

THE LEGAL OUTLOOK

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“I consider trial by jury as the only anchor ever yet imagined by man by which a government can be held to the principles of its constitution.”

**THOMAS
JEFFERSON**

KIDNAPPING OF AMERICAN CHILDREN LEADS TO LAWSUIT AGAINST GERMAN AIRLINE

Messa & Associates, P.C. has filed a lawsuit against German airline **Lufthansa** on behalf of Erno Ilyes, whose two children were kidnapped onto an airplane and taken to Vienna, Austria from Newark Airport on July 7, 2015. Since then, Mr. Ilyes has not been able to find, see, or care for his children.



The German airline violated its own corporate policy by allowing the two children, both of whom were under the age of 12, to board a plane in the company of one parent without written permission from their other parent. According to Lufthansa’s website, “[i]f a child or teenager is travelling with only one parent or guardian[,] the notarized consent letter from the parent/guardian who is not travelling with them is required.” In allowing these two children to board a plane without permission from their

father, Lufthansa permitted Mr. Ilyes’ ex-wife to abduct his children, both U.S. citizens, and rob Mr. Ilyes of the love and companionship of his children as well as his legal parental rights. The Philadelphia Family Court had prohibited Mr. Ilyes’ ex-wife from leaving the United States with Mr. Ilyes’ children. The lawsuit claims that because Lufthansa failed to enforce its own policy regarding international travel of children from the United States, the children’s mother was able to violate the Philadelphia court order and abscond with Mr. Ilyes’ children. It also claims that local travel agencies and persons associated with those travel agencies assisted the mother in making the arrangements to take the children out of the country on the Lufthansa flight without the knowledge or permission of the father.

The children have not been returned to the United States.

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kidnapping, cont'd

"This case is any parent's worst nightmare. Lufthansa's failure to follow its own company policy allowed two children to be kidnapped," said Mr. Ilyes' attorney, Joseph L. Messa, Jr. "Lufthansa boasts on its website that it does not allow minors to board its planes on international flights without the consent of both parents. But even where a Philadelphia judge prohibited the mother from leaving the United States with her children, Lufthansa allowed her take the children out of the country. Instead of experiencing the joys of watching one's children grow, for the past two years Mr. Ilyes has known nothing but heartbreak. Had Lufthansa followed its own simple rules, this tragedy would never have happened."

The claim was filed in the Philadelphia Court of Common Pleas by Joseph L. Messa, Jr., Richard J. Heleniak, and Thomas N. Sweeney of Messa & Associates, P.C. The Complaint seeks compensatory damages for the father and both children.

Groen wins jury verdict against Philly attorney for unpaid origination fee

On Thursday, June 29, 2017, Justin L. Groen of Messa & Associates secured a \$180,000 verdict on behalf of attorney Matthew Y. Rong against Rong's former employer, Ronald A. Blumfield, Esquire, and his law firm, Ronald A. Blumfield, P.C., including \$67,500.00 in punitive damages.

Matthew Rong, a first generation Chinese-speaking attorney, was hired as an unpaid associate at the Blumfield law firm upon graduation from Temple Law School. As is customary in personal injury firms, Mr. Blumfield agreed to pay Mr. Rong 50% of all legal fees generated from cases Mr. Rong originated. In 2011, Matthew Rong originated and was retained by Chinese-speaking clients in a personal injury matter that was subject to the 50% fee sharing agreement.

In April 2012, Matthew Rong left the Blumfield law firm. The parties reached a separation agreement which established that

the clients would stay with Mr. Blumfield's firm with the understanding that Rong would be paid 50% of the legal fees once the case resolved. Mr. Rong had two cases transfer with him to his new firm. When those cases resolved, Mr. Rong ensured that Mr. Blumfield received his share of the agreed upon referral fees.

In August 2014, after Mr. Blumfield had been paid referral fees on the cases that transferred with Mr. Rong, the case being handled by Mr. Blumfield settled for \$750,000. Legal fees generated from the claim amounted to \$225,000. Pursuant to the agreement, Mr. Rong was entitled to 50%, or \$112,500. Attorney Blumfield did not inform Mr. Rong of the settlement. Rather, Mr. Rong was informed by his former clients. Multiple attempts to contact Blumfield to discuss distribution proved unsuccessful, and in January 2015, Matthew Rong filed a lawsuit in the Philadelphia Court of Common Pleas for the unpaid fees.

Last week, a jury awarded Mr. Rong the full amount of his origination fees, \$112,500.00, and an additional \$67,500 in punitive damages against Mr. Blumfield individually, and against his law firm, for breach of contract and intentional conversion of funds.

Fiat Chrysler recalls 1.3M vehicles

-Vehicles include Dodge, Fiat, Chrysler, and Jeep.

Fiat Chrysler has issued a recall which will affect over one million vehicles globally due to defective airbags and anti-lock brakes.

770,853 vehicles worldwide are included in the defective airbag recall because the airbags in those vehicles are prone to "inadvertent deployment of driver-side front air bag." Fiat Chrysler has reports of five potentially related accidents, but fortunately, no injuries. Recalled models include certain 2011-2015 Dodge Journeys sold in North America (US, Canada, Mexico) and certain 2011-2015 Fiat Freemont crossovers sold outside of North America.

The anti-lock brake recall affects 565,647 vehicles, including certain 2011-2014 Chrysler 300 and Dodge Charger sedans, Dodge Challenger coupes, Dodge Durango SUVs, and 2012-2014 Jeep Grand Cherokees equipped with electro-hydraulic power steering. A defect in the alternators of these vehicles can compromise the anti-lock braking system as well as electronic stability control. Fiat Chrysler has identified two accidents with potential links to the alternator defect. Luckily, no injuries were reported.



