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Mother and Son Awarded \$17.1 Million in Sexual Molestation Case

By William D. Zoeller

Our client Staci's 10-year-old minor child met 16-year-old Thomas Lavan (aka Thomas Conti) at a Pokémon tournament. Thomas helped coach her son's tackle football team, and they became good friends. Thomas was like the big brother that Staci's son never had. Staci befriended Thomas's parents and trusted them with her son. Her son was allowed to go over and play at Thomas's house when Thomas's parents were home. He was even allowed to sleep over a few times.

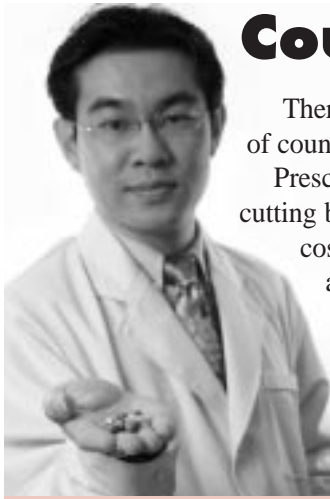
In December of 2000, Staci noticed her child was acting differently and getting into trouble, which was not like him. After all, he had an IQ of 144 and was in the gifted program. She noticed Thomas appeared to be obsessed with her son. In fact, one night she found Thomas sleeping outside her son's window. Staci confronted her son and learned the unthinkable. He tearfully explained to his mother that Thomas had been forcing him to perform sexual acts for the past two months (the actual sexual acts performed are too graphic to describe in this article). Staci had Thomas arrested immediately. He was convicted of sexual battery on a minor and is now a Florida registered sexual predator. He received probation only. Thomas got off easy compared to the living hell the minor child and his mother have dealt with since.

Suit was filed against Thomas's parents for negligent supervision. The case was finally tried in June of 2008, eight years after the

molestation. At trial, the minor did not testify because the memories were too painful. Staci and three psychiatrists testified regarding the negative effects the sexual acts have had and will continue to have on Staci's son. Staci also made a claim for damages given the mental anguish she sustained trying to help her son cope with his issues.

The jury deliberated for less than one hour and returned a verdict of \$17.1 million against Thomas's parents. The minor child was awarded \$5 million for past pain and suffering, \$5 million for future pain and suffering, \$100,000 for past medical expenses, and \$1.5 million for future medical expenses. His mother, Staci, was awarded \$2.5 million for past pain and suffering, \$2.5 million for future pain and suffering, \$50,000 for past medical expenses, and \$500,000 for future medical expenses.

The law firm of **Schuler, Halvorson & Weisser** has successfully handled dozens of similar cases during the firm's 30 years of serving Palm Beach County. We recommend, for the safety of you and your loved ones, that you visit the FDLE (Florida Department of Law Enforcement) sexual predator Web site at offender.fdle.state.fl.us/offender/homepage.do, where you can search by offender name or perform a neighborhood search to find registered predators or offenders located near your home or school.



Counterfeit medications

There's a "perfect storm" of conditions for makers of counterfeit medications to do their harmful work.

Prescription-drug costs keep rising. Employers are cutting back on medication plans as employee-benefit costs increase. Drug wholesalers are seeking alternative drug suppliers to maintain profit margins. As a result, counterfeit medications are appearing on the market.

For genuine medications, purchase only from trusted pharmacies or online retailers. Patients should also be aware of caution

signs of fake prescriptions or over-the-counter medications:

1. Change in a drug's normal color, size, texture, or taste.
2. Alteration in packaging or labeling color, size, or style.
3. Broken or tampered-with seals or packaging.
4. Onset of unexpected allergic reactions or unusual symptoms and side effects after taking medications.

A patient should contact the pharmacist immediately upon suspicion they have taken a questionable medication. Seek medical help if conditions become serious. Consult with an attorney.

Nursing home injuries

Residential care for elderly nursing home residents is not always delivered as promised, and accidents sometimes occur.

To be sure that staff will safeguard their loved ones' safety and health, adults who help parents enter assisted-living or nursing homes should investigate residences carefully.

Should a safety or injury problem arise, it may not always be easy to determine causes of safety or health problems. Staffs are reticent to talk, and the elderly may be unwilling or unable to explain problems.

Responsible adults who suspect that nursing home care is insufficient or has resulted in an injury should take three steps:

1. Get medical care for the loved one.

2. Notify residence management of concerns.
3. Seek legal counsel. Attorneys familiar with nursing homes can help elderly loved ones receive a high level of care or determine the bases of injuries and hold the responsible parties accountable.

Common concerns

- Decubitus ulcers
- Dehydration
- Falls, dislocations, and broken bones
- Inappropriate physical-restraint use
- Infections
- Physical, emotional, or psychological abuse
- Malnutrition
- Pressure sores



American juries

Fair and effective

American juries are doing an excellent job. Although the right to a jury trial is a cornerstone of our democracy, some critics claim civil juries are irrational, unreliable, and biased against business.

American Juries: The Verdict (Prometheus Books 2007), a new work by two leading jury-research experts, Neil Vidmar of Duke University School of Law and Valerie Hans of Cornell University Law School, reveals that American juries are alive and doing very well indeed.

Book highlights

- Legislation and computer technology have improved juror selection, which more fairly and closely reflects the broader range of our communities' populations.
- Once citizen-jurors get into the facts and data of a trial—no matter what their personal views were prior to empanelment—the jurors' focal point in decision-making and reaching their verdict is the evidence presented by both sides in a dispute.
- Jurors generally believe that corporations should be held to a higher standard of care than individuals because businesses have the potential to hurt more people than any one individual can.





