

The Legal Outlook

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Consumer News:

RECALL REPORT



Kids II Recall: Musical Jumper

Device: *Baby Einstein Musical Motion Activity Jumper*. A hard plastic toy attachment can snap back and cause injury.

Injuries: 61 injuries reported; among them a baby skull fracture and an adult chipped tooth.

Recall: Voluntary

Model Number : 90564

Owners should stop use immediately and contact Kids II for a replacement toy attachment.

877-325-7056 | kidsii.com

\$750,000 Verdict in Motor Vehicle Accident Case



A Camden County, N. J. jury awarded \$750,000 in damages to Julia Pison against defendant, Olivia Speakman. Pison was driving along Cooper Road in Voorhees, N.J. when her vehicle was struck by a vehicle owned by Sharon L. Dinardo. As a result of the violent collision, Julia suffered severe injuries that required immediate medical treatment.

She was diagnosed with multiple injuries, including, posttraumatic brain injury with concussion syndrome; fracture of the left pelvic acetabulum, ischium and lacerated spleen, multiple rib fractures, and cervical, dorsal, and lumbar strain and sprain; history of cervical degenerative disc and joint disease aggravated by motor vehicle accident; L5-S1 radiculopathy on the left with lumbar disc disease; median and ulnar decompression surgical procedures; left knee medial meniscal tear with joint effusion contributing to gait dysfunction initiated by pelvic trauma following motor vehicle accident; chronic dissection of the left common iliac vein with venous insufficiency and retrograde flow; gait, mobility and residual cognitive difficulties; and altered senses of taste and smell.



Julia has undergone and continues to receive medical care for these conditions. She will require ongoing medical treatment going forward.

The two-week trial was heard before The Honorable George Leone of the Superior Court of New Jersey for Camden County. Richard J. Heleniak of Messa & Associates, P.C. served as trial counsel for Julia Pison.

Mr. Heleniak has more than 30 years of experience in handling complex personal injury matters, including medical malpractice, birth injury and products liability cases and has an AV rating by Martindale-Hubbell (highest rating available). Mr. Heleniak was named to the Pennsylvania *Super Lawyers* list in 2006, 2007, 2008, 2009, 2011, 2012 and 2013 as well as the New Jersey *Super Lawyers* list in 2013. His success on behalf of his clients has also been recognized by the Million Dollar Advocates Forum, which admits only those attorneys who have achieved verdicts and settlements in excess of one million dollars.

Among other memberships, Mr. Heleniak is a past president of the Montgomery County Trial Lawyers Association, and has served on the Board of Directors of the Montgomery County Bar Association. Mr. Heleniak is also a member of the Pennsylvania Bar Association, including serving as a past member of its House of Delegates; he is the current chair of the PBA Medical and Health-Related Issues Interdisciplinary Committee.

IN MATTERS OF TRUTH AND JUSTICE, THERE IS NO DIFFERENCE BETWEEN LARGE AND SMALL PROBLEMS, FOR ISSUES CONCERNING THE TREATMENT OF PEOPLE ARE ALL THE SAME.

ALBERT EINSTEIN

MEET THE ASSOCIATES

Joanna B. Seidman



Q: What vegetable do you hate the most?

A: Tomatoes. I know it's a fruit, but I really hate them.

Q: If you could have a drink with anyone from history, who would it be?

A: President Clinton (Just like Eric!)

Q: Describe yourself in 3 words.

A: Intuitive, diplomatic, outgoing

Q: What's the best thing about being a lawyer?

A: Feeling like you can really help people who might otherwise be helpless.

Q: What is your favorite thing to do outside of work?

A: Spend time with my friends—going out to eat, dancing, working out.

Q: What is your proudest moment as an attorney?

A: Having the Superior Court and the Supreme Court affirm a verdict based, in part, on an appellate brief that I had prepared.

Q: What would you do if you weren't a lawyer?

