

FOR HUNTERS AND ATTORNEYS

A hunter in camouflage gear is kneeling in a forest, holding a bow and arrow. He is looking up at a tree stand. A large set of antlers is on his back. The forest has many trees and some yellow leaves.

MONSEES & MAYER P.C.

TABLE OF CONTENTS

- 1** Introduction
- 2** Types of Tree Stands
- 3** Manufacturer's Recommendations
- 4** Causes of Tree Stand Injuries
- 7** What is a Defective Tree Stand?
- 8** Why Do Tree Stands Fail?
- 9** What Should I do if I am Injured While Using a Tree Stand?
- 10** Steps to Take After an Accident
- 12** What are my Legal Rights?
- 13** Who Can Be Held Responsible for My Tree Stand Injuries?
- 14** What Damages Can I Recover for My Tree Stand Injuries?
- 21** Do I Need a Tree Stand Attorney? How Do I Find One?
- 22** What Questions Should I Ask an Attorney?
- 24** What Will Happen in My Tree Stand Injury Case?
What Is Expected of Me?
- 26** What Are Some Examples of Defective Tree Stand Injuries?
- 30** Fighting the Big Manufacturers

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even gun injuries during
hunting season*

Tree Stand Injuries

Tree stand injuries outnumber even gun injuries during hunting season. Deer hunting is popular, and deer hunters want every advantage they can gain to assure themselves of a successful hunt. Hunters use tree stands, sometimes referred to as “deer stands”, to avoid detection. Tree stands reduce the hunter’s scent, remove the hunter from a deer’s line of sight, and increase camouflage. Using a deer stand also provides the utility of a higher vantage point and better shooting angle for the hunter. The elevated height is what makes tree stands so popular, but also what makes them extremely dangerous.

Tree stands take on many forms. Some are nearly home-made tree houses, while others are home-made platforms. Manufactured tree stands come in a host of forms and uses. Most hunting supply stores such as Bass Pro Shops and Cabela’s sell tree stands. You can also find many stands in the sporting goods sections of major department stores, such as Walmart.

This booklet is written by the attorneys at Monsees & Mayer, P.C. We dedicate our practice to helping those injured by defective tree stands. We have learned that folks may have questions about a tree stand accident but are not yet ready to speak to an attorney. The purpose of this booklet is to try and inform those who have been injured of their rights and available help within the civil court system. While not exhaustive by any means, this booklet’s aim is to cover a wide array of topics.

Types of Tree Stands

Manufactured stands come in a variety of forms. Among the most popular are the following:



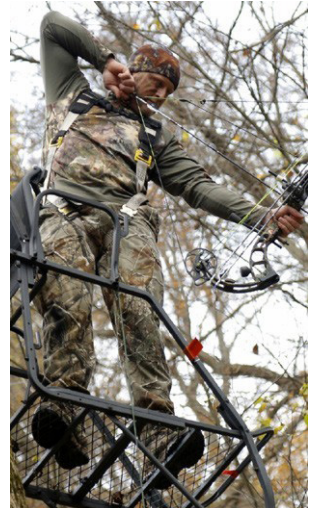
Hang-On Stands

Hanging tree stands connect to the tree through a combination of friction, straps, and gravity. Occasionally, they use more substantial material, like a cable. A hunter generally must climb the tree by applying a ladder or steps to the tree.



Climber Stands

Climber stands ultimately serve the same function as a hanging stand. The hunter uses the climber stand to climb the tree like a lineman's belt.



Ladder Stands

A hunter assembles Ladder stands from the ground up. The stand has a platform at the top of the ladder from which the hunter hunts.

All stands have some type of seat, and many have a rail that acts as a slight barrier from falls. Hunters also use this rail as a bench rest for aiming the weapon of choice. Ladder stands can hang from heights in excess of 15–20'. Falls from such elevated positions result in significant injuries, and occasionally in paralysis, brain injury, or death.

Manufacturer's Recommendations

Legal shooting hours for game in most states is usually thirty minutes before sunrise until thirty minutes after sunset. Hence, hunters frequently enter or exit the woods in the dark. Transporting equipment can be cumbersome, and the noise associated with erecting a stand can drive away the game.

