



FLANZIG & FLANZIG, LLP

A t t o r n e y s A t L a w

LEGAL UPDATE

SPRING 2009

A newsletter from
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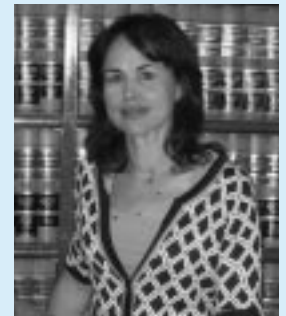
flanziglaw.com

newyorkelderabuse.com

A CONSTANT IN THE LEGAL COMMUNITY FOR OVER 50 YEARS

In a time in which your bank has changed names three times in two years and your local drugstore has now turned into a CVS, it is comforting to know that some things don't change. Since our father founded this firm in 1956, the name Flanzig has been a constant in the legal community. Today, we are still located in the building where we have been for almost 30 years. When you dial our phone, you will not be directed to a new number or a new lawyer. On the other end of the phone there continues to be a Flanzig located at 323 Willis Avenue, Mineola, New York, where we have existed for almost three decades. We believe this sustainability in this present market is a sign of our success.

We are proud of the history of our firm, its reputation, and the success our firm has continued to have while other firms have dissolved. We believe our success is due to our heritage, integrity, dedication to client service, and aggressive advocacy. As times change, we have adapted our method of litigating cases to be sensitive to today's economy. However, as our methods change, one thing remains the same: Our dedication to our clients, the law, and aggressive advocacy bring about the results our clients deserve.



Presently, our market has expanded well outside Nassau County as we litigate cases as far north as Rockland County and as far east as Montauk. Over 50 percent of our client base is now from outside the county.

Our referrals continue to come from attorneys outside New York who recognize our firm's reputation and retain us as local trial counsel on behalf of their clients. Our own client base includes clients from all over the country as well as all over the world. The bulk of our referrals still come from former clients and their families, which we see as a tremendous compliment.

We are proud of our heritage and honor the continued trust and confidence our clients and their families place in our firm.

Dan and Cathy Flanzig

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

FLANZIG & FLANZIG launches new elder-abuse Web site: newyorkelderabuse.com



This month, we launched our new Web site: newyorkelderabuse.com. The site focuses on the growing problem associated with nursing home care and assisted-living facilities, and in-home care professionals. The site also features information about choosing a nurse's aide for in-home care as well as the growing problem of injuries arising out of transportation of the elderly via ambulance and ambulette. **Flanzig & Flanzig** focuses on the area of elder abuse and neglect, a growing problem in this country. Please visit our site for more information as well as useful links.

Daniel Flanzig is granted membership into the Nassau County Police Reserves

In August 2008, **Daniel Flanzig** was granted membership into a prestigious organization, the Nassau County Police Reserves, with a swearing-in by Nassau County Police Commissioner Lawrence Mulvey. The Nassau County Police Reserves is an organization supporting local police departments throughout Nassau County. Its membership is comprised of local and federal law-enforcement officers and agents as well as other non-law-enforcement professionals. The organization recognizes outstanding law-enforcement officers and agents, and sponsors scholarship programs for families of the law-enforcement community.



Daniel Flanzig is sworn in to the Nassau County Police Reserves by Nassau County Police Commissioner Lawrence Mulvey.

Families see benefits, and some pitfalls, in practicing together

By *Sandhya Bathija*

The National Law Journal and New York Law Journal, January 12, 2007

When **Dan Flanzig** began practicing at his father's law firm, he had to overcome a challenge many attorneys experience when joining a family firm.

"I had to prove myself, being the first associate in the office in the morning and locking the door every night," he said.

Today, Mr. Flanzig, of the personal injury firm **Flanzig & Flanzig** in Mineola, works with his older sister, **Cathy Flanzig**. The firm the siblings used to practice law with, Joachim & Flanzig, run by their father and uncle, dissolved in 2001.

The Flanzigs are but one example of family members practicing law together. According to data provided by the Family Firm Institute, there are 24 million family-owned businesses in the United States, 22 million of which are partnerships such as law firms. (The information was collected in 2000 based on federal tax returns.)

According to Priscilla M. Cale, director of the University of Connecticut's Family Business Program, more family-run law firms are developing because more people have access to higher education. In the past, most family-run operations centered around businesses that did not require degrees, such as manufacturing, she said.

At the Milwaukee law firm Pitts & Pitts, clients know whether to ask for the mother or the daughter, depending on what sort of representation they are looking for.

