

The Legal Outlook

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Consumer News:

RECALL REPORT



Graco issues massive recall of Baby Strollers

The Facts:

Graco Children's Products has recalled nearly 5 million strollers due to a fingertip amputation hazard.

According to the Consumer Product Safety Commission, the folding hinge on the side of the stroller can pinch a child's finger. The CPSC is reporting 11 injuries; 6 finger amputations, 4 partial amputations and 1 finger laceration.

Consumers can contact Graco at 800-345-4109 or via www.gracobaby.com.

Joseph Messa presents at Ninth Annual Pennsylvania Association for Justice Medical Malpractice Seminar



On November 11, 2014, Messa & Associates founder, Joseph L. Messa, Jr., with the assistance of associate Megan M. Kwak, presented on expert testimony at the Pennsylvania Association for Justice's ninth annual Medical Malpractice Seminar, held at the Raddisson-Warwick Hotel.

This year's edition of the annual seminar included presentations from city attorneys and physicians on jury selection, defendant doctor depositions, surgical error cases, case law, audit trails, and changes in medical malpractice claims.

Mr. Messa's presentation centered on the proper utilization of expert witnesses and testimony, including timely filing of certificates of merit and successful selection of experts.

Megan M. Kwak, an associate with the firm representing medical malpractice and personal injury clients in Pennsylvania and New Jersey, assisted with preparation of the presentation. Megan is a graduate of Widener Law and former intern with the UK parliament.

Joseph L. Messa, Jr. is an AV-rated attorney, listed in the Bar Register of Preeminent Lawyers. He is a member of the Million Dollar Advocates Forum and was named a Top 100 Trial Lawyer by The National Trial Lawyers. Mr. Messa is also an advocate of the American Board of Trial Advocates. He has been recognized as a Pennsylvania Super Lawyer from 2009 to 2014 and was selected to the Top 100 Pennsylvania and Top 100 Philadelphia lists for 2012 and 2013.

“ THE THANKFUL RECEIVER BEARS A PLENTIFUL HARVEST. ”

WILLIAM BLAKE



Messa & Associates, P.C. recently launched the **MESSALAW RECALL REPORT**, a blog dedicated to reporting dangerous recalls issued by governing agencies of consumer products, including ;

- **Food and Drug Administration (FDA);**
- **Consumer Product Safety Commission (CPSC);**
- **Environmental Protection Agency (EPA);**
- **United States Department of Agriculture (USDA);**
- **Food Safety and Inspection Service (FSIS);**
- **National Highway Traffic and Safety Administration (NHTSA).**

The blog also features information on voluntary recalls by manufacturers and distributors of defective products, including details of potential hazards and instructions for affected consumers.

The blog is updated frequently. Be sure to bookmark the address in order to stay-up-to date on dangerous products!

WWW.MESSALAW.COM/RECALL

GUARDRAIL MAKER, TRINITY INDUSTRIES, FOUND LIABLE FOR FRAUD

Last month in Texas, Trinity Industries was found guilty by a jury of defrauding the federal government. The highway guardrail maker was accused of (and found liable for) selling guardrails that can malfunction during car crashes and slice through cars.

The case was brought by Josh Harman, the owner of a competitor of Trinity, who discovered in 2005 that Trinity made changes to its rail head—the flat piece of steel at the front of the system—without notifying the Federal Highway Administration. Mr. Harman filed a whistleblower lawsuit on behalf of the government.

A Texas jury awarded the government a \$175 million verdict which under federal law will be tripled to \$525 million and will be split between the United States Treasury and Mr. Harman.

In a car accident, the guardrail system works by collapsing when hit, absorbing the impact of a vehicle. The rail head is supposed to slide along the rail itself, pushing it to the side. The redesigned Trinity product, however, narrowed the channel behind the head, which can cause it to jam rather than slide along the rail. State officials have said that when this occurs, the rail can pierce an oncoming vehicle like a harpoon, endangering its occupants in the event of a collision.

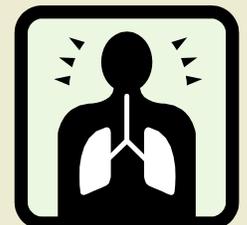
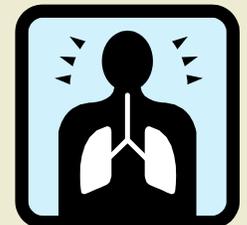
Trinity is a major supplier of guardrails nationwide. The company is facing 14 additional lawsuits, blaming the redesigned guardrail product for five deaths and more injuries. Three states – Missouri, Massachusetts, and Virginia – have banned further purchase of the product.

November is Lung Cancer Awareness Month

November is lung cancer awareness month and serves as the perfect time to evaluate bad habits and risk factors that could lead to your development of the deadly disease.

Lung cancer is the second most common cancer among men and women in the United States. The American Cancer Society estimates that in 2014, Lung Cancer will cause 159,260 deaths and that over 224 thousand new cases will be diagnosed. The risk for developing cancer is present in both smokers and non-smokers but is much higher in smokers. Therefore, it is important to cut out smoking in order to help yourself and reduce your risk.

The Mayo Clinic suggests that you also avoid secondhand smoke, test your home for radon, avoid carcinogens at work, eat a full diet of fruits and vegetables, and exercise most days of the week.



