

# The Legal Outlook

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### Consumer News:

## RECALL REPORT



### GE Brand Dehumidifiers by Midea

*This recall involves 30-pint portable GE brand dehumidifiers. A component in the dehumidifier's compressor can short circuit, posing a fire hazard. Midea and GE have received one report of a fire contained within the dehumidifier unit. No other property damage or injuries have been reported. Consumers should immediately stop using the recalled dehumidifiers, unplug them and contact Midea for instructions on returning their recalled dehumidifier for a free repair. Consumers should not return the recalled dehumidifiers to the retailer where purchased.*

**For replacements:** Call Midea toll-free at (855) 861-2799 or visit online at [midea.com/us](http://midea.com/us).

## Messa & Associates, P.C. Files Lawsuit Against Smoke Detector Manufacturer and City of Philadelphia after Fire Kills Grandmother and Granddaughter

Universal Security Instruments, Inc., USI Electric, Inc. and the City of Philadelphia have been sued in the Philadelphia Court of Common Pleas for the death of a Philadelphia woman and her four-year-old great-granddaughter after they died in a fire because the smoke detectors in their home failed to sound. Though the home had four smoke detectors installed in the home, all four alarms failed to timely sound and notify the family of the fire. The smoke detectors, manufactured by Universal, did not perform their basic function to provide a timely warning despite claiming that "ionization smoke alarms are your best overall choice for reliability and fast response time, since they quickly sense small invisible smoke particles and will also sense larger visible smoke particles." Philadelphia-based law firm Messa & Associates, P.C. filed the suit.

On April 15, 2012, Ardalia Bumpus, 79, and Nevaeh Bryant were asleep when a fire started in their North Philadelphia home. As alleged in the Complaint, the four Universal smoke detectors had new batteries installed yet they did not provide timely warning of the fire. Four year-old Nevaeh ran to her great-grandmother's room for safety as Ardalia yelled for help from her bedroom window. Philadelphia firefighters responded to the fire, but fire hydrants located on Firth Street were inoperative. The firefighters were delayed in their rescue efforts because they had to use fire hydrants several blocks away from the home. Ardalia and Nevaeh's bodies were later discovered in Ardalia's bedroom.

"It is unacceptable for a family to have taken the proper fire safety precautions and still have this as an end result," said Attorney Joseph L. Messa, Jr. today. "Both Universal and the City of Philadelphia failed the family of Ardalia Bumpus and Nevaeh Bryant with their non-functioning and, therefore, useless safety equipment."

Ionization smoke detectors often fail to detect smoldering fires. Smoldering fires burn slowly and fill a home with smoke. Eighty percent of household fires are smoldering fires, and most often occur at night when the occupants of a residence are sleeping.

For years, Universal has been aware of the problems with ionization technology and the propensity of ionization alarms to fail to sound in the presence of smoke. In fact, the company markets a new and "improved" IoPhic® smoke alarm with "Universal Smoke Sensing Technology™" which they claim is "very effective at fire (sic) detecting fast flaming fires and also respond very quickly to slow smoldering fires—up to 87% faster than the maximum allowable alarm limit."

Despite their knowledge of defects associated with their ionization smoke detectors, Universal continues to market and sell these faulty products to consumers nationwide.

"The deaths of Ardalia and Navaeh are a tragedy," said Attorney Messa in closing. "Universal and other smoke detector manufacturers who continue to sell ionization smoke alarms are knowingly endangering the lives of countless people who believe they are being protected."

JUSTICE CONSISTS NOT IN BEING NEUTRAL BETWEEN RIGHT AND WRONG, BUT IN FINDING OUT THE RIGHT AND UPHOLDING IT, WHEREVER FOUND, AGAINST THE WRONG.

THEODORE ROOSEVELT

## MEET THE ATTORNEYS

Joseph L. Messa, Jr.



**Q: Joe - when did you decide to be an attorney and why?**

*A: I decided I wanted to be an attorney while I was a young boy watching and admiring as my father took the train to Baltimore every night, after a full day at work, to get his law degree. He never really practiced law full time, but his determination to get his degree as a lawyer put a lasting impression on me.*

**Q: What do you think you'd be doing if you weren't an attorney?**

*A: I think I'd be teaching and coaching sports—I'd be doing something that has a positive impact in the lives of children.*

**Q: What was your vision for Messa & Associates when you founded the company nearly 14 years ago and how do you see the company today?**

*A: Two things actually; first, I wanted Messa & Associates to be a voice for injured people who needed help. Second, I wanted Messa & Associates to be a workplace that was a positive and supportive environment; one that operated with the same dynamics as a busy family. I can confidently and proudly say that my vision takes life daily.*

