

# The Legal Outlook

July 2014 | Volume 6 | Issue 7

## WHAT'S INSIDE

- ◆ ASK AN ATTORNEY
- ◆ WHAT IS TORT REFORM?
- ◆ JULY IS UV SAFETY MONTH.
- ◆ BREAKING IT DOWN: DIRECTING YOUR OWN PATH.
- ◆ SETTLEMENTS AND VERDICTS.
- ◆ AROUND THE OFFICE.

### Consumer News:

## RECALL REPORT



### Nestle recalls mislabeled ice cream

Ten thousand packages of Haagen-Dazs 'Chocolate-Chocolate Chip' ice cream sold on the United States East Coast are being recalled due to mismatched labeling. The 'Chocolate-Chocolate Chip' ice cream containers actually hold 'Chocolate Peanut Butter' ice cream and the peanuts are undeclared on the label, posing a very dangerous and potentially deadly hazard to those with peanut allergies. The product was distributed in Delaware, Florida, Maryland, North Carolina, New Jersey, New York, Pennsylvania, South Carolina, Virginia, West Virginia and the District of Columbia.

Consumers who purchased the product are asked to visit the website at [www.haagen-dazs.us](http://www.haagen-dazs.us) or call 800-993-8924.



Messa & Associates, P.C. is pleased to announce that Justin L. Groen, Esq. has joined its team of experienced and skilled personal injury and medical malpractice attorneys. Mr. Groen will concentrate his practice on catastrophic injury litigation, representing victims of medical malpractice, product liability and other complex personal injury cases.

*"We are excited to have Justin come on board as one of our associates,"* said Joseph L. Messa, Jr., founding partner of Messa & Associates. *"His strong background and experience will be valuable as he joins us in serving the needs of our personal injury clients."*

Mr. Groen received his *juris doctor* from Widener University School of Law in May, 2006. Before beginning his career as a plaintiff's attorney, Mr. Groen served as an Assistant District Attorney for the City

of Philadelphia from 2006 through 2009. During his tenure as an Assistant District Attorney, Mr. Groen prosecuted thousands of criminals for crimes ranging from burglary and armed robbery to narcotics distribution, rape, and attempted murder. Upon completion of his term as an Assistant District Attorney, Mr. Groen joined personal injury law firm Kornblau and Kornblau, P.C. in Jenkintown, PA to begin a career as a plaintiff's attorney. There, he earned a reputation for skilled and passionate representation of his personal injury clients, who were victims of medical malpractice, defective products, and other serious negligence. Mr. Groen's zealous advocacy and tenacity are a perfect fit for the team of attorneys at Messa & Associates.

*"I am thankful to have joined a firm comprised of excellent lawyers and incredible support staff,"* Groen said. *"Having joined the firm a month ago, I am constantly amazed at our entire team's constant and tireless efforts on behalf of our clients and clients' families."*

Mr. Groen, a native of Jenkintown, PA, earned his undergraduate degree cum laude at Muhlenberg College in 2003, receiving dual degrees in History and Philosophy. Mr. Groen is admitted to practice law in Pennsylvania and New Jersey.

Outside of work, Mr. Groen enjoys running. He is a fan of all Philadelphia sports teams and currently serves on the board of the Young Friends of the National Museum of American Jewish History. Groen is a native of Jenkintown, PA and currently lives in Center City, Philadelphia with his wife, Kimberly, and their daughter, Jara.



RIGHT IS RIGHT, EVEN IF EVERYONE IS AGAINST IT,  
AND WRONG IS WRONG, EVEN IF EVERYONE IS FOR IT.

WILLIAM PENN

ASK AN

ATTORNEY



**Q: Why can't an attorney bring a case against Bayer for their Essure birth control and the devastating effects it had on women?**

-Whitney Polk | Philadelphia, PA

**A:** Victims are prohibited from bringing claims regarding Essure's defects because of the process that Conceptus, Inc. (the company that developed Essure and that was acquired by Bayer in 2013) used to obtain approval from the FDA to sell the product.

Conceptus, Inc. was required to gain pre-market approval (PMA) for Essure because it was a Class III device—a device that presents a potential, unreasonable risk of illness or injury. This means that before marketing the Essure product, the FDA had to approve that the device was safe and effective for its intended purpose. This sounds like a positive process, however, it has its downfalls. Devices that gain PMA are protected under federal preemption status—a status that shields manufacturers from tort claims regarding failures to warn or device failures—under the guise that, because federal law is supreme, state law cannot overrule it. Therefore, a state level jury can not legally deem unsafe a product that the FDA has already approved as safe and market worthy.