If they want a pit bull, they ask for the daughter, Trinette. If they want compassion and someone to hold their hand, they ask for the mother, Cristina. It is this dynamic that has kept the mother-daughter personal injury and family law firm in business for the past 22 years, the pair said.

A successful family-operated business is one where at critical times the family members forget they are related to each other, said David Javitch, president of Javitch Associates, an organizational and consulting firm in Newton, Mass.

"You can't say 'You are always nasty to me' or 'You are just picking on me; you don't treat anyone else that way,'" he said. If

THE NATIONAL
LAW JOURNAL

New York Law Journal

personal issues can be avoided, benefits can accrue from working with family members, said Steve Gardner, a Tampa, Fla., lawyer who started a real estate firm with his son, Truett Gardner.

The father finds that the biggest benefit of running a family firm is spending more time with his son and getting to pass on his life experiences.

The elder Gardner once practiced law with his father-in-law 35 years ago and learned from him how to "conduct his affairs with integrity," he said.

For Ann Di Maria Cone of Palo Alto, Calif.'s Di Maria & Cone, the benefit of working with her husband is consistently having another legal opinion on how to approach each case at her disposal.

"It's all business at the office, but we still talk about our cases at home," she said. "We pick each other's brains and can see how another attorney would look at the issue."

The firm, which focuses on family law, started when Ms. Cone went into practice with her father in 1979. The firm was looking for a new attorney, and after receiving hundreds of resumes, the only one to stand out was Steve Cone's, Ms. Cone said. Nine months later, the pair were married.

Ms. Cone said friends told her that working with a spouse could end horribly. But the University of Connecticut's Ms. Cale said that spouses who work together can empathize with each other's stress, and they know each other's strengths and weaknesses.

Dan and Cathy Flanzig know this firsthand. Their father and uncle's 47-year-old firm closed due to a variety of issues, including differing visions for the firm, **Mr. Flanzig** said. Those issues made for an unpleasant atmosphere at the office, not only for the lawyers, but the other staff as well, he said.

Sandhya Bathija is a staff reporter at the National Law Journal, the ALM affiliate of the New York Law Journal, in which a version of this article first appeared.

The United States Supreme Court limits liability on Medtronic Sprint Fidelis defibrillators but opens the door on drug claims

On February 20, 2008, the Supreme Court in an 8-to-1 decision dismissed a product liability claim against Sprint Fidelis Medtronic Defibrillators, stating that a medical device that is given premarket approval from the FDA is immune from state common-law claims which challenge the device's safety and effectiveness. The court held that such claims are preempted because they are based on state requirements that are different from or in addition to corresponding federal requirements. The court thereby stripped plaintiffs of one means of challenging companies that manufacture defective medical devices.

Interestingly enough, several months later the Supreme Court enhanced the ability of injured patients to hold drug makers responsible. In a 6-to-3 decision, the Supreme Court affirmed a jury award for a woman who lost her arm to gangrene after injection of an anti-nausea drug. The claim was based upon the drug manufacturer's failure to warn of the method of delivery of the IV drug via a method known as IV push. This decision will make it much more difficult for drug companies to win quick dismissals of plaintiff's cases and hopefully force drug manufacturers to issue proper warnings on not just the side effects of medications, but also the methods of delivery.

The court finds Nassau Wall of Shame violates drivers' rights

Nassau County Executive Thomas R. Suozzi was ordered by a Nassau County Supreme Court judge to remove DWI arrest records of arrestees from the county's Web site. Since its launch in May 2008, hundreds of arrested drivers have had their photos posted on the site dubbed the "Wall of Shame."

While the county argued that the posting of the public information could be assessed to the Freedom of Information Law, the judge declined to accept the county's argument, noting there is no evidence before the court that the County Executive created the "Wall of Shame" pursuant to any county or state legislation. Further, the court found that a government agency is required to balance the private interests against the public interests that will be served by the disclosure of the personal information before the information is provided.

Flanzig & Flanzig is pleased to announce the presentation of their fourth annual scholarship to the graduating class of Mineola High School

This year, the award known as the Sheldon Flanzig Memorial Law Scholarship was given to **Andrew Toscano**. This year, the scholarship was presented by **Jennifer Gammara**, a legal intern at **Flanzig & Flanzig** and former graduate of Mineola High School who is presently attending the University of Pennsylvania. "We are honored to once again give this award, and hope to do so on a continuous basis," said partner **Daniel Flanzig**. "We hope these students will continue to go forward in the practice of law and will have an impact on the lives of as many people as our father has."



