



# FLANZIG & FLANZIG, LLP

Attorneys At Law

## LEGAL UPDATE

WINTER 2003/04

A newsletter from  
**Flanzig & Flanzig, LLP**  
Attorneys At Law

**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

## Oppose limits on patients' rights in medical malpractice

In March, the U.S. House voted along party lines and narrowly passed H.R. 5 (known as S. 607 in the U.S. Senate), an outrageous insurance industry-backed bill that would drastically limit the rights of many patients. These include patients who are the most seriously injured by medical malpractice, seniors who are victims of abuse in nursing homes, and anyone harmed by defective medical products and prescription drugs.

### *Linda McDougal*

Linda McDougal, 46, a U.S. Navy veteran, accountant, wife, and mother of three from Woodville, Wisconsin, was advised after a routine mammogram in May 2002 that she should have a biopsy. Her doctor advised her that tests showed she had a severe, aggressive form of breast cancer and recommended a double mastectomy if she wanted to live. She agreed to the surgery. After the surgery, she was told that her cancer diagnosis had been wrong. Her test results had been switched with another patient's.

In a speech advocating limits on the legal rights of medical malpractice victims like Linda McDougal, President Bush blamed high medical malpractice insurance premiums on "lousy juries." McDougal responded, "President Bush wants to put through, rather rapidly, a cap on medical malpractice [compensation]. His intent is to harm me, not to make doctors accountable for their actions. Don't penalize the patients. Don't penalize the victims."

### FLANZIG & FLANZIG, LLP

323 Willis Avenue  
Mineola, NY 11501

PHONE:  
516-741-8222

WEB SITE:  
[www.flanziglaw.com](http://www.flanziglaw.com)



516-741-8222

## CONSTRUCTION SITE ACCIDENTS



Every day, hundreds of workers become injured on the job, most through no fault of their own. At particular risk are those employed in construction jobs or those who must use industrial machinery—cases in which safety oftentimes may not be a top priority of employers.

The law provides special protection to workers in the construction industry who are injured due to the lack of safe equipment or are subject to unsafe work sites. In construction projects, the general contractor and the owner of the construction site have the responsibility of providing a “safe place to work.” A worker injured on the work site is not limited, in many instances, solely to workers’ compensation payments, which reimburse workers for wage loss and medical bills. Help is also available through the courts. It is important to hire an attorney who is skilled and experienced in construction-site litigation.

We have been able to assist many workers in obtaining substantial economic recoveries for cases in which they were injured as a result of unsafe workplaces.



## How long should my case take?

**F**lanzig & Flanzig is a trial firm. All cases accepted by Flanzig & Flanzig are prepared to be tried in one of the Supreme Courts or Federal Courts of New York State.

All of the state’s trial courts differ in the time it takes for a case to reach trial.

However, based on our experience, most of our matters are resolved between two and three years after our office is retained.

## In the case of an auto accident, why should I promptly contact Flanzig & Flanzig?

**D**ue to a recent change in New York law, injured parties only have 30 days from the day of the accident to notify their insurance carriers in order to make a claim for no-fault benefits. The insurance carriers are now permitted to refuse payment for all medical and wage-loss benefits if they do not receive this notice within 30 days.

In addition, the sooner you hire an attorney, the sooner we can begin investigating the accident and preserving evidence to be used in pursuing your case.

Insurance companies begin their investigation and plan their defense immediately. You should allow us to take the same steps so that your rights are protected.



# How to protect yourself against uninsured or underinsured drivers

A shocking reality is that many motorists drive without insurance, which is illegal. Others drive with minimal coverage, which is \$25,000 under present New York State law. Such coverage is often grossly inadequate to meet the medical costs and lost earnings of a motor vehicle accident victim.

Fortunately, you can take a simple step to protect yourself in a situation like this by obtaining “supplemental uninsured” or “underinsurance” coverage on your own automobile policy. In the event you are struck by a motor vehicle with little or no insurance, your own insurance company will cover damages you sustain in the accident.

Although this indispensable motorist coverage is offered on every insurance policy at a small price, many people are unaware that it exists. In New York State, insurance companies must provide clients with the option of purchasing supplemental uninsured and underinsurance coverage. However, you must request this additional coverage BEFORE you have an accident.

