



FLANZIG & FLANZIG, LLP

Attorneys At Law

LEGAL UPDATE

SPRING 2008

A newsletter from
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Attorneys At Law

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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
- Nursing Home Abuse and Neglect

Carbon monoxide poisoning at Leonard's spurs suit

By Ann Givens
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May 21, 2007

Newsday

Patricia Murphy was celebrating her Irish heritage at a dinner-dance when the ballroom began to swim.

"You're wasted," her nephew teased. But Murphy had almost nothing to drink that night in March.

Within about an hour, Murphy, 53, of Mineola, who has had several brain surgeries because of a rare medical condition, couldn't stand or speak. Relatives carried her from Leonard's of Great Neck catering hall and took her home—not realizing then that she and others were poisoned by carbon monoxide.

A carbon monoxide leak at Leonard's had sent about two dozen guests to the hospital with symptoms ranging from severe headaches to vomiting and dizziness. Patricia Murphy and her mother, Nora, recently became the first people to sue Leonard's, seeking unspecified damages because they say the facility caused the leak by blocking a boiler vent, then failed to act quickly to protect its customers.

"I thought she was going to die," said Nora Murphy, tearfully remembering the night. It was not until the following morning that Patricia Murphy learned she was not the only one who'd fallen ill the night before.

Patricia Murphy said she is not as concerned about winning a financial settlement as she is about making Leonard's, and other businesses like it, aware of the need for carbon monoxide detectors.

"If you're supposed to have one in your private residence, shouldn't you have one in a public place where you expect to be safe?" asked Patricia Murphy.

Ernest Langstrand, director of operations at Leonard's, said he was not aware of the lawsuit. But he said the facility took immediate action after the leak.

"We have taken every precautionary measure and every step possible to ensure that this could never happen again," including installing carbon monoxide detectors throughout the building, Langstrand said.

Attorney Dan Flanzig, who along with his sister, Cathy Flanzig, is representing the Murphys, said it shouldn't have taken this kind of disaster for Leonard's to make that change.

"It's just good practice...to have a carbon-monoxide detector," said Flanzig, of Mineola.

The Murphys had gone to Leonard's for the annual dinner of the Sligo Association, an organization of people whose ancestors hale from Sligo County in Ireland. Patricia's cousin was accepting the group's Woman of the Year award—and Patricia said she stayed long after she started feeling ill so she wouldn't ruin her cousin's big night.

The next day, Patricia said she learned there were many other people who felt ill and didn't speak up either. Nora Murphy said she got up to dance and her legs gave way, something that at the time she attributed to aging. A 7-year-old child at the party fell asleep in a chair—and Patricia now says that if the fire department hadn't evacuated the facility, she fears the child might have been in grave danger.

But it is Patricia Murphy who has suffered the most lasting consequences, Flanzig said. She suffers from a Chiari malformation, a neurological disorder in which the bottom of the brain descends from the skull and crowds the spinal cord. Since the poisoning, she says the right side of her body, from her hand to her foot, has gotten far weaker.

"You go to a place like that and you expect to have a good time," Patricia Murphy said. "But this really put a damper on it."

NEW YORK METRO EDITION **Super Lawyers** 2007

Each year, the publishers of *Law & Politics* magazine conduct a research, balloting, and selection process to identify lawyers who have attained a high degree of peer recognition and professional achievement. Only five percent of the lawyers in each state or region are named in *Super Lawyers*.

Daniel Flanzig along with his partner and sister Cathy Flanzig litigate significant personal injury cases in Nassau, Suffolk, and the five boroughs of New York City, as well as the Federal Courts of the United States for the Eastern and Southern Districts. The firm's history dates back to 1956, when it was founded by their father. Cathy and Daniel have continued a family tradition of being one of the most prominent personal injury law firms in the New York area.

Mr. Flanzig has been awarded a *Martindale Hubbell* AV rating by his peers, the highest rating an attorney can obtain, and has been granted membership in the prestigious Million Dollar Advocates Forum for attorneys who have obtained trial verdicts in excess of \$1 million. Mr. Flanzig has been repeatedly quoted in the *New York Post*, *The Daily News*, *Newsday*, *The Village Voice*, *The New York Law Journal* and

The National Law Journal, and has appeared on CBS 2, WB 11, and News 12 Long Island in relation to the many high-profile cases the firm has handled. He has authored numerous articles on the protection and rights of firefighters in New York State. He is a former member of the East Brunswick Rescue Squad and Rutgers University First Aid Squad, as well as an active member and contributor to the New York State Fire Chiefs Association. He served as a Civilian Intern in the Enforcement Division of the U.S. Coast Guard, Group New York, and as a legal intern with the Regional Counsel's Office for the United States Custom Service. This hands-on experience has given him exceptional insight into the risks and challenges faced by uniformed officers.