A baby's dignity

Newsday

Lying in the maternity ward after her only child had been taken dead from her arms and carried to the hospital morgue, Verna Uptigrow thought she had seen the lowest moment of her life.

But after arriving home from South Nassau Communities Hospital three days later, Uptigrow got a call from her obstetrician that added to her already unbearable pain. "He said there's been a mishap," she said. "Somehow my daughter's body got put in the laundry."

This week, Uptigrow filed a civil lawsuit against the Oceanside hospital, charging that staff there was careless with the body of little Izabella Rosa Pinckney, who weighed less than a pound when she was born four months premature on Feb. 19. The lawsuit seeks unspecified damages from the hospital.

"It's not about money," said Uptigrow, 35, of Queens Village, tenderly touching the box of her daughter's ashes, and the tiny outfit she wore at the hospital. "It's about justice for my daughter. It's about letting them know she was a human being and she had a family and they can't be negligent."

Nan Gerson, the hospital's vice president for external affairs, would not comment on the lawsuit. She has said in the past that the hospital "deeply regrets" what happened.

Uptigrow's attorney, Dan Flanzig of Mineola, said the most important thing now is to make sure this never happens again. "Every hospital has a protocol when something like this happens, and South Nassau has a protocol that it didn't follow in this case," he said.

Sitting in Flanzig's office yesterday...

Nixzmary Brown update

As many of you know, **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 Nixzmary Brown. The civil action was stayed pending the criminal trials of her mother, Nixaliz Santiago, and stepfather, Cesar Rodriguez. With both defendants having been found guilty at their criminal trials, the civil case can now move forward.

Go to our Web site to read the rest of this article—
<http://www.flanziglaw.com/Articles/NewsdayUptigrow.pdf>

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The information included in this newsletter is not intended as a substitute for professional legal advice. For your specific situation, please consult the appropriate legal professional.

VERDICTS AND SETTLEMENTS

Settlements...

• **\$415,000 settlement for 40-year-old woman who was the victim of an auto accident**—Daniel Flanzig obtained a \$415,000 settlement for a 40-year-old drugstore employee whose vehicle was struck in the rear while stopped waiting to make a turn. As a result of the accident, our client sustained wrist, dental, and cervical spine injuries that limited her ability to work. A settlement was reached before the start of the trial in the Supreme Court, Suffolk County.

• **\$325,000 settlement for 48-year-old gas-station attendant**—A \$325,000 settlement was obtained during trial by Cathy Flanzig in the Supreme Court, Nassau County, for a 48-year-old gas-station attendant who was struck by a car that was entering the gas station where he worked. As a result of being struck, our client was knocked to the ground and sustained a significant wrist injury.

• **\$100,000 settlement for New York City police officer**—We were honored to represent a New York City police officer who sustained injuries in the line of duty. Cathy Flanzig obtained a \$100,000 settlement with the city of New York prior to the start of trial in Queens County Supreme Court for a 41-year-old New York City police officer who sustained dental and knee injuries when he fell at the New York City Police Impound Lot. Our expert engineer found multiple code violations in the design and construction of an exterior walkway and stairs of the facility owned and operated by the city of New York.

Verdicts...

• **\$200,000 for loss of sepulcher rights**—Daniel Flanzig obtained a successful verdict in the Supreme Court, Nassau County, for a 35-year-old woman who suffered from severe depression and nightmares after learning that her daughter who had passed away after a premature delivery was later found in a laundry facility miles away from the hospital where the child was born. The hospital refused to settle the case, arguing that the effects were from postpartum depression and not the result of their negligent action. After a five-day trial, the jury awarded our client \$200,000. The traumatic story of our client is featured in this newsletter.

• **\$150,000 verdict for retired Nassau County police officer**—As part of our tradition of representing uniformed officers, we had the honor of representing a retired Nassau County police officer who had more than 30 years on the job. The officer sustained multiple fractured ribs and internal injuries when he was struck by a driver who ran a red light. After our investigators secured multiple witnesses who confirmed that the defendant ran the red light, the insurance company conceded the accident was their insured's fault. An offer was made, but we believed it was insufficient to compensate our client, who had thankfully made a recovery. The defendant argued that although our client was injured, he had healed well and made a great recovery. After a three-day trial in Nassau County, involving the testimony of our client and four medical experts, the jury agreed with our assessment of the case. Daniel Flanzig obtained an award that doubled the amount of what the insurance company offered to settle the case.