

Date: SPRING 2004

WELCOME TO OUR PREMIER ISSUE!

This is our first issue of our newsletter which is being sent to all of our friends and clients. We hope to provide useful consumer-based information as well as interesting stories and updates in injury law that will help you protect your rights. Please let us know what you think about our first issue! As a special bonus, Attorney Oginski has recently written a fictional humorous thriller, and needs your input and comments. In fact, in researching our newsletter, we've never seen any other attorney newsletter address anything other than the dull, dry law. Ours is different! Take a look to find out why.

Recent settlements for our clients

1. A woman lost eyesight in one eye because a hospital failed to tell her about her brain tumor. Award: \$1,000,000.
2. A little boy suffered burns from removal of a cast on his foot from improper use of a cast cutter. Award: \$125,000.
3. A woman needed emergency surgery when her first surgeon failed to remove a tumor. Award: \$200,000.
4. A family man died when a blood clot to his lungs was not properly treated, resulting in pain, suffering and an untimely death. Award: \$325,000.
5. A boy suffered the loss of a testicle because a hospital did not timely recognize that the testicle was twisted and needed immediate treatment. Award: \$175,000.

Clear Channel Communications fined by FCC almost \$500,000 for airing Howard Stern Broadcasts!

What happened to free speech? What happened to turning off the radio, or changing the channel? Regardless of what you think of 'The King of All Media' as Howard Stern portrays himself, the FCC fines against this radio company are a clear infringement of one's right to free speech. The first amendment allows citizens to speak freely without risk or fear of imprisonment or punishment. This is what America is all about! Freedom! This is why we have a military to fight our wars... **TO DEFEND OUR FREEDOMS!** So why then is the government trying to take these same liberties away? To protect our children? Most kids nowadays are more saavy than we were as kids. They have access to the internet and all the information that accompanies it. From Janet Jackson at the Superbowl, to Victoria Secret models on TV, to Oprah discussing sex with her guests while tossing salads... this is free speech. If you don't like what's out there, change the channel.

As many of you know, these settlements are only representative cases that I have recently resolved in favor of our injured clients. Each case is different, and each case has its' own facts and injuries. Remember, no two cases are alike. In many of these recent cases, the insurance companies representing the doctors or hospitals refused to settle until the trial, and even only after jury selection had been completed. That is why it is so important that when you select an attorney, you know that he (or she)

has experience trying your type of case. The insurance companies know which plaintiff's attorneys try cases, and which ones don't. Don't gamble with your case!

As we all know, insurance companies are in the business of making profits. Profits for their shareholders, and profits for the company executives. They cannot make their huge profits if they pay large amounts to every claimant who has been injured! They are not in the business of offering top dollar to injured victims until they are forced to do so at trial, or the facts of the case reveal their insured is clearly at fault. These companies are often willing to spend thousands of dollars on defense counsel, on depositions, obtaining experts and conducting useless discovery during the course of a lawsuit, knowing full well that in the majority of cases, attempts will be made to settle the case immediately prior to or during trial. Recent studies show that 95% of all medical malpractice cases result in settlements. The remaining 5% are hotly contested and are very difficult to prove at trial.

APPEAL THE VERDICT!

If an injured victim in an injury case or malpractice case is awarded a large sum of money to compensate them for their injuries, the defense attorney immediately expresses outrage and asks the Court to throw out the verdict, claiming that it's totally inconsistent with the facts and the actual injuries suffered. The trial Court has a few options: (1) They can leave the verdict alone; (2) They can reduce or increase the verdict; or (3) They can throw the case out. The defense attorney then can file an appeal with the Appellate Division of the State of New York. In most instances, the defense will appeal regardless of whether the trial Court reduces the verdict, because they still will be unhappy with a loss for their client. *There are many instances where an insurance company will elect to settle a case after a trial verdict and before filing an appeal, as there are multiple risks associated with an appeal.*

If the Court throws out the verdict, the injured victim has the option of appealing the decision. If the Court reduces the verdict, it must be done with the consent of the injured victim. If the victim does not consent, the Court will order a new trial to be held. If either side appeals, the Appellate Court has many options...

They can (1) Uphold the jury's decision at trial; (2) Reduce the jury's award of compensation; (3) Increase the jury's award (this is rare); (4) Throw out the award and dismiss the case; (5) Throw out the award and order a new trial on liability, damages, or both.