The Sheldon Flanzig Law Scholarship goes to...

Flanzig & Flanzig is pleased to announce the presentation of their third annual scholarship to the graduating class of Mineola High School. This year, the award has been renamed the Sheldon Flanzig Law Scholarship. The award is now presented in honor of Sheldon Flanzig, the father of partners Cathy and Daniel Flanzig.

This year, the scholarship was given to sisters **Kristin** and **Lauren Mobyed** of Mineola, who will be attending George Washington University in the fall. "We are honored to be able to give this scholarship in our father's name," said partner Daniel Flanzig. We hope that they go forward in the practice of law and have an impact on the lives of as many people as our father has. We wish them the best of luck as they enter college this year."



Partner
Cathy Flanzig
with scholarship
winners Kristin and
Lauren Mobyed.

Nixzmary Brown update

Flanzig & Flanzig has been retained by the biological father of Nixzmary Brown as well as the Public Administrator of Kings County to pursue a claim against the City of New York and the Administration of Children's Services, stemming from the tragic death of this seven-year-old girl at the hands of her mother and stepfather. The civil case is being held in abeyance pending the completion of the criminal trials against her mother and stepfather. The trial of the stepfather, **Cesar Rodriguez**, began in January, with the trial of her mother, **Nixzaliz Santiago**, to begin shortly thereafter.

Nursing home abuse

As our population ages, long-term-care facilities will become part of everyone's lives. By the year 2020, it is expected that the population of those age 85 and older will increase by almost 60 percent. When entrusting a loved one to a facility, you depend upon it being clean and safe. But what if it's not?

Section 2803-c of New York State's Public Health Law provides that "every patient shall have the right to receive adequate and appropriate medical care, to be fully informed of his or her medical condition and proposed treatment, and to refuse medication and treatment after being fully informed of and understanding the consequences of such action."

What to do if you or a family member suffers ulcer sores or other neglect or abuse while in a health-care facility

A competent attorney can help you investigate the abuse and prevent further delinquent patient care. An extensive investigation should be conducted, including other incidents at the facility and whether the facility followed the proper protocol. Interviews should be conducted with all witnesses, and records should be obtained and reviewed by an attorney or Medicaid/nursing examiner.

Flanzig & Flanzig focuses on the area of nursing home abuse and neglect, and we are proud members of the National Citizens Coalition for Nursing Home Reform (see "Verdicts and settlements").

Litigation update on Medtronic Sprint Fidelis defibrillator leads

Defective Medtronic Sprint Fidelis defibrillator leads were implanted into hundreds of thousands of people, leaving all of them at risk for serious injury if a Sprint Fidelis lead fractures. Medtronic suspended sales and recalled all unused Sprint Fidelis leads on October 15, 2007, after receiving reports of at least five fatalities linked to lead fractures.

The Sprint Fidelis lead is a wire that is used to attach a Medtronic implantable defibrillator to the heart. The Sprint Fidelis lead was first introduced by Medtronic in 2004 and has been used with most of the company's implantable defibrillators since then. This component is used in cardiac defibrillators—or complex devices with defibrillation capacity—and not in conventional pacemakers.

Medtronic Sprint leads have been shown to have a continuing fracture problem. This defect can cause the defibrillators to deliver a massive and painful electrical shock, or it can cause the device to fail to administer a lifesaving shock when necessary. When a Sprint lead fractures, a patient must undergo a surgical procedure that can tear and scar the heart tissue and veins through which the Sprint Fidelis lead wire runs. The surgery to replace a defibrillator lead wire is far riskier than having the device itself replaced.

Flanzig & Flanzig, LLP, is currently representing individuals who were implanted with the defective leads manufactured by Medtronic, Inc.

Medication errors harming millions

A recent Institute of Medicine report found that at least 1.5 million Americans are sickened, injured, or killed each year by errors in prescribing, dispensing, and taking medications. Mistakes in giving drugs are so prevalent in hospitals that, on average, a patient will be subjected to a medication error each day he or she occupies a hospital bed, the report by a panel of experts said.

Following up on its influential 2000 report on medical errors of all kinds, The Institute, a branch of the National Academies, undertook the most extensive study ever of medication errors in response to a request made by Congress in 2003, when it passed the Medicare Modernization Act. Many of these medication errors could be avoided if doctors adopted electronic prescribing and if hospitals had a standardized bar-code system for checking and dispensing drugs.

