

The Legal Outlook

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Consumer News:

RECALL REPORT



Johnson & Johnson Recalls
Motrin Infants' Drops

The Facts:

Drug: 200,000 half-ounce bottles of Concentrated Motrin Infants' Drops Original Berry flavor manufactured by McNeil

Hazard: Bottles may contain tiny plastic particles of PTFE, a plastic used in Teflon coatings

Recalled Lots: DCB3T01, DDB4R01 and DDB4S01

For additional information, visit our blog at www.messalaw.com/blog

Messa & Associates Recognize Fire Safety Month with Launch of New Website



Messa & Associates is set to launch a new website focused on providing information and legal services to victims of catastrophic injuries caused by burns, fires and explosion. The website, www.BurnInjuryAnswers.com, will officially "go live" during the month of October to commemorate Fire Safety Month.

The site will feature an active Q & A forum, resources for burn injury victims including support groups and treatment centers, and helpful prevention advice. The website will also contain a blog with specific fire and burn related articles.

The attorneys at Messa & Associates have experience handling fire, burn and explosion cases that have resulted in significant property damage, injuries or death. The firm has relationships with experts across the country and has successfully litigated these cases on behalf of its clients. As a valued practice area, the website was created to provide a supportive community for burn victims and anyone else seeking relevant and timely information about burn prevention and recovery.

Last year, the firm observed Fire Safety Month by organizing a fire safety program for students at Freire Charter Middle School. The students learned about fire safety and received photoelectric smoke detectors as part of the program. They were also educated about the important differences between photoelectric and ionization technology when choosing a smoke detector.

Ionization smoke detectors and photoelectric smoke detectors are both sold as smoke alarms, but **ionization smoke detectors often fail to detect smoldering fires** which account for 80 percent of all household fires. Photoelectric smoke detectors are designed to detect slow-burning fires as well as the flash fires ionization smoke detectors specialize in handling. According to tests performed by the U.S. National Bureau of Standards, photoelectric smoke detectors provide two to three times more chance of escaping your home in a fire than ionization smoke detectors.

Messa & Associates invites you to visit www.burninjuryanswers.com to learn more about preventing burn injuries and supporting the recovery of those affected by fires and burns.

☾ JUSTICE IS SWEET AND MUSICAL; BUT INJUSTICE IS HARSH AND DISCORDANT.

HENRY DAVID THOREAU

MEET THE ASSOCIATES

Megan M. Kwak



Q: Welcome! How was your first week?

A: It was good! Exciting.

Q: What made you choose personal injury law?

A: Because of my family background—my father was a personal injury attorney and we believe in the practice.

Q: What are you most excited to work on here at Messa & Associates?

A: Medical malpractice cases with significant injuries.

Q: What would you do if you weren't a lawyer?

A: I'd probably go to Culinary school and be a Chef!

Q: Who is your biggest celebrity crush?

A: Ooooo..... George Clooney.

Q: Describe yourself in three words.

A: determined, inquisitive, loyal

Q: What song have you prepared to sing at the Christmas Party?!

A: Uggghh.....still working on it.

Q: (For Donna) What is your favorite kind of cake?

A: I really like Carrot Cake.

MEGAN KWAK, ESQ. JOINS MESSA & ASSOCIATES

Messa & Associates, P.C. has welcomed Megan M. Kwak, Esquire to the firm. Ms. Kwak will concentrate her practice on catastrophic injury litigation, representing victims of medical malpractice, product liability and other complex personal injury cases.

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

Ms. Kwak received her juris doctor from Widener University School of Law in May 2012. She was a member of both the Moe Levine Trial Advocacy Society and the Alternative Dispute Resolution Society at Widener. Additionally, she was recognized with pro bono distinction as part of the Martin Luther King Semester of Service. Ms. Kwak held a position at the Chester County District Attorney's Office for more than one year, where she was authorized for limited practice.

Ms. Kwak, a native of Wilkes-Barre, earned her undergraduate degree *summa cum laude* at Northeastern University in 2009, receiving a Bachelor of Science degree in Political Science with a minor in Law, Policy, and Society. During her undergraduate education she spent a semester interning in the UK Parliament for Mr. William Olnier, Member of Parliament and studied at the London School of Economics as part of the Hansard Society.

Ms. Kwak is admitted to practice law in Pennsylvania and New Jersey. Prior to joining Messa & Associates, Ms. Kwak completed a one year clerkship in the Superior Court of New Jersey, Camden Vicinage, family part, with the Honorable Steven J. Polansky.



Flavor of the month

JOIN THE FIGHT!

Breast Cancer Awareness Month



Breast cancer is the most common form of cancer among women in the United States (aside from skin cancer) and the second leading cause of death in women. There is no way to prevent breast cancer, but risk factors can be managed by limiting alcohol intake, exercising regularly, and maintaining a healthy body weight.

You may be at a high risk if: you have a known BRCA1 or BRCA2 gene mutation or a first-degree relative with a BRCA1 or BRCA2 gene mutation; had radiation therapy to the chest between the ages of 10 and 30 and have Li-Fraumeni syndrome, Cowden syndrome, or Bannayan-Riley-Ruvalcaba syndrome; or have first-degree relatives with one of these syndromes.