Unfortunately, as in life, there are no guarantees in an appeal. An attorney must weigh the

As an attorney who has been practicing in New York for over 15 years, I feel obligated to let all our friends and clients know about two free special informative reports I've prepared to help level the playing field when battling insurance companies. These free reports have benefited many injured victims of car accidents and medical malpractice. Remember, when you've been injured, you literally enter a war zone. Let us be your guide through the litigation minefield and let us help you avoid the pitfalls we commonly see. **TO RECEIVE YOUR FREE COPY OF OUR SPECIAL REPORT,** CALL 1-888-364-5204 (for a Free 24 hour recorded message), or call the office directly at 516-487-8207 and ask for Frances. She'll be glad to mail out your report immediately.

-A message by Gerry Oginski, Esq.

risks, evaluate prior case law, and make persuasive legal arguments to the Appellate Court that are sound, just, and hopefully, supported by prior Appellate Court decisions. The Appellate Court is constrained to follow the law. They don't make the law. That job falls to our legislature including our congressmen and senators. If you feel that the laws need to be changed, you must let your congressman or senator know how you feel. **Become part of the answer to make everyday things safer in your town, and in our State. Let them know that insurance companies, both large and small, must take responsibility for their actions!**

Now, for something totally unrelated to law...here's our first installment of Mr. Oginski's new hilarious thriller that he's in the process of finishing...

CHAPTER 1

"Buy Yahoo stock. Get every penny you have and buy the stock," he said to the homeless woman with four children at her side. She said, "What's Yahoo?" "Just go to a stockbroker and buy Yahoo. It's selling at \$25 per share now. Buy, buy, buy, and don't look back."

He quickly walked away from her while he watched her shake her head wondering who the hell this guy was, and what was he doing in her run-down, stinking neighborhood.

His name was Jacob Morgan. He was born 37 years ago in a small hospital in upstate New York. His parents were immigrants from Poland. When his family arrived here, they legally changed their name from Macugowskaya to Morgan. A wise move, he always thought. Jacob was a well-behaved child growing up. He was an only child who had no special talents. His athletic prowess was not fantastic, nor poor. He excelled at nothing, and blended in with the rest of the neighborhood children. There was however one trait that made Jacob unique. Ever since he was little, he always knew when things would happen. And, he knew them before they happened.

In 3rd grade, Jacob was walking home from school with two friends, Alex, and Tony. While holding their book bags in their hands, Jacob had this strange sensation that something bad was going to happen to Alex. Fifteen minutes later, a gang, known as the Schoolyard Bandits beat Alex up because he wouldn't give them his lunch money. In 4th grade, Jacob knew when his sick Aunt would die. He told his mother later that night that Aunt Sadie would die on September 8, 1980. Needless to say, Aunt Sadie died on that exact date. His mother always thought it was strange that her young boy would be able to predict when his Aunt Sadie was going to die. Jacob wasn't that close to Sadie, nor was he kept up to date about her medical condition. Anna brushed this episode off, and forgot all about it, until many years

later.

Jacob never really understood what these feelings meant, until one day when he was in college, in the middle of his physics class. He was 20 years old, attending Princeton University. He had graduated high school in the top ten of his class, not such a significant feat since there were only 65 students in his class. Not such a great academic standing, but what got him into Princeton was his interview with the Dean of Admissions at the school.

Dean Green was the dean of admissions for the last twenty years. This is how his interview went:

“Welcome to Princeton, Jacob. Tell me why you want to come here.”

“Well, as you know, my academic record is really not that great. I have no outstanding qualities that you could compare with other top-grade students. My SAT’s are mediocre, at 1100, and my grades are B+. I come from a small rural community in upstate New York, and I don’t have many extracurricular activities, like many other students. My parents are immigrants from Poland, and I have absolutely no connection to their homeland at all. I have lots of friends, and enjoy music and sports. My favorite basketball player is Michael Jordan.”

“I see,” replied Dean Green, clearly dumbfounded that Jacob had just put down his entire academic career, and could not find any redeeming qualities that would make him a viable candidate for this academically prestigious university.

“I am somewhat shocked and surprised by your comments, Jacob. I’ve never had a student in my office tell me that they have no outstanding qualities that would make them the ideal student for this school. Your comments are certainly refreshing, however... they lack the enthusiasm and drive which our students clearly have...”

“Oh yes,” Jacob replied, “I forgot to mention one other thing I thought you should know.”

“Yes, go on,” said Dean Green.

“You see, I know when you’re going to die,” said Jacob.

“Is this some kind of joke, Mr. Morgan?”

“No sir. Not only do I know when you are going to die, but I know other things too. Before they happen. For example, are you familiar with the stock market?”

“Of course,” he answered.