To minimize such challenges, hunters frequently assemble stands before the day's hunt, and often leave them in a good spot for the duration of the hunting season.

Tree stand manufacturers advise hunters to erect and disassemble their stands daily, but such expectations are unrealistic and frequently dangerous. Erecting a stand in the dark carries its own risks. In addition, manufacturers instruct hunters to use 2-3 people when erecting some stands (e.g. ladder stands).

Again, such a practice ignores how folks hunt. It is ridiculous to expect a hunter to bring along 2 friends every morning he intends to hunt so that his stand can be erected for each use.

Tree stand manufacturers advise hunters to erect and disassemble their stands daily, but such expectations are unrealistic and frequently dangerous

Causes of Tree Stand Injuries

It is not uncommon to hear about hunting injuries, but most hunters do not expect to be seriously injured while using their tree stand. What follows is a discussion of the dangers of tree stand use, and the additional dangers of defective stands, which are all too common in the tree stand industry.

Falling

Falling is the #1 risk when using a tree stand. Falls happen for a host of reasons. Some are the fault of the hunter. But many others are the fault of the tree stand itself. Whenever a hunter sits on a tiny platform, suspended by only straps, leverage and gravity, falling is a distinct risk. Moreover, falls are frequently from as high as 20 feet resulting in what are frequently serious or catastrophic injuries.

While tree stand injuries ultimately happen largely from falls, the falls can be from a combination of oversights and failures. Certainly, there are times when hunters simply lose their footing, fall asleep, or make errors erecting or maintaining their stands. On such occasions, the hunter undoubtedly shares in the legal responsibility for his or her own injuries.

But many failures are a result of shortcomings in the manufacture or design of the stands. Failures of any part of the tree stand can cause serious injury to an unsuspecting hunter. Strangulation, brain injuries, spinal cord injuries, broken bones, and even death can occur.

While tree stand injuries ultimately happen largely from falls, the falls can be from a combination of oversights & failures

Environmental Conditions

Many tree stands are manufactured in Chinese plants with little ergonomic or environmental testing. Hence, tree stands do not stand up against environmental conditions or even slight variations in assembly. Tree stand manufacturers look largely to the hunters themselves to assume nearly all the risks of tree stand use. There are enough inherent risks to hunting from elevated positions that tree stand manufacturers should exercise better care to avoid the addition of hidden defects.

Tree stand manufacturers look largely to the hunters themselves to assume nearly all the risks of tree stand use

Poor Quality Parts

Ladder stands are frequently manufactured with poor quality metal that may also suffer from poor dimensions. This gives the hunter little margin for error if there are even slight oversights in erection and maintenance. Stands have weight limits, but frequently the weight limits are confusing. A good example is a “two man” stand. The stand is advertised as “two man”. However, little is said by the manufacturer about how the weight limits of the individuals alter this prime selling point.

Many stands, including ladder stands, are held to the tree by straps. The straps are ratcheted to the tree to pull it tight. Sawtooth braces dig slightly into the tree. These along with the force of gravity and the straps, keep it from slipping down the tree. Failures from polypropylene straps are common.

Stands have weight limits, but frequently the weight limits are confusing

Unfortunately, tree stand manufacturers do little to inform a user on how to evaluate the condition of straps. In addition, manufacturers do almost nothing to protect the straps against the degrading effects of the environment, particularly the damaging effect of ultra-violet radiation (i.e. sunlight).

While many stands are manufactured in plants located in China, there is little testing performed that replicates how American hunters assemble and use their stands. As a result, many stands fail during the process of assembling and erecting the stand.

Safety Harness

Tree stand manufacturers routinely advise hunters to wear safety harnesses in the event of falls. When a hunter falls from the stand, the harness will catch him/her and allow the hunter to step back onto the stand. However, the harnesses are primarily designed to arrest a fall from the stand, not for when the stand itself collapses.

What if the stand itself collapses to the ground? The safety harness suspends the hunter in the air. Prolonged suspension causes blood to pool in the feet and legs, pulling life-giving blood from the vital organs. Death from suspension trauma can occur in as little as 30 minutes. Older safety devices were made of straps. The risks associated with the use of straps caused the manufacturer's association to discontinue their use many years ago.

