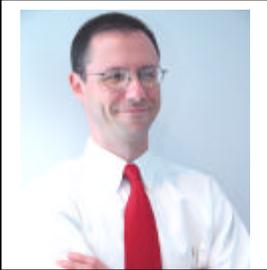


New York Injury Times

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April 05



Gerry Oginski, Trial Lawyer

\$6 Million Dollar Settlement Achieved in behalf of a cardiac victim

Great Neck, NY-

Last month, Gerry Oginski was successful in obtaining a \$6 Million Dollar settlement for a tragically injured young man as a result of an improperly read stress test. The settlement was accomplished only months before trial was scheduled. The terms of the settlement remain confidential according to the wishes of all parties involved.

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- ✓ Are lawyers allowed to call themselves 'specialists'?
- ✓ When a jury deliberates on an injury or malpractice case, do they have to stay overnight?



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We're having a contest!

Find the most interesting lawyer's ad you can and send it in to us. Tell us why the ad is compelling and would cause you to call them over someone else. The winner, to be announced in June, will receive a copy of the new John Grisham novel!



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In This Edition, We Look At

SNOW & ICE INJURIES

Winter time inevitably causes people to slip on snow and ice. They don't wear the right shoes or boots, the driveway wasn't plowed and the street wasn't sanded. If you fall and injure yourself while slipping on snow or ice, can you be compensated (get money) for your injuries?



The short answer is maybe. In any snow and ice case we look to see what the condition was like at the time you fell. If it was the middle of a blizzard and nobody had time to clear the parking lot in the middle of the night, it's not looking good to be able to prove that the owner of the property should have taken steps to clear the lot of snow and ice. The key to proving liability in a snow and ice case is whether the owner of the property knew of a dangerous condition and failed to timely act to correct it. This is called 'notice'. If the owner didn't know about a dangerous condition, how can he be held responsible for your injuries? He won't be. But, what if the icy condition existed for a few days or weeks? Everybody who lived nearby always saw the ice and nobody ever salted or sanded the ice. In that situation we would argue that the owner of the property knew, *or should have known*, that there was a dangerous and icy condition on his property.

What if someone actually tells the owner of the property about an icy area of his lot and he doesn't do anything to fix the problem? Well, as long as nobody gets hurt, he's avoided a lawsuit. However, if

someone does get injured at that location, after someone has specifically notified him of a dangerous condition, and he fails to correct the danger, then in all probability he will be held responsible for failing to prevent injuries at that location.



Sometimes, the owner hires a snow removal company (a snow plow) to plow the driveway, street, sidewalk or parking lot. In some cases, these snow plow companies don't do a good job and leave piles of snow in areas where they will melt, re-freeze, and then create sheets of ice throughout the property. If the snow plow or property owner knew that putting all that snow at the top of the hill wasn't a good location, there are some cases where the owner or snow plow operator will be held responsible for your injuries.

If you fall and are injured during the winter months it is very important that you do three things:

(1) Look around to see what you slipped on. Take a mental note about the conditions where you fell and the surrounding conditions.

(2) When possible, get photographs of the condition as soon as possible after you fell. This will preserve evidence of what the area looked like when you fell. *Make sure you take at least an entire roll of film, from all different angles. Don't just take a picture of the ice. Look for a street sign, a building, and an address that can also get in the picture.* This way you can positively identify the

location where you fell, at a later date. If you use a digital camera do not ever make any changes or alterations to your photos when you provide them to your attorney.

(3) If you don't go to the hospital or a doctor immediately, you should report your accident to the owner of the property to put them on notice of your accident.

Injuries from slipping on ice or snow can be very serious and can include broken bones and the need for surgery. Take time to think whether this could have been prevented. Or was your fall simple carelessness that could have been prevented if you were paying attention to where you were walking? The answer is sometimes difficult to answer. That's why an experienced injury attorney can help guide you and advise you about your legal rights. The longer you wait to speak to an attorney, the greater chance you have of forgetting important information that could help you in a potential case.

The best advice is to be careful while outside and to make sure you're wearing the right winter gear. But even that doesn't always prevent an injury.



Ice skating injuries - They happen. It's a fact. Even to

experienced skaters. You will always see big signs posted at every entrance to every skating rink in New York that ice skating is a dangerous sport. The warning will say that you "Skate at your own risk." That is the same as saying buyer beware!



We know that many sports are inherently dangerous, yet millions of people aren't going to stop participating in dangerous sports just because of the obvious dangers. Just the other day, Newsday reported on a tragedy involving a 15 year old girl who died while snowtubing at Killington Ski Resort in Vermont. Importantly, this girl and her teenage friends were on a *skiing* slope that had already closed for the day. The incident happened at 7:00 p.m., and the key fact here is that the slopes closed at 4:00 p.m. There were signs posted all across the ski resort that slopes were off limits after 4:00 p.m. because of snowmaking and snow grooming activities. Also, there was no snowtubing allowed on any ski slope.

