

NY INJURY TIMES

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IN
THIS
MONTH'S
EDITION...

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- ✓ GERRY'S FAQ'S & ANSWERS
- ✓ GERRY'S NEVER ENDING STORY
- ✓ NEW TRIVIA GAME
- ✓ PHOTO GALLERY



At the beach



On the slopes

**5 Holiday Tips To Keep You From Being
an Emergency Room Malpractice Victim**

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Q: When you question my doctor at a deposition, can I be present? Can I ask questions too?

A: During a lawsuit, each side gets to question the other side during a procedure called a deposition. (It's also called an examination before trial- EBT). During a deposition, it's an opportunity for me to get specific answers about what happened to you or your loved one. There are important strategies used by experienced trial lawyers when questioning a doctor in your case. Not only are we trying to establish facts, as the doctor recalls them, but are also attempting to lock the doctor into a position about what was done for you, and why. I will always ask the doctor to read his treatment record, and then have him or her explain the reasons for treating you the way he did. As a victim or family member of a loved one involved in the case, you are always welcome to be present when I question the doctor at his deposition. However, I must caution you that sitting across from the person whom you believe caused you or your family serious harm is very unsettling. The urge to reach across the table and do something physical is ever-present. The urge to verbally respond to a comment by the doctor is also very strong. Please remember, if you wish to be present, you can. BUT, the focus and emphasis is on questioning the



Dad & David in the ski lodge



St. Maarten goat



Coney Island Aquarium



Bird of prey, in flight

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doctor, NOT your desire to give him or her a piece of your mind. If you have certain questions you feel are important to your case, by all means discuss them with me before the deposition. You will not be permitted to ask questions yourself. Importantly, if you choose not to be present when I question the doctor...not to worry. I can send you a copy of the transcript so you can read it at your leisure. In my experience, 99 times out of 100, my client will choose not to be present during a doctor's deposition.

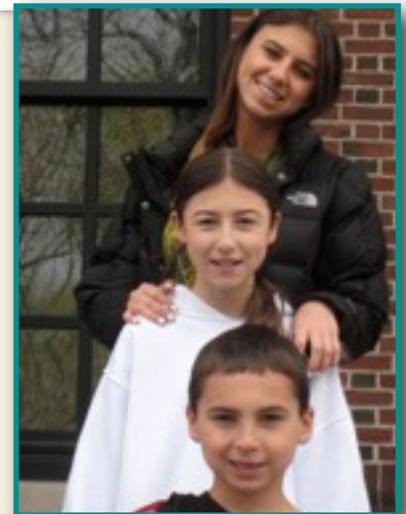
Q: In a medical malpractice case, why aren't there only doctors who sit on the jury?

A: Our system of justice requires that a 'jury of one's peers' sit in judgment. This phrase has come to mean people of the community, and not people who have the same jobs or same backgrounds. We'd never really know if 6 doctors

sitting in judgment against another doctor would find in favor of the doctor just because they sympathized with the poor guy. If a truck driver caused a car accident, should he be entitled to a jury of all truck drivers? Don't you think they'd be sympathetic to a fellow truck driver? What if the injured person bringing the lawsuit was a banker, and the person who caused the accident worked in a fast food restaurant? Which jurors should sit in judgment of such a case? The answer is that anyone in the community who is over 18 years of age can sit on a jury.

Q: I've heard the phrase 'loss of enjoyment of life' - what does it mean?

A: That is a concept that lawyers use to explain that your injuries caused you pain, suffering, and literally the loss of enjoyment of your daily life. This allegation of loss of enjoyment of life is included within any claim for pain and suffering you may have. We would point



Harvard University library steps



Snowtubing at Camelback



On the ski lift at Camelback



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out to a jury how your injuries have affected your daily lifestyle, how you are physically disabled from doing those daily tasks that were once simple and easy, and how you no longer enjoy your life- as you once did, because of your debilitating injuries.

Q: 5 Holiday Tips To Keep You From Being an Emergency Room Malpractice Victim

A: The holidays are notorious for over indulging on food, overexertion while shoveling snow, and high levels of stress. Unfortunately, this puts many people in the emergency room needing immediate medical care. What happens in the emergency room when the hospital is understaffed because the doctors and staff are on vacation and they're short-staffed? Your care may suffer. Here are 5 important tips to help you through the holidays if you wind up in the emergency room:

- ☛ Make sure you are seen by an attending emergency room doctor. An attending is a doctor who has completed all of his postgraduate training, and is now working for the hospital. Most emergency rooms are staffed by doctors-in-training, called residents, and are supposed to be supervised by a senior physician. If you are seen by the resident doctor, you should ask to also be personally evaluated by the attending physician.
- ☛ If you are able, ask lots of questions. "Why do I need this test," "What is the purpose of this medication," "Are there any alternatives to treat me, other than what you are

recommending?" "What will happen if I choose not to have the treatment?" Do not accept what is given to you blindly.

