

Gerry Oginski presents

NY INJURY TIMES

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Gerry's Never Ending Fictional Story takes another turn...

I'm writing this on the plane back from Virginia where I spoke to 250 lawyers about creating educational video.

JIMMY CHANGA VENTURES INTO UNCHARTERED WATERS

JIMMY CHANGA IS THE RESIDENT EXPERT

on when someone will meet their maker. The United States government has been using his services on a clandestine basis to determine when heads of state will die.

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COST CONTAINMENT IS THE NEW CRY FOR HEALTH CARE REFORM

I just finished reading an article in the medical journal *Obstetrics & Gynecology*, March 2010 edition, written by a lawyer who was trying to find ways to change the health care system in the U.S.

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GERRY'S TRIVIA GAME

Test your knowledge of medical malpractice and accident law in New York. Take the test and compare your answers that appear at the end of this newsletter.

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Jimmy Changa is daydreaming about his future car and spending some time relaxing on a quiet, secluded beach. He is sorely mistaken.

Learn why on page 2.



Jimmy's next adventure-on a submarine...



JIMMY'S NEXT ASSIGNMENT

After returning successfully from Russia with Hillary Clinton, he was asked to see the National Security Advisor asap. He was given a pat on the back for a job well done. He was also paid very handsomely for his duty to his country; the money was deposited into a 'black' account that was never audited or checked. This was a black box program that the general public never knew about.

"Your next assignment is to travel by submarine to the middle east. You will infiltrate Iran with fast attack boats that will meet the submarine off the coast. You will be met at the beach by the CIA station chief, a woman named Chi Chi Maguire. She will take you to a safe house where you will change into your formal wear and later that evening you will accompany her to a private dinner, as her guest. You will be meeting with Iranian president Ahmadinejad. You will be introduced as her valet. You know the drill. Just shake hands, get that feeling, and then get out of Dodge.

This was the riskiest mission yet. He didn't like the thought of going into a hostile country by submarine, but what the heck, he'd never been on a sub and he'd probably never get another chance again.

"Why can't I just take a plane and walk in the front door like everyone else?" Jimmy asked the NSA director.

"Because a lot of people know and recognize you now. They know what you can do. If they realize you're in-country, they will correctly assume that you're there to learn when their leaders will attend to that big party in the sky. Now go get briefed by Colonel George Washington," said the director.

In another part of the White House, Hillary was talking with Vice President Biden while waiting for President Obama to return from bowling with his kids in the White House bowling alley. Hillary decided to surprise the president by putting on bowling shoes and grabbing a bowling ball to make her entrance.

The only problem was that Hillary hadn't bowled since high school and the

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A White House maid makes history with her iPhone photo

floor was really slippery. Two steps into the bowling alley, Hillary slipped on the slick floor. She was holding the bowling ball in her right hand and as her feet slipped out from under her, her right hand flew up and unexpectedly released the 8 pound bowling ball. The vice president of the United States had the misfortune to be standing next to Hillary at the time the solid bowling ball hit him squarely in the face, knocking him to the ground and very unconscious.

The President sure was surprised to see his Secretary of State sprawled out on the floor, unable to stand, somewhat akin to a newborn baby giraffe. He was even more shocked to see his Vice President, Joe Biden, unconscious, bleeding from his nose, on the ground. This was not good. Not good at all. He wanted to finish his bowling game, but some things are more important than others.

Security agents called for doctors and ambulances. Jimmy was blissfully unaware of the shenanigans going on in the bowling alley since his time was being taken up by Colonel Washington.

A MAID MAKES HISTORY

Timing is everything. A maid who was cleaning the bowling alley floor happened to have received a text message on her iPhone moments before this fiasco unfolded. She had the phone in her hand and was five feet away from the action. The moment Hillary fell and Biden got slammed, the maid was smart enough to take a photo with her smartphone and

upload it to Facebook. The caption she wrote was "Look what just happened."

The photo was misinterpreted because in the background was President Obama who was holding his bowling ball in an 'up' position, ready to throw the ball down the lane. He turned around when he heard the commotion, and it appeared as if he had just knocked down Hillary and Biden with his bowling ball. He definitely had a look of shock on his face.

One of the maid's Facebook followers commented "Look at what Mr. President just did to his Secretary of State and Vice President. He needs anger management class."