“Well, as a learned man of your background knows, playing the stock market is a very risky thing. One of the things I can predict, with 100% accuracy is how a specific stock will do.”

“Nonsense,” replied Dean Green. “Nobody can predict the future, and certainly not you.”

“Would you like to test me?” said Jacob.

Dean Green thought this was some kind of joke, and if not, then maybe someone was trying to set him up for an ethical violation. But if this were somehow real, then the possibilities were endless.

“I’m curious. How is it that you know when I’m going to die?” asked Dean Green. “Ever since I was a little boy, I was able to tell when things would happen to people, and when they were going to die. My family started to call me ‘freak’, and ‘weirdo’, and ‘bizarre’, so I learned not to let anyone know what was going to happen. Only as I got older did I learn that this information could be very useful,” said Jacob.

“Well, how have you put it to good use, besides shocking the hell out of me?” asked Dean Green.

Jacob told him that three years ago, when his class took a trip to New York City, they went to visit the ghetto in Harlem. They took a tour of a homeless shelter where his class met homeless people, people with tuberculosis, and AIDS. At the shelter, he met a sickly woman with four young children. The woman and her kids had been abused by the father of these kids, and had no place to stay. After his class proceeded on with the rest of the shelter, Jacob stayed behind to talk to Eleanor Watkins.

“Maam, my name is Jacob Morgan. I’m here with my class, and I’m from upstate New York.”

“What the fuck do you want with me?” she yelled.

“I want to help you.”

“Yeah, you and the fucking city bureaucrats. Social services won’t give me money, my kids’ father won’t give me no money for diapers, and I can’t go to work since I can’t pay anyone to look after my kids.” “How you goin’ to help me? You goin’ to give me a winning lottery ticket?”

“No,” answered Jacob. “I’m going to do better than that.”

“Like hell,” she answered. “Come on kids, let’s get away from this fuckin’ lunatic.”

“Hold on. I’m not bullshitting you. Just 30 seconds of your time is all you need...Buy Yahoo.”

“Buy what??” Eleanor responded. “What the fuck is ‘Yahoo’, some chocolate drink?”

“Yes, and no,” said Jacob. “It is a chocolate drink, but it’s also a very hot Internet stock.”

“What the hell are you talking about? Hey kids, this putz is telling me I should buy chocolate milk stock!” she laughed.

“No, no,” said Jacob. “I’m telling you that if you buy stock in a company called Yahoo today, in a very short time, you’ll be rich.”

Now she knew she was being scammed. “Yeah, and where am I supposed to get money to buy this chocolate milk stock,” she asked. “From me,” Jacob answered.

“And what am I supposed to do for this money? Spread my legs for you baby? In the homeless

shelter, where everyone can watch?" she stated with absolute amazement.

"I don't want anything from you. I want to help you. I'll give you the money to invest. I don't want any money from you; I don't want your body. I just feel that I have information that you can use. Can you get mail here, or do you have a PO Box?"

She thought for a moment. What do I have to lose? Once he gives me the money, I can move out of this hellhole, and he'd never find me to ask me for the money back. "OK," she said. "You can send it to my P.O. Box. When will I get it?" "Tomorrow I'll send it out," said Jacob.

Jacob sent her \$10,000, which was most of the savings he had made working at the local library, and at the county pool in the summer for the last 4 years. He kept \$2,000 of his savings for himself. When Eleanor got his check, she couldn't believe that this guy actually did what he said he'd do. Then once reality set in, she didn't know whether to buy this stock called "Yahoo." It sounded too good to be true. She immediately asked her friend Wanda, also a homeless person, to look after her kids for two hours, as she had to run to the bank. She walked to Citiwide Bank on 23rd Street, which was down the block from the Shelter, and walked in.

She approached the executive sitting at the 'accounts' desk.

"May I help you?" he asked.

"Yes, I want to open a checking account. How'd I do that?"

"You need to deposit at least \$100 into an account, and have some ID with you."

"OK, let's do it," Eleanor said.

After opening her new checking account, she asked him if he or someone in the bank gave advice on the stock market. He directed her to James Winchester, III, executive vice president for securities for this Citiwide branch.

"Have you ever heard of a stock called 'Yoo Hoo'?" she asked.

"Do you mean 'Yahoo'?" he replied. "Yeah, that's it," she said. "What is it, and what can you tell me about it."

Mr. Winchester, III deftly typed the name into his computer, and moments later began to tell her about this Internet Company. "What is so fascinating about this company is that it has no earnings to speak of. The price of the stock is \$25.00 per share now. Our analysis is that this stock is going down. We do not recommend this stock for our customers. We do have other types of stock that might interest you more, and would be a much better choice for your return on your investment."

