

LEGAL UPDATE

CUNNINGHAM BOUNDS LLC

SUMMER 2016

\$149,950,000 Settlement

Approved In **Singing River** Health System Pension Crisis

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Accolades:

David Wirtes, Lucy Tufts and Geoffrey Williams

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Cunningham Bounds

Investigating Cases Arising from Injuries Caused By **Metabo Angle Grinders**

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The United States District Court for the Southern District of Mississippi has approved a \$149,950,000 class action settlement negotiated by attorneys from the law firms of Cunningham Bounds, LLC in Mobile, Alabama and Reeves & Mestayer, LLC in Biloxi, Mississippi. The Court's decision followed a two-day hearing in which the Court heard testimony from witnesses, reviewed documentary evidence, and evaluated the arguments of counsel for all parties. The settlement resolves claims of more than 3,000 Singing River Health System ("SRHS") employees, retirees, and other plan beneficiaries related to the pension crisis that has been embroiling the hospital for more than a year.

In October 2014, SRHS announced that it had not made a contribution to the Singing River Health System Employees' Retirement Plan and Trust since 2009. The law firms of Cunningham Bounds, LLC and Reeves & Mestayer, LLC were the first to file a class action lawsuit seeking recovery of the missed contributions that they alleged SRHS should have been making to the Trust each year. They conducted extensive written discovery, hired experts in forensic accounting, and engaged in rigorous and

lengthy negotiations involving more than two dozen attorneys from 12 different law firms before finalizing the terms of the agreement, which then had to be approved by the Court.

Under the settlement, SRHS has agreed to pay \$149,950,000 to the Retirement Trust over time. This amount is equivalent to the Plaintiffs' calculation of the present value of the missed contributions that SRHS failed to make to the Trust between 2009 and 2014. Additionally, Jackson County will pay \$13,600,000 to SRHS between 2016 and 2024 to support indigent care and principally to prevent default on outstanding bonds. The settlement also provides that a Special Fiduciary, whose sole fiduciary responsibility is to the Trust, will report to the Jackson County Chancery Court on a quarterly basis regarding the financial condition of SRHS, the pension plan, and the status of the repayment schedule. Under the terms of the settlement, the pension plan cannot be modified without the approval of the Special Fiduciary and the Jackson County Chancery Court after sixty (60) days' notice to the Class Members and an opportunity for a hearing.

"This was an extraordinarily complex case involving more than 150 parallel state court actions, 3 federal class actions, and multiple appeals to the Mississippi Supreme Court. We are thrilled that our determined efforts have resulted in the restoration of the six years' of contributions to the pension plan that the Hospital should have made, but didn't until we got involved," said Lucy Tufts, an attorney with Cunningham Bounds.

Steve Nicholas and Lucy Tufts of Cunningham Bounds, LLC and Jim Reeves of Reeves & Mestayer, LLC were appointed by the Court as Settlement Class Counsel. Also representing the Plaintiffs in the federal class action lawsuit was Matthew Mestayer of Reeves & Mestayer, LLC.

Founded in 1958, Cunningham Bounds has been representing plaintiffs for over 55 years. We have a long and successful history of helping people who have been injured or harmed by the wrongdoing of others. Our firm was born out of the desire to create change and improve lives. We thoroughly prepare each case. We leave no stone unturned, no evidence untouched, and no detail unexamined. This precision and focus ensures that we present each client's very best case to the jury. Today, our goal remains as it was in 1958 - to achieve the best possible result for each client by holding people and companies accountable for their wrongdoing.

Accolades



David Wirtes was recently honored by the American Institute for Appellate Practice for his service to the organization as its co-founder and as its 2015-2016 Executive Director.



Lucy Tufts was recognized in 2016 *Best Lawyers Business Edition* "Women in the Law" in the category of Personal Injury Litigation. She was the only woman in Mobile to receive this recognition.



Geoffrey Williams, Chief Operating Officer for Cunningham Bounds, has been selected by the Association of Legal Administrators to represent Region 2 (10 states) on the International Association's Nominating Committee, which selects the Board of Directors for the Association.

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Have a Legal Question?

Give Us a Call – We are Here to Help You.

If you have a legal question, or have a potential lawsuit due to death or physical or financial injury, give us a call. We will answer your questions and evaluate your potential case free of charge. If you have a potential case that is outside our area of expertise, we will refer you to a highly respected and qualified attorney who practices in that area.

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Cunningham Bounds **Investigating** Cases Arising from Injuries Caused By **Metabo Angle Grinders**



Cunningham Bounds is currently investigating cases involving injuries that individuals have sustained when using power-driven angle grinders manufactured by Metabo Corporation.

Cunningham Bounds recently filed a lawsuit against Metabo Corporation and other defendants alleging that numerous individuals have been seriously maimed and injured by Metabo Angle Grinders, which are most often used to perform various construction tasks. The Operator's Manual for these angle grinders specifically prohibits the use of a toothed saw blade because of the risk of frequent kickback and loss of control. The lawsuit alleges that in direct violation of



the safety warnings provided by Metabo's own manuals, as well as other recognized industry safety standards, safety principles, and OSHA regulations, Metabo and other defendants altered and modified angle grinders to be equipped with toothed saw blades to be used in the shipbuilding process, among other things. According to the lawsuit, this intentional modification of the Metabo Angle Grinders materially altered the product and turned the power-driven angle grinders into portable power-driven circular saws.

The Metabo Angle Grinders are designed to be used with specific safety guards that are intended to protect users from the dangers associated with the high speed rotation of the abrasive grinding wheels. However, the lawsuit alleges that modifying the product to include a toothed saw blade rendered the original safety guard ineffective and inappropriate. It also alleges that Metabo and other defendants failed to incorporate a retractable safety guard and/or other safety guard or device on the new portable power-driven circular saw they manufactured that would protect users from the danger the defendants knew or should have known they created.

If you have been injured by a Metabo Angle Grinder (sometimes referred to as a "Miller Saw") and would like to know whether or not you have a claim, please contact Cunningham Bounds attorneys Brian Duncan or Billy Bonner.





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The following language is required by Alabama Rules of Professional Conduct:
"No representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers."

In Our Community



The **5th Annual Tunnel Vision** 5K sponsored by Cunningham Bounds was a **huge success**.

Thanks to everyone who participated and supported this event. All proceeds will be used to fund vision programs provided by the Lions Club, including eye exams and eye glasses for children and adults in our community.



Cunningham Bounds was the presenting sponsor of USA's **"Meet the Coaches"** fundraising event.

Cunningham Bounds was the presenting sponsor of the University of South Alabama's "Meet the Coaches" fundraising event held June 9th. All proceeds from the event will fund scholarships for area students.