



STOLZENBERGCORTELLI LLP
ATTORNEYS AT LAW



A NEWSLETTER FOR FRIENDS AND FAMILY

Fall 2016

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**Serious Lawyers
for Serious
Injuries**




School's Back in Session... Please Be Extra Careful

Around 55 million children are walking or biking to school, or having to navigate school zones after being dropped off from a vehicle or bus. Unfortunately, these areas aren't al-

ways safe: it's estimated that over 100 children are killed each year heading to or from school, and another 25,000 are injured. Our firm strongly encourages you to follow these key school-zone driving rules:

- Be prepared for anything; kids do unexpected things;
- Stop completely at all stop signs and crosswalks;
- Obey the posted speed limits;
- Put your cell phone away;
- Pay attention to bus warning lights (yellow means the bus is stopping; red means children are getting off or on the bus) and give buses plenty of room (children are at greatest risk of being hit within 10 feet of the school bus);
- Follow the school's drop-off and pick-up rules;
- If you are a commuter and don't have to drop off kids at school, try to find an alternative route to work that keeps you away from the school zone.

Let's all do what we can to keep our children safe this and every school year. 

**WELCOME THE NEW MEMBER TO
THE STOLZENBERGCORTELLI LLP
FAMILY**



Gracie Contreras

A REFERRAL FROM YOU IS OUR HIGHEST COMPLIMENT

A referral from our valued clients, friends, family and fellow attorneys is the highest compliment we can receive. If you know of someone who can benefit from our services at StolzenbergCortelli, LLP, please let us know. Call Us Today.

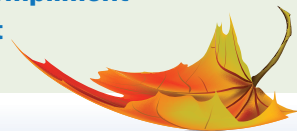


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StolzenbergCortelli LLP – Recent Verdicts/Settlements

LEVY V. BERNSTEIN – WHEN A DEFENDANT REALLY BECOMES A DEFENDANT

In this personal injury case, our client fell from a ladder while installing a surveillance system camera. He suffered a significant fracture to his ankle. The surveillance systems actually captured the fall. Here, the video footage clearly shows that worker was only provided a ladder that was not tall enough to accomplish the work. This worker was forced to stretch to do his work, causing him to tip the ladder and fall. As the case neared the close of discovery, the matter settled for \$415,000. Although this case took many twists and turns, the biggest twist was finding out that Dr. Bernstein, the defendant in this case, had been arrested for planning the murder of his ex-wife. So, now, not only was he the defendant in this case, he was also a defendant in a conspiracy to commit murder case. The story was all over the media. You cannot make this stuff up.


FICKLIN V. THE PORT AUTHORITY – SOMETIMES WORDS DO HURT

In this case, a worker at the World Trade Center was seriously injured when he fell while attempting to remove some leftover concrete in an elevator bank. Here, the worker was using a very large and heavy pry bar. As he was trying to chip out the concrete with the pry bar, a supervisor affiliated with the Port Authority began yelling at the worker to the point of distraction. The worker, now distracted, tripped, fell and was hurt. During the litigation, we were able to find multiple witnesses who testified that this particular supervisor was notorious at the project for being rude, aggressive and downright distracting. We retained a nationally known expert in construction safety who helped us argue in Court that the number one danger at a work site is worker distraction and that by distracting the worker in this

case – with his screaming and yelling – the supervisor was solely responsible for the accident. In response, the defendants argued that there has never been a case where a worker won a lawsuit for merely being distracted by words. As the parties prepared for trial, the case settled for \$350,000. So, now, there is at least one case in New York where a worker won based on his claim that words hurt him. But the truth is, the supervisor acted completely irresponsibly and in direct contravention of all safety rules now generally employed at construction sites. And, really, in this day and age, what worker needs to risk his life going to work every day with a supervisor like that?

Ezoe v. Nationwide – In this claim, the client who owned a local sushi restaurant was struck by a motor vehicle as she exited an A&P supermarket in Montvale, New Jersey. She suffered hair-line fractures of her cheek and ankle. After obtaining \$100,000 from the defendant driver's car insurance carrier, we obtained an additional \$125,000 from GEICO, which was our client's insurance carrier, upon the claim that she was entitled to supplemental underinsurance motorist benefits. That claim settled during the arbitration hearing.

Cilinger v. Mustafaj – Case settled for \$153,000. This case stemmed from a fall down a set of stairs in Yonkers. We alleged that a handrail was missing. Defendants argued that plaintiff was never injured. The case settled while pending on the trial calendar.


Delgado v. Central parking Systems – In this case, the client was struck as he exited a parking garage. He was struck by a car driven by a parking lot attendant. The client injured his shoulder. The case settled for \$90,000. 

Children's Obligations for a Parent's Nursing Home Bills

As parents age, there may come a time when they need to stay in a long-term care facility for several months or more. Parental-support laws, also known as filial support, are on the books in over half of U.S. states and Puerto Rico. Under certain circumstances, when an elderly patient is unable to pay their nursing home-related bills, their children may be on the hook.

Filial responsibility laws are rarely enforced, but with the coming baby-boomer retirement wave and extended life expectancies, anything is possible, as nursing homes seek ways to recoup some of the costs they are owed. Most senior citizens who can't pay their nursing home bills are eligible for federal assistance from Medicaid. Federal law prohibits the pursuit of payment from adult children in these cases.