Obviously, the FDA is not infallible, and many have been victimized by this rule. At Messa & Associates, we continue to fight for victim's rights not only in courtrooms around this country, but in Harrisburg and Washington, D.C. in an attempt to prevent injustices like this from continuing to occur.



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## WHAT IS TORT REFORM AND HOW DOES IT AFFECT YOU?

You may have heard or read the term “tort reform” recently regarding litigation and jury awards for victims of negligence. If you didn't know what the term meant, you are among a majority. But get to the other side of that majority quickly, because tort reform affects you.

### What is Tort Reform?

Tort reform is an effort to take away the average consumer's rights to fair compensation for substantial losses brought on by negligent manufacturers, doctors, nurses, or caregivers. Tort reform allows big businesses and other power players to get away with negligence, fraud, or other acts of harm. These corporations, insurance companies, and political counterparts promote an aggressive campaign of propaganda, boasting the “economic benefits” of tort reform so that companies will not have to rightly compensate the people they injure. It pushes for caps on the recoveries that judges and juries can award in litigation, making it impossible in places like Texas and Virginia for catastrophically injured victims to be rightly compensated for their injuries.

### Who is in Favor of Tort Reform?

Tort reform advocates are a coalition of insurance companies, HMO groups, pharmaceutical companies, big businesses, and other interests who want to protect companies from liability when they harm their own consumers.

### Who is NOT in Favor of Tort Reform?

Opponents of tort reform are civil rights advocates, consumer advocate groups, plaintiff's attorneys, labor groups, state prosecutors, legal scholars, and more. Some of these enti-

ties include The Public Citizen, The Committee for Justice for All, Mothers Against Drunk Drivers (MADD), The Center for Justice and Democracy, and The American Association for Justice.

### Who is Harmed by Tort Reform?

Consumers are the victims of tort reform; YOU are the victim of tort reform. Tort reform takes away your right to a fair case in which an impartial judge or jury looks at the facts of the case to determine liability, if you are eligible for compensation, and what that compensation should be.

We trust juries every day to determine if people are guilty of capital crimes and other serious offenses, but tort reformists claim that we shouldn't be able to count on these juries to determine fair compensation for someone whose life has been negatively affected by the negligence of another.

Doctors are made to appear the victims of the tort system, forced into practicing expensive medicine and paying extreme premiums for medical malpractice insurance. But when damages are paid to plaintiffs, those monies are paid by the insurance industry, not by doctors. And when tort reform measures are passed and the insurance companies are shielded from paying for the mistakes of their insured, they do not pass those savings down to doctors who are STILL charged outrageous premiums to obtain medical malpractice insurance. Our doctors are simply being used as pawns in an effort by insurance companies to pay out less in damages and raise premiums.

## Flavor of the Month: UV Safety



It's July and The American Academy of Ophthalmology wants you to know that it's UV Safety Month!

Ultra-violet rays, or UV rays, are the leading cause of skin cancer, the most common type of cancer in the United States. More than two million people are diagnosed with over 3.5 million types of skin cancers annually. One person dies of melanoma every 57 minutes and an estimated 9,710 people will die from melanoma this year.

In light of these staggering statistics, and in the middle of a hot summer, it is important to step back and take note of all of the precautions you can be taking to help you and your family avoid becoming skin cancer statistics.

The Centers for Disease Control recommend the following for anyone who plans on being in sunlight for extended periods of time, at any time of year;

- Wear a hat with a wide brim to shade your head, face, ears, and neck,
- Wear clothing that covers your arms and legs,
- Wear sunscreen of 15 SPF or above,
- Wear sunglasses that wrap around to protect you from both UVA and UVB rays, and
- Avoid indoor tanning.

Spread the word among family and friends about the dangers of UV rays and what you can do to stay protected from the often deadly consequences of prolonged exposure.

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# BREAKING IT DOWN

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## DIRECTING YOUR OWN PATH

■ **By Justin L. Groen**

As my wife and I begin our lives as new parents, our happiness has been briefly tempered by the realization that we need to decide, on behalf of each other, and our daughter, what will happen if we unexpectedly become incapacitated or die as a result of someone else's negligence.