There is little recognition in the tree stand industry that devastating and life-threatening conditions can arise from the harnesses. While it is simplistic to say the harnesses prevent a fall and impact with the ground, separate, lethal risks have been documented from the use of harnesses. While the use of safety harnesses is a wise choice. The collapse of a defective stand is primarily the responsibility of the tree stand manufacturer.

What is a Defective Tree Stand?

A defective tree stand is one that due to design or manufacture will fail and fall to the ground, frequently leaving the hunter with life-threatening injuries. From such heights, a hunter is lucky if all he or she suffers are broken bones or torn ligaments.

The Tree Stand Manufacturer's Association is the sole authority policing the design and manufacture of tree stands. It is predictable that profit-motivated decisions common to every manufacturer will guide, and limit, safety considerations.

While all tree stands have inherent risks, the industry does little to establish standards and specifications for safe design. Moreover, manufacturers do even less to properly instruct and warn hunters of the shortcuts taken to enhance profits at the expense of safety.



Why Do Tree Stands Fail?

Stands can also fail due to hunter error. However, when hunter error is due to a lack of proper instructions or warnings, the manufacturer is also to blame. Ladder stands can fail when metal parts are of insufficient dimensions to properly bear loads or have unstable connection points. Hanging stands fail when straps are made of materials that quickly lose their tensile strength when exposed to the elements. Climbing stands fail when they have defects in design that allow an insecure connection to the tree.

Hunters come in all sizes and with varying levels of experience. Hence, instructions on use and erection of stands need to be clear and understandable. There are sciences devoted to warnings and instructions known as “human factors.” Frequently, instructions convey false or misleading information. They also fail to advise anyone, other than the most experienced of hunters, how to properly use such an inherently dangerous product.

Tree stands can also be defective if the manufacturer fails to convey the proper useful information on erection, use and maintenance. Many tree stands fail during assembly and erection as a consequence of poor instruction manual and inadequate information provided to the hunter.

*Frequently, instructions convey false
or misleading information*

What Should I do if I am Injured While Using a Tree Stand?

We live in a technology world. The use of mobile phones is commonplace. Individuals who do not use or carry a phone are now the exception rather than the rule.

From a strict safety standpoint, carrying a mobile phone with you when you hunt is a potential life-saving connection. If you fall and have the presence of mind and body to call for help, do so immediately. If your stand collapses and you are suspended in a tree, easy access to a mobile phone may be essential to prevent the quick onset of suspension trauma.

Once you have summoned help, the next steps are largely dependent on your physical condition.



Steps to Take After an Accident

1. Attend to Your Injuries

First and foremost, attend to your injuries. Make sure you fully describe your injuries and pains to all medical personnel. Make a point, if possible, to note that your stand “collapsed” or “failed” rather than “I fell” from a tree stand. The latter description suggests user error rather than a defect in the stand itself.

2. Alert Friends, Fellow Hunters and Loved Ones

One should always alert friends, fellow hunters and loved ones of your position when hunting. Make sure to tell them your expected time of return as well. A significantly injured hunter may not have the physical capacity to summon help. Friends and family may not realize you need help for hours, especially if you have left no expected time of return.

3. Fully Document the Scene

Either you or someone you designate should fully document the scene. Photographs of the immediate after-accident condition of the scene are vital. This includes the tree to which the stand was erected. There is no such thing as too many photographs from too many angles. Write down anything you remember about what happened or saw during the accident. This will ensure you don’t forget or confuse the facts.

4. Secure the Stand

Secure the stand in its condition immediately following the failure. Do not attempt to repair it, clean it or otherwise change its condition in any fashion. Changes to the product can result in an allegation of “spoliation of evidence.” In other words, do nothing, however innocent, to change the condition of the evidence.



5. Do Not Alter Anything

Do not alter the scene of the fall, the condition of the tree or stand or the damage to clothing. Preserve blood stained clothing. It may give some indication of how someone landed and what portions of the body struck first.

6. Store the Stand

Properly secure and store the product. Preserve it in its immediate, after-fall condition. Attempt no repairs, reconstructions, cleaning or other changes to the scene or the stand. If the stand is new enough that you still have product packaging (e.g. boxes, literature) keep those as well.