You can only imagine what happened after that. That photo and caption went viral in a matter of minutes. 30 minutes later, CNN was reporting this photo interpretation as fact. Twitter followers across the world were accusing the President of trying to get rid of Hillary with a bowling ball. The New York Post declared the president bowled a perfect strike with one exception; he now needed to call congressional leaders to the bowling alley so he could do the same to them.

The National Security Advisor received a twitter message from his good friend in the Israeli secret service. It was a heads up on what was going on in his very own basement in the White House.

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Jimmy was dreaming of jetting off for a week of sun in the Greek islands. Ahh. What a lovely thought. Away from everyone who demands his time and his special services.



THE MAID IS FIRED

One hour later, the White House maid was fired and her iPhone was confiscated, never to be returned. The cat was already out of the bag and there was no damage control that would correct what happened.

THE MAID GOES ON TELEVISION

The National Security director did what any good chief of staff would do. He went on national TV, with the maid to have her explain that the photo interpretation was not what really happened.

What do you think happened when the public saw the director of the National Security Agency sitting with the maid on national TV prodding her to tell the world what really happened. The blogosphere lit up with conspiracy theories. Fox News, that beacon of “unbiased” journalism, also known as “The balanced news,” declared this was a plot to overthrow the government.

THE PUNDITS GO WILD

“Who’s running the government?” talking heads shouted. Tabloids made a big deal of this and proclaimed President Obama out

to get the VP and Secretary of State out of his administration.

The President gave a news conference describing exactly what happened. Nobody believed him. Instead, they believed the maid’s friend who misinterpreted the photograph. Ah, the power of the internet.

LATE NIGHT COMEDIANS HAVE A FIELD DAY

The jokes were relentless. They all offered to bring over their wives to bowl with the president. “Take my wife, please,” they exclaimed.

JIMMY BEGINS HIS PREPARATION

“What do you take on a submarine?” he thought. He called Colonel Washington and asked the question. “Anything you damn want,” came the brusque reply. “How long is the trip?” Jimmy asked. “None of your damned business young man,” came the reply. “How will I know we’ve arrived?” The colonel was silent for a moment and then said “When we shoot you out of the torpedo tube and onto land,” was the response. **-To be continued!-**

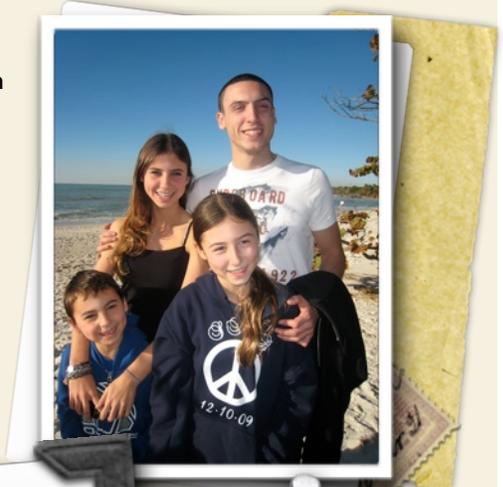
“How will I know we’ve arrived?” The colonel was silent for a moment and then said “When we shoot you out of the torpedo tube and onto land.”

GERRY'S TRIVIA GAME

TEST YOUR LEGAL KNOWLEDGE

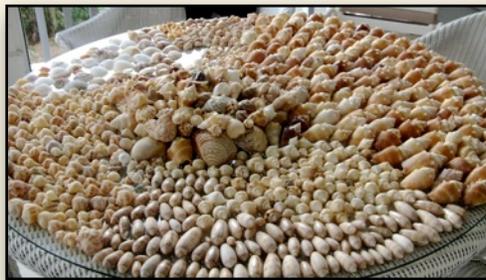
1. Male lawyers must wear a suit and tie in court. TRUE OR FALSE?
2. Before being admitted to practice law in NY an attorney must be approved by the Character and Fitness committee in the county in which they are seeking admission to the bar. TRUE OR FALSE?
3. If a doctor is brought up on disciplinary charges by the NYS Dept. of Health, those claims are made public. TRUE OR FALSE?
4. You have the right to remain silent in a deposition of your accident case. TRUE OR FALSE?
5. In a NY medical malpractice case all lawyers work on contingency fee. TRUE OR FALSE?
6. Watching a video of a lawyer online who gives you useful information about your problem will likely get you to pick up the phone and call for more information. TRUE OR FALSE?
7. A subpoena compels a witness to come to Court and testify. TRUE OR FALSE?
8. The penalty for failing to comply with an attorney's subpoena (as distinct from a judicial subpoena) is a \$5,000 fee. TRUE OR FALSE?
9. AVVO, an online 'rating' system for lawyers is an accurate representation of a lawyer's ability to achieve success. TRUE OR FALSE?
10. A judge who decides to sanction or penalize an attorney must give that attorney time to present his or her side of the case in a separate hearing before imposing a financial penalty. TRUE OR FALSE?

