



FLANZIG & FLANZIG, LLP

Attorneys At Law

LEGAL UPDATE

SPRING 2004

A newsletter from
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Attorneys At Law

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Trial lawyers can make a difference

All one has to do to hear the latest attack on trial lawyers is turn on the evening news. Lawyer-bashing is popular, easy, and almost no one is ever offended.

Although the topic of tort reform usually focuses on medical malpractice, product liability, and class-action lawsuits, the proponents for tort reform don't talk about recent efforts by trial lawyers to seek political and social change.

In the past few years, trial lawyers have taken on some enormous tasks in searching for truth and finding justice for victims in areas in which the government cannot.

Recently featured in the *New York Times Magazine* was a cover story of a trial lawyer who spent his career focusing on asbestos and tobacco companies. Presently, the lawyer is one of several tort lawyers who have filed an international lawsuit against 205 defendants in the

Saudi Kingdom who directly or indirectly had connections to organizations that foster terrorism and had ties to the September 11 attacks. It is the hope of this lawyer that by using the domestic courts to find the truth, he will be unrestrained by the political and economic concerns that limit the government in this endeavor.

Political redress was also obtained by trial lawyers in the historic Swiss bank litigation. In that matter, Holocaust survivors whose assets were wrongfully taken by Swiss banks during and after World War II were able to be compensated for the crimes committed against them and their families over half a century ago. Similar cases were also brought against Austrian and French banks. The litigation against these entities led academics to revise their assessment of Switzerland's relationship with Nazi

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**WE REPRESENT
CLIENTS WHO
HAVE SUFFERED
SIGNIFICANT
INJURIES AS A
RESULT OF:**

- Automobile Accidents
- Motorcycle Accidents
- Construction Accidents
- Medical Malpractice
- Defective Products
- Police Job-Related Injuries
- Firefighter Job-Related Injuries

We are pleased to announce the creation of our new Web site at www.flanziglaw.com. If you have any questions that are not answered on our site, please feel free to contact us by phone or e-mail. We look forward to hearing from you.



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Trial lawyers can make a difference

(continued from front page)

Germany and expose the extent of their business relationship to the Holocaust. Similar lawsuits were filed against Japan by the survivors of sexual slavery instituted by Japan in the territories it conquered in World War II, and against Exxon by Indonesian villages who were victims of human-rights abuses by Exxon Mobil's security force.

Most recently, the American Trial Lawyers Association created an entity known as Trial Lawyers Care. The organization consisted of over 1,000 attorneys who volunteered to represent victims of the September 11 attack in their applications to the Victims Compensation Fund. The attorneys, working pro bono, prepared extensive submissions to the fund's hearing officers and attended hearings before the special master. The fund and the attorneys who represented the victims allowed families of the attack to be guaranteed some level of compensation.

Flanzig & Flanzig is proud to be a member of Trial Lawyers Care. Flanzig & Flanzig recently obtained a \$1.3 million award from the Victims Compensation Fund for the family of a rescue worker killed at the World Trade Center on September 11, 2001. We would like to give special mention to **Melissa DiTomasso**, a legal intern at Flanzig & Flanzig and a second-year law student at Hofstra Law School, for her dedicated work performed on this project.

Despite the popular debate about tort reform and the continued rhetoric about trial lawyers, the truth remains that trial lawyers continue to play an important role in bringing about social change in the country. Access to justice, trial by jury, and guaranteed constitutional rights are a fundamental part of our democratic process. The integrity of the system should be vigorously protected.

THOUSANDS OF HEROES.



THE REST OF US CAN ONLY HELP.

Trial Lawyers Care, Inc., hereby recognizes and thanks

Cathy Flanzig

As a Lawyer Volunteer willing to provide free, quality legal representation to eligible victims and their families who seek compensation under the September 11th Victim Compensation Fund. We appreciate the generous donation of your legal expertise and your dedication to helping the victims and families touched by the events of September 11th.

Leo V. Boyle
President

Association of Trial Lawyers of America

Lily S. Stewart
President

Trial Lawyers Care, Inc.

TRIAL LAWYERS CARE
FREE LEGAL HELP FOR 9/11 VICTIMS

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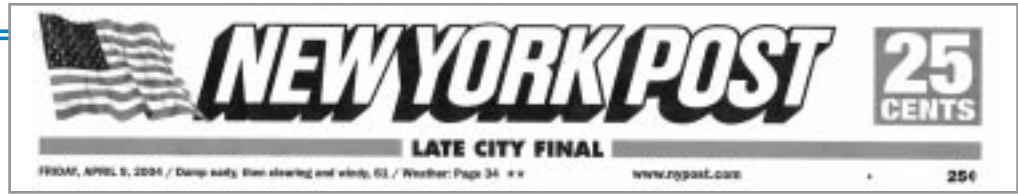
New York's highest court recognizes claim for loss of a fetus

Overturning a 19-year-old precedent, the Court of Appeals, the highest court in New York State, recently held that a woman may recover damages for emotional distress for medical malpractice that causes a miscarriage or stillbirth, even if she personally suffers no physical injury.

