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Blume Goldfaden Berkowitz
Donnelly Fried & Forte

Attorneys at Law

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ESTABLISHED 1929

\$7,250,000 Settlement



Patients expect the level of care in a hospital's intensive care unit to be above the care one would receive on an ordinary medical unit — with increased attention paid to a patient's status and prompt