

# Inside

Blume Goldfaden Berkowitz  
Donnelly Fried & Forte

Attorneys at Law

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## Failure to Properly Monitor Spinal Surgery



### \$3,500,000 Settlement

Carol Forte recently resolved a case involving surgical spine surgery. The surgery had been attempted on this patient once before at a New York Hospital, but was stopped when nerve monitoring showed that the operation was causing compression on the spinal cord. The patient woke up from that earlier procedure without any injury. He then went to a New Jersey surgeon who performed the procedure in a different manner at a New Jersey hospital. The patient was a quadriplegic after the procedure. Carol worked with a neurosurgeon who was able to determine that the surgeon did not obtain current imaging studies, performed the wrong procedure and did it improperly, contributing to the injury. Further, working with experts in the field of intraoperative neurological monitoring, she discovered that the technician who was in the operating room did not do the monitoring adequately, which led to a failure to realize that surgery was again compromising the spinal cord. Carol obtained a settlement for the full amount of the surgeon's policy, the full amount of the monitoring company's insurance policy and a contribution from the neurologist who was interpreting the monitoring data that the technician was sending him. If you have a serious nerve injury after spinal surgery, Carol would be happy to discuss the details of your situation with you.

## Obstetric and Anesthesia Malpractice

### *Confidential* Multi-Million Dollar Settlement

Carol also recently concluded a case for a child who was injured immediately before birth. It was known that the mother was having twins and that the second twin was breech or "feet first." The doctor decided to deliver the first twin, and to try and turn the second one so that it too would be a "head first" delivery. Turning the baby is a procedure that is known to work only half of the time, and can result in an emergency and the need to do a C-section to deliver the baby immediately. For this reason it should only be done in an operating room with all required surgical personnel present, including an anesthesiologist, in case an emergency occurs and the mother needs to be put to sleep to quickly deliver the baby. In this case, the obstetrician told the on-call anesthesiologist that she could stay at home and that she would be called to come in only if they actually needed her. Also during the labor, the nurses allowed the mother to chew gum. The obstetrician attempted to turn the baby without the anesthesiologist in the hospital. By the time the anesthesiologist was called and arrived at the hospital and the baby was delivered, he had suffered severe brain damage. The start of the C-section was further delayed because when the anesthesiologist attempted to put the breathing tube in the mother, the chewing gum, which no one had removed from the mother's mouth, clogged the first tube which had to be replaced, wasting additional time in starting the surgery. The money obtained will help to care for the injured child.



### Blume Goldfaden has 12 Certified Civil Trial Attorneys

*The New Jersey Supreme Court designates lawyers "certified" only after they have completed the mandatory number of trials, submitted peer and Judicial references, and passed a written exam.*

**Our staff includes  
a Board Certified Physician and  
3 Registered Nurses.**

**We handle all types of injury cases including car accidents and slip & falls.**

## **Construction Site Accident/ Medical Malpractice Jury Verdict – \$7,346,000**



After a 3 month trial, Michael Zerres secured a jury verdict for the family of a 47-year-old construction worker who suffered injuries in a construction accident and later died as a result of negligent medical care given for those injuries. First, the worker was struck by a falling extension ladder and had a spine fracture requiring surgery. On the second post-operative day he developed difficulty swallowing, but the critical care surgeon did not insert a breathing tube. Within an hour after being seen by the doctor, the patient inhaled fluid into his lungs, and suffered brain injury as a result of a prolonged period without oxygen. He remained in a vegetative state for months before his death, and left a wife and 2 adult children. The jury award included compensation for pain, suffering, lost income, loss of enjoyment of life, medical expenses, and loss of future services, guidance and counseling. There will be more on this case in the next edition of this newsletter.

## **Medical Malpractice Failure to Diagnose Cardiac Condition Settlement at trial – \$360,000**

Harris Feldman settled a medical malpractice case for \$360,000. The decedent, over 50 years of age, came to the emergency room complaining of severe shortness of breath, and other warning signs which indicated that she was suffering from a serious condition where the heart is deprived of oxygen, potentially causing death of the heart muscle. Her doctors misdiagnosed her condition as a severe asthma attack. She spent more than 10 hours in the emergency room before finally suffering a massive cardiac arrest resulting in her death.

## **Motor Vehicle Accident/Auto Product Liability Settlement at Trial – \$775,000**

Jeffrey Zenna settled a case during trial for a young woman who was driving her car in Orange, New Jersey when it was struck by a car during a police chase. Her car caught fire and she sustained serious burn injuries to her hands, back, shoulders and face requiring plastic surgery. Suit was brought against law enforcement entities for negligence in their pursuit of the car which struck our client and for their failure to respond appropriately to the accident. Additional claims were made and confidentially settled against the manufacturer of our client's car due to design defects which contributed to her injuries.