- ☛ If you have x-rays, an MRI scan or a CAT scan, ask whether the attending radiologist has read the films. Do not rely on the radiology resident in the emergency room to read the films. "Oh, but the attending isn't in now, he reads it the next day." No good. If the attending radiologist isn't available, ask the emergency room doctor to read the films himself.

- ☛ If you are given medication, either in pill form or by intravenous line, you must ask if there's the potential for an allergic reaction. Allergic reactions can kill you. You must ask.

- ☛ If you are allergic to any medication, make sure the emergency room staff notes it on your chart, and make sure you are given an 'allergy bracelet' to let everyone know about your allergies. In practically every hospital, allergy bracelets are available to warn hospital staff about a patient's allergies. Don't rely on a note in your chart to inform the doctors and hospital staff about your allergy.



WIKILEAKS.COM IDENTIFIES JIMMY CHANGA AS THE PERSON PRIMARILY RESPONSIBLE FOR KILLING THREE FOREIGN LEADERS.

Fox news got wind of the Top-secret, super-black program featuring Jimmy and his attempt to identify when leaders of foreign countries will die.

The White House, predictably, had "No comment." The National Security Advisor was quoted by the "Fair and balanced news agency," Fox news, as saying "we do not comment on matters of national security." Two hours after this data dump, Fox news, along with 22 other news organizations knocked on Jimmy's door seeking comment. They obtained his highest-classified address from the wiki leaks data dump.

Jimmy had not yet learned that the news organizations found out who he was at the time he innocently opened his door at the sound of a ruckus outside. One reporter yelled "Are you Jimmy Changa?" Jimmy instantly replied "Are you Rupert Murdoch and his ghost?" He immediately slammed the door and speed dialed the national security adviser at the White House.

Within 10 minutes, the White House had dispatched five Secret Service agents to remove all news organizations from Jimmy's building. They then set up a security detail in front of his building and in front of his apartment door to prevent any pesky news reporters from gaining access to him.

Fox news latched onto this extraordinary security effort to confirm that the government was in fact using Jimmy to conduct one of the most intriguing, highly classified programs in existence.



Half an hour later the national security advisor recommended that Jimmy be brought to the White House, and that he sleep at the White House for the next few nights. Jimmy was not eager to sleep where he worked but felt he had no choice.

Jimmy's new Secret Service detail put a brown paper bag over his head, and then dressed him in a chicken suit and walked him out of his building without the paparazzi recognizing him. He arrived at the back entrance of the White House 10 minutes later and was ushered to the Lincoln bedroom. A sign over the entrance to the famous room says "Abe Lincoln once slept here. Bill Clinton once slept here. Bill's friends once slept here. Are you going to sleep here too?"

After laying down on the bed and selecting a channel on cable TV, he heard a quiet knock on his door. Assuming it was the Secret Service again, Jimmy tiptoed over to the door in his pajamas and from behind the door quickly opened it as if it was a ghost opening the door. Two smoking hot women wearing string bikini bathing suits and high heels walked in and introduced themselves. The first was Nadia, and the second was Katrina.

Jimmy asked incredulously "Who are you again and what are you doing here?"

"The national security adviser told us you needed some cheering up. So here we are to cheer you up!"

This was highly unexpected. He might as well enjoy himself being in the Lincoln bedroom in the White House, a guest of the president of the United States of America.

The next day, every newspaper in the country had Jimmy's name plastered across it. "CHANGA SERVES UP TACOS AND KNOWS WHEN YOU'LL DIE." Daily News reports. The Wall Street Journal headline read "JIMMY CHANGA IS MASTERMIND BEHIND FOREIGN DEATHS." A local tabloid headline said "Jimmy Changa and Oprah having an affair. Colin Powell is their love child."

At 8 AM the next morning, the president of the United States knocked at the Lincoln bedroom door. "Who is it?" Jimmy asked.

"It's the big bad Wolf and if you don't open this door I'm going to huff and puff and blow your house down."

Jimmy vaguely recognized the voice as being someone of importance, but couldn't exactly place the voice with a face. His hangover didn't exactly suit him to conduct matters of grave importance. He opened the door wearing a White House embroidered bathrobe and pink slippers. The president marched in, took one look at him and demanded he take a shower and meet him in his office in 10 minutes.

Nine minutes later, Jimmy was wearing a T-shirt, sweatshirt, jeans and Birkenstock sandals, standing before the president of the United States in the Oval Office. "Jimmy, we have a problem. It appears that your mission is no longer secret. This means that no foreign leader would ever agree to meet with you. That's a problem. We need another solution."

Jimmy replied "you really think I want to be known for what I do? Do

you think I want to have hundreds of paparazzi stalking me? You think I wanted to become nationally and internationally known that I can predict when someone would die simply by holding their hand? I didn't exactly ask for this. You convinced me to do this for the sake of national security to help the government. Out of my patriotic sense of duty and those two hot women who came into my room last night, I agreed to do it."

