

New York Injury Times

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Gerry Oginski, Trial Lawyer

7 Ways To Appreciate Your Life in 2006

1. You're alive.

Some victims of malpractice don't survive and die as a result of injuries inflicted on them.

2. You can walk.

Some malpractice victims lose the ability to walk. Having this freedom is something we all take for granted each day.

3. You can talk.

The ability to speak and communicate is priceless. Those people who have had brain tumors or neurological injuries are speech impaired. They struggle every day to make their wishes known.

4. You can tie your shoes.

Believe it or not, this simple act becomes impossible when our muscle and nerve groups are disabled. We teach our young kids how to tie their own shoes, and it gives them a sense of independence. When we can no longer tie our own shoes because of malpractice, our daily lives have been affected.

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In This February Edition, We Look At

7 WAYS TO APPRECIATE YOUR LIFE IN 2006

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5. You can eat.

Being able to eat independently is incredible. Many elderly folks can no longer eat by themselves and need help. Then again, some malpractice victims cannot eat on their own and need a feeding tube, or assistance with getting the proper nutrition.

6. You can see.

Our sight is another sensory device we all take for granted. Some people lose their sight from causes unrelated to malpractice. However, there are a number of cases where I have seen malpractice victims lose their sight directly due to malpractice. Having sight and then losing it is much worse than never having it at all.

7. You can recognize your family.

Some malpractice victims lose the ability to recognize their friends and family- just like Alzheimer victims. They live in a shell where they no longer have the ability to understand who is familiar and who is not.

We should all be thankful for what we can do and accomplish each day of our lives. When we look at malpractice victims and their serious injuries, we are able to point out what part of their life has been taken from them. That's the true measure of damages.



Legal Ethics

Is it proper for a NY lawyer to solicit an accident victim after a car crash?

Q: My mother was in a car accident last week, and already she's gotten letters from lawyers asking if she's ok, and if she wants a lawyer? Is it ethical for a lawyer to send such a letter?

A: First, I hope she is feeling better. Second, in limited circumstances in New York, it may be acceptable for an attorney to send such a letter to a victim of an accident. The majority of lawyers feel such a letter to a victims' home is demeaning and degrading. Some lawyers feel this is nothing but a solicitation, which is clearly not permitted in New York. Other attorneys (the ones who send these letters) feel that it may be their only chance to entice the injured victim to come to them as a client.

The letter is supposed to only offer them legal assistance and guidance-should they want it. Again, how do you choose which attorney to use when you're inundated with a flood of letters from different lawyers promising to help you with your accident claim?

The answer is simpler than you think. Ask yourself why an attorney would even bother to send such a letter. Are they really that desperate to need to send such a letter? How did they get your name anyway? I'll tell you how- maybe it came from the tow truck operator who took your car away. Maybe it was from an ambulance technician. Maybe it was from a police blotter at the police station. (That's public information that many investigators working for lawyers troll for in various police stations).

Ask yourself another question. Do you let a stranger into your house simply because he says he saw you need a paint job, and amazingly, he's a painter who is willing to paint your house for a great price? Did you call him? No. Did you seek out other customers of his to determine if he's reliable and professional? No. He just showed up while trolling through the neighborhood. Is this the type of painter you want working in your house? I don't think so.

The same rationale holds true for a lawyer that sends you an unsolicited letter following an accident. What do you know about that lawyer? Probably nothing.

Does that mean that he (or she) isn't a good lawyer? No. But, again, think who you want for your attorney. Does it help knowing that your lawyer gets many cases this way, by sending out unsolicited lawyer letters hoping that a few unknowing people will answer the letter? The choice, as always is yours. Make an informed choice.



GERRY'S BOOK CONTINUED



BIN- LADEN

FOUND! Read the New York Times headline. According to unconfirmed news sources, Osama Bin-Laden has been found working in a Dunkin Donuts in Glen Cove on the midnight shift.

Detective John Mulrone of the Glen Cove Police Department

noted "We were tipped off to an Arabic-looking man with an accent, wearing a pillow on his head and a white robe. We canvassed the area and found him serving dunkin-munchkins to the late-night crowd."

A keen news reporter asked Detective Mulroneo how he knew it was really Bin-Laden. "You could see by the look in his eye. His beard was gone, but I knew just looking at him that this was our guy. He smelled of goat, and his sandals were disgusting. When we checked his locker in the back room, we found his subscription to Al Jazeera news magazine, and a Kalashnikov rifle. Oh yes, he also had video equipment in his locker, and an effigy of Dick Cheney."

When President Bush was asked how Bin-Laden could have found his way into the United States unnoticed, he pondered for a moment, and replied "Gee, I don't know...maybe he took the redeye in from California. You know those borders aren't too secure over there."

Photos showing an Arabic-looking man being shoved into a police car were transmitted across the world in minutes via the internet.

However, 3000 miles away in a small dingy cave with little candles for light was a satellite phone and transmitter. A portable generator powered a TV and a satellite dish, together with a small laptop computer.

The man at the electronic controls looked carefully at the man in the photo being pushed into the police car. He looked familiar but did not believe this was his boss- Osama Bin-Laden.

The next morning, Jacob Morgan awoke from his bed to learn that Bin-Laden had been found. He called the President's national security advisor and said he needed to meet with the man they picked

up the day before in Glen Cove.

Jacob was picked up by the secret service one hour later and whisked to the Glen Cove Department Store where Bin-Laden was being held in the ladies dressing room.