## **Dennis Donnelly and Harris Feldman's Heavy Vehicle Safety Expertise Results in Multiple Substantial Settlements and Verdicts for our Clients**



Dennis and Harris recently settled a complex trucking injury case for one million dollars which was the maximum available insurance coverage. Although the police originally blamed our client, the driver of a car who suffered brain damage in a collision with a truck, Dennis and Harris were able to prove that the truck driver was speeding and was inattentive based on a detailed reconstruction of the crash. Over the past several years Dennis and Harris have settled claims or won verdicts totaling 22 million dollars in 7 other complex heavy vehicle crash cases.

Dennis and Harris have developed a great deal of expertise in the specialized safety issues that must be addressed in such catastrophic crashes including reconstruction of heavy vehicle speed and movements prior to crashes, and inadequacies in some truck drivers' training, excessive illegal hours of work causing fatigue and inadequate supervision of truckers' logs and safety practices. The latest available statistics from the U.S. Department of Transportation show that even though overall highway deaths continue to decrease each year, there was an 8.7% increase in the number of people killed in crashes involving large trucks in 2010.

For additional information regarding motor vehicle accidents, logon to: <http://www-nrd.nhtsa.dot.gov/Pubs/811552.pdf>

## **Pedestrian Accident Settlement – \$764,000**

John Molinari represented a 51 year old Jersey City man who was run over by a school bus, causing both physical and cognitive injuries. The man suffered a fractured left leg that required two surgeries to repair. He also suffered mild memory loss from the accident, making it difficult for him to remember names at his work. He still walks with a slight limp and occasionally uses a cane. The case settled after a mediation with a retired superior court judge.

## **Motor Vehicle Accident Settlement – \$225,000**



Laura Carney secured a \$225,000 combined settlement for two passengers in a car struck by another. Their injuries included muscle sprains and strains to one passenger and loss of hearing and a fracture to the other passenger.

*The cases described here are a small sample of our recent results; for more, please visit our website at: [www.njatty.com](http://www.njatty.com)*

**Lead Poisoning  
Settlement – \$410,000**

Richard Villanova represented a young girl from Hudson County in a case against a building owner whose property had lead paint in it. Rich obtained health department records proving the rental apartment where the family lived had chipping paint which contained lead. As a result of lead poisoning the child suffers from learning disabilities and

has been classified as a special needs student. Richard obtained documentation from the Social Security Administration which declared the child disabled as a result of her exposure to the lead based paint. Despite numerous defense arguments disputing that the paint caused her injuries, Rich was able to resolve this case at a mediation for \$410,000.

**Worker's Compensation  
Settlement \$560,000**

David Fried represented a man in his 50s who worked for a company that painted storage tanks. Our client was on a scaffold with 2 other men, suspended approximately 40 feet above the ground. The scaffold was improperly assembled and overloaded with the weight of the men and their supplies; it failed, and fell. Our client sustained a severe ankle fracture in the fall and needed multiple surgeries. He became disabled, and now cannot walk without a cane or stand for long periods of time. David secured a settlement for \$560,000 and was also successful in getting the worker's compensation carrier to waive its lien and to continue to pay future worker's compensation benefits.

**Fatal Burns – \$500,000 Settlement  
Cycling Accident – \$400,000 Settlement**

Kenneth Elwood represented a 41 year old wheelchair bound group home resident who suffered fatal burns from cigarette smoking. This young woman suffered a traumatic brain injury at a young age and had been a resident in several group homes. She needed care in all activities of daily living although she was allowed to smoke cigarettes on an outdoor deck unattended. Cigarette ashes fell on her blanket, and the client was engulfed in flames. Ken asserted that she wasn't properly monitored while engaging in a potentially dangerous activity. The case, which included claims for conscious pain and suffering settled following mediation for \$500,000.

Ken also represented a 41 year old cyclist who suffered multiple facial and other fractures when an automobile made a left turn into his path of traffic. His injuries required multiple hospital admissions and surgeries. Unfortunately, the driver lacked sufficient insurance coverage for the nature and extent of our client's injuries. Ken was able to secure additional compensation over and above the available insurance to resolve the case without filing suit.