The study, funded by the Centers for Medicare and Medicaid Services, was assembled by 17 experts in related fields who analyzed research in the field, as well as government reports and data. They also held public forums to hear from representatives from the health-care system.

Based on past studies, the panel estimated that drug errors cause at least 400,000 preventable injuries and deaths in hospitals each year, more than 800,000 in nursing homes and facilities for the elderly, and 530,000 among Medicare recipients treated in outpatient clinics. The report said the actual numbers are probably much higher.

It's estimated there are as many as **7,000 deaths annually** in the United States due to incorrect prescriptions, and pharmacy regulators say the problem is getting worse as the number of prescriptions increases and the number of pharmacists decreases.

Following complaints of 80 prescription errors in 2005, CVS Pharmacy agreed to be overseen by a nonprofit group that employs unannounced inspectors and other monitoring methods to examine how the stores fill and dispense prescriptions.

Flanzig & Flanzig, LLP, continues to represent numerous victims injured as a result of medication dispensing and labeling errors.



Hospitals combat dangerous bedsores

Hospitals around the country are scrambling to put new programs in place to prevent pressure ulcers, also known as bedsores. The push has occurred because Medicare and Medicaid announced that as of October 2008, they will no longer reimburse hospitals for treating “reasonably preventable” conditions. Pressure ulcers are on the top of the list, as they are the most preventable, prevalent, costly, and dangerous. In addition to lengthening a hospital stay, ulcers are extremely painful, increase risk of infection, and cause nearly 60,000 deaths per year. A nursing home or long-term-care facility should have a plan in place to combat ulcers. These include screening of incoming patients from head to toe, using visual examinations, ultrasound, and other technology to identify skin with tissue damage. Special beds are also on the market with high-tech mattresses that minimize or redistribute pressure.

In elderly or disabled patients, sores can begin to form within 2–6 hours. The ulcers are caused when skin lesions on prominent bony parts of the body have unrelieved pressure when patients stay in one position too long. Starting small, sores can progress to deep craters affecting muscle, tendon, and bones. In order to avoid ulcers in immobile patients, they should be strictly monitored and shifted every two hours, have frequent cleanings and moisturizing of soiled and sensitive skin, and maintain adequate diet and nutrition to help the healing process. Part of the problem is a nationwide nursing shortage, unqualified personnel, and a chaotic and harried hospital environment. The threat of litigation by patients and their families along with lack of reimbursement from Medicare and Medicaid will hopefully make facilities more compliant and diligent in preventing sores.

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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.

VERDICTS AND SETTLEMENTS

- A **\$340,000 settlement** for a 62-year-old salesman who sustained a fractured leg after being struck by a New York City taxicab while crossing the street in Manhattan. After obtaining the full \$100,000 policy from the cab's insurance company, Flanzig & Flanzig obtained another \$240,000 from our client's employer's automobile insurance company by pursuing a "Supplemental Uninsured Motorist" claim.
- A **\$315,000 recovery** was made for a 42-year-old woman who sustained a cervical herniated disc and carpal tunnel injury as a result of being struck in the rear while stopped waiting to make a left turn. The settlement was reached prior to the start of trial in the Supreme Court, Suffolk County.
- **Flanzig & Flanzig** obtained a **\$140,000 settlement** against a Nassau County assisted-living facility that allowed an 83-year-old resident to fall and sustain a fractured hip. The settlement was reached after we were able to prove that the facility failed to follow its own fall-prevention protocol.
- **Flanzig & Flanzig** obtained a **\$90,000 recovery** for an 86-year-old woman who was allowed to fall from her bed and sustained a fractured arm while she was a patient at a local Nassau County hospital.
- **Flanzig & Flanzig** obtained a **confidential settlement** for a Nassau County woman who received an erroneous prescription by a major drugstore chain that resulted in her having a psychotic reaction to the prescription erroneously filled by the drugstore. (See article "Medication errors harming millions.")

DISCLAIMER: Previous results are no guarantee of future success. Each case is unique and the final outcome of negotiations and/or a trial is never guaranteed.



Over the years, we have consistently received calls from new clients who have been referred to us by past clients. While we never want anyone to be injured, it is nice that you think of us when you know someone who needs a lawyer. We thank you for thinking so highly of the job we have done for you that you have referred your friends, neighbors, family, and coworkers to us. We will show them the same high level of excellence that we showed you.

Should you know anyone who needs an attorney, even if you don't think it is something we specialize in, please feel free to have them call us. We are happy to extend this free service to any one of our former clients or your friends and family. If it involves an area outside our expertise, we will direct them to an appropriate lawyer.