

# The Legal Outlook

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### Consumer News:

## RECALL REPORT



The Consumer Product Safety Commission (CPSC) has issued a recall of ESL and Interlogix hard wired smoke detectors for failure to alert consumers of fire. The detectors are hard wired into security systems and primarily used in office buildings, schools, hotels, apartments, college dormitories, and some newer built homes. The CPSC posted the recall on August 13, 2014.

Consumers of the recalled fire alarm devices that retail between \$30 and \$50 should call their security or fire safety system providers to determine whether or not the models installed are part of the recall. If they are, consumers will receive free replacement and installation of the new alarms.

Visit [www.CPSC.gov](http://www.CPSC.gov) for more information.



The Philadelphia Trial Lawyers Association – the oldest trial lawyer organization in Pennsylvania – has named Messa & Associates, P.C. founder, Joseph L. Messa, Jr., as *President Elect* for the 2014-2015 year. Mr. Messa spent the last year serving as Vice President under Nancy J. Winkler, and will spend his year as President Elect under President Lawrence R. Cohan.

“I am very excited to take on the position of Trial Lawyers Association President,” said Mr. Messa of his upcoming role. “I have long been of service to the organization and admire all that it does to preserve the American Legal System and to support

continuing legal education for attorneys in Philadelphia. I plan on using this year as President Elect to prepare for my tenure; brainstorming and developing new and innovative ways to better serve Philadelphia plaintiffs with skilled and effective representation.”

Mr. Messa has successfully litigated multiple serious injury cases to seven- and eight-figure verdicts and settlements in medical malpractice, products liability, fire and burn injury, brain injury, and construction/work injury matters, including a \$35 million settlement for a 27 year old man who was rendered a quadriplegic after both the brakes and seatbelt of his tractor trailer failed him.

The Philadelphia Trial Lawyers Association (PTLA) is dedicated to the preservation of the American legal system and boasts over 50 years of legal education. Each year, PTLA sponsors a Luncheon Lecture Series and numerous seminars. The organization also honors exemplary law school seniors with trial advocacy awards.

Joseph L. Messa, Jr. is an AV-rated attorney, listed in the Bar Register of Preeminent Lawyers. He is a member of the Million Dollar Advocates Forum and was named a Top 100 Trial Lawyer by The National Trial Lawyers. Mr. Messa is also an advocate of the American Board of Trial Advocates. He has been recognized as a Pennsylvania Super Lawyer from 2009 to 2014 and was selected to the Top 100 Pennsylvania and Top 100 Philadelphia lists for 2012 and 2013.

“WE ARE NOT TO SIMPLY BANDAGE THE WOUNDS OF VICTIMS BENEATH THE WHEELS OF INJUSTICE, WE ARE TO DRIVE A SPOKE INTO THE WHEEL ITSELF.”

DIETRICH BONHOEFFER

## ASK AN

## ATTORNEY



### Q: What is a statute of limitations and why does it exist?

-Jennie Bloom | Florence, NJ

**A:** A *statute of limitations* is a time limit for filing a case in civil court. If you are injured in an accident, you have a certain amount of time to file your complaint in court. If you fail to do so, you could lose your rights to recover altogether. In New Jersey and Pennsylvania, there is a two-year statute of limitations for negligence cases. In some types of cases, particularly medical malpractice cases, it is hard to know when the two year mark begins to run. In Pennsylvania and New Jersey, the two-year statute begins when a plaintiff “knew or should have known” that negligence/medical malpractice occurred. An easy way to see how the “knew or should have known” standard applies is through a simple hypothetical situation where a surgical instrument is left inside a patient after surgery. John Doe has an operation performed by a surgeon on May 1, 2012. The surgeon negligently leaves a surgical clamp inside the patient’s abdomen. Mr. Doe goes home and suffers lingering abdominal pain for two years. He returns to the surgeon for several follow-up visits where he complains about the lingering pain. The doctor informs Doe that it is likely scar tissue causing the pain. Nearly two years later, the pain becomes so severe that he has a CAT Scan of his abdomen. On May 1, 2014, a radiologist discovers the clamp which was left in in his abdomen.