"No thanks, Mr. Winchuckle, the fourth." She said. "I'm outta here."

She then went into the next bank, Bank of Copacobana, and asked the same question about

'Yahoo' stock. She got the same reply. The next bank was three blocks further, on 26th street. This bank was the Merchants Bank of Venice, a well known, reputable bank, whose advertisements she had so often seen in the newspapers, which littered the shelter floor. Again, she was told that 'Yahoo' stock was an unknown startup Internet company. With no earnings to show, the bank was not recommending buying.

At the Merchants Bank of Venice she told the executive with the shiny gold watch and gold ring that she wanted to buy \$9,000 worth of 'Yahoo' stock. He again told her this was a foolish thing to do, but it was her choice. She wisely kept \$1,000 street money for her kids, and felt that since this was a gift, there was no risk to investing this money. "What the hell," she said to herself. "It's not my money!"

Eleanor took the remaining \$1,000, and her four kids, and got on a bus to Nashville, Tennessee, where she went to live with her parents. Three years went by after first meeting Jacob Morgan, and she never looked back, and never thought of her investment again, until July 6, 1998. She was at work at Solomon's Diner, five blocks from her parent's home, when she heard on the radio that Yahoo stock had skyrocketed to \$199.00 per share. She didn't know why that name sounded so familiar, until she got home that day, and went looking through her old papers. It was there that she found her confirmation by the Merchants Bank of Venice that she had purchased \$9,000 worth of Yahoo stock for \$25.00 per share.

She then pulled out her calculator and realized for the first time in her life that she was rich. Rich beyond her wildest dreams. Her stock was now worth \$71,640. She felt like she had died and gone to heaven.

"HOLY SHIT", she exclaimed!

"MY lord! What am I going to do?" she again asked herself.

"Momma, daddy, you're never goin' be believin' what's happened to me," she screamed.

"What is it child?" they asked, very concerned and worried.

"I'M RICH MAMMA. VERY VERY RICH!"

"Of course you are dear, you have four healthy children. What more could you ask the Lord for?"

"No mamma, you don' un'erstan. I'm rich! Damn, damn, damn. That boy was sure as hell right. Hot damn!" Eleanor was so excited, she started to hyperventilate, and get palpitations. "Sit down, and relax," her daddy said. Still breathing heavily, her eldest son, Joseph came running in from outside when he heard all the commotion. "What is it Mamma?" "Baby, we're rich. Richer than if I could work for the next 30 years at Solomon's diner. Richer than if I owned Solomon's diner."

"What are you talking about?" asked Joseph.

“Baby, do you remember a white boy coming by our homeless shelter three years ago? Well, he told me to buy some stock, and he gave me some money to invest, and I listened to him, and now we’re rich!”

“But why’d he give you money, Mama?”

“I don’ know, son. But he did, and now we’re rich, and we’re never goin’ to have money problems again.”

Dean Green had become so mesmerized by Jacob’s story, that his mouth hung wide open as Jacob finished telling him of his selfless act.

“The reason I know that she invested the money, is because she just sent me a post-card last month thanking me for the money and information. There was no return address, but I guess I really helped her and her family out of a bad situation.”

“Young man,” said Dean Green, “you are precisely the type of person this prestigious university is looking for! With your instincts and your sense of obligation to do what’s right, this is the right place for you. And, given your unique abilities, I think we might be able to work out a partial scholarship for you.”

“*Partial scholarship?*” Jacob asked. “No, let’s talk full scholarship, then we’ll be able to do business. And if you can guarantee me admission now, I’ll sign right now with you, because this is where I want to go.”

And so Jacob began his college career at the prestigious Princeton University. He too would become an alumnus, but would he graduate with distinction? Only Jacob truly knew the answer to that.

We hope you’ve enjoyed our Premier Issue, and would greatly appreciate any comments or feedback about our newsletter. Just as important, we’d love to hear what you think about Mr. Oginski’s book that he’s currently finishing.

Send us an e-mail: lawmed1@optonline.net

Send us a fax: 516-487-8472

Send us a note: 150 Great Neck Road, Suite 304, Great Neck, NY 11021

Call us! 516-487-8207

We’d really like to hear what you have to say. Thanks again!

This newsletter is published by THE LAW OFFICE OF GERALD M. OGINSKI, LLC and is ©Copyright protected. It is published for informational purposes only, and no legal advice is intended. We only practice law in the State of New York. Each case is different and you are invited to discuss any legal questions with Mr. Oginski, at no cost or obligation.