A: I'd be a wedding planner or in sales.

Q: What movie could you watch over and over again?

A: Mean Girls

LEE D. ROSENFELD WINS VERDICT IN BUS ACCIDENT CASE

A Philadelphia jury verdict awarded \$450,000 in damages to a woman against Crystal's Care Inc. on July 24, 2013.

Plaintiff Mercedes Armstead was a rear seated passenger on a SEPTA bus which was struck by a small bus owned by Crystal's Care. As a result of a small but sudden impact, Mercedes' neck was thrust awkwardly forward. Although she did not immediately feel any discomfort, she soon developed chronic neck pain which radiated into her right arm.

Despite undergoing several months of physical therapy, Mercedes continued to suffer with this pain. She was ultimately diagnosed with cervical facet pain syndrome as a result of the accident, a chronic and insidious condition which affects the spine's facet joints.

Her pain syndrome was determined to be permanent and Mercedes will require pain management treatment well into the future.

The trial lasted two days and was conducted before The Honorable Mary Collins of the Court of Common

Pleas for Philadelphia County. Lee D. Rosenfeld of Messa & Associates, P.C. served as trial counsel for Mercedes Armstead.

Lee D. Rosenfeld has been attorney with Messa & Associates for six years. His primary practice area is serious personal injury litigation including automobile/trucking accidents, workplace accidents, and premises liability. He was named to the Pennsylvania Super Lawyers list in 2011, 2012, and again in 2013.



Flavor of the month



AUGUST IS NATIONAL IMMUNIZATION AWARENESS MONTH

Every August, **National Immunization Awareness Month** (NIAM) provides an opportunity for greatly needed emphasis on the importance of not only being properly vaccinated and immunized, but also on the need for proper coverage of this necessary form of disease prevention. Focuses during the month are split into weekly increments and this year, the **National Public Health Information Coalition** (NPHIC) has put together a kit to help spread knowledge of the importance of immunization for babies and pregnant women, children/preteens/teens, young adults, and adults. The **Centers for Disease Control and Prevention** (CDC) have also developed immunization materials that can be used for outreach and education not only during NIAM, but year-round.

If you would like to help spread the word about the importance of immunizations and vaccinations, visit www.nphic.org/niam/toolkit to download the free toolkit. Share this knowledge with friends and family through e-mail, social networks, print, or even word of mouth. Assist the NPHIC in "making public health public."

BREAKING IT DOWN

Loss of Consortium: What is it and does it apply to your case?

Loss of consortium is a cause of action accessible by family members of a person injured or killed by wrongful actions or negligence. Most commonly (but not exclusively) the action concerns husbands and wives and refers to the loss of *marital relations*.

Historically, *loss of consortium* was first granted by the courts in England and was only recognized in a man's loss of his wife. In modern times, and especially in the United States, *loss of consortium* can be claimed by either partner in a relationship. It can even be claimed by parents or children of a plaintiff.

For example, in July of this year, an appeals court in California upheld a \$12.8 million wrongful death verdict against Phillip Morris USA Inc. for the son of a man who died after years of smoking. His case claimed, and a jury agreed, that the loss of his father's relationship for the rest of his life was worth 12.8 million dollars.

So it's not only about sex?

Loss of consortium is often misinterpreted as being the loss of the most intimate portion of a marital relationship. While the claim certainly does include, in big part, the loss of sexual intercourse between

two married people, it also includes any services of comfort previously provided to or by the plaintiff. For example, if a husband is tending to the medical needs of his wife and now, due to a catastrophic injury caused by negligence, is no longer able to provide this service for his wife, there are grounds for compensation.

It should also be noted that a loss of consortium claim could be made by a relative of a plaintiff in a medical malpractice or personal injury action. If a wife loses her abilities to carry on her relationship with her husband the way they had in the past, and those new handicaps are due to a catastrophic injury caused by negligence, her husband can then be awarded damages for *loss of consortium* in his own civil claim.

