

The Legal Outlook

November 2013 | Volume 5 | Issue 11

WHAT'S INSIDE

- ◆ MEET RICH HELENIAK
- ◆ LUNG CANCER AWARENESS MONTH
- ◆ JERKY PET TREAT RECALL
- ◆ BREAKING IT DOWN: BEING A BETTER PATIENT
- ◆ SETTLEMENTS AND VERDICTS
- ◆ AROUND THE OFFICE

Consumer News:

RECALL REPORT



FDA releases update on Jerky Treat Investigation

The Facts:

The FDA has received reports of over 3000 incidents of pet illness and over 600 pet deaths associated with the consumption of jerky treats made in China.

The agency's October 22, 2013 update asks Veterinarians to provide information on cases they've treated connected with the jerky treats, in order to aid in their investigation.

(Continued on inside front cover)

\$350,000 Verdict Awarded in Premises Liability Case



A Philadelphia jury verdict awarded \$350,330 in damages to a man against Temple University Hospital on October 10, 2013.

On April 25, 2011, Joseph McQueen was walking on a sidewalk located on Temple University Hospital's Health Science Center in Philadelphia, PA when a section of broken concrete caused Mr. McQueen to trip and fall.

As a result of his sudden fall to the pavement, Mr. McQueen sustained a serious spinal injury; a large herniated disc impinging on the spinal cord. He also sustained an ankle sprain and severe aggravation of pre-existing lumbar stenosis. He is presently seeking to undergo surgery for his spinal injury.

Because of Mr. McQueen's injuries, he now finds it difficult to perform every day tasks. Simple things like getting up from a seated position or turning/bending his body cause him great pain. Walking long distances and climbing stairs have also become burdensome. Even getting dressed and doing household chores have turned into long and trying tasks due to an increase in pain and a significant decrease in mobility.

The trial, *Joseph McQueen v. Temple University, et al.*, lasted four days under the counsel of Lee D. Rosenfeld, Esq. of Messa & Associates, P.C. and was conducted before The Honorable Rosalyn K. Robinson of the Court of Common Pleas for Philadelphia County. The jury determined that Temple failed to reasonably inspect and/or fix a hazardous condition on its property and that proper intervention could have prevented Mr. McQueen's injuries. The jury did not find that Mr. McQueen was negligent in any way.

Mr. Rosenfeld has been an attorney with Messa & Associates for six years. His primary practice area is serious personal injury litigation with special focuses in automobile/trucking accidents, workplace accidents, and premises liability. He was named to the Pennsylvania *Super Lawyers* list in 2011, 2012, and again in 2013.

Mr. Rosenfeld obtained his undergraduate degree at Pennsylvania State University in 1992. He earned his law degree at George Washington University in 1995. He is admitted to practice in Pennsylvania, New Jersey and Georgia.

Lee Rosenfeld's \$350k verdict comes less than three months after he secured a \$450k jury verdict for a victim of a SEPTA bus accident. Keep up the great work, Lee!



THE ADMINISTRATION OF JUSTICE IS THE FIRMEST PILLAR OF GOVERNMENT.

PRESIDENT GEORGE WASHINGTON

MEET THE ATTORNEYS

Richard J. Heleniak



Q: What is your favorite salty snack?

A: Philly Soft Pretzel—Breakfast of Champions!

Q: Why did you become an attorney?

A: I have always been a student of American political history. I came to an early realization that our most important rights as Americans have been secured and protected through the courage and conviction of attorneys and preserved through jury trials.

Q: What is the best concert you've ever been to?

A: I have been around awhile. I actually saw Bruce Springsteen and the original E Street Band at the classic but tiny Main Point in Bryn Mawr. Shook the Boss' Hand!

Q: Describe yourself in three words:

A: Calm, Confident, Concerned

Q: What is your proudest moment as an attorney?

A: Learning that a disabled young man for whom I had obtained a settlement which enabled him to attend college had earned and received his degree.

Q: If you weren't an attorney, what would you do?

A: I'd run an ice cream shoppe. Everyone smiles when you serve them ice cream.

Q: If you could have a drink with any celebrity, dead or alive, who would it be?

A: Jon Stewart. His intellect combined with his senses of humor and irony would make for great conversation over some small batch bourbon.

Q: What is your favorite thing to do outside of work?

A: I play goalie on a beer league ice hockey team (I hope my wife doesn't read this!)