**Q: What is the biggest challenge you face as an attorney?**

*A: Time. Finding the time to give to every client, every case, every colleague, every employee, and then to give to myself and my family is difficult. I could always use more time.*

**Q: What was your funniest rookie mistake?**

*A: This is less a mistake and more an embarrassing story, but as a new attorney, I was getting used to wearing suits everyday. I was on Market Street walking to court, checking myself out in the glass of a building I was walking past, and walked right into a light pole. I had a knot on my head for days.*

**Q: What do you consider your proudest moment as an attorney?**

*A: I represented a woman who was being sexually assaulted and raped by her treating psychiatrist, and during the investigation, discovered a pattern of sexual abuse by the same doctor of other patients. I was successful in having his license revoked and making sure he couldn't continue to hurt vulnerable patients.*

**Q: If you could have dinner with anyone from history, dead or alive, who would it be?**

*A: Dr. Martin Luther King, Jr.*

## CORDS ON WINDOW TREATMENTS MAY BE DANGEROUS OR DEADLY TO CHILDREN

Philadelphia personal injury attorneys reported on the tragic death of a young Utah girl last week after she was strangled by a window treatment cord. The girl's death has brought to light a consistent and deadly threat to toddlers and young children everywhere - one that many parents aren't aware of until it's too late.

Leslie Wentz is one of those parents. She is a mother from Plain City, Utah who lost her daughter Abigail in 2006. The 18-month-old was strangled to death at daycare after she became tangled in cords on window blinds.

*"(The day care worker) called and was frantic, couldn't get anything out," Wentz said. "She finally said, 'Your daughter was tangled in a cord.' Never in a million years did I think window blinds and cords were going to be a deadly issue."*

The death of her daughter drove Leslie to look for answers. Her search led her to an international nonprofit organization **Parents for Window Blind Safety (PFWBS)**. PFWBS is a national non-profit founded in 2002 by Matt and Linda Kaiser to support parents of children injured or killed by dangerous window cords. The organization also aims to educate parents of the unknown dangers associated with some window treatments, to create safer standards in the industry, to encourage innovation and the development of safer products in the industry, and to test window covering products for safety. PFWBS has become the nation's foremost advocacy group for the elimination of all window blind cord strangulation dangers.

Today, Leslie Wentz serves on the board of the PFWBS, carrying out her efforts to inform families of how deadly these common household items can be. According to the Consumer Product Safety Commission, between 1999 and 2011, 140 children died and 136 were almost strangled to death on corded window coverings. According to these numbers, on average, one child a month dies from window treatment cords. Parents for Window Blind Safety took their safety campaign to social media and can be found on Facebook. Interested parents should visit the page to learn more about how to keep their homes and children safe.

As spring turns to summer, temperatures will rise and windows will open, leaving blinds up and cords down. The PFWBS recommends cordless window coverings in homes with toddlers and young children. If new window treatments are not an option, move cribs, beds, furniture, and toys away from windows and window cords that pose as potential choking or strangulation hazards. Window shades with looped bead chains or nylon cords require the installation of tension devices to keep the cords taut.

According to the CPSC, blinds sold prior to 2000 have inner cords that a child can pull, forming a loop in which a child's neck can become tangled. If your home is equipped with these devices, call the **Window Covering Safety Council** for a free repair kit at 800-506-4636 or visit [windowcoverings.org](http://windowcoverings.org)

## Flavor of the Month: Stroke Awareness

May is National Stroke Awareness Month and the National Stroke Association urges you to be educated and aware of stroke risk factors and warning signs. Stroke is a "brain attack" that cuts off all blood and oxygen flow to the brain, killing up to two million brain cells a minute and increasing the risk of permanent brain damage, disability, or death. In the United States, stroke is the third leading cause of death, killing approximately 130,000 people a year, and a leading cause of serious, long-term adult disability.

Risk factors for stroke include high cholesterol, high blood pressure, obesity, previous occurrence of stroke or mini-stroke, high alcohol intake, diabetes, and family history of stroke. If you are at risk for stroke, talk to your doctor about what you can do to reduce your risk factors.

When it comes to treating a stroke, time is the most important factor. Using the **FAST** test, it is simple to determine whether or not a person needs to receive immediate medical treatment regarding a possible stroke.

**F (face)** = Ask the person to smile. Does their face droop?

**A (arms)** = Ask the person to raise both arms. Does one of their arms drift downward?

**S (speech)** = Ask the person to repeat a simple sentence. Does their speech sound slurred?

**T (time)** = If you observe any of these symptoms, act **FAST!** Call 9-1-1 immediately.

The personal injury attorneys of Messa & Associates recently recovered a \$1.5 million settlement on behalf of a 54-year-old Bucks County woman who presented to the ER with symptoms of stroke. She was not promptly diagnosed or treated, resulting in hemiplegia, or paralysis of one side of the body.