BREAKING IT DOWN

PROTECTING YOUR LEGAL RIGHTS AFTER A MOTOR VEHICLE ACCIDENT

■ **By Lee D. Rosenfeld**

Nearly all of us are destined to be in some sort of motor vehicle accident during our lives. While we all hope that it will be minor, the unfortunate reality is that major collisions occur every day and often result in serious injuries and property damage.

The aftermath of an accident is very chaotic and stressful. Many people are in shock following a collision. However, it is usually only minutes before police and rescue personnel arrive and begin to investigate the accident and your injuries. This is **NOT** the time to first consider how to protect your legal interests. As with most unforeseen events, it is extremely important to plan ahead. Taking the following **FIVE** steps can greatly improve your chances of success in any legal claims you may bring due to an accident

I. TAKE PICTURES OF EVERYTHING!

In a courtroom, a photograph is worth more than a thousand words. Pictures are not biased and can't be cross-examined. After an accident, you should document everything that could help your cause. Think like an accident investigator. Take photos of where the vehicles came to rest; capture street signs for landmarks, photograph skid marks to demonstrate stopping distances and, most importantly, fully document any significant property damage to the vehicles involved. **The most valuable piece of evidence in any motor vehicle case is the vehicle damage photo. Photographs showing real damage strongly suggest more severe injuries. If there is real damage, take the picture.**

II. SEARCH FOR WITNESSES!

After a motor vehicle accident, it is not unusual for each driver to have a different "version" of what occurred. At trial, a jury is asked to determine which party is being truthful. Without an impartial witness supporting you, you will be at the mercy of a "credibility determination" and this may not go well even if you are telling the truth. However, witness support provides the critically important tie-breaker. Don't rush away from the accident scene. Take the time to find someone who may have witnessed what happened. Obtain their complete contact information and keep it in a safe place. Tell the police officer if there is witness who supports you.

III. THINK BEFORE YOU SPEAK!

In moments of chaos, we all say things that seem silly to us later. After an accident, you will be interviewed by police, rescue personnel and physicians and nurses. You will be asked what happened in the accident and whether you are injured. These initial questions after an accident really matter! Everything you say is memorialized forever in records and will be used against you later in the courtroom. Instead of saying, "I am not hurt" to the investigating police officer, it is far better to say, "I am not sure if I am hurt because I am shaken up." Shock can mask pain following an accident. Choose your words carefully. Also, never give a statement to the opposing insurance company.

IV. STOP STAYING THINGS ON FACEBOOK!

Our society has fully shifted into the social media age. Many of us view Facebook as an opportunity to share our lives with family and friends. While posting is fun and a great

way to stay connected, it is also a treasure trove for opposing lawyers who are trying to minimize your legal claims. Do NOT talk about your accident on FACEBOOK. Do NOT discuss your injuries or medical treatment either. Keep these things private and please remember that everything that you post online can be used against you.

V. HIRE A LAWYER RIGHT AWAY!

Ok, I mean me. But, regardless of who you hire, please realize that, following an accident, insurance companies may offer you "quick" money. They may even apologize to you and act nice. Do not be fooled! Insurance companies exist to make themselves money. They do not have your best interests in mind and only seek to pay you as little as possible. They have lawyers ready to support the person who caused your accident. Don't you need someone on your side?

Everyone at Messa & Associates truly hopes that you will never need this advice. But, if the unexpected does happen, take a minute, collect yourself and remember that you do have a plan. Use these suggestions. They just might make the difference between winning and losing your personal injury case.

Have a safe, healthy and Happy Thanksgiving!



Lee D. Rosenfeld is an experienced motor vehicle and personal injury attorney, representing clients in Pennsylvania, and New Jersey.

Settlements and Verdicts

Sutch v. Roxborough Memorial Hospital

A \$1.975 million verdict was handed down in Sutch v. Roxborough against defendant, Roxborough Memorial Hospital, for missed cancer diagnosis.

In 2007, Rosalind Wilson presented to the Roxborough Memorial Hospital with chest pain/shortness of breath, profuse sweating, nausea, and headache. A chest x-ray showed a nodule in the upper lobe of the patient's left lung and a CT scan of the lung was recommended to further identify the nature of the mass. The CT scan was never performed, however, and Ms. Wilson was discharged from the hospital the next day.

Twenty months later, Ms. Wilson was diagnosed with metastatic, stage IV lung cancer with symptoms from metastasis to the brain. On July 21, 2009, Rosalind Wilson died.

AROUND THE OFFICE



Messa & Associates congratulates Ashley Kolpak, winner of the **#MessaCaptionContest!** Her caption for the above photo, “We better win this guys, we don’t want to be known as the Phillies on ice,” won her two tickets to the Flyers-Blue Jackets game on Nov. 22nd!



The Attorneys and Staff at Messa & Associates wish you and your loved ones a very happy, healthy, and peaceful Thanksgiving Day!



On November 8th, attorneys and staff celebrated the birthday of the office’s favorite Zumba gal, Laura Zaffiri! Happy Birthday, Laura!

MAIN LOCATIONS

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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
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LINWOOD

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Linwood, NJ 08221
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