7. Watch What You Say

It is common for game wardens or wildlife authorities to do an investigation. Again, if the product failed, this needs to be noted. Wildlife authorities are frequently allegiant to product manufacturers. In short, many are of a mindset that injuries only happen due to user or hunter error. Be careful of what you say. Take the time to consult with an attorney, if you have access to one, before speaking with law enforcement authorities.

8. Avoid Speaking About the Accident

It is best to avoid speaking about the accident on social media, to any insurance companies or representative of the manufacturer without your attorney present. A single statement taken out of context can eliminate the potential you have to recover compensation.

9. Obtain All Documentation

Be sure to keep record of all medical treatment and accident related expenses to give to your attorney. Your attorney can use any documentation related to the incident to substantiate the cause of your injuries.



What Are My Legal Rights?

Any owner or user of a product has a right to expect it is free of dangerous defects. Defective tree stands can result in a legal claim or lawsuit for “product liability.” This is the broader category of law that applies when dangerous products result in personal injury.

There are some unique laws that apply to product liability. One can always sue a product seller or manufacturer who has been negligent. To prove “negligence,” one must prove that the product manufacturer failed to exercise “ordinary care.” Ordinary care is that degree of care an ordinarily careful and prudent product manufacturer would exercise under the same or similar circumstances.

There may be negligent design or manufacture of the product. A failure to provide thorough and understandable warnings and instructions to a user may also be negligence. A product manufacturer has a duty to warn users of the product’s inherent, and sometimes hidden, hazards.

Unique to product liability litigation is the concept of “strict liability.” If a product is “defective and unreasonably dangerous,” it does not matter if the manufacturer was careless or not. In other words, a product manufacturer can be liable for a defective product even if it was not negligent.

One can always sue a product seller or manufacturer which sells a defective product

Who Can Be Held Responsible for My Tree Stand Injuries?

An individual suffering a tree stand injury may have cause for legal action against the manufacturer and the seller of the tree stand. This includes the:

- Manufacturer
- Wholesaler
- Distributor
- Retailer

Same Condition

The product must be “in substantially the same condition as it was at the time it left the manufacturer.” Any alteration of the product is subject to a claim that the product is not in the same condition. Even natural aging of the product can be the subject of such a claim, if some scheduled maintenance or inspection was overlooked. Failure to lubricate a product, for example, may over time alter the condition of the product.

Who Can Bring a Claim?

You do not have to be the original purchaser to bring a claim for your injuries. You could have received the defective tree stand as a gift or purchased it from a friend. If there were no alterations or modifications to the original design, you can still bring a claim.



What Damages Can I Recover for My Tree Stand Injuries?

In any lawsuit, damages fall into one of two categories: **general damages** and **special damages**.

General damages tend to include the following:

- Pain and suffering;
- Disfigurement;
- Loss of the enjoyment of life;
- Distress and anxiety.

To many, these are the most important damages. However, in recent years “pain and suffering” has gained a bad reputation. Nearly anyone would forgo money damages just to relieve themselves of the pain and the emotional consequences of personal injury.

Special damages are those for which a specific monetary figure can be assigned or easily calculated. They include the following:

- Medical expenses;
- Future medical expenses (e.g. future surgery);
- Lost wages;
- Loss of future earnings capacity;
- Loss of services, such as expenses incurred because someone is unable to do certain things around the household (e.g. hiring someone to mow the lawn);
- Life care expenses. These include expenses for future living that arise solely due to the consequences of injury. (e.g. a wheelchair ramp, future transportation or supervisory care).

Do Some States Limit Damages?

Some states cap or limit the damages that can be recovered. Economic losses, in most cases, have no limitations. An injured person can recover all that he/she can prove with respect to lost income or future medical expenses. Non- economic damages, such as pain and suffering, cannot be easily calculated. Thus, some states limit the amount a jury can award for such damages.

These caps provide artificial protection for defendants. Pain and suffering capped at \$250,000 makes it difficult to negotiate a settlement greater than this amount, regardless of the extent of actual monetary or economic damages. Some horrific damages may yield few economic consequences, yet the caps still hold down a fair recovery.