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# BREAKING IT DOWN

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## FULL TORT VS. LIMITED TORT... WHAT'S THE DIFFERENCE & WHY DOES IT MATTER?

■ By Anastasia Buccino-Roth

While watching TV, we are bombarded with insurance commercials and all of their gimmicks: “fifteen minutes can save you...”; a gecko; a duck; a quirky woman dressed in white. These commercials try to convince you that their company can save you money while providing the coverage that you need. But when it actually comes time to select automobile insurance coverage, many people do not know the questions to ask or that there are coverage differences that can significantly impact their lives if they are ever in an automobile accident.

When I meet with a client who has been injured as the result of a Pennsylvania automobile accident, I ask them if they have full tort or limited tort. All too often my question is met with a blank stare or confusion. Clients respond that they have “full coverage,” believing that their insurance selection has fully protected them and preserved their rights. However, many clients are unaware that different coverage options exist (full vs. limited tort). They are equally unaware that the selection they made with their insurance company will determine whether or not they will be able to make a claim for the personal injuries they sustained in the accident.

All too often, people are only focused on the cost of their automobile

insurance premiums and do not ask questions of the insurance companies about protecting their rights in the event they are injured in a car accident. So when they are asked to choose between full and limited tort, they do not even bother to ask what the difference is. They make their selection solely based on cost. This is a mistake.

Pennsylvania automobile insurance policies require the insured to select either full tort or limited tort coverage. The fundamental difference between full tort and limited tort is that an individual covered by a full tort policy may seek non-economic damages, including damages for pain and suffering, which are not available under a limited tort policy, unless the claim fits within an enumerated exception. One such exception is for someone who has sustained a serious injury. The Motor Vehicle Financial Responsibility Law (“MVFL”) defines a serious injury as “*a personal injury resulting in death, serious impairment of body function or permanent serious disfigurement.*” 75 Pa.C.S. § 1702. The requirement for a serious injury for limited tort policyholders significantly restricts the policyholders’ rights and those of any relatives with whom he/she lives. In short, selecting limited tort means that you are giving up substantial rights, i.e., the right of a person injured in an automobile accident to make a claim for non-economic

losses as part of their claim for damages.

Damages recoverable in a personal injury claim can be both economic and non-economic. Economic damages are things such as medical expenses and wages lost from not being able to work due to your injuries. Non-economic damages are things such as emotional suffering, loss of enjoyment of life and life’s pleasures, embarrassment, humiliation, and most of all, pain and suffering. If you select limited tort, and your claim does not fit into one of the limited exceptions, you will not be able to recover for your non-economic damages. Your selection of limited tort not only limits your rights, but also the rights of any relative that lives with you.

Very often the savings for selecting limited tort is minimal, especially when you consider the substantial rights that you are giving up for yourself and your family members. When selecting automobile insurance in Pennsylvania, be sure to ask questions and understand the coverage that you are choosing.

Anastasia Buccino-Roth,  
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is an associate at Messa & Associates,  
representing motor vehicle and  
personal injury clients throughout PA and NJ.



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## Settlements and Verdicts

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### Confidential

**\$2 Million** settlement for a medical malpractice case involving a mother of two who died after doctors failed to diagnose and treat an epidural abscess that resulted in sepsis.

The woman delivered her second baby, and complained of back and abdominal pain three weeks later. She was evaluated by physicians at the hospital who did not complete a thorough medical examination despite her multiple visits in the emergency room. Just four days after her first emergency room visit, she was admitted at another hospital and diagnosed with sepsis. The following day, she went into cardiac arrest and failed to produce a pulse. Doctors attempted to resuscitate her, but were unable to do so. An autopsy ruled that the cause of her death was sepsis. The woman was 18-years-old at the time of her death, and a mother to her one-month-old baby girl and another toddler girl.

# AROUND THE OFFICE



Messa & Associates attorney Lee D. Rosenfeld appeared on WWDB-AM 860 radio talk show "The Fight Game" on Tuesday, May 6th with Andy Touchstone and host, Barry Reisman. The three discussed worker's compensation law and a number of other topics pertinent to the successful practice of law.



Messa & Associates welcomes new Client Relations Coordinator, Kathleen C. Britt, to the firm. Kathleen comes with a dual degree from Duquesne University and years of experience working for non-profits in Philadelphia. She also volunteers for the young professionals branch of Alex's Lemonade Stand. Welcome Kate!



Attorneys and staff of Messa & Associates would like to wish paralegal, Jill Frumer, and Nurse Consultant, Meg Knysh, Happy May Birthdays! We celebrated both Meg and Jill's birthdays with cake earlier this month. Here's to a great year!

## 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

**EDITOR-IN-CHIEF | LAYOUT & DESIGN**

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