When is it appropriate to consider *loss of consortium* damages?

Loss of consortium should be addressed in the preliminary interview with your attorney. It is actually a derivative to the original claim and should be decided upon as soon as feasible. Compensation for *loss of consortium* is granted in addition to compensation for catastrophic damages sought on your behalf by your attorney. You cannot be compensated for *loss*

of consortium unless your primary claim for the catastrophic injury is also rewarded.

How do you prove *loss of consortium*?

If you intend to make a claim based on the loss of the most intimate part of your relationship, both partners must be prepared to discuss that part of their life in front of a jury or open court. This can be very difficult and needs to be decided with great care. Once your attorney brings up this topic, defense attorneys can ask you whatever they want about the most intimate details of your married life. It is important to decide well in advance whether or not you and your spouse or other family member are prepared to discuss those things in public. As the plaintiff, it is also important to remember that your partner can also be forced to testify in open court.

A. Christine Giordano, Esq., B.S.N is a medical malpractice attorney, representing clients for *Messa & Associates* throughout Pennsylvania and New Jersey.



Settlements and Verdicts

Confidential

\$1.29 Million settlement for a wrongful death case in Philadelphia County involving the death of a 21-year-old mentally disabled man. The man's family sought damages against a Bucks County residential care facility and its staff who were responsible for caring for his son on a 24-hour basis. His son was allowed to leave the facility unsupervised and was ultimately killed by police.

The man had been diagnosed with autism, bipolar disorder, Asperger's Syndrome and attention deficit disorder. Additionally, he had a history of violent physical outbursts. The residential care facility agreed to provide individualized and specialized care to him as his disabilities would require. However, he was allowed to leave the facility's premises without an escort or further supervision. He went to a local shopping mall where he assaulted a young female. Upon being pursued by police, he fled to a nearby wooded area. When police approached him in that area, the man was shot in the chest three times by an officer and pronounced dead at a nearby hospital.

AROUND THE OFFICE



Joe hosted his annual **Night in Venice** party in Ocean City, NJ on Saturday, July 20th. This year's theme, *Voodoo by the Bay*, allowed for some fun and intricate costumes and guests certainly did not disappoint. Looks like everyone had a great time!



Attorneys and staff welcome new paralegal, Lori A. Comitale, B.S./M.S. to Messa & Associates! Ms. Comitale has more than 15 years of experience working on complex medical malpractice and personal injury cases at several prominent Philadelphia law firms. **WELCOME!**



Want to win Phillies tickets? Here's your chance! **Share** our Facebook posts and you'll be entered into a drawing to win three Hall of Fame tickets to the Sept. 3rd game vs. the Washington Nationals. Check out facebook.com/messaandassociates for more details and start sharing!

MAIN LOCATIONS

PHILADELPHIA

123 S 22nd St
Philadelphia, PA 19103
P: 215-568-3500

CHERRY HILL

2091 Springdale Rd.
Suite 2
Cherry Hill, NJ 08003
P: 856-810-9918

SATELLITE LOCATIONS

COLLINGSWOOD

475 White Horse Pike
Collingswood, NJ 08107
P: 856-833-0600

GERMANTOWN

6000-6002 Germantown Ave
Philadelphia, PA 19144
P: 215-844-1614

CONSHOHOCKEN

923 Fayette St.
Conshohocken, PA 19246
P: 215-940-7700

LINWOOD

605 New Road
Linwood, NJ 08221
P: 609-601-1644

ROSELLE

520 West First Ave
Roselle, NJ 07203
P: 908-300-3900

Messa & Associates

TRIAL ATTORNEYS WITH A REPUTATION FOR RESULTS

EDITORS-IN-CHIEF

GLORIOUS HIGHTOWER | gheightower@messalaw.com

ANGELA LEONE | aleone@messalaw.com

LAYOUT and DESIGN

ANGELA LEONE | aleone@messalaw.com