Car dealerships are offering free repairs for recalled vehicles and car owners will be notified directly.

Defect signs & symptoms

Drivers affected by the airbag recall might notice illuminated air-bag warning lights, random wiper operation, and switches that don't work. Faulty wiring can "chafe against pieces of steering wheel trim, potentially causing a short-circuit," the company said. "This may lead to a second short-circuit that is potentially capable of generating inadvertent deployment of the driver-side front airbag."

Drivers affected by the alternator defect may see an instrument cluster warning light, smoke, or smell something burning. Car owners who experience any of these occurrences are urged to contact their car dealerships as soon as possible.

Debate on immigration reform continues: Do undocumented workers in the US have rights?

By Jenimae Almquist

■ As debate continues on immigration reform, I recall a visit to a South Philadelphia library, where I watched a Latina woman struggle to sound out words in a child's phonics book. Like many of my clients, she may have come to this country to find a better life. Yet only a few blocks away from that library is a sign that says "Press 1 for English, 2 for deportation." After representing many undocumented workers, I know that they are forced to live in the shadows, fearing return to war-torn or impoverished countries. Some of my clients came here to avoid starvation. Several have asked me to make arrangements should they suddenly disappear, leaving their children behind.

Should the courthouse doors be open only to those who were born here? Do basic human rights differ depending upon your green card status? The preamble to the US Constitution does not purport to refer only to citizens; it says that all "men" are created equal, not that "all citizens are created equal." After all, the poem at the base of the Statue of Liberty invites the "huddled masses, yearning to breathe free" to come to our shores in search of opportunity.

So let me settle this question once and for all: humans, no matter where they were born, have access to our courts for wrongs that occur in the United States. As a case in Pennsylvania federal Court explained

nearly 40 years ago, upholding a factory worker's right to sue for his injuries:

.. 28 U.S.C. § 1332(a)(2), . . . allows an alien the right to sue any United States citizen, whether both are domiciled in the same state or not. Thus an alien enjoys a greater right to bring suit in federal court than that given United States citizens."

Hagl v. Jacob Stern & Sons, Inc., 396 F. Supp. 779, 782 (E.D. Pa. 1975). Similarly, injured individuals in New Jersey have a right to sue in state court precisely because the fifth and fourteenth amendments to the Constitution, (which give rise to due process rights), refer to "person" and not "citizen." *Montoya v. Gateway Ins. Co., 401 A.2d 1102 (N.J. App.Div. 1979).*

Many citizens do not realize that the IRS agrees not to report undocumented persons to immigration authorities if they file taxes under an Individual Taxpayer Identification Number (ITIN), meaning that our government is perfectly content to accept tax monies from so-called aliens without affording the full benefits of citizenship. This is analogous to an employer who wants to pay cheaper wages to undocumented workers, but cries foul and seeks to avoid just compensation when that worker gets hurt.

Several courts have reasoned that employers cannot violate federal law by ignoring immigration status at the

time of hiring, and then turn around and deny benefits when the worker is injured. See e.g. *Majlinger v. Cassino Contr. Corp., 25 A.D.3d 14, 28-32 (N.Y. App. Div. 2005)*. Similarly, the Pennsylvania Commonwealth Court upheld an undocumented worker's right to lost wages in a workers' compensation claim. *Reinforced Earth Co. v. Workers' Compensation Appeal Bd. (Astudillo), 749 A.2d 1036 (Pa. Commw. Ct. 2000).*

When I sue corporate defendants that have wreaked havoc upon the lives of a family by marketing a defective drug, manufacturing a faulty machine, or failing to adopt safety procedures to ensure proper medical care, I become outraged that the rights of corporate entities are often more highly valued than those of a foreigner. With both major political parties courting the Latino vote, and the numbers of Spanish-speaking and other immigrants dramatically rising every year, I hope to continue to represent human beings -- no matter their country of origin -- in suits to protect their rights.



Jenimae Almquist (jalmquist@messalaw.com) is a medical malpractice and personal injury attorney representing English and Spanish speaking clients in Pennsylvania and New Jersey.

AROUND THE OFFICE



BACK 
SCHOOL
BASH!
nicetown | 2017



The MessaLaw family extends its deepest condolences to secretary Donna Feltman, whose best friend passed away this month. Donna's friend, Kathy, was also a friend of ours and will be sorely missed. Our thoughts and prayers are with Donna, Kathy, and their loved ones.

Messa & Associates will be hosting its 5th Annual Back to School Bash on Friday, August 11th at the Victorino Nicetown Boys & Girls Club from 1pm to 4pm. We are donating 1,000 backpacks filled with school supplies and providing an afternoon of food and fun!

Happy, happy birthday to the ONLY July birthday at Messa & Associates, secretary Michelle Nuciforo. We celebrated Michelle's birthday on July 5th with yummy chocolate cake. Hope you had a great day!

MAIN LOCATIONS

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

CHERRY HILL
2091 Springdale Rd. , Ste. 2
Cherry Hill, NJ 08003
P: 856-810-9500

SATELLITE LOCATIONS

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

PITTSTON
309 Wyoming Ave
Pittston, PA 18643
P: 570-883-0800

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

COLLINGSWOOD
475 White Horse Pike
Collingswood, NJ 08107
P: 877-637-7252

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