NOVEMBER IS LUNG CANCER AWARENESS MONTH

For the 18th consecutive year, November will serve as Lung Cancer Awareness Month, a great time to step back and analyze the aspects of our lives that could potentially contribute to the development of lung cancer. Lung cancer is the **uncontrolled growth of abnormal cells** in one or both lungs. The abnormal cells do not serve the same functions of normal lung cells and do not develop into healthy lung tissue. In fact, as the abnormal cells continue to grow, they may form tumors and interfere with the way the lung functions.

There are two main types of lung cancer: non-small cell lung cancer and small cell lung cancer. Non-small cell lung cancer is the more common of the two and accounts for approximately 85 percent of lung cancers, ranging from Stage I up to Stage IV. Stage IV is the most advanced stage of non-small cell lung cancer and indicates that the cancer has spread to both lungs, to fluid in the area around the lungs, and/or to another part of the body, such as the liver or other organs. Small cell lung cancer, diagnosed as either limited or extensive stage, grows and spreads faster than non-small cell lung cancer.

There are a number of factors that can increase a person's risks of developing lung cancer. The most common cause of lung cancer is smoking tobacco. According to statistics, almost 87% of all U.S. lung cancer cases are smoking related. This includes exposure to secondhand smoke. Even people who do not smoke, but are often exposed to smoke on a regular basis, have a higher risk of developing

lung cancer. Therefore, it is always recommended to quit smoking or limit time around those who do smoke. This year, to commemorate Lung Cancer Awareness Month, our own Commander-in-chief, President Barack Obama, quit smoking.

In addition to smoking, other outside environmental conditions or exposure to other substances can increase the risk of developing lung cancer. Exposure to asbestos, radon, radiation, air pollution and other industrial substances like arsenic, beryllium, vinyl chloride, coal products, gasoline, and diesel exhaust all increase the risk of lung cancer. Additionally, genetic factors, tuberculosis, and in some cases, military personnel exposed to certain environments, also play a role in developing lung cancer.

As with any disease, timely and proper diagnosis is critical in treating lung cancer. Treatment options are typically dependent upon the stage of the patient's cancer, so the earlier the cancer is diagnosed, the better. A delay in diagnosing lung cancer or misdiagnosing lung cancer can be caused by a number of factors. In some cases, physicians ignore a patient's symptoms. Other times, they fail to order the proper diagnostic tests or improperly read the results of those tests. Whatever the case, misdiagnosing or failure to diagnose lung cancer can have harmful effects on the patient. Patients are encouraged to continue to talk to their physicians about their symptoms, especially when those symptoms have worsened or if the patient continues to experience pain.

Recall Report: Jerky Treats (continued from cover)

Since 2007, pet owners and veterinarians have been reporting illness and death events to the FDA regarding jerky treats made in China. Recently, it has become common knowledge that some 3000 pets (dogs and cats) have become seriously ill and an additional 600 animals have died.

While the FDA has not issued an official recall due to insufficient results of contaminant testing, many of the retailers have issued voluntary recalls of their products.

- Nestle Purina Pet Co. has recalled *Waggin' Train* and *Canyon Creek Ranch* brand dog treats,
- Del Monte Corp. has recalled their *Milo's Kitchen* brand chicken jerky treats,
- Publix Store recalled it's private brand chicken chews for dogs, and
- IMS Pet Industries, Inc. recalled it's *Cadet* Brand treats.

These recalls will effectively remove treats from store shelves nationwide.

The FDA is hoping to gain some insight from incident reports provided by veterinarians after over 1,000 tests and multiple visits to manufacturing plants in China returned inconclusive results as to what is causing the often fatal illness.

BREAKING IT DOWN

BEING A BETTER PATIENT: HOW TO TAKE PATIENT SAFETY INTO YOUR OWN HANDS

Two-hundred and seventy fathers, mothers, children, brothers, sisters and friends will die today as a result of preventable medical errors. The same was true yesterday and will repeat itself tomorrow. As hospitals, physicians and nurses focus on the changes phasing in under the Affordable Care Act (aka "Obamacare"); patient safety remains a serious and constant problem. Because each of us requires medical care, there are few simple steps that we can take to protect ourselves.

