

The Legal Outlook

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Consumer News:

RECALL REPORT



Wilton Industries Recall: Chefmate Tea Kettle

Device: *Chefmate two-quart tea kettle*, sold exclusively at Target. Steam can travel up handle and water can spill from spout causing burn hazards.

Injuries: no injuries reported, 13 incidents of burn hazards due to product defects.

Recall: Voluntary

Owners should stop use immediately and contact Wilton Industries for a refund.

866-255-9237 | wilton.com

Messa & Associates throws Back-to-School Bash in Germantown



Messa & Associates distributed backpacks stuffed with school supplies to more than 500 students at its Back to School Bash on Thursday, August 29. Students and their families joined the attorneys and staff at the Boys and Girls Club on West Penn Street in Germantown for an afternoon of food, music, and fun.

"It was an incredibly special day for our firm," said Joseph L. Messa, Jr. of the event. "The children were very excited to be there and happy to receive the supplies they need to be prepared for school."

Volunteers from Messa & Associates and the Boys and Girls Club began preparations for the event at 7 o'clock in the morning, setting up tables in the open field behind the club for food and school supplies. Preparations were done by 2:00, when the fun began and students and families wandered in to take part in the afternoon's festivities. In addition to the drawstring backpacks stuffed with school supplies, the students enjoyed a moon bounce, ring toss game, face painting, balloon twisting, and dancing along to the DJ. The firm's nurse consultant, Shari Larson, provided information on nutrition and staying healthy during the school year to parents.

Many local companies generously donated food and beverages for the event. FunForEveryone, a local party supplies company, donated a hotdog cart and moon bounce and the company's founder, Rod Benjamin, generously donated his time to serve hot dogs. Clemens Food Group (Hatfield) supplied the hot dogs, Turkey Hill and American Beverage Corp. provided drinks, Herr's contributed potato chips, Frankford Candy donated sweets, and J&J Snack Foods contributed Minute Maid popsicles. Many of the families commented on how much they appreciated the festivities.

Mr. Messa was born and raised in the Germantown section of Philadelphia. He received his juris doctorate, cum laude, from Temple University School of Law in 1988. Mr. Messa has successfully litigated multiple serious injury cases to seven- and eight-figure verdicts and settlements in medical malpractice, products liability, fire and burn injury and construction/work injury matters.

Messa & Associates support several organizations throughout the city, including Philabundance, Community Legal Services of Philadelphia and Philadelphia VIP. The firm also proudly participates in Toys for Tots and the Salvation Army's Adopt-A-Family program every year at Christmas.

Last year, the firm conducted a fire safety assembly at a local middle school and provided free photoelectric smoke detectors to students at the school. The firm followed up on its mission to protect families from fires in April when Mr. Messa appeared on CBS 3's Talk Philly with the Fire Chief of the City of Camden, New Jersey in a fire safety segment. During the segment, Mr. Messa donated 250 dual smoke and carbon monoxide detectors to be used for residents of Camden.

AN INVESTMENT IN KNOWLEDGE PAYS THE BEST INTEREST.

BENJAMIN FRANKLIN

MEET THE ASSOCIATES

Anastasia Buccino-Roth



Q: What is your favorite junk-food?

A: Cheese fries!!

Q: If you could have a drink with anyone from history, who would it be?

A: Sandra Day O'Connor

Q: Describe yourself in 3 words.

A: Analytical, Loyal, Thoughtful

Q: What is your biggest pet peeve?

A: Rude and arrogant people

Q: What's the best thing about being a lawyer?

A: Giving everyday people a voice and a way to right a wrong.

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

A: Spending time with my husband and son.....then go shopping!

Q: What is your proudest moment as an attorney?

A: Every time I help a seriously injured client obtain a recovery that will significantly impact and improve their lives.

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

A: I would be a wedding or party planner.

JOHNSON & JOHNSON TO ADD WARNINGS TO TYLENOL



Extra Strength Tylenol is getting a new look starting in October as Johnson & Johnson has announced that it will add red warning caps to the medication.

The new warning is intended to advise consumers of the risks associated with ingesting too much of the over-the-counter drug.

Acetaminophen, the active ingredient in Tylenol, has been linked to liver damage and could pose serious risks, including liver failure and death when taken in large doses.

Acetaminophen is found in more than 600 medicines and is the most-common cause of liver failure in the U.S. According to the Food and Drug Administration, the agency is currently investigating appropriate acetaminophen levels for over-the-counter

products. Two years ago, the FDA cut the amount of acetaminophen allowed in prescription products to 325 milligrams per pill. Officials for the agency also said it would require warning labels on those products warning consumers about acetaminophen and rare, but serious skin reactions that could occur as a result of its use.

According to reports, the new caps on Extra Strength Tylenol will read: "Contains Acetaminophen" and "Always Read the Label."

Multiple cases have been filed in federal court in Pennsylvania alleging that McNeil failed to properly warn its consumers of the risks of liver toxicity associated with Tylenol. The cases are being heard by U.S. District Judge Lawrence F. Stengel of the Eastern District of Pennsylvania. In April, 27 pending cases were consolidated based on their common issues and allegations made by the plaintiffs.