### \$775K VERDICT IN CAPE MAY COUNTY VERBAL THRESHOLD CASE



On Tuesday, August 12, 2014, The Honorable J. Christopher Gibson approved a jury verdict of \$775,000 for Delia Pezzella, the injured victim of a car crash in Cape May County.

Ms. Pezzella’s attorney, Lee D. Rosenfeld of Messa & Associates, P.C., was able to successfully prove that her injuries were permanent and debilitating, recovering for the young woman a \$775,000 verdict.

When asked about the verdict, Mr. Rosenfeld said he was, “very happy that the jury was able to appreciate how small moments in time can result in devastating effects to someone’s health and future.” Mr. Rosenfeld went on to say, “Delia is a wonderful young woman who really deserved to be fairly compensated for what happened to her.”

On December 1, 2009, around 1:30pm, the plaintiff, Ms. Pezzella, was driving her car on Rt. 47, approaching the intersection at Fulling Mill Road in Rio Grande, NJ. At the same time, the defendant, Francis Wesolowski, was operating his vehicle on Fulling Mill Road, approaching the same intersection. The defendant drove his car into the intersection while Ms. Pezzella was driving through, hitting the front passenger side of her car.

Lee D. Rosenfeld concentrates his practice on serious personal injury litigation, including automobile and trucking accidents, workplace accidents, and premises liability. He was named to the Pennsylvania Super Lawyers list in 2012, 2013, and 2014. He has litigated cases to six and seven figure settlements and verdicts including a recent \$450,000 jury verdict for the injured victim of a SEPTA bus crash case. Mr. Rosenfeld is active in the legal community and his memberships include the Philadelphia Trial Lawyers Association, Philadelphia Bar Association, and Georgia Bar Association.

As a result of the crash, Ms. Pezzella sustained serious and permanent injuries to her neck and back, including lumbar disc injury; lumbosacral sprain and strain; cervical sprain and strain; and cervical disc injury. Ms. Pezzella’s 21st Century insurance policy included a verbal threshold (also known as a limitation on lawsuit threshold) which very often bars crash victims from bringing claims against faulty drivers.

## ASK AN ATTORNEY (CONT'D)

Though the negligence took place in 2012, the patient was not aware until 2014. Because there was no way Doe “should have known” that a foreign body was left inside his abdomen, his statute begins on May 1, 2014 and he has until April 30, 2016 to file a medical malpractice claim.

There are three reasons for statutes of limitations;

1. It forces a plaintiff to act on a specific claim with diligence;
2. It protects a defendant from being called on to disprove his/her negligence at a time when such evidence is old, stale, or long gone; and
3. It prevents the filing of old claims where witnesses’ memories fade and evidence disappears or is not preserved.

A statute of limitations exists to protect defendants so it is **VERY** important to act quickly and effectively when trying to bring claims against negligent parties.



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# BREAKING IT DOWN

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## THE IMPORTANCE OF EFFECTIVE COMMUNICATION WITH MEDICAL PROFESSIONALS

■ **By Megan M. Kwak**

I recently had the opportunity to speak with an individual who was injured as a result of an automobile crash. As we discussed the incident, he explained that he initially had not felt any pain, but after a few days, he began to experience a number of problems, including pain in his lower back. I asked him if he had seen his primary care doctor. He answered, "Yes." I then asked, "Did you talk with your doctor about the car crash and tell him that you are now suffering lower back pain?" He explained that while he had spoken with his doctor about the back pain, he had not discussed the car crash. In fact, he had intentionally opted not to mention the car crash because he "wished to get an unbiased opinion" and did not want "to cloud the doctor's judgment." MISTAKE! Speaking up and giving your doctor complete and accurate information about the reason for your visit DOES NOT cloud your doctor's judgment; rather it provides him or her with vital information to help your doctor help you.