Gather Your Records

Because most hospitals and physicians have converted to electronic medical records, it has become simple for patients to accumulate a full set of their records. Ask your physician to email your records and diagnostic test results to you after every visit. Many physicians will even place a copy of your visits on a flash drive that you can attach to your keys. Then, in case of an emergency, you will have all of your medical records with you. Remember to use a password so that your records will remain confidential in case you lose your flash drive.

Appoint an Advocate

Many people have living wills in which they appoint family or friends to make medical decisions in case they are unconscious or otherwise incapable of decision making. While these documents can inform your healthcare providers of your decisions if you are unable to communicate with them, in today's rushed medical environment, a bigger challenge exists. Because of the volume of patients, physicians' and hospitals' efforts to maximize efficiency, and numerous chan-

nels of communication among healthcare providers, it is very difficult for patients today to get the information necessary to make informed decisions. There are many times that important test results are not communicated to patients or patients remain unaware of their treatment options when faced with serious problems. Having someone close to you appointed as your advocate can provide another set of eyes and ears to monitor your care and assist in decision making. It is natural to have our reasoning distorted when faced with scary health news. A trusted advocate can be useful in helping us navigate the different decisions and hurdles that we face. Often times, all you need to do is to advise the physician and hospital, in writing, that you permit this individual to learn confidential information about you and that your advocate may participate in your medical decision making.

Carry a List of Prescriptions

Carry with you a list of your current medications and any allergies you may have. If you are ever hospitalized or even have to visit the emergency room, having a complete list of medications and allergies will ensure that the physicians are fully informed and can consider any possible drug interactions or allergies before initiating treatment. Often times, when patients are brought to the emergency room, they are nervous, in pain and not always capable of being completely accurate. Carrying a list can prevent any misunderstanding.

Ask Questions

We are often intimidated when walking into a physician's office or a hospital. We are

fearful of what we might learn or how our lives may be affected. At the same time, physicians, nurses and other healthcare providers are very busy and often juggling a great deal of information. Sometimes, treating healthcare providers are not as thorough in explaining things as they would like. Similarly, treating healthcare providers may sometimes forget information, medical history, test results, and other important information. There is nothing wrong with asking questions of your treaters about your condition, treatment options, risks and benefits. The only stupid question is the one you do not ask.

At Messa & Associates, we are committed to improving patient safety. Virtually every day we console clients whose lives have been irreparably changed because hospitals and physicians break the patient safety rules. We feel the impact that these harms and losses have on victims, their families and friends. We remain frustrated by witnessing the number of preventable errors that routinely occur. If any one of these suggestions can protect you or a loved one, we will be one step closer to eradicating this dangerous trend.

Eric H. Weitz is an experienced medical malpractice, personal injury, and dangerous drug attorney representing clients in Pennsylvania, New Jersey, and across the United States.



Settlements and Verdicts

Confidential **seven-figure settlement** in a drug products case for a woman who developed a rash on her cheeks after taking an over-the-counter children's medication. At the time, the drug company failed to label the medication bottles to warn consumers of the risk for skin disease or other severe reactions associated with the use of the drug. The company also failed to alert consumers that if they experienced signs that indicated any adverse reactions, they should discontinue using it and seek medical attention. Therefore, she continued to take the children's medication for four days after the rash first appeared.

When she was finally hospitalized, she was diagnosed with Stevens-Johnson syndrome (SJS) and Vanishing Bile Duct syndrome (VBDS). The woman, who was just 9-years-old at the time, also has suffered other severe injuries and was required to undergo a liver transplant as a result of liver failure. In addition, her reproductive organs were scarred as a result of the SJS causing a loss of fertility and increasing her risk for cervical cancer.

AROUND THE OFFICE



Eric H. Weitz served as co-counsel on the first Topamax trial in Philadelphia Court of Common Pleas. The jury returned a \$4.02 million verdict against Johnson & Johnson, finding that Topamax did cause birth defects in babies born to mothers who took the drug.



New staff member, Sherien Copes, joins us! Sherien has more than six years experience as paralegal and speaks Arabic fluently. She will be doing pre-litigation work for our MVA and Premises team.

Welcome, Sherien!



Congratulations to paralegal manager, Cathy Steffa, who welcomed a beautiful granddaughter into the world last month. Cora Paige was born to Joseph and Lori Steffa on October 9th, weighing 7lbs, 11oz.

She's beautiful!

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

ANGELA LEONE | aleone@messalaw.com

LAYOUT and DESIGN

ANGELA LEONE | aleone@messalaw.com