What if, for example, a highly educated person with a “desk job” becomes paralyzed? The medical expenses may be inconsequential when compared to a lifetime in a wheelchair. Yet, such a person has the same cap on recovery as someone who suffers only a broken leg. Both are significant injuries, and in many circumstances, might command an award of non- economic damages exceeding the cap of \$250,000. Yet, how can anyone say the two are equal? Caps limit the ability for a jury to consider the individual circumstances of each injured person.

Not all states limit damages. Missouri, for example, allows unlimited recovery as proven by the evidence and based on the sound judgment of a jury. Kansas, by contrast, recently had rather restrictive limits that have now been declared unconstitutional. Missouri only limits damages in medical malpractice actions.

Some states cap or limit the damages that can be recovered. Economic losses, in most cases, have no limitations

An experienced attorney will develop all the damages to which you are legally entitled. When there are limited non-economic damages, a skilled attorney will endeavor to fully develop the economic damages to more closely approximate a full recovery.

Are There Lawsuits Against Tree Stand Manufacturers?

Many tree stand manufacturers have faced lawsuits for defective stands. Injuries from defective stands stretch across the full spectrum of tree stand types (e.g. hanging stands). Ameristep, Big Game, Summit, Primal Vantage and others have all faced lawsuits for defects in one or more models of stands.

Engineers and workers in China manufacture many of the tree stands, with virtually no experience in hunting products. Ironically, hunting is illegal in China. Therefore, the engineers in China designing stands for the American hunter and for American climates and environments, have little practical background. Add to this a near absence of proper testing, and it is no wonder so many stands have dangerous defects; even those bought from reputable retailers such as Cabela's and Bass Pro Shops.

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How Do Tree Stand Manufacturers Defend These Cases?

Blame the Victim

The age-old defense of “blame the plaintiff” has been enhanced by many trade organizations. They adopt “rules” that can later help establish that any injury is the fault of the person injured. The Tree Stand Manufacturer’s Association is the sole governing body for standards and safety guidelines for the tree stand industry. There is no government oversight, although tree stands do occasionally come to the attention of the Consumer Product Safety Commission (CPSC). The CPSC has the authority to order recalls of unsafe products, but it does not involve itself with product design. Hence, tree stand manufacturers are at liberty to produce products strictly with a concentration on profits, not safety.

Use of Experts

Irrespective of a product’s safety performance in the field, a product manufacturer is unlikely to admit its product is defective. Design defect claims are vigorously defended, because if a product is deemed to have an unsafe design, potentially millions of units are affected. Hence, in nearly all cases, the manufacturer retains a stable of experts to testify that the design is safe.

Frequently, the experts are engineers directly in the employ of the manufacturer. Therefore, their very economic future depends on a finding that the product is safe. Many manufacturers retain engineers who have given similar, favorable testimony numerous times. If a manufacturer can find an expert who will consistently say its product is safe, it will retain that expert countless times. In one recent case tried against a tree stand manufacturer, one of the defendant’s experts admitted he had testified over 100 times in support of tree stand manufacturers.

*Many manufacturers retain engineers
who have given similar, favorable
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What If I Am Partially at Fault?

Few states still recognize the “contributory negligence” of the plaintiff, meaning the plaintiff is prevented from recovery if the defense proves that he or she contributed to their injuries in anyway. Theoretically, even if the plaintiff is only 1% at fault for his or her own injuries, contributory negligence eliminates any recovery.

Most states have departed from such a strict standard and now recognize a variation called “comparative fault.” When comparative fault applies, the jury evaluates the actions of the plaintiff. Then determines to what extent such actions caused or contributed to cause the injuries. Even states recognizing comparative fault differ in its application. Some states recognize “pure” comparative fault, including Missouri. In such states, even if the plaintiff is 90% at fault for his own injuries, he still stands to recover 10% of his damages. However, he must show that the manufacturer is 10% at fault for selling a defective product.

Other states recognize “modified” comparative fault, including Kansas. In this instance, the plaintiff can only recover from the manufacturer if his fault is no more than 49%. Hence, a finding that the plaintiff and the manufacturer are each 50% responsible for the plaintiff’s injuries results in no recovery. Still other states allow a plaintiff to recover half of his damages if he is 50% at fault, but not 51%.