Short of conducting some sort of psychological experiment, there is no reason not to openly and frankly communicate with your doctors, especially when providing background information. In fact, being able to communicate effectively with your doctors about your medical history could save your life.

Dr. Marie Savard, author of *How to Save Your Own Life: The Savard System for Managing –and Controlling-- Your Health Care*, as well as, *The Savard*

*Health Record: A Six Step System for Managing Your Health Care*, believes that patients need to communicate with their doctors in order to get the very best health care possible. As an advocate for patients, Dr. Savard argues that in today's busy world of health care, where office visits can last only fifteen minutes and health insurance systems change frequently, it is important for you, the patient, to be able to communicate with your doctors in order to provide them with all the information they need to help you. Often times, doctors have incomplete copies of a patient's medical record, but at the same time, doctors rely on a patient's medical records to make a diagnosis. Being able to communicate an accurate medical history could be the first step in filling the gap.

Dr. Savard encourages patients to become active participants in their own health care. In *The Savard Health Record*, Dr. Savard explains how patients can go about obtaining their medical history from doctors and hospitals. Dr. Savard also explains how to organize the information so that it is easily accessible, especially in an emergency. The book, which is actually a 3-ring binder, provides the reader with an organized format to keep track of your own medical files, including copies of blood tests, any lists of allergies and medications, your immunization history, eyeglass prescriptions, and more. Being able to discuss your complete medical history will enable your doctor to better diagnose and treat any problems you may have.

Effective communication with your doctors is not only important to help

save your life, but communication is also vitally important to obtain fair compensation if your injuries are the result of someone's negligence. Defense attorneys and insurance adjustors will scrutinize medical records, seeking information that may enable them to deny a connection between a negligently caused event and injuries. They know injured victims must prove "causation." Defense attorneys and adjustors will attempt to exploit any gap in your medical records.

The next time you visit with a medical professional, take a few minutes beforehand to collect your thoughts. Remember to discuss with your doctor any changes since your last health exam and any problems you may be experiencing. Remind your doctor about any health problems that are common in your family, like heart disease or diabetes. Make a list of any strange or unusual symptoms you may be experiencing. Review this list with your doctor. Consider writing down any questions you have that you would like answered.

*Being able to effectively communicate helps doctors and lawyers alike. It helps others so that they can help you. Take the time to prepare for your next office visit. It may just save your life.*



Megan M. Kwak is a personal injury and medical malpractice attorney representing clients of Messa & Associates, P.C. throughout New Jersey and Pennsylvania.

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## Settlements and Verdicts

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### **Pinkerton v. Verizon**

**\$3 Million settlement** for the victim of a crash caused by a distracted Verizon bucket-truck driver. The plaintiff, Ms. Pinkerton, suffered a mild traumatic brain injury and multiple herniated discs in her neck and back. It was her neuropsychologist's opinion that the TBI caused significant memory loss and ended her 32-year career as a nurse. The Verizon driver was on both his business and personal cell phones simultaneously when he took his eyes off of the road and rear ended Ms. Pinkerton's car.

# AROUND THE OFFICE



A big "Congratulations!" goes out to attorney Matthew Y. Rong and his wife, Lotus, on the birth of their first child, Elliott Rong. A healthy seven pounds, twelve ounces, Elliot was born on Thursday, August 7th. Many congratulations and much good luck to the new parents!

**BACK to  
SCHOOL  
BASH!**  
frankford | 2014

Messa & Associates is partnering with the Boys & Girls Clubs of Philadelphia to host the second annual 'Back-to-School Bash!' on August 22, 2014 at the Frankford Boys & Girls Club on Kinsey St. in Philadelphia. Anyone interested in attending the free event with their children for an afternoon of fun, food, and free school supplies, visit [www.btsBASH.com](http://www.btsBASH.com) for more information!



Another big "Congratulations!" goes out to attorney Noelle Palazzo (Burg) and her husband, Joshua, on the birth of their second child, Christian Nicholas. Baby Burg was born at 12:37pm on July 24th, weighing seven pounds, three ounces. A beautiful baby boy!

## 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

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