

Toxic Chemical Exposure – \$46.7 Million Jury Verdict



Blume Goldfaden Partner Mitch Makowicz represented a 48 year-old forklift mechanic, who was severely injured by exposure to toxic chemicals at work. A trial resulted in a verdict totaling \$46.7 million, one of the largest individual personal injury awards in New Jersey history.

The client, first name Karl, was assigned by his employer to clean and service a forklift leased by Troy Chemical Company (Troy). The forklift was covered with a brownish/gray powdery substance, which required cleaning. Unable to satisfactorily wash off the substance with a hose, he spent two hours power-spraying the forklift with hot water/steam in an unventilated service bay. Since he was wearing his regular work uniform, he was soaked through to the skin. Neither Karl nor his employer were told by Troy of the nature, identity or characteristics of the substance on the forklift.

Shortly after the cleaning, Karl developed severe symptoms and was admitted to the hospital. He was treated by a board-certified Occupational Medicine specialist, who determined that his condition was caused by chemical exposure. Ultimately, Karl developed peripheral neuropathy and central nervous system impairment, constant and severe pain and numbness in his extremities, gastric problems, a heart condition, concentration and memory deficits and other injuries significantly affecting his daily life. He has been declared permanently disabled by the Social Security Administration.

Troy later identified the chemical on the forklift as Polyphase P100, a pesticide additive used in paints. Through investigation and pre-trial discovery, Mitch learned of the nature of the chemical, what safety precautions should have been taken, and obtained documents from Troy describing its harmful effects. At trial, however, Troy argued that Polyphase P100 was completely safe and could not have caused Karl's injuries. Mitch presented sworn deposition testimony from a Troy employee who admitted under oath that company policy required head-to-toe protective gear whenever anyone might be exposed to Polyphase P100. Mitch was also able to successfully attack the testimony of Troy's Environmental Protection Officer using the Material

Safety Data Sheet, which directly contradicted his testimony on many points and demonstrated the chemical's toxic risk.

Troy also argued that Karl's injuries were not caused by chemical exposure at all, but were due to pre-existing health conditions. Mitch entirely discredited Troy's Occupational Medicine expert, showing that he did not treat exposure patients, had never examined Karl, and that his opinions lacked any medical or documentary support. Instead, using Karl's medical records (both pre- and post-exposure), Mitch was able to prove that his condition was caused by the exposure, and not by any pre-exposure condition.

In discovery, Mitch obtained favorable sworn deposition testimony from Troy's own employees and compiled substantial documentation demonstrating the dangerous character of the chemical, the nature of the injuries, and the causal connection between them. It was that preparation, and Mitch's exemplary trial skills and strategies, which led to this superior result. ♦

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Blume Goldfaden is ranked #1 in New Jersey in Personal Injury Litigation with 7 attorneys named in the 2006 edition of The Best Lawyers in America. Best lawyers is based on an exhaustive peer-review survey in which 18,000 leading attorneys throughout the country cast more than half a million votes on the legal abilities of other lawyers in their specialties; and because lawyers are not required or allowed to pay a fee to be listed, inclusion in Best Lawyers is considered a singular honor. Corporate Counsel Magazine has called Best Lawyers "the most respected referral list of attorneys in practice". For more information log on to : www.bestlawyers.com
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Birth Injury During Delivery

John Blume settled a case for a little girl who sustained a Brachial Plexus injury at birth, resulting in the inability to use her arm. \$1.9 Million



Birth Injury – Failure to Diagnose Fetal Distress and Perform a Timely C-section

Ron Goldfaden won a jury verdict for a boy and his family. Ron proved that the little boy suffered severe brain damage when doctors failed to quickly perform a C-section delivery, despite fetal distress during labor. \$9.6 Million



Amputations from a Failure to Treat Infection

Ken Berkowitz settled a case for a woman who had leg and finger amputations when doctors failed to diagnose and treat her kidney infection. \$3.13 Million



Electrocution/Death from Defective Product/Unsafe Workplace

Dennis Donnelly represented the wife and children of a 41 year old electrician who was killed by electrocution. This was a multi party settlement achieved after years of discovery, depositions and expert evaluation. Dennis established a basis for liability, despite uncertainty as to the exact circumstances of the burn-electrocution and substantial legal defenses. \$2.4 Million



Aviation Accident

David Fried settled a case involving a failure to properly repair defective airplane engines. This negligence caused a crash which resulted in our client becoming paralyzed. \$7 Million



Failure to Diagnose Breast Cancer

Carol Forte settled a case during trial for a woman with metastatic breast cancer. Doctors failed to diagnose the breast cancer in its early stages, despite mammograms showing abnormalities. \$2.2 Million

Failure to Diagnose Fetal Distress

Carol also settled a case for a little boy and his family, when doctors failed to diagnose and treat fetal distress during labor. As a result, the boy has severe brain damage. \$8 Million



Failure to Diagnose an Aneurysm

Michael Zerres settled a case for the family of a man who died from a ruptured cerebral aneurysm. Doctors failed to read CT scans correctly, and failed to order further tests despite the man's symptoms. \$1 Million



Spine Injury from Motor Vehicle Accident

John Molinari settled a case for a woman who already had back problems, and was injured again in a car accident requiring spine fusion surgery. \$450 Thousand



Nursing Home Neglect

Ken Elwood and Dennis Donnelly settled a case of Nursing Home Neglect for the family of an 87 year old patient who died when she was not properly monitored or restrained. She had pulled out her tracheostomy tube and suffocated. \$500 Thousand

Motor Vehicle Accident with Severe Injuries

Ken also settled a case for a man who was struck head on by an SUV. The client suffered numerous orthopedic injuries requiring multiple surgeries, which affected his ability to walk. He also suffers from memory loss. \$1.85 Million

Twelve firm lawyers are listed in Super Lawyers, an annual listing of the State's top attorneys published in New Jersey Monthly Magazine.