How to complain EFFECTIVELY

Many of us who are dissatisfied with a product or a service may not get the best results from our complaints because we don't complain well enough.

Here are negotiating tips to get better results from your efforts:

1. Register your complaint as soon as possible.
2. Be sure you are talking to the right person—the customer service representative who has the authority to resolve your problem.
3. Get ready to negotiate by preparing several alternative solutions to suggest to the customer service rep.
4. Know which solution you will accept.
5. Be polite but assertive.
6. Use the customer service person's name to establish rapport.
7. Avoid becoming angry.
8. Inquire about the business's customary procedure for resolving complaints, then use it to your advantage.
9. Get the customer service representative to commit to a solution with you.
10. Keep records of your phone calls and letters.
11. Ask for a supervisor only if you feel you will not succeed with the rep.
12. If you do not succeed, file a complaint with authorities such as your state's consumer protection agency or a Better Business Bureau.

FOR YOUR SAFETY

Recalled product roundup

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

- ✓ **TWIE, also known as Tradewinds International Enterprises, Inc.,** has recalled 152,000 "Sky Champion" Wireless Indoor Helicopters. Onboard rechargeable batteries can catch fire and burn consumers.
- ✓ **Provo Craft & Novelty, Inc.,** has asked buyers to return 730,000 Candlsense Warmers, which have internal candle heating elements that can detach, melt their plastic casings, ignite, and burn consumers.
- ✓ **Hearth & Home Technologies, Inc.,** recalled 22,000 IntelliSwitch Fireplace Wall Controls with faulty wall control systems, which can cause the fireplace to turn on by itself and damage property and harm users.
- ✓ **Specialty Lamp International, Inc.,** has recalled 371,000 counterfeit circuit breakers labeled "Square D," which can fail to trip when they are overloaded, posing a fire hazard to consumers. Counterfeit circuit breakers are black and are labeled Square D QO-series models 115, 120, 130, 215, 220, 230, 240, 250, 260, and 2020, and Square D QOB-series models 115, 120, 130, 220, 230, 250, 260, and 1515.



Auto accident repairs

Parts and labor

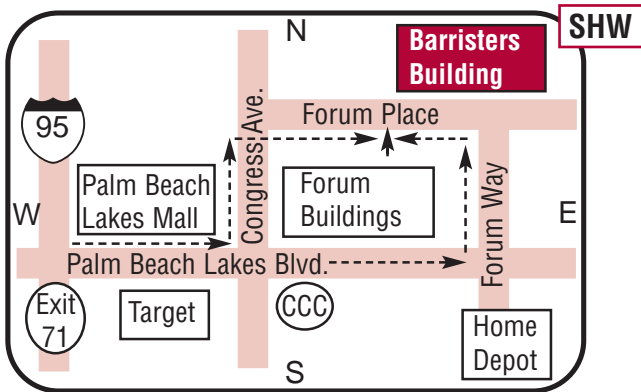
If you are in an accident and your car is towed to a repair shop, there are two things you should know about parts and labor:

Parts charges

Parts manufactured by a vehicle's original equipment manufacturer (OEM) are best because they fit properly and are installed by authorized and trained mechanics. However, insurance companies urge repair shops to use generic or even salvage-yard parts to save money. Check your insurance policy. Although you can demand that a repair shop use OEM materials, you may have to pay more for OEM parts. Your family's safety is well worth the added cost.

Labor charges

Insurance companies recommend some repair shops because these shops have signed a contract with the insurer to "cap" their charges for specific kinds of work. That also saves money for insurers, but may result in repairs that meet a bare minimum in quality and safety. Select a repair shop you know or people you trust have recommended.



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Premises liability

People who are injured through the negligence of commercial business owners, property managers, or property owners who fail to protect visitors and passersby from physical harm can call on attorneys for help.

Businesses have a legal duty to provide sensibly safe passage for those who enter their grounds.

Hotel negligence

A motorcycle passenger suffered traumatic brain injury when road flooding caused the vehicle on which she was riding to lose traction and flip. The victim, who incurred just under \$1 million in medical expenses and will require millions in future care costs, sued a hotel employee and trust beneficiaries who owned the hotel for negligence. Her attorney alleged that the hotel's swimming pool water had been illegally pumped onto the road, and responsible parties never warned drivers of the danger. The parties reached a significant settlement.



Airline overhead compartments and injuries

Airline passengers complain about new tagged-on costs, delayed flights, lost luggage, long security lines, and cramped seating. In 2008, airline-customer satisfaction ratings reached their lowest scores since 2001.

However, in 2007, there was a bright bit of news for airline passengers. A court found that a passenger injured during a flight by falling cargo may sue under FAA regulations for violations of general standards of care.

The passenger was hurt during a flight when a ceramic bowl fell from an overhead compartment and struck her head. She alleged the airline violated federal regulations and state laws when it created and allowed a dangerous condition by failing to inspect and correct an unsafe overhead compartment circumstance, warn her of its danger, and train employees to identify and correct such conditions.

Although airlines usually prevail in such cases, this time the courts put the airline on notice of the incident and denied its motion to dismiss for failure to state a claim under general FAA standards. The court also dismissed the airline's motion to dismiss the case based on the passenger's allegation that a crew member failed to properly close the compartment due to lack of proper training.