**Failure to Diagnose & Treat  
Hemorrhaging After Childbirth  
Settlement – \$1,100,000**

Mitch Makowicz represented the estate of a 41 year-old mother of five, who entered the hospital for the purpose of delivering her sixth child via caesarian section. After delivery, the woman's vital signs began to show worsening changes. These signs were reported to a medical resident, who ordered blood work to determine if the symptoms were caused by internal bleeding, which the blood test results did ultimately show. The results of the tests and the decedent's symptoms were not acted upon, and she became weak and less responsive until she went into cardiac and respiratory arrest and died from undiagnosed and untreated severe internal bleeding.

**Medical Malpractice/Anesthesia Care  
Settlement – \$1,250,000**

Kenneth Berkowitz settled an anesthesiology case on behalf of the estate of a man who had elective surgery at a local hospital for insertion of a spinal stimulator to relieve his back pain. At the end of the procedure, the patient went into pulmonary and cardiac arrest and could not be revived.

Ken claimed that the anesthesiologist failed to properly monitor the patient during the procedure, and that the death was avoidable.

**Confidentiality Agreements**

Ronald P. Goldfaden has settled a number of cases recently which cannot be fully detailed due to confidentiality agreements. Confidentiality is often insisted upon by defendants who do not want their negligent acts to be publicized in any manner. These requests for confidentiality are typical in medical malpractice cases where doctors are often reluctant to settle cases that they fear will turn up in newspapers or on the web. Sometimes defendants in non-medical malpractice cases will also demand confidentiality, especially when they are large corporate entities. Although Blume Goldfaden is reluctant to agree to such clauses, our obligation to recover the maximum amount of compensation for our clients remains our primary objective. Here are some of Mr. Goldfaden's recent settlements which cannot be detailed due to confidentiality agreements:

Breast Cancer: \$625,000

Auto Accident: \$2.6 Million

Sexual Assault: \$2.1 Million

Medical Malpractice: \$4.75 Million

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of our recent results; for more, please  
visit our website at: [www.njatty.com](http://www.njatty.com)*

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Blume Goldfaden is proud to have 15 of its Attorneys listed in “Super Lawyers” Publications, and is listed in NY Magazine’s “The New York Area’s Best Lawyers - 2011 Edition” as a top law firm in the areas of Medical Malpractice, Product Liability and Personal Injury.

Super Lawyers Selection Process: [http://www.superlawyers.com/about/selection\\_process.html](http://www.superlawyers.com/about/selection_process.html)

New York Area’s Best Lawyers – 2011: <http://nymag.com/guides/bestlawyers/2011/70029/>

## New Associate: Abraham N. Milgraum



Blume Goldfaden is proud to announce that Abraham N. Milgraum, Esq. has joined the firm. Mr. Milgraum started with Blume Goldfaden as a law clerk in 2010, working with Dennis Donnelly and Harris Feldman on complex multiple party cases in the fields of personal injury, medical malpractice & product liability. Before coming to the firm, Abe worked as a law clerk for two worker’s compensation firms, and his experience has proved to be a valuable asset to our firm. Abe graduated Magna cum Laude from Widener Law School in 2011. His eagerness and outstanding work ethic have also proved to be of great benefit to our clients. Abe will be located in our Chatham, New Jersey office.

## Need A Speaker For Your Event?

Blume Goldfaden attorneys have donated their time to speak to various groups across New Jersey and the country. We can tailor presentations to meet the requirements and interests of your group or organization, and there is never a fee for our attorney presentations. To arrange a speaking engagement, please contact our firm Administrator Angelica Genovese (973) 635-5400.

## Best Law Firms 2010 & 2011-2012

Designated as one of the Top National Law Firms by U.S. News & World Report. The firm received National Tier 1 ranking for Product Liability Litigation for Plaintiffs, and New Jersey Tier 1 ranking for Medical Malpractice, Personal Injury and Product Liability Litigation for Plaintiffs. For more information and selection methodology, please log on to: <http://www.bestlawyers.com/default.aspx> and <http://www.bestlawyers.com/aboutus/selectionprocess.aspx>



### Birth Injuries

Intraoperative Monitoring Issues

Hip Replacement Nerve Injury

Pharmaceutical Mass Tort Claims

Pap Smear Claims (Cervical Cancer)

All types of Cancer Claims

Podiatry Malpractice

Assault Claims (lack of security)

Dram Shop Claims (service of excessive alcohol to bar, restaurant and hotel patrons)

Construction Accidents

Lead Poisoning

Aviation and Watercraft Litigation

Water Heater Claims (burns and explosions)

**We handle all types of injury cases including car accidents and slip & falls.**