Medicare may cover nursing home expenses in some scenarios, but only for a maximum of 100 days. At that point, if a resident does not have long-term care insurance, they will have to deplete their own financial resources until they are eligible for Medicaid. Medicaid coverage can be retroactive for up to three months from the time of application. It's the gap in private resources and eligibility for Medicaid coverage where medical bills can skyrocket – and render adult children in filial support states more vulnerable to nursing home lawsuits. A child's ability to pay is taken into account in all circumstances.

Seek the assistance of an experienced elder law attorney now, not after a parent enters a nursing facility. He or she can help you plan, file applications, and successfully navigate the filial responsibility landscape. 



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The Elements of a Lawsuit – What to Expect

(PART TWO OF A THREE PART SERIES)




Last edition, we discussed what to expect when you have been hurt and retain a lawyer. We talked about what happens during the first few months after an accident occurs. We discussed how the lawyer will conduct a factual investigation, gather your medical records and attempt to settle your claim prior to actually commencing a lawsuit. In this article, we will discuss what happens when attempts at a pre-lawsuit settlement prove ineffective.

Once it becomes clear that litigation is necessary, the lawyer will draft a Complaint, which outlines the allegations of wrongdoing on the part of the defendant. The Complaint is very general and gives little explanation of what actually happened. Basically, it describes the time and place and provides a brief overlay of what the defendant allegedly did wrong. That Complaint is filed with the Court and then “personally” served on the defendant. At that point, the defendant will retain a lawyer (probably one appointed by his insurance company), and an Answer will be filed and served.

The next step will be for the parties to appear in Court for a Preliminary Conference. At this conference, the attorneys will give the Judge a brief discussion of the facts of the case and the Judge will issue an Order outlining how the case will proceed. The Judge will explain what documents need to be exchanged by the parties and by when. The Judge will also decide when the depositions are going to be conducted. And, finally, the Judge will try and schedule when the discovery phase of the litigation will end and when the trial will start. During this phase of the case, the judge may try and help the parties resolve the case before reaching a trial.

As discussed above, during this phase, the Judge will explain what documents each party must exchange. For plaintiffs in personal injury actions, this would mean providing the defendant with medical records. For the defendant, they will provide incident reports, video of the accident and maybe repair or maintenance records.

In addition, the parties will participate in depositions. The deposition is where the party must testify under oath about what he or she knows about the case. The plaintiff in a personal injury case will discuss how the accident occurred and his or her injuries. The defendant will explain what he or she knows about the accident and maybe whether the defendant knew or should have known that something dangerous would occur and yet failed to take steps to prevent it from happening.

The purpose of the discovery phase of the lawsuit is to gather information to use at the trial. Good lawyers always prepare like every case is going to trial, even though most cases settle. Next issue, we will discuss what happens after the discovery phase. We will discuss how a trial works. 

Grandma Lori's Ham Salad

Mix Boar's Head ham (finely chopped), eggs (boiled and chopped), celery, pickle (finely chopped), and onion together in a bowl. Combine mayonnaise and mustard together in a separate bowl; pour over ham mixture. Stir to coat. Refrigerate until serving time.



2016 Autumn Important Dates

- September 5** Labor Day
- September 10** Terrence Cortelli's Birthday
- September 11** Patriot Day
- September 11** Grandparents' Day
- September 22** Fall Begins
- October 3** Rosh Hashanah
- October 12** Columbus Day/Yom Kippur
- October 31** Halloween
- November 8** Election Day
- November 24** Thanksgiving



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StolzenbergCortelli LLP paralegals
Isabel DeAngelo (left) and
Carmen Contreras (right).



Disclaimer: StolzenbergCortelli LLP represents plaintiffs in all types of personal injury claims in New York. We are serious lawyers for serious cases. Attorney advertising. Prior results do not guarantee future performance.


Sports Concussions Aren't Football Exclusive

Thanks to media attention spotlighting the National Football League (NFL) concussion case that reached a settlement in April 2015 and the immense popularity of football overall, many people believe that sports concussions are predominantly a "football problem." Not true.

In fact, according to the National Academy of Sciences, although football has the highest number of athletes sustaining concussions, due to larger roster sizes, other sports equal or surpass football in concussion rates per athletic exposure—for instance, lacrosse, field hockey, soccer, wrestling, and ice hockey. Concussion effects may last for a few days, or endure for years. Sometimes symptoms are delayed and might only become evident weeks or months after the initial injury. Repeated concussions can produce cumulative damage, leading to chronic traumatic encephalopathy, a degenerative brain disease.

Increased concussion awareness has prompted many athletic organizations to take measures to mitigate the concussion factor. For example, the NFL has refocused efforts on teaching proper hitting techniques and altered its rules. Some collegiate conferences have introduced limits to contact in football practices. Pee wee hockey leagues in the United States and Canada have banned body checking. Youth soccer leagues have restricted or eliminated heading the ball.

Athletic culture must be combated as well. Many athletes, coaches, and parents are reluctant to identify or report concussions. Players may fear losing their "spots"; coaches don't want to lose their best players. It is estimated that roughly 50 percent of sports-related concussions go unreported each year.

Concussions can't be completely eliminated from the athletic arena; however, improved technique and training, further education and research, and baseline concussion testing for all athletes are tools to reverse their momentum. 



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