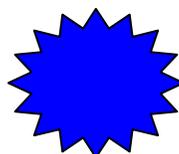
Jacob approached him carefully. If this was really him, thousands, if not millions of people would love to see him die in excruciating pain. Jacob held out his hand to shake. The man looked at the outstretched hand and spit on it.

"Hmm. Nope...that didn't do it. Need contact," thought Jacob. After wiping the drool off his hand, Jacob again held his hand out. "Hi! My name's Jacob. I'm here to help..." No response. Jacob looked over to the Secret Service and they forcibly grabbed the man's hand and allowed Jacob to shake his hand. Moments passed. Nothing yet...still nothing. "Try the other hand," said Jacob.

The other hand produced an immediate result. This wasn't the guy. It was his cousin. Similar DNA sample. "Thanks a lot," said Jacob. He immediately left and called the NSA advisor. "Listen, Jimmy, it's not him, it's his cousin," said Jacob.

"What do you mean it's not him," screamed Jimmy Vargas into his cell phone. "I thought you were the golden boy." "How was I to know it was a cousin? Same hair strand, same background, close but no cigar today," said Jacob sadly.

"Just get back here pronto and give me a full report. Tell the agents to bring in the cousin for a game of show and tell. We show what'll happen to him if he doesn't talk, and he tells," remarked Jimmy Vargas.



Legal News!

Oregon's high court upholds \$80 million Philip Morris judgment

SALEM, Ore. (AP) - The state Supreme Court says the reason an \$80 million dollar jury award to the family of a man who died of lung cancer is NOT excessive -- is because it was "reprehensible" conduct of tobacco giant Philip Morris.

The court said: Philip Morris knew that smoking caused serious and sometimes fatal disease, but it nevertheless spread false or misleading information.

The decision upholds a 1999 jury award in punitive damages to the family of Jesse Williams. He was a janitor who died in 1997 of lung cancer at the age of 67.

An attorney for Williams' family, James Coon, applauded the ruling. He said the Supreme Court's language was on target in describing the conduct of Philip Morris and its executives.

Connecticut Jury awards \$26 million for injury

A federal jury in Bridgeport has awarded more than \$26 million dollars to an Ohio man who was left as a paraplegic by an accident in Waterbury.

Shaun Pouliot was injured in October of 2001 when an 800-pound load fell on him.

The jury found Arpin Logistics and Paul Arpin Van Lines of Rhode Island, which hired Pouliot and owned the truck,

liable for negligence. Pouliot was delivering a workstation to Naugatuck Community College in Waterbury.

While it was being lowered from the truck on the lift gate it tipped and fell on top of Pouliot, crushing his back.

Injured Sunoco worker asked \$1 million, jury awarded \$9 million

A Philadelphia jury awarded a laborer \$9 million for injuries sustained when he fell off a ladder at Sunoco's refinery in South Philadelphia.

John T. Dooley, the attorney for plaintiff Patrick Brown, said they had originally demanded \$3 million in compensation for the Oct. 2002 accident, but negotiated down to \$1 million.

"The only offer" Sunoco "ever made was \$25,000," Dooley said. "They ended up with a \$9 million verdict against them."

Brown, 35, fell while climbing down a ladder between catwalks, banging his head and injuring his back and shoulder in the fall, according to court documents. Brown's injuries included herniated discs, according to documents filed by Dooley.

The main factual dispute in the case was whether a safety cage was in place on the ladder when the accident occurred.

Lawyers Settle Chicago Scaffolding Case \$75 Million

CHICAGO — The families of victims killed or injured in a 2002 scaffolding collapse at the John Hancock Center have reached a \$75 million settlement.

Three women were killed when scaffolding used by building cleaners fell from the 42nd floor during high winds and crushed their cars. Eight other people were injured, and one later died.

Robert Clifford, an attorney representing 10 victims, confirmed a settlement had been reached on the same day the case was to go to trial.

An attorney for the building's owner, Shorenstein Co., said the company acknowledges the accident "has had a terrible affect" on the victims' families. "We are gratified that they will receive substantial compensation for this tragedy," the attorney, Bruce Duffield, said.

Taxi nightmare -She's tossed from cab as BMW rams it -Daily News

An Upper East Side woman was clinging to life after she was hurled from a yellow minivan taxi crushed by a speeding BMW whose allegedly drunken driver ran a red light, cops said.

Diana Tafur, 22, was headed home from a night of clubbing when she was tossed through the driver's side back door as the cab spun across an intersection about 5:30 a.m., cops said. She landed next to a parked Mercedes at E. 84th St. and First Ave., striking her head on the pavement.

Tafur, who wasn't wearing a seat belt, was taken to Weill Cornell Medical Center in critical condition with severe head injuries. Cops discovered a six-pack of beer and an open beer bottle stashed in the BMW, police sources said.

The BMW driver, Harzem Sendogan, 29, was headed home from a night of partying with a pal as he sped east on E.84th St. and rammed the cab's driver's side at First Ave., cops said.

The cabbie was treated for minor injuries.

Sendogan, who lives nearby on E. 85th St., was hit with assault and drunken driving charges, cops said.

Sendogan also was taken to the hospital, where doctors were treating him for internal injuries and drew his blood so his blood-alcohol level could be determined.



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The Law Office of Gerald M. Oginski, LLC
150 Great Neck Road, Ste. 304
Great Neck, NY 11021

Call me personally,
anytime.
516-487-8207

Send to