President Obama told Jimmy "I want you to go on an extended vacation for the next few months to some beautiful deserted island. Become inconspicuous and just give yourself a long needed vacation. By the way, those two beautiful women that you partied with all night? They're two of the most highly trained Israeli Mossad agents. They eagerly volunteered to cheer you up."

"I want you to speak to the CIA director downstairs to help provide you with all necessary documents to take you to the Island of your destination and make all arrangements to get you there by private CIA jet. As you know, we've wiped out all background information about you, so hopefully this will fizzle out before you get back. Good luck to you, and once again thank you for your dedicated service to the country," said the President.

Jimmy walked out of the

Oval Office knowing that he would have three months of total bliss not having to worry when and where his next mission would be. He was actually looking forward to some much-needed rest and relaxation. What he didn't know was that the CIA had another mission for him and was going to combine business with pleasure at the behest of the United States government.

Jimmy immediately thought of a question he should have asked the President as he was already halfway downstairs to meet the CIA director. He swiftly turned around and walked quickly back up to the President's office. Timidly, he knocked on the door and was commanded to enter. The two Israeli agents were sitting in business clothes on the couch talking to the president. Jimmy asked if he could speak to the President in private for a moment. The President walked over and Jimmy asked "Mr. President, since I'll be going on an involuntary extended leave, I wanted to know if these two beautiful ladies behind you would be able to accompany me during my vacation?"

"That's exactly what I was discussing with them just as you walked in. In fact, I think they would be thrilled to keep you company."

"Excellent," replied Jimmy. With that information, he felt he was walking on air as he made his way to the CIA briefing room in the basement of the White House.

To be continued...



A hungry heron on Sanibel Island, Florida. Notice the background is blurry but the bird is in perfect focus? That's known as depth of field.



Sanibel Island



Pumpkin picking



St. Maarten



Pumpkin picking



St. Maarten



St. Maarten

Gerry's Trivia Game

TEST YOUR KNOWLEDGE OF THE LAW

TRUE OR FALSE?

(1) NY LAWYERS ARE REQUIRED TO TAKE CONTINUING LEGAL EDUCATION COURSES EVERY YEAR.

TRUE OR FALSE?

(2) A RETAINER AGREEMENT IS ONLY NEEDED FOR ACCIDENT CASES, AND NOT MEDICAL MALPRACTICE CASES.

TRUE OR FALSE?

(3) THE NEW YORK BAR EXAM IS A TWO DAY TEST CONSISTING OF MULTIPLE CHOICE QUESTIONS AND ESSAYS.

TRUE OR FALSE?

(4) IT'S GOOD PRACTICE FOR AN ATTORNEY TO "FRIEND" A JUDGE ON FACEBOOK.

TRUE OR FALSE?

(5) WHEN YOUR CASE GOES TO TRIAL IN STATE COURT, THE JUDGE YOU GET IS ASSIGNED RANDOMLY.

TRUE OR FALSE?

(6) LAWYERS DO NOT HAVE TO SERVE ON JURY DUTY.

TRUE OR FALSE?

(7) IN ORDER TO PRACTICE LAW EFFECTIVELY TODAY, AN ATTORNEY NEEDS TO HAVE A BIG LAW LIBRARY IN THEIR OFFICE FILLED WITH HUNDREDS OF DUSTY AND MUSTY LAW BOOKS.

TRUE OR FALSE?

(8) FOLLOWING A CAR ACCIDENT, IF A CLAIMS REPRESENTATIVE FROM AN INSURANCE COMPANY CALLS YOU TO TALK, YOU SHOULD ALWAYS AGREE TO HAVE YOUR STATEMENT RECORDED.

TRUE OR FALSE?

(9) IN A CAR ACCIDENT CASE, NO-FAULT INSURANCE WILL PAY FOR YOUR MEDICAL EXPENSES UP TO \$50,000.

TRUE OR FALSE?

(10) IN A TRIP AND FALL CASE, YOU MUST PROVE THAT THE OWNER OF THE PROPERTY KNEW OR SHOULD HAVE KNOWN OF A DEFECTIVE CONDITION IN ORDER FOR YOU TO SUCCESSFULLY PROVE THEY WERE RESPONSIBLE FOR YOUR ACCIDENT.

TRUE OR FALSE?

BONUS:

A MOTION IN LIMINE IS ANOTHER WAY OF ASKING THE COURT OFFICER FOR SOME LEMONADE.



Answers are on the back page



Visiting colleges in Boston



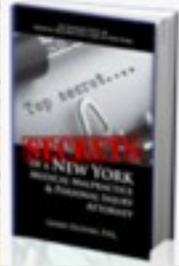
Getting lunch during a ski break

NEW YORK INJURY TIMES



Gerry Oginski, NY Medical Malpractice Trial Lawyer

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

HAVE LEGAL QUESTIONS?

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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