States allow a plaintiff to recover half of his damages if he is 50% at fault, but not 51%

How Does Comparative Fault Affect My Recovery?

In any comparison of fault, the jury is first asked to determine if the product is defective. If the answer is “yes,” the jury is then asked to determine the percentage of fault between the product manufacturer and the plaintiff.

Let’s suppose the jury finds the manufacturer guilty of product defect and awards the plaintiff **\$1,000,000** in damages.

However, the jury divides the fault, **25/75** (plaintiff/defendant).

The net recovery to the plaintiff would be **\$750,000**.
(**\$1,000,000 x 75%**).

Other rules may also apply, such as those states that limit certain types of damages, but conceptually, the example applies.



What if the Product is Misused?

Misuse of the product is potentially a complete defense, but it can also be presented to the jury as comparative fault. If the manufacturer convinces the jury that the product was misused, the jury should return a verdict totally in favor of the manufacturer. However, not all misuse bars recovery.

Manufacturers remain responsible for “foreseeable” misuse. Hence, if a product is used in a way that was not quite as intended by the manufacturer, but the way it was used was still foreseeable, the manufacturer remains legally responsible. For example, it is not uncommon for a manufacturer to claim that a tree stand should have been erected and removed daily.

As discussed, it is common for a hunter to leave a tree stand erected; doing so to avoid the hassle and potential danger of erecting a stand every morning in the dark. If such extended use causes the stand to be exposed to environmental degradation at a faster rate, the manufacturer is required to anticipate this “misuse” and design a product that stands up against extended exposure to the outdoor conditions.

*Manufacturers remain responsible
for “foreseeable” misuse*

Do I Need a Tree Stand Attorney? How Do I Find One?

An experienced injury attorney is not only helpful, he or she may be necessary. In many instances, one can find an attorney who has litigated a substantially similar case.

They may even have experience against the same defense attorney and the expert witnesses hired to testify. Many times, there are company documents that may incriminate the manufacturer and help establish a history of insensitive reactions to customer reports of product failure.

Are There Attorneys Who Specialize in Tree Stand Injuries?

Unlike the medical profession, in most states there is no distinction between attorneys and their self-declared specialties. The medical profession recognizes certifications for specialties, such as for orthopedic surgery or obstetrics. By contrast, few states have procedures to recognize specialties in the legal profession. Hence, if an attorney restricts his or her practice to only a given practice area, it is self-declared.

Unlike the medical profession, in most states there is no distinction between attorneys and their self-declared specialties



What Questions Should I Ask an Attorney?

To find an attorney who has earned his self-proclaimed specialty, more inquiry is required by any potential client. Among the tools one can rely on are the following:

Experience

How long has the attorney been practicing?

How many cases has the attorney handled like yours?

Financial Stability

Does the attorney have the staff available to properly handle product liability litigation, which is very time-intensive?

Does the attorney have the financial resources to properly finance a product liability case? Attorneys may advance in excess of \$100,000 in expenses to properly pursue a product liability lawsuit.

Access to Needed Experts and Resources

Does the attorney have access to documents, depositions or expert witnesses that were used in other similar cases that can expedite your case and lessen the expenses?





Special Distinctions

While there are few states that recognize specialties, several organizations credibly recognize attorneys who have achieved special distinction for their skills and integrity. Among the most reliable are the following:

Martindale-Hubbell

One of the oldest such organizations, it rates attorneys by both integrity and legal ability. An attorney is rated by judges and his peers on his ability only if he is first rated as possessing good integrity. On legal ability, attorneys are rated A, B or C, with those rated "A" receiving the strongest recognition. A designation of "v" signifies an attorney with legal integrity. Hence, an attorney rated "A/v", possesses the finest credentials in the legal profession.

Best Lawyers in America & Super Lawyers

These are organizations that rate attorneys. Attorneys are rated on a scale for legal ability and usually within their specific field of expertise. Hence, if a lawyer regularly practices product liability law, he is rated as a product liability lawyer for any recognition by "Best Lawyers." Similarly is done for Super Lawyers.

American Board of Trial Advocates ("ABOTA").