In a 6-1 opinion, the Court abandoned its previous opinion and held "even in the absence of an independent injury, medical malpractice resulting in miscarriage or stillbirth should be construed as a violation of a duty of care to the expectant mother, entitling her to damages for emotional distress." The ruling is unprecedented, as it has long been the rule in New York that there is no claim for emotional distress for the wrongful death of a family member. The law usually only recognizes economic losses such as loss of income or parental guidance to a child.

In footnotes, the Court made it clear that it is permitting recovery just by the mother, not the father, and only for the emotional distress directly connected to a miscarriage or stillbirth caused by medical malpractice. A dissent said the decision represents only a modest expansion of tort liability.

"Although in treating a pregnancy, medical professionals owe a duty of care to the developing fetus, they surely owe a duty of care to the expectant mother, who is, after all, the patient," Judge Rosenblatt wrote. "Because the health of the mother and fetus are linked, we will not force them into legalistic pigeonholes."



Pervy medic 300G PAYOUT

A Texas woman who was molested by an EMT after collapsing at LaGuardia Airport has settled her lawsuit against the city and will collect \$300,000, *The Post* has learned.

The woman, who was 18 years old when she was attacked in 1998, claimed in her suit she was fondled in the ambulance by Angel Cabrera, then 40, a medic who was called to the scene.

She said his partner had been flirting with her, making her afraid to yell out when Cabrera touched her breasts and genitals.

She was unable to fight back because her arms and hands were strapped down, it was revealed at Cabrera's 2000 criminal trial, where he was found guilty.

Cabrera, who lives in The Bronx, was convicted of sexual abuse and sentenced to probation.

"Part of me wishes that Angel suffered a little more," said the victim, a 24-year-old bank worker.

But she said that regardless of the outcome, "I can finally have closure in my life.

Now that it's over, I can work through it and put it behind me.

"I've been dealing with this for six years. It's affected me sexually as a woman."

The city's lawyer, Janet Keller, said she felt the settlement "was in the best interest for all parties involved and that it would bring closure to the matter."

The lawsuit, filed in Queens Supreme Court, claimed that the city was aware of Cabrera's history of harassing women during emergency runs.

"When I heard he used his ambulance as a dating service, it disgusted me," said the victim.

Her lawyer, **Dan Flanzig**, said, "The city should have known about Cabrera's conduct. He had a history of inappropriate conduct."

The victim, who grew up in Westchester County, said she now fears riding in ambulances.

"You are very vulnerable," she said. "You shouldn't have to be worried about being sexually violated."

Automobile safety— Seat belts save lives

In a series of global events emanating from the United Nations, World Health Day on April 7 highlighted "Road Safety" as its theme for the first time in its 55-year history.

The World Health Organization (WHO), a specialized agency of the United Nations and chief organizer of the day, estimates that, worldwide, more than 1.2 million people are killed and 10 to 15 million are injured each year in motor-vehicle crashes. It calls traffic accidents an often unrecognized worldwide public health threat whose "magnitude is expected to rise considerably in the years ahead." It also projects that by the year 2020, traffic accidents could rank third among the leading causes of death and injury in the world.

The WHO says that "wearing a safety belt is the single most important thing motorists can do to protect themselves." Research results estimate that almost 10,000 American deaths a year could be prevented if all motor-vehicle occupants used them consistently. According to Bella Dinh-Zarr, the American Automobile Club of America's director of Traffic Safety Policy, the vehicle occupants most likely to be involved in crashes are also the ones least likely to buckle up.

The U.S. Department of Transportation and the U.S. Department of Health and Human Services will be coordinating educational activities throughout the nation focusing on the importance of seat-belt use.

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RECENT SETTLEMENTS AND VERDICTS

\$1.3 million for victim of September 11 attacks at the World Trade Center

Flanzig & Flanzig has helped the family of a rescue worker killed at the World Trade Center obtain an award of \$1,344,258 on a pro bono basis. **Daniel Flanzig** and **Cathy Flanzig** are part of a group of more than 1,000 members of the Association of Trial Lawyers of America (ATLA) who have volunteered through the Trial Lawyers Care program to help the families of victims of the September 11 attacks.

\$300,000 recovery for young woman sexually assaulted while a patient on a New York City ambulance

A resolution of a 1999 lawsuit against the City of New York, stemming from a sexual assault that occurred to a young female while she was a patient aboard a FDNY ambulance, was reached this month. The woman was being transported to the hospital after collapsing due to a migraine headache at LaGuardia Airport while she was attempting to return home to Texas. **Daniel Flanzig**

obtained the result for our client just prior to trial in the Supreme Court, Queens County. An extensive background search conducted by investigators associated with Flanzig & Flanzig revealed prior misconduct by the EMT, which was reported to his supervisors and which the city failed to properly investigate.

\$250,000 recovery for a utility worker in an on-the-job auto accident

Daniel Flanzig obtained a \$250,000 award for a male cable splicer in his late 40s, employed by Consolidated Edison, who sustained a cervical herniated disc in an auto accident. His van was struck by a Flushing Hospital Medical Center Ambulance on an emergency call. A settlement was reached after Flanzig & Flanzig was successful in obtaining a decision from a Supreme Court judge that the plaintiff sustained a "serious injury" as a matter of law. Such decisions are rarely granted in auto-accident cases, as judges usually prefer to leave these determinations for juries.