Early detection is also vital to increasing chances of effective treatment. Breast cancer can be detected through self and clinical examinations, mammograms and Magnetic resonance imaging (MRI) testing. Consult your physician about the best method for you based on your personal risk factors.

BREAKING IT DOWN

THE PENNSYLVANIA WRONGFUL DEATH AND SURVIVAL ACTS EXPLAINED

When a family member dies as a result of someone's negligence, initially, the surviving family members want to know what happened, how it happened and how they can get over the grief and feel some sense of closure. As time passes and questions are answered, the focus often turns to what family members and loved ones are entitled to be compensated for, and how any compensation will be divided amongst those surviving relatives.

In Pennsylvania, the Wrongful Death Act and Survival Act provide the damages which the decedent's estate and/or survivors are entitled to claim.

What types of damages are compensable?

Damages recoverable under the Wrongful Death Act "are the value of the decedent's life to the family, as well as expenses caused to his family by reason of the death." *Slase-man v. Myers*, 455 A.2d 1213 (Pa. Super. 1983). The purpose of the Wrongful Death Act is to compensate the decedent's spouse, parent or child for the losses suffered as a result of the decedent's death. These damages include medical expenses, funeral and burial expenses. Damages also include an amount that will compensate the spouse, children and/or parents for the loss of any contributions they would have received between the time of the decedent's death through the end of the decedent's life expect-

tancy including money the decedent would have spent for or given to his or family for such items as shelter, food, clothing, medical care, education, entertainment, gifts, and recreation. When a parent dies, a surviving child is entitled to be awarded an amount that will fairly compensate for the loss of services that the parent would have provided had the death not occurred including guidance, moral upbringing, comfort and companionship. Recently, in *Hatwood v. Hospital of University of Pennsylvania*, 55 A.3d 1229 (Pa. Super. 2012), appeal denied at 2013 Pa. LEXIS 783 (Pa. 2013), the Pennsylvania appellate courts confirmed that damages recoverable under the Wrongful Death Act include the loss of companionship, comfort, society, guidance, solace and protection that the decedent would have provided had he or she lived. Pennsylvania law does not require economic testimony to establish the value of the decedent's life or the services of society and companionship he or she would have provided had he or she lived. Rather, the value of life lost can be determined by the jury based on "the observation and experience which are the common inheritance of intelligent men," and by "the application of such knowledge to the facts in evidence." *McCleary v. Pittsburgh Railways Co.*, 47 Pa. Super. 366 (Pa. 1911). Although it may seem counterintuitive, Pennsylvania law does not permit the recovery of damages for the emotional

injuries of grief or mental suffering that result from the death of a loved one.

Under the Survival Act, the decedent's estate is entitled to recover the decedent's past and future net earnings loss. The decedent's estate is also entitled to be adequately compensated for the mental and physical pain, suffering, and inconvenience and loss of life's pleasures that the decedent endured from the moment of his injury to the moment of his death as a result of this incident.

Who is entitled to recover?

Only the decedent's spouse, parents and/or children may recover damages under the Wrongful Death Act. If the decedent is survived by only a sibling or grandparent, there can be no Wrongful Death Act recovery. Under the Wrongful Death Act, the damages recovered shall be distributed to the spouse, child and/or parent in the proportion they would take the personal estate of the decedent in the case of intestacy.

Under the Survival Act, damages are distributed to the decedent's estate. Thus, if the decedent dies with a will, the monetary recovery will be distributed in accordance with the will. If the decedent dies without a will, damages will be distributed in accordance with the intestacy statute.

Joanna B. Seidman is a medical malpractice and personal injury attorney, representing clients for Messa & Associates in PA and NJ.



Settlements and Verdicts

Confidential

\$215,000 settlement in Philadelphia County for a woman who suffered severe and permanent nerve injuries after she underwent a right carpal tunnel release procedure that negligently performed by her surgeon.

Confidential

\$300,000 medical malpractice settlement on behalf of a woman who had a total knee replacement. Following the surgery, she continued to experience persistent and worsening pain in her lower extremity, calf and ankle. Her physician performed revision surgery several months later. However, the pain persisted and the Plaintiff followed up with another surgeon after being discharged from the care of her previous surgeon. The new surgeon found that the knee prosthesis had been placed improperly during the first surgery causing a deformity and that the surgeon failed to uphold the proper standard of care and correct the deformity during the revision surgery.

AROUND THE OFFICE



The attorneys at Messa & Associates attended the Philadelphia Bar Association's Bench-Bar & Annual Conference on October 4-5, 2013. The conference was held at Revel in Atlantic City, New Jersey. During the conference, the attorneys attend courses to earn CLE credits.

Happy Birthday, Roe!

Office Manager, Roseann Gomez, celebrated her 50th birthday on September 26th! The attorneys and staff surprised Roe with a special birthday celebration in the office.

Matt Y. Rong and his lovely wife purchased and moved into their new home last month. Matt now resides in the Fishtown section of the city. We hope you enjoy the new place.

Congratulations, Matt!

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