Only members can invite other members. Even before consideration, an attorney must have a track record of success in jury trials. Once these basic trial achievements have been verified, peers within ABOTA vote for an attorney's inclusion. Few qualify, let alone are admitted, into this organization.



What Will Happen in My Tree Stand Injury Case? What Is Expected of Me?

There are approximately 5 occasions when you will be directly called upon to participate in your tree stand case. Your attorney should keep you informed about all significant developments. You should also reach out to your attorney on a regular basis to keep track of the progress of your case. In addition to general communications with your attorney, the following reflect the specific occasions that require your participation:

Initial Consultation

You will provide all relevant information to your attorney during your initial consultation. Give your attorney all the facts, both good and bad, about your case. This will help your attorney prepare for the unfavorable evidence that comes up in all cases. Knowledge of all facts is the key to successful preparation of your case.

Provide Information for Discovery

Discovery is the process of litigation that is the most time consuming. The first step in this process is “written discovery.” Interrogatories are written questions posed from one side to the other. These questions seek general information about the case and those involved. Those directed to the injured party usually ask basic information about witnesses, medical care, employment and education.

Your attorney will rely on you to provide answers to these questions. They will then use your answers to draft formal responses and objections to unacceptable questions. In addition to answers, your attorney may ask you to provide documents and tangible items.

Appear for Depositions

A deposition is when the opposing attorney can sit down and ask you questions about your case. Your attorney will be present and will undoubtedly prepare you for what to expect.

Mediation

Most courts now require mediation before a case can proceed to trial. These are formal settlement discussions managed by an impartial mediator. The discussions are confidential, and the unbiased mediator plays “the devil’s advocate.” They aim to persuade both sides to compromise and agree on a settlement figure.

Trial

If the case is not settled, there will be trial. A product liability case may take a week or more to try. You will be expected to be in attendance throughout. Most cases settle, but a good attorney will prepare each case as if it is proceeding to trial.

*Most cases settle, but a good attorney
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What Are Some Examples of Defective Tree Stand Injuries?

Hanging Stand

Such stands are generally connected to the tree by ratchet straps. Occasionally, hunters use a more substantial material such as a cable. The straps tend to be made from polypropylene, which is very sensitive to ultraviolet (sunlight) degradation. Tree stand manufacturers do not add materials that would retard the degradation of the straps. As a result, straps that could last 10 years degrade at times in a matter of months.

Degradation of Straps

In one recent case, a hunter stored his straps as instructed, in a dry place out of sight. Like many hunters, he erected his straps a few weeks before hunting season after game spotting to make sure he had a good field of fire and that his stand was close to areas where game commonly traveled. Since he was a pre-dawn hunter, he left his stand for the season.

The total time the stand was erected amounted to a mere 4-6 months. This time was spread out over two hunting seasons. During that time, the straps had degraded so badly they snapped in two. The hunter fell to the ground with terrible fractures of both ankles and feet.

The instructions were, at best, confusing on what signaled such degradation of the strap as to cause failure. While some slight fraying of the strap was visible on magnification, only fading of the camouflage pattern demonstrated any sign of wear.

Nothing signaled degradation to such a degree that it would fail. The only advice given the hunter on inspection of the straps amounted to the following:

- Store your stand in a dry, dark place when not in use;
- Inspect your straps for signs of wear.

Nothing described “use”, and many hunters “use” their stand for the length of the hunting season, thereafter, exercising all due care to make sure their straps are properly stored.

Moreover, nothing in the instructions described signs of “wear.” Most certainly, nothing advised a hunter that even slight color fading signaled a dangerous deterioration of the straps’ ability to support a hunter.

Ladder Stand:

Ladder stands are made of metal. Each section fits together by inserting one member into a receiver of larger dimensions. Rather than some kind of nipple that holds the pieces together when properly joined, some stands have only a “detent” area where the two pieces come to rest. No user can see if the two pieces are properly secured, because the point of rest is enclosed within the pieces of the stand. One proceeds only by “feel.”