The personal injury lawyers at Messa & Associates represent the families of three children who ingested Children's Tylenol and later died as a result of liver failure.

Flavor of the month

SEPTEMBER IS NATIONAL CHOLESTEROL EDUCATION MONTH



This month is **National Cholesterol Education Month!** Cholesterol is a waxy, fat-like substance that everyone's body needs. However, having too much of the substance in your blood can build up on the walls of your arteries and form blockages. This can lead to heart disease, heart attack, and stroke —two leading causes of death in the United States.

There are two kinds of cholesterol: high-density lipoprotein (HDL) and low-density lipoprotein (LDL). HDL is also called "good" cholesterol. LDL is called "bad" cholesterol. High cholesterol refers to "bad" LDL cholesterol.

The **National Cholesterol Education Program** recommends that adults aged 20 years or older have their cholesterol checked every five years; or more often if: your total cholesterol is 200 mg/dL or higher, you are a man older than age 45 or a woman older than age 50, your HDL cholesterol is lower than 40 mg/dL, or you have other risk factors for heart disease and stroke. If you have any of these risk factors, talk to your doctor about having a cholesterol screening today!

BREAKING IT DOWN

Rx for disaster: What buying generic means for your right to damages

Like clockwork, around the time that the school year is winding down and the summer is starting up, we hear stories on the news about big Supreme Court decisions. Most of the time, these stories involve cases regarding extremely technical questions of the law that have little to no impact on our everyday lives. This past June, however, the United States Supreme Court announced an extremely significant decision that affects anyone who purchases prescription or over-the-counter medications at their pharmacy or grocery store; just about all of us.

In *Bartlett v. Mutual Pharmaceuticals*, the Supreme Court found that generic drug makers cannot be liable for injuries caused by their products. The Supreme Court's decision makes generic drug manufacturers immune from suit in the United States if their drug injures someone. Generic drugs are essentially copies of name-brand pharmaceuticals. For example, acetaminophen v. Tylenol or ibuprofen v. Advil. Though the active ingredient, acetaminophen/ibuprofen, is the same in both drugs, the products liability law is different. As a result of the Bartlett case, if you get sick from the generic drug you would be out of luck if you tried to sue. That restriction does not apply to brand name drugs.

In Bartlett, the plaintiff, Karen Bartlett, suffered Stevens-Johnson Syndrome (SJS), a rare but well-known allergic reaction to the pain-reliever sulindac. As a result of the SJS caused by the drug that was prescribed to treat shoulder pain, Bartlett suffered permanent and disfiguring injuries. She suffered burns on 65% of her body and was in a medically induced coma for months. For more than a year, she ate through a feeding tube. She endured 12 eye surgeries and is now nearly blind. She filed suit in New Hampshire claiming that the drug was "unreasonably dangerous." A jury in New Hampshire awarded Bartlett \$21 million. Though it found that Bartlett's injuries were "horrific" and "tragic," the Supreme Court, in a 5-4 decision, took away the jury award. The Supreme Court ruled that a person injured by a generic drug cannot pursue state law design-defect claims against the drug manufacturer.

Now, when people go to fill their prescriptions at the pharmacy, they have no idea whether they are receiving name-brand or generic versions of the drugs. Many insurance plans require the pharmacy to fill the prescription with the generic version. In fact, there are 434 generic drugs for which no equivalent brand products are sold. Once the FDA approves the sale of a generic drug, drug manufacturers have

a right to continue to sell it free from liability.

The implications of the Bartlett decision are frightening when you consider that generic drug manufacturers account for nearly 80% of all prescriptions filled in the United States. Therefore, for four out of every five prescriptions filled in the United States, Americans will not have the right to pursue remedies against drug manufacturers if they get sick or are injured by a drug. When you go to the pharmacy to pick up your prescription, a mindless decision by the pharmacist could determine whether you are allowed to seek damages against a pharmaceutical company if the drug hurts you or your family member.

Thomas N. Sweeney, Esq. is a medical malpractice and personal injury attorney, representing catastrophic injury clients for Messa & Associates throughout Pennsylvania and New Jersey.



Settlements and Verdicts

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



Eric H. Weitz and A. Christine Giordano presented the Pennsylvania Bar Institute CLE course "What Pennsylvania Lawyers Need to Know About New Jersey Personal Injury Practice" on August 13. The course is designed to describe procedural differences between Pennsylvania and New Jersey.



Joseph L. Messa, Jr. was featured in the August issue of SmartCEO magazine. He discussed his role as a business owner and shared some of the challenges that he has overcome as Messa & Associates, P.C. continues to grow.



Congratulations to Chelsea Morris, the winner of our Facebook Share competition! Chelsea won three Hall of Fame Club tickets to the September 3rd Phillies game versus the Washington Nationals.

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123 S 22nd St
Philadelphia, PA 19103
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CHERRY HILL

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