BONUS: A 'note of issue' is a document that tells the court your case is ready for trial. TRUE OR FALSE?





All photos in this newsletter are original and were taken in Sanibel, Florida



“Cost-Containment and the Need for Medical Justice Reform”

is an article published in the March 2010 medical journal *Obstetrics & Gynecology*, vol. 115, No. 3 written by Philip K. Howard.

This is a reply to that article.

The author makes the following statement in support of his claim that too many tests are unnecessary and therefore ruining our health care system:

“A few years ago, I was not allowed to have minor knee surgery at an orthopedic hospital unless I went through a comprehensive ‘preoperative examination’. There was no financial incentive to the hospital because this preoperative examination was to be done elsewhere. As it turned out, I recently had endured all those tests in my annual physical. But the orthopedic hospital would not accept month-old test results, nor even an explicit waiver by me of any liability. The result was pure waste: more than \$1,000 spent on wholly unnecessary tests.”

What the author fails to recognize is that unbeknownst to him, during that one month period of time between his physical and his surgery, his blood results *may* have changed. The hospital is right to require up-to-date pre-operative blood work to determine whether he is medically capable to have this surgery.

He claims that he wanted to sign a waiver absolving the hospital of any liability. The hospital was right not to agree to this. If he suffered injury from medical negligence, there are many arguments that would make his waiver useless. What if he slipped and fell in the hallway fracturing his femur on the way to the waiting area in the operating room? Does his ‘waiver’ absolve the hospital of ordinary negligence,



or a lack of reasonable care? Or does his ‘waiver’ only apply to intra-operative injury? What about injury that occurs post-operatively? Again, the hospital was right to refuse to accept Mr. Howard’s waiver of liability. (It’s ironic that as a New York medical malpractice plaintiff’s trial attorney I am standing up for the hospitals’ decision). The theme of the article is to contain costs. I am pleased to see the author acknowledge the need to create a system in order to quickly

compensate patients injured by medical errors.

The writer states that the trial lawyers continue to point to a study by the Institute of Medicine that over 98,000 people are killed every year by preventable medical errors. He then says that trial lawyers have not reduced the errors, rather they have caused the fear.

This statement is ridiculous. It is not the trial lawyers job to reduce medical errors. That is for the medical profession to do. Our job as trial lawyers is to obtain compensation for injured victims. That should not instill fear. Actually, I have the solution to all the cries of tort reform. It will put all the medical malpractice lawyers out of business and fix the legal system with one fell swoop. Are you ready? Here’s my solution:

Crack down on negligent physicians. Eliminate the medical malpractice and you will save the health care system in this country billions of dollars per year. People will live longer; they will go home from the hospital sooner; they will require less medication; they will not need physical therapy and rehabilitation; no longer will they require corrective surgery to fix a problem that never should have happened.

-Continued next month!

NEW YORK INJURY TIMES

A new look!



*New York Medical Malpractice
Attorney Gerry Oginski*

RECENT SETTLEMENTS

\$450,000 Settlement in a failure to diagnose bowel perforation during gyn surgery.

\$450,000 Settlement in a failure to diagnose bone infection following foot surgery leading to death.

Give this newsletter to your best friend. They'll thank you for it, and so will I.

Answers to Trivia Game: 1. True, 2. True, 3. False, 4. False, 5. True, 6. True, 7. True, 8. False, 9. False, 10. True. BONUS: True.

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I WELCOME YOUR CALL!

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MAIL TO:

Call me right now with any legal questions about injuries from any accident or medical care. I promise to give you a straightforward and honest answer. That's my guarantee.

Call me today with your questions at 516-487-8207