We all hope that we will live forever and live our lives thinking that nothing bad could ever happen to us; until it does. We, at Messa & Associates, specialize in helping the families of those who have been incapacitated or killed through no fault of their own. Frequently, our clients are the bedrocks of their families, the individuals who everyone else relies upon in their time of need. It is only when our clients are incapacitated that the families realize that coping with making life and death decisions for their loved ones, without their loved ones' guidance, makes their loss more difficult to bear.

Most cases we see, involve family members having to make difficult decisions when they are emotionally distraught. At the moment that the families are first trying to cope with their new reality, they are faced with the most difficult decision of their lives; whether to keep their loved one alive using medical technology or having them pass on in peace. This life or death decision torments families when they should be gathering to share the precious final moments of life. Despite the difficulty of the topic, you don't have to let other people make this decision for you, and your last guidance to

them may be your last and most useful gift. So please, take a moment and have the same conversation that my wife and I had.

Frequently our clients' spouses, parents or siblings must make the difficult decisions on behalf of our clients. Ensure your family knows who you trust to make decisions for you, and that the person you choose knows your wishes.

After you make your decision, ensure that you sit and talk with them to ensure they know exactly what your wishes are, such as:

- *Do you desire to be kept on life support?*
- *Do you want resuscitative measures taken if it means you will be left incapacitated?*
- *Do you want clergy to be notified to provide you with last rights?*
- *If you have children, decide who you want to raise them in your absence and let them know how you want your children raised, such as:*
  - *Where do you want your children to live?*
  - *Do you want your children to attend a public, charter or religious school?*
  - *Do you want your children raised going to a specific church, mosque or synagogue?*
  - *Do you want your children to participate in specific extracurricular activities, such as music, dance or sports?*
  - *Do they know if your children have any allergies or dietary restrictions?*

Under Pennsylvania law, if your death is caused by someone else's negligence, the Wrongful Death Statute, 42 Pa.C.S § 8301, provides that your spouse, children and/or parents may recover for funeral, burial, estate administration, hospital, medical and other expenses resulting from your death. Additionally, the Pennsylvania Survival Act 42 Pa.C.S § 8302, ensures that your estate will be able to recover financially for your loss of earnings, loss of retirement, Social Security income, your pain and suffering and loss of life's pleasures. It is therefore of the utmost importance that you ensure that your beneficiary paperwork is complete and that you have decided who you would like to receive financial benefits from your estate.

Thankfully, Pennsylvania Law enables you to have a Will and a Living Will which ensures that you can decide all of these questions if the unimaginable occurs. Take the time to have this discussion with those that you love and trust, and hire an attorney to draft these documents for you. Having these short but difficult conversations will enable you to guide your family when they need you the most.



Justin L. Groen (jgroen@messalaw.com), is an associate at Messa & Associates, representing catastrophically injured victims of negligence throughout PA and NJ.

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## Settlements and Verdicts

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### *McCullum v. Shihadeh Contracting, et al.*

**\$685,000 settlement** for a construction accident case filed in Philadelphia County involving failure to remove dangerous snow and ice from a construction site. The Plaintiff was a subcontractor performing carpentry work at the construction of a new home when he fell on ice and snow in the driveway. This failure to remove the concealed ice caused him to fall and suffer two torn rotator cuffs, requiring surgery to both shoulders.

# AROUND THE OFFICE



A HUGE congratulations to John and Spencer Larson, husband and son of Nurse Consultant, Shari Larson, for successfully reaching the summit of Mt. Kilimanjaro. Mt. Kilimanjaro, located in East Africa, is the tallest free-standing mountain in the world, reaching an elevation of 5,895 meters or 19,336 feet. The climb took 6 days and the descent just two. Father and son are expected home 7/17! Way to go, guys!

## 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!



You have ten more chances to catch Marketing Coordinator, Angela Leone, as Melpome in Mazeppa Productions' Xanadu, the campy and hilariously self deprecating screen-to-stage adaption of the 1980 box office flop. The Philadelphia Inquirer says that "Mazeppa is making some sweet stage magic," and that Angela can "hurl a tune....with skill and power." Don't miss it! Visit [www.mazeppa.org](http://www.mazeppa.org) for tickets.

### 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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