Moreover, until the stand is fully secured to the tree, the geometry of the stand is not secure. In short, while it possesses some structural integrity fully assembled, it is vulnerable to collapse until fully secured. That would not be so terrible were it not for the simple fact that one must ascend the stand to complete its erection. This takes place at a time and at a height that puts forces on the stand and the joints. Before it is fully assembled, the stand is more susceptible to collapse.

*While it possesses some structural integrity
fully assembled, it is vulnerable to
collapse until fully secured*

While manufacturers advise the use of safety harnesses with a tree stand, it is nearly impossible to secure oneself to the tree with a harness until one steps onto the stand. If, as noted herein above, the stand is not yet fully secure, it places the hunter in a very precarious position.

Climbing stands:

Climbing tree stands are used by hunters to ascend a tree. The stand is slowly worked up the tree as the tree is climbed. The action is performed similarly to how a power line worker would use a “lineman’s belt.” To safely ascend, the hunter must be secure in what is, essentially, his lineman’s belt. The cables or straps may be subject to disconnection or failure as they are wrapped around the tree and secured. Some such stands give the user a “false positive” suggesting that the cable securing the hunter to the stand is properly connected, when in fact, it is not.

This false positive scenario might remind some people of the defect that was discovered years ago with “A-frame” ladders. Unfortunately, it wasn’t until after many people were seriously injured that new regulations were established, which required ladder manufacturers to implement new, safer designs and to institute enhanced safeguards for their consumers. Tree stand manufacturers adhere to no such safe standards.

Weight Capacity Not Clearly Stated

One gentleman bought a two-man stand, because it indicated it had a weight capacity of 500 lbs. A big fellow, he weighed a bit in excess of 300 lbs. He thought he was secure in a stand with the stated weight capacity. In tiny print, the product manufacturer stated the stand was rated at only 250 lbs. for a single user.

To make matters worse, the stand was rated for a static weight capacity of 500 lbs., but there was no product testing for dynamic weight. Static weight testing merely applies weight at rest to the stand until it fails. Dynamic weight testing considers the movements of the user and the additional forces of someone stepping onto the ladder and ascending. Consider the difference between dropping a bowling ball from a height of 1 inch versus 2 feet. At two feet the dynamic forces cause much more damage to whatever the bowling ball might strike.

The ladder stand consisted of poor materials, with marginal dimensions. As a result, the margin of error between the rated capacity and failure was slight. Most products have a significant margin of error between product recommendations and actual product failure. If you buy a carton of milk that says, "Use by February 1, 2018," it does not likely go sour on the 1st. Rather, there are several days beyond the 1st when the milk can still be safely consumed.

According to sound engineering principles, the same margins of error should be applied to products; especially those that have the capacity to cause terrible injury.

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Fighting the Big Manufacturers

The attorneys at Monsees & Mayer take pride in their ability to successfully represent hunters injured in tree stand accidents. In fact, Timothy Monsees, Bobby Thrasher, Reed Martens and Ryan Frazier are experienced hunters themselves. They understand the sport, the equipment and the inherent risks. They use their knowledge and love of the sport to help injured hunters obtain the compensation they deserve.

Our Attorneys are not afraid to take on big manufacturers such as Ameristep, Big Game Tree Stands, Summit Tree Stands and API Outdoors. You can read the opinion of the United States Court of Appeals for the 6th Circuit in the case of *Bradley v Ameristep, Inc.*, 800 F.3d 205 (6th Cir. 2015). Or, check out the jury's verdict in favor of our client in the case of *Pitman v. Ameristep Corporation et al.*, Case No. 2:14-cv-00085-ERW (E.D. Mo. 2016).

Trust Your Attorney

The attorney/client relationship is ultimately one of trust. Litigation can be a long, emotional process. You need to find an honorable and trustworthy attorney. There will come a time in every case when you will receive direct legal advice from your attorney. Do you trust his advice? The attorney with the biggest jury verdict may not be the right attorney for you.

Contact Us Today for a Free Consultation

If you or a loved one has been injured in a hunting accident contact our experienced attorneys at Monsees & Mayer, P.C. Our attorneys have over 60 years of combined experience working on behalf of injured victims. Our offices are in Kansas City and Springfield, Missouri, but we travel nationwide to represent hunting accident injury victims. If you have been injured in a hunting accident, contact our lawyers today to arrange a free consultation.



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