For additional information on these and many other Blume Goldfaden settlements and verdicts, please visit our website at www.njatty.com



Failure to Diagnose Colon Cancer

Daryl Zaslow represented the estate of a 63 year old man who died of colon cancer. His doctor failed to perform colon cancer screenings as recommended by the American Cancer Society. Daryl settled this case for 1 million dollars.



Help for the Hearing Impaired

Harris Feldman, an Associate since 2003, concentrates his practice on automotive product liability, medical malpractice, wrongful birth, and inadequate security cases. Harris is fluent in American Sign Language, and able to assist the hearing impaired seeking personal injury counsel.



Over 1000 cases Resolved

Norberto Garcia became a Blume Goldfaden Partner in January 2006. Norberto has been an attorney with Blume Goldfaden since 1995, became a Certified Civil Trial Attorney in 2001, and has resolved over 1000 cases for Blume Goldfaden clients.



Expert on New Jersey Law

Brian Mahoney, a Certified Civil Trial Attorney, is the author of *New Jersey Personal Injury Recovery* (Gann Law Books). This text has been cited repeatedly by the New Jersey Supreme Court and Appellate Division as the preeminent treatise on how New Jersey law governs the apportionment of damages.



New Partner

Mitchell Makowicz was recently named a partner at Blume Goldfaden. Mitch has over 20 years experience and is a certified civil trial attorney. See the feature article for details of Mitch's latest verdict, which at \$46.7 million is one of the largest ever in New Jersey.



Landmark Supreme Court Case

Cynthia Craig argued the case of *DiProspero v. Penn* in the Supreme Court of New Jersey, which restored the claims of hundreds of New Jersey auto accident victims whose claims had been wrongfully dismissed by the trial Courts.



Birth Injury Recovery - 21 years after birth

Jeffrey Zenna settled a case for a 21 year old woman who sustained a Brachial Plexus injury at birth. Though the injury and resulting loss of arm function were relatively minor, Jeffrey was able to secure a significant settlement of 350 thousand dollars.



Licensed in 4 States

Sharon Kessel, an Associate since 2002 is licensed to practice law in 4 States, has worked for The Bronx District Attorney's Office, and has handled numerous complex medical negligence matters over the past 10 years. Sharon handles depositions, motion practice, research, and issues dealing with expert evaluations and testimony.



17 Years/Millions in Settlements

Richard Villanova has handled automobile, premises liability and other types of personal injury cases since 1989, first as a claims investigator and now as an attorney.



Former Air Force JAG

Robin Donato, a former officer and prosecutor in the United States Air Force, handles products liability, railroad/construction accident, and professional negligence cases. Since 2001, she has assisted in obtaining awards for clients of all ages, ranging from children injured at birth to adults injured in accidents involving defective products, unsafe working conditions, and motor vehicle collisions.

Blume Goldfaden has 14 attorneys certified by the New Jersey Supreme Court as Civil Trial Attorneys.



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Child Safety Consultants

Each year, an estimated 22 million children are injured in accidents inside their homes or in their yard. The National Center for Injury Prevention and Control says 20 - 25% of all children need medical attention from accidents each year.

Homes are not usually constructed or designed with the safety needs of children in mind. The way a home is furnished can also pose risks, especially if the furnishings predate the arrival of children to the home.

While most parents are aware of well known hazards including open electrical outlets, chemicals within reach under sinks and un gated stairs, others may overlook more subtle dangers. A child safety consultant, or "baby-proofing" expert, can help find dangers posed by the homes' design, construction, utilization or furnishings, offer suggestions on how to fix them, and may even perform the work involved themselves.

Some resources to check when researching child safety consultants and child safety in general are: the International Association for Child Safety, at www.iafcs.org ; National Safety Council, www.nsc.org/index.htm ; The U.S. Consumer Product Safety Commission, www.cpsc.gov/ and the National Safe Kids Coalition (Safe Kids Worldwide), www.safekids.org/.

New Red Bank Office

We are proud to announce the opening of our newest office in Monmouth County,

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New Book on Medical Malpractice

The Medical Malpractice Myth, by Tom Baker, is a fact and evidence based analysis of what has been called "the malpractice crisis".

As the White House and many states push for the enactment of restrictions on medical malpractice recoveries, Baker, an insurance law professor, examines the basis and justification for such changes.

Professor Baker's conclusion:

Not one of the White House proposals would increase the number of injured patients who will be compensated, improve patient safety, protect doctors from the next medical insurance crisis, or provide real, immediate relief for doctors who deliver babies. What they will do instead, is increase patients' share of the medical malpractice burden.

The book is available at Amazon.com.

Blume Goldfaden is pleased to announce the addition to our staff of our newest lawyer, J. Andrew Velez. With more than 19 years of experience, Andrew has successfully represented hundreds of clients in personal injury matters. Andrew will be working in our Jersey City office.

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