Call your insurance agent **TODAY** and request that “supplemental uninsured” and “underinsurance” above the minimally required amount of \$25,000 be added to your policy.



## SCHOOL VIOLENCE

### *Talk to your children*

The *New York Times* reported that six friends of a Paducah, Kentucky, student who killed three schoolmates and injured five others actually knew that he brought guns to school and was planning a violent incident. Even so, the youngsters did nothing.

Even more common in schools is the practicing of “bullying.” What might start as teasing and verbal abuse soon can lead to a violent physical attack upon a student.

Parents should talk to their children about everyone’s responsibility to report potential violence in a community’s schools.

Further, by bringing this activity to the attention of teachers, principals, and school employees, the problem of “bullying” a student can be dealt with before a serious injury occurs to a child.

### *A court acts*

A Pennsylvania judge supported anti-violence programs by upholding a student’s removal from a community school for threatening teachers’ lives on his Web site. The judge ruled that the student’s constitutional rights were not violated when he was permanently expelled from his school district.

## ATM PRECAUTIONS

Automated teller machines are easy and convenient, which is why criminals like them. Law enforcement authorities estimate that three to six Americans each day may become victims of assault, robbery, or worse at ATMs.

### Ways to minimize risk during an ATM transaction

- Go with another person.
- Scan the area, particularly at night. If anything looks suspicious, leave and notify law enforcement.
- If an ATM isn’t visible from the street or is in a poorly lighted area, avoid it. Lock car doors at drive-ups.
- Do transactions quickly. Have your card ready upon arrival and put money away immediately. Count it later.
- Reconcile transactions with receipts later.



### Whose fault?

When a customer was severely assaulted at an ATM, he sued, alleging the bank was negligent about safety. His attorney earned a settlement by showing that previous assaults occurred at the ATM. The lawyer also showed that its operator never checked area crime records before installing it and declined to build a safer drive-through because of the expense.

FLANZIG & FLANZIG, LLP  
Attorneys At Law  
P.O. Box 669  
323 Willis Avenue  
Mineola, NY 11501  
516-741-8222

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## *Referrals*

*Thanks to all of you who have recommended our firm to your relatives, friends, and neighbors. We appreciate your vote of confidence and pledge to care for these "VIPs" as well as we care for you.*

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## RECENT SETTLEMENTS AND VERDICTS

**Daniel Flanzig** recently obtained a \$275,000 settlement in an action where a woman's asymptomatic multiple sclerosis resurfaced due to injuries she sustained in an automobile accident.

This novel theory was successfully argued by Daniel Flanzig, who convinced a mediator to recommend the award despite contradictory medical studies stating that multiple sclerosis could not be aggravated or caused by trauma.

**Cathy Flanzig** achieved a total settlement payment of \$195,241 on a claim for a 53-year-old electrical contractor who sustained injuries to his shoulder and back in an automobile accident. After collecting \$25,000 from the insurance company of the vehicle that struck our client, Cathy was able to obtain an additional payout of \$170,241 by filing for underinsurance arbitration with our client's own insurance company. The settlement was reached on the morning the arbitration was scheduled to take place. This is a perfect reminder to our clients about the importance of obtaining underinsurance coverage. Please see the article "How to protect yourself against uninsured and underinsured drivers" in this newsletter.

**Daniel Flanzig** obtained a \$157,500 settlement during trial for our client, who sustained injuries to his shoulder requiring arthroscopic surgery as a result of an automobile accident. We were able to obtain this result by convincing the judge to preclude the testimony of one of the defendants, who had been incarcerated on an unrelated charge.

**Daniel Flanzig** achieved a \$120,000 settlement for a nine-year-old child who suffered facial wounds and scarring as a result of a dog attack. The settlement was obtained at an early stage of the litigation due to an aggressive investigation that uncovered the previous vicious nature of the animal.

**Cathy Flanzig** succeeded in her claim to compel an insurance company to make payment of a client's medical benefits, which were wrongfully terminated by the insurance company. Her success enabled our client to receive the medical treatment that was so desperately needed.