What happened? The girl could not control the snowtube and went off the trail, tragically causing her death. Is the resort responsible for her untimely death? In all likelihood the answer is no. She engaged in a dangerous activity, in a prohibited and restricted area. The snowtube is uncontrollable- which is what makes it so much fun. However, snowtubes are typically used in special areas or chutes designed to keep the tubes in a runway style

area, so that there is no way to run off a trail. Many people have tried to sue skating rinks and ski resorts for injuries they suffered while engaging in these fun filled but dangerous activities. Most have failed. On occasion there have been successes, but those are the exceptions. Where you actively choose to engage in a dangerous activity and disregard the hazards and dangers associated with that activity (rock climbing, water skiing, sky diving), you run the risk of injury and the chance that you will not be able to bring a successful lawsuit for your injuries. But remember, every case is different. Let an experienced injury attorney evaluate your own case.

Be careful out there this winter, and have fun while you can. ?

QUESTION TIME →

Q: What does speed, time and distance have to do with my car accident case?

A: Everything. In order to evaluate liability, a trial lawyer must be able to figure out your speed, the time it took to arrive at the accident point and the distance you travelled from one point to another.

We only need two out of the three elements to figure out the third. For example, if



you travelled 100 feet in 10 seconds, we can easily calculate your speed. If you were travelling at 50 miles per hour, and you drove 1/4 mile, we can calculate exactly how long it took for you to travel that distance.

Speed, time and distance are crucial in determining liability in your case. What do you think the outcome would be in a case if you testified that you were traveling at 30 miles per hour, and it took you 2 minutes to travel 100 feet? The numbers should be consistent. However, keep in mind that it's not always crucial for you to know exactly all the details involved in your accident. There are usually other witnesses involved who can add to whatever information you have. Understand that while driving you are not looking to calculate speed, time and distance in anticipation of a pending accident or lawsuit.

Q: If I bring a lawsuit against my doctor, is he going to lose his license to practice medicine?

A: No. A medical malpractice lawsuit is a civil lawsuit which seeks money as a means to compensate you for your injuries and loss. We never seek, nor can we seek a doctor's



If the doctor's actions are so horrendous, or even intentional, the New York State Department of Health

is likely to be involved. They would undertake their own separate investigation of the doctor, and the Department of Health is the only agency that could revoke a doctor's license.

Q: Are lawyers allowed to call themselves 'specialists?'

A: No. The ethical regulations in New York prevent a lawyer who handles injury and malpractice cases from describing themselves as a 'specialist'. The lawyer can say that they handle only a

certain type of case, and have handled those types of matters for 'x' number of years, but saying that "I'm a specialist in accident cases," is a no-no.

Q: When a jury deliberates on an injury or malpractice case, do they have to stay overnight?

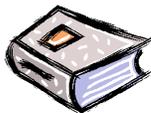
A: No. Only in some criminal cases does the jury get to stay overnight to deliberate. The reason is that the Courts do not want anyone to influence their decision,

which could have a dramatic effect upon whether the defendant goes free or not.

In an injury or malpractice case (a civil case) if a jury has not finished deciding the case by the end of the business day, the Judge will allow them to return home, and then have them come back to Court the next day to continue deliberating until they reach a verdict.?



Gerry's Book continued...



1 year later...the newspaper headlines declared:

"HILLARY WINS SENATE RACE!"
"BILL MOVES TO WESTCHESTER TO PLAY GOLF AND READ"
"CHELSEA GRADUATES FROM STANFORD"

During the past year, Jacob and Chelsea had been seeing each other when they could. School vacations and the summer were the only time the two could get together. Unfortunately for both of them, they were never able to hook up again with Mrs. Vargas and her delicious friend. True to form, during the year leading up to the Presidential election, Jacob visited the White House a total of 82 times. During each of these visits, he accompanied the President to most, if not all meetings and dinners with visiting dignitaries and Heads of State. He was

always introduced as "a friend of the family," or "a friend of Chelsea's." After each meeting, he met with Jimmy-the-Hack Vargas and reported on the imminent date of death of each luminary and dignitary he met. Unknown to Jacob, the national security advisor used this information mercilessly. Vargas was now the new power broker in Washington, and by extension, the world. He coerced, cajoled and forced governments for concessions by threatening to reveal when the head of their government would die. He was proven right again and again, through Jacob's predictions.

One night, after a long meeting, Jimmy asked Jacob how much money he wanted for his services. "You can have any amount you want. From the U.S. Government, Russia, the Soviet Bloc countries, Canada, Israel, the Arab

countries. You name it." "O.K. I'll take 5 billion dollars in small unmarked bills. I'll put one billion in my mattress, and the other 4 billion into my piggy bank." Jimmy Vargas gave Jacob the same 'Deer in the headlights look' as when he realized he hit a winner with this kid. "No really. We have the money. You're worth it. You've provided us with so much valuable material you would be paid everything you ask for. Any money would come from a black stealth account that even the CIA doesn't know about." "O.K., I'll take 10 billion now, and 5 billion next week," Jacob said sarcastically. "You got it," replied Jimmy Vargas. "Just sign this paper indicating that you agree to keep the source of this money secret, and we'll get you the money."

We hope you've enjoyed our [April 05](#) issue, and would greatly appreciate any comments or feedback about our newsletter. Write to lawmed1@optonline.net with your comments.

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

516-487-8207