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Medical malpractice causes policeman's death
Case settled midway through trial

Wayne Smith (not his real name) was a 42-year-old booking agent for the Riviera Beach Police Department when he died on August 13, 1999—one day after his anniversary. He was a graduate of Grambling University and had played football there, starting on the offensive line. Just before he died, he stood 6 feet 3 inches tall and weighed 250 pounds.

To his family, Wayne was truly a “gentle giant.” He was very soft spoken and led by example. He had married a teacher in the Palm Beach County school system, and they had had one child, Saunja, who was seven years old at the time of Wayne’s death.

Officer Smith liked to supplement his income from the police department by doing painting and household construction work on the weekends. On June 20, 1999, a Saturday, Mr. Smith was working on a job where he was steam-cleaning a roof when he accidentally fell off that roof and fractured his left leg. The leg was fractured directly underneath the left knee in a place called the tibial plateau. The fracture was severe and Mr. Smith was taken to St. Mary’s Hospital. At St. Mary’s, he came under the care of Dr. X, an orthopedic trauma surgeon. Although Dr. X wanted to operate on Mr. Smith’s leg right away, a heart problem was detected in the presurgical workup, necessitating Mr. Smith’s transfer to Palm Beach Gardens Hospital for an angioplasty to clear out a blockage from one of his coronary arteries. After that, Dr. X operated on Mr. Smith by placing screws, plates, and wires into his leg to stabilize the fracture, and putting an external fixator on his leg. Dr. X noted that Mr. Smith was at high risk for a complication known as deep vein thrombosis (DVT) and that he would require appropriate prophylactic treatment.

Deep vein thrombosis is a condition whereby the blood in the deep veins of the legs (away from the surface) forms clots along the sides of the veins as

the blood is trying to return to the heart. The danger of DVT is that a clot can break off and become an “embolism” that travels to the heart and pulmonary artery, obstructing the artery and preventing the necessary distribution of oxygen from the lungs to the rest of the body. If that happens, one essentially suffocates to death because not enough oxygen is getting to the tissues of the body.

Mr. Smith underwent surgery on his left leg around June 28, 1999, and was discharged from Palm Beach Gardens Hospital on July 9, 1999. His positive risk factors for DVT were trauma to the lower leg, an operative procedure to the lower leg, immobility of the lower leg, being overweight, and prior heart problems.

The expert testimony for the Smith family was that Mr. Smith should have been placed on a blood thinner such as Heparin or Coumadin for a period of 8 to 12 weeks prophylactically after discharge from the hospital. Unfortunately for Mr. Smith, his Heparin prescription was terminated on discharge, and he was not prescribed any further blood thinners. When he came back to the doctor’s office on August 3, 1999, complaining that he had extreme pain on the left leg that was not resolved with pain medication (even though he had a high pain threshold as an athlete), the experts testified that he should have been sent for a Doppler ultrasound (a type of scan or x-ray), which would have been able to detect the presence of a clot or clots. Unfortunately, this was not done. Ultimately, on August 13, 1999, Mr. Smith began to gasp for air while he was home with his daughter Saunja and his other daughter Whitney. Mrs. Smith had just left to go to her schoolteaching duties, and the only other person present was Summer, Mr. Smith’s stepdaughter. Summer realized that her stepfather was in bad shape and immediately called 911. The paramedics arrived at the Smith household and immediately took Wayne to

(continued on back page)

We believe no one deserves to have insult added to injury.



Contingency fees Helpful and valuable

Contingency fees offer personal injury clients a valuable advantage. They enable anyone who suffers an injury to bring a lawsuit without having the money up-front to pay an attorney. With contingency fees, attorneys agree to accept a portion of the recovery and agree that if the client does not win and there is no recovery, there will be no fee.

Why does the contingent-fee system serve clients and work so well? Contingency fees...

- give everyone—regardless of race, color, religion, national origin, gender, marital status, age, or other factors—an equal chance to have their day in court, no matter what their financial resources may be. Individuals with limited assets can sue the richest, most powerful corporations, which often have unlimited money for legal defense fees.
- promote efficiency and discourage frivolous lawsuits by motivating lawyers to make sure that the cases they accept have legitimacy and merit.
- are fair, since there is no cost to the client unless he or she wins.
- discourage wrongdoers from continuing inappropriate behaviors.

Value-added CLIENT SERVICE

At our law firm, client service isn't just a catch phrase that merely gets lip service. We strive to provide "value-added" service to each client. That means a level of *individual attention* and *personal service* clients appreciate.

- We know that prompt, reliable, and professional legal service is what our clients want—and what we must deliver.
- Our goal is to efficiently respond to client requests. We strive to answer all questions and inquiries promptly, and follow through on what we say we will do.
- We do our utmost to maintain the same sense of urgency that our clients feel about their issues and cases, and to stay in frequent communication.
- To every extent possible, we try to make the legal experience as personal and pleasant as we can.
- When we find them, we correct client-service deficiencies right away. We want to hear what you like about us and what we can improve.

What caused this accident?

Automobile accidents in which drivers or passengers are seriously injured or killed are always terrible. When there is doubt about the cause of an accident, which may be hidden by vehicle damage, an experienced trial attorney can research and investigate the real cause of harm. Here are two actual accident cases.

Safety-check failure

Three disabled residents returning from a picnic outing were killed when ejected from their van, which overturned in a crash. A jury awarded compensatory damages and punitive damages to the decedents' survivors when investigation revealed liability on the part of the group home. Research showed that the group home was negligent in hiring the driver, who had extensive criminal and traffic-violation records. He also failed to conduct a safety check on the van, which had a flat tire, prior to departure because he was driving under the influence of alcohol and illegal drugs.

Negligent hiring

After a driver who was struck from behind by an 18-wheel truck suffered brain damage, examination revealed that the truck driver's employer and a professional driving organization had failed to conduct criminal-background checks, which would have revealed the driver's two previous accidents and felon status. The injured driver and his wife received a negligence settlement from the trucking company following the first day of trial.



LEGAL DICTIONARY

Many clients find legal terms puzzling. From time to time, we offer some easy-to-understand definitions to help clear things up. This time, we'll look at legal words that begin with the prefix *mal*, meaning "bad."

Malefactor

This is any person who is found guilty or convicted of committing a crime.

Malfeasance

Improperly performing an action that one has no legal right to do, which is wrong beyond basic negligence.

Malice

Intentionally injuring another in some way.

Medical malpractice

Poorly or unskillfully providing medical treatment that harms or injures the health or welfare of another by failing to meet standards of care commonly accepted among medical professionals.

FOR YOUR SAFETY

Recalled product roundup

Here are some recently recalled products you may have in your home or at work.

- ✓ **Oceanic USA** is recalling about 24,700 Oceanic CDX first-stage scuba-diving regulators, which can leak air when bumped or shaken hard and injure or drown divers.
- ✓ **Pace Products, Inc.**, recalled 145,000 children's soap-making kits in which microwave oven-heated soap may overheat, leak from a tray mold, and burn children.
- ✓ **Makita U.S.A., Inc.**, of La Mirada, California, recalled 180,000 circular saws whose lower blade guard can jam and injure users.
- ✓ **Montrose Wholesale Candies & Sundries, Inc.**, has called back 247,000 disposable cigarette lighters that lack child-resistant mechanisms, which are required by federal law, and can cause burns to children.
- ✓ **Brooklyn Lollipop Imports & Exports, Inc.**, called back 22,000 electric fans. Their undersized wiring, unpolarized power plugs, and improperly sized grills may overheat and shock or electrocute consumers.

CPSC chair speaks out

Harold "Hal" Stratton, new chairman of the Consumer Product Safety Commission, has promised to be an activist in encouraging manufacturers to recall and correct defective products as quickly as they can.

Asbestos update

Even though manufacturers knew the deadly dangers of asbestos products 70 years ago, they concealed health hazards from workers and the public. In the 1970s, asbestos use became limited but was not totally banned, because the asbestos industry successfully lobbied against the prohibition of its use. But corporations continue to wage legal and public relations battles to avoid accepting responsibility. Here are some recent developments.

Asbestos industry seeks protection

The asbestos industry and its allies are spending millions of dollars trying to win a bailout from the U.S. Congress. They want to deny most victims of asbestos poisoning the right to even go to court. The industry claims these victims, who are sick but not yet dying, are "unimpaired" and should lose their legal rights.

Unreasonable danger

A 66-year-old construction plumber who was exposed to asbestos between 1950 and 1970 is now suffering pleural malignant mesothelioma and undergoing chemotherapy. His lawyers negotiated a postverdict settlement following a jury award by demonstrating that the asbestos products with which he came into contact were unreasonably dangerous, and that product manufacturers and distributors failed to warn of their danger.

If you suspect that you or a loved one has been injured by asbestos, contact an attorney right away. The law limits the time anyone has to act. An attorney may be able to help not only with Workers' Compensation and actions against responsible parties, but also with compensation for medical care, lost wages, and pain and suffering.

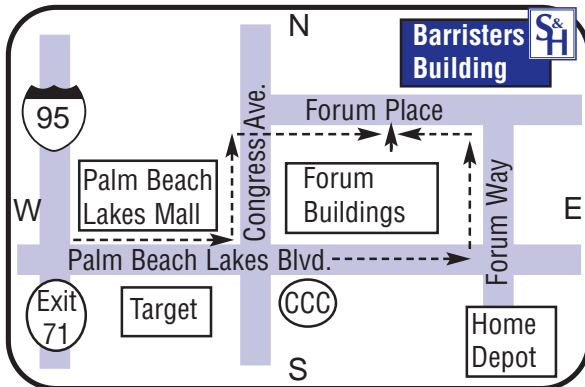


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The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

Whiplash injury

Whiplash, a common and potentially serious soft-tissue injury resulting from auto accidents, occurs when the head is snapped violently backward and then forward. It can injure intervertebral discs and joints, as well as nerves, ligaments, and muscles. Although insurance companies often trivialize such injuries, they can be serious and painful.

According to the National Highway Traffic Safety Administration, more than 800,000 American drivers and passengers suffer whiplash annually, with total associated medical and lost work-time costs amounting to \$5.2 billion.

To reduce whiplash-injury potential, adjust car headrests per owner's manual guides, practice defensive motoring, and avoid speeding or unsafe drivers. Properly restrain all children.

Physicians use x-rays and physical examinations to diagnose whiplash, which may be treated with medications as well as with surgical or physical therapies. Whiplash injuries may take weeks to appear.

Anyone who is involved in an auto accident and suspects whiplash injury should consult a physician and an attorney.

Medical malpractice causes policeman's death *(continued from front page)*

St. Mary's Hospital. Once at St. Mary's, he died within three hours.

On autopsy, the medical examiner found a textbook case of DVT and pulmonary embolism. Clots were found in both the left leg and the right leg of Mr. Smith, and a 7 cm.-long clot that had broken off from his lower leg was found lodged in his pulmonary artery, blocking life-giving circulation from the lungs. The medical examiner testified that Mr. Smith died from acute pulmonary embolism as a result of deep vein thrombosis. It was regrettable that this was a death that could have been prevented with either the prophylactic use of anticoagulants (blood thinners) or the early detection of the DVT by sending Mr. Smith for a Doppler ultrasound, a noninvasive test.

Wayne's widow, Carolyn, agreed to settle this case halfway through trial on behalf of herself and Mr. Smith's children. Surviving him at the time of his death on August 13, 1999, were Saunja, age 7; Whitney, age 13; Courtney, age 19; and Kira, age 22. All of the Smith children benefited from the overall settlement of this case. The Smith family was represented by **Richard D. Schuler, Esquire**, of **Schuler & Halvorson**.

Bradford H. Pace

Our newest investigator, **Bradford H. Pace**, graduated from Florida State University's College of Business with a Bachelor of Science degree in business administration. He was also an active member of the American Marketing Association while completing his studies at the university.



Mr. Pace had been involved in the insurance industry for 6 1/2 years, specializing in property and casualty claims. Prior to joining **Schuler & Halvorson, P.A.**, he managed a local claims office for an internationally recognized insurance company. He currently holds a State of Florida all-lines insurance adjuster's license and successfully completed claims law studies with the American Educational Institute. He is also an active member of the Palm Beach County Trial Lawyers Association.

Mr. Pace was born on January 17, 1971, in Coral Gables, Florida, and currently resides in West Palm Beach, Florida. He is an avid boater and outdoorsman, and also enjoys sports and reading.