

# The Legal Outlook

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## Consumer News:

### RECALL REPORT



*New York Boiler  
Home Heating  
Gas Powered Hot Water Boilers*

#### The Facts:

Recalled Model Numbers:  
**PVCG50ANI, PVCG60ANI, PVCG70ANI, PVCG80ANI, PVCG90ANI, PVCG30API, PVCG40API, PVCG50API**

The air pressure switch can fail to shut down the burners when there is a blockage in the vent system, allowing the boiler to emit excessive amounts of carbon monoxide and posing a CO poisoning hazard to the consumer.

Affected consumers should contact their distributor or installer immediately to schedule a replacement or repair.

## Eric H. Weitz Elected *Chairman of the Board of Governors of the Philadelphia Bar Association*



Attorney Eric H. Weitz has been elected Chairman of the Board of Governors of the Philadelphia Bar Association. Weitz will work with the Chancellor and fellow board members to establish official policy for the Philadelphia Bar Association and provide guidance to the overall legal system.

With 20 years of courtroom experience, Weitz has successfully litigated cases nationwide, winning numerous multi-million dollar verdicts and settlements for his clients, including a \$28.75 million verdict for a foster child that was rendered a paraplegic in a motor vehicle accident. He recently served as co-counsel in the Topamax birth defects trials filed in Philadelphia Court of Common Pleas. In both cases, the jury returned multi-million dollar verdicts.

"I am excited to work with our dynamic and diverse Board of Governors this year," said Weitz. "Our Association of 13,000 members continues to lead the way nationally as one of the elite bar associations. I look forward to joining with the rest of our Board in supporting our Chancellor's and our Association's vision for a better Philadelphia."

Weitz received his juris doctorate, *cum laude*, from the Villanova University School of Law and his undergraduate degree from the S. I. Newhouse School of Public Communications at Syracuse University where he was awarded a Bachelor of Science, *cum laude*, in Television, Radio and Film Management. He has been selected to the Pennsylvania *Super Lawyers* list for seven consecutive years, including Top 100 Pennsylvania and Top 100 Philadelphia for 2011- 2013.

Weitz is a board member for a number of professional and community organizations including the Pennsylvania Patient Safety Authority, the Philadelphia Trial Lawyers Association (PTLA) and the Pennsylvania Association for Justice (PAJ) where Mr. Weitz serves on its Executive Committee. Mr. Weitz is also an active member of the American Trial Lawyers Association in New Jersey.

The 13,000-member Philadelphia Bar Association is the oldest association of lawyers in the United States. It provides guidance and professional support for attorneys, judges and politicians on legal issues. In addition, the organization offers local Philadelphia community members assistance in addressing legal matters.

Weitz was elected by the Association's membership. His one-year term officially began on Jan. 1.

EVERY STEP TOWARD THE GOAL OF JUSTICE REQUIRES SACRIFICE, SUFFERING, AND STRUGGLE;  
THE TIRELESS EXERTIONS AND PASSIONATE CONCERN OF DEDICATED INDIVIDUALS.

MARTIN LUTHER KING, JR.

# MEET THE ATTORNEYS

Noelle L. Palazzo



**Q: Did you play sports in high school?**

*A: No! I was not exactly the athletic type. From a young age, until I was 19, I was a ballet dancer and trained at the Pennsylvania Ballet and then became a member of the Children's Ballet Theatre of Philadelphia while in high school.*

**Q: Did you always know you wanted to be a lawyer?**

*A: I think I knew I was destined to be involved in the law somehow. My parents always told me I had a big mouth and should put it to good use and from a very young age, I was always advocating for others, especially the most vulnerable.*

**Q: What is your favorite thing to do on a snowy day?**

*A: Playing in the snow with my 2-year-old son, Dylan, and then coming inside and having hot chocolate together!*

**Q: Your first job as an attorney was with a defense firm. What made you want to work for plaintiffs?**

*A: I always knew I wanted to be a plaintiffs' lawyer and fight for the 'people' instead of insurance companies. However, there weren't many opportunities for plaintiffs' firms when I first graduated from law school. I made the switch as soon as I could and never looked back!*

**Q: What is one of your biggest challenges you face as an attorney?**

*A: I face many challenges, but getting too emotionally involved in cases, especially those involving children and catastrophic injuries, can be very difficult for me, although it can sometimes be a benefit because it can really be a driving force.*

**Q: What is your proudest moment as an attorney?**

*A: Being sworn into the United States Supreme Court with my husband, Josh, who is also a lawyer.*

**Q: What do you love/hate about living in Philadelphia?**

*A: I am a born and raised South Philadelphian and now reside in Center City. I absolutely love Philly...there's nothing I hate about it!*

**Q: What would you do if you weren't an attorney?**

*A: I think I would somehow be involved in the performing arts field, ideally as a professional ballet dancer.*

## ESSURE PROCEDURE RAISES CONCERNS AFTER HUNDREDS OF PATIENTS REPORT ADVERSE EVENTS TO FDA

In recent months, hundreds of women using a form of permanent birth control have come forward with stories about their painful experiences. More than 800 women have filed reports with the Food and Drug Administration regarding the Essure procedure complaining of severe injuries, including perforation of organs, excessive bleeding, and chronic abdominal pain. In August, one woman was admitted to the hospital with abdominal pain after undergoing the Essure procedure. The woman later died after suffering from streptococcal toxic shock syndrome.

Essure, which is owned and marketed by pharmaceutical giant Bayer, is a procedure where bendable coils (made of polyester fibers, nickel-titanium, and stainless steel) are placed into the fallopian tubes, passed from the vagina through the cervix and uterus. Scar tissue then forms around the coils and blocks the tubes from insemination, according to marketing materials. The sterilization procedure gained FDA approval in 2002. It is marketed as cheaper, easier, and safer alternative to tubal ligation.

Essure was originally designed and manufactured by Conceptus. Conceptus was purchased by Bayer in early 2013, but the company estimates that approximately

700,000 women have undergone the Essure procedure. The coils are typically inserted in a doctor's office as an outpatient procedure. Reports from Essure's clinical studies indicate that "perforation of internal bodily structures other than the uterus and fallopian tubes, are all "potential adverse events" of the procedure.

When the FDA approved Essure in 2002, it gave it preemption status, meaning women injured by the device could not sue the manufacturer. Famed legal clerk and environmental activist, Erin Brokovich, has recently begun speaking out on behalf of the hundreds (and probably thousands) of women who have been injured by the device—many of whom have undergone necessary hysterectomies to repair the damage caused by the implanted coils—in an effort to change this classification and allow Bayer to be held liable for these injuries.

If you or someone you know is suffering the effects of the Essure birth control implant, don't hesitate to contact Messa & Associates to speak with an attorney.

E-mail [ghightower@messalaw.com](mailto:ghightower@messalaw.com) or call 215-568-3500 and ask for Glorious or Angela.

## January is Birth Defects Prevention Month

National Birth Defects Prevention Network seeks to raise awareness about birth defects and the steps that can be taken to help prevent them with this year's theme advising that birth defects are "**Common, Costly, and Critical.**" The organization is sharing some helpful information regarding birth defects.

Birth defects affect one in every 33 babies each year. In many cases, there is no family history of a birth defect. Although some of these birth defects can be detected before birth, others may not be found until birth. Still, some that are harder to diagnose may go undetected for several years.

The cause for many birth defects is unknown. However, experts have linked certain behaviors during pregnancy such as smoking, drinking alcohol, exposure to chemicals or infectious diseases and taking certain medications to birth defects.

Doctors recommend that women who are pregnant or may become pregnant do the following to help decrease birth defects: take folic acid, have regular check ups, get any necessary vaccinations, get tested for infectious diseases, monitor and treat any medical conditions, limit or don't use alcohol, cigarettes, or medication. As always, women should consult with their physician to address their individual concerns before making any changes to their diet, medication or daily routine (especially while pregnant).

# BREAKING IT DOWN

## OIL'S IMPACT REACHES FURTHER THAN YOUR CAR

■ **By Jenimae Almquist**

The size of our carbon footprint is augmented not only by the cars we drive, but also by the distance various goods travel to reach us. Meanwhile, crude oil is a component in a surprising number of everyday products. For instance, petrochemicals are found in a wide range of synthetic fabrics. Although such wash-and-wear items may not require dry cleaning with harsh chemicals, most commercial detergents contain petroleum products in some form. From the shampoos we use to the rubber soles of our shoes, many companies are ensuring that we use oil-based products from head to toe. Even the carpet below your feet contains synthetic fibers made from oil.

Almost every meal that comes to your table has had some connection to petrochemicals beyond the fuel used to transport it. Fertilizers and pesticides that contribute to crop growth and quality stem from petrochemicals. The food preservatives used to promote freshness are also oil derivatives, rendering our portion-sized, pre-packaged food even less environmentally friendly. At the end of the meal, the dish-washing liquid used to clean your plate is also oil-based.

And we have not yet scratched the surface. Look around you - every single plastic item you see contains some form of petrochemicals. Your car interiors, toys, plastic bags, computer, and many types of furniture rely upon plastic, which in turn requires refined oil. The compact disc or DVD that you pop into one of those plastic players is yet another product containing oil. Of course, the electricity to run the player comes from burning fossil fuels, a process

that presents one of the largest challenges to controlling climate change.

The U.S. Energy Information Administration reports that the United States consumed .14 billion barrels of oil in 2008, totaling approximately 23 percent of the entire world's consumption. T. Boone Pickens, the Texas oil tycoon, turned environmentalist who could likely afford to fuel his own vehicles with pure gold, proclaims that the "cheap and easy" pockets of oil have been exhausted; our reliance upon foreign oil and the cost entailed in oil extinction are both on the rise. Although estimates of the remaining finite supply of oil vary widely from 60 to 80 to 100 years, the EIA confidently predicts that we have a sufficient worldwide supply of oil to last for the next 25 years. That's hardly reassuring.

Needless to say, burning, refining, and transporting oil and all of its related products contributes dramatically to climate change. Here are some simple steps to decrease your petrochemical consumption:

*Just say "no" (politely, of course) to packing purchases in umpteen plastic bags. Use reusable bags, go bagless, or at least recycle any plastic bags and dry cleaning bags at the bins that are now available at grocery stores.*

*Buy products that have less plastic packaging and steer clear of synthetic fibers when possible. Stores now carry more environmentally friendly products, from cat litter to cleaning supplies to the new SunChips 100% compostable packaging.*

*Reduce gasoline consumption by taking public transportation, carpooling or walking. Be sure your tires are filled to an appropriate pressure, as tires low on air*

*force a vehicle to consume more gasoline. Consider a hybrid car - the payback curve will likely become more attractive as demand for fuel-saving vehicles increases.*

*Consider alternative energy sources and cut down your electricity usage in any way possible. Solar power is becoming more affordable given Pennsylvania and New Jersey rebates, and power companies now offer packages that rely upon wind turbine, geothermic and other non petrochemical electricity sources. Also, the federal tax credit for home energy efficiency improvement (certain windows, insulation, doors, roofs) for 30 percent of the cost (up to \$1,500) has been extended until Dec. 31, 2010.*

*As a last resort, buy carbon credits or invest in environmentally friendly technology. You have already used the oil, but at least you can devote resources to cleaner energy in the future.*

A few moments of mindfulness will create more market for renewable energy sources that do not pollute our earth, do not increase our reliance upon foreign oil.

Jenimae Almquist, (jalquist@messalaw.com) is a mass torts/catastrophic injury attorney at Messa & Associates representing primarily Spanish speaking clients. She is also a member of the Philadelphia Bar Association's Green Ribbon Task Force.



Article previously published in Bar Reporter, April 2010

## Settlements and Verdicts

### Confidential

\$400,000 settlement in Camden County, New Jersey for a medical malpractice action involving a man who suffered injuries as a result of a negligently performed circumcision. Following the circumcision, he continued to treat with the physician and received follow up care. Despite the care he was receiving, the man continued to experience significant pain and discomfort, as well as edema, inflammation and loss of length.

The man sought the care of another physician and later learned that he would require additional surgical procedures to repair the circumcision. He underwent a cystoscopy, penile exploration and skin grafts to repair his injuries.

# AROUND THE OFFICE



Richer J. Heleniak and Joseph L. Messa were selected as Philadelphia Top Rated Lawyers for 2013. The distinction is based upon peer-reviews and ratings, and both Joe and Rich have received the rating of *Preeminent*. Mr.'s Heleniak and Messa continue to serve as role models within the office and in the legal field. Keep up the great work!



Firm associate Noelle L. Palazzo recently ran in the Rothman 8k with Moms in Training (MIT), a division of the Leukemia and Lymphoma Society. Her group alone raised over \$40,000 for the society, which is the world's largest voluntary health agency dedicated to curing blood cancer. Way to go, Noelle!



In December, Messa & Associates held its annual holiday party, asking guests to bring an unwrapped Toys-for-Tots donation. When all was said and done, guests helped collect three large bins full of toys, as well as 3 large garbage bags full. Thanks to all who donated!

## 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](mailto:gheightower@messalaw.com)

ANGELA LEONE | [aleone@messalaw.com](mailto:aleone@messalaw.com)

### LAYOUT and DESIGN

ANGELA LEONE | [aleone@messalaw.com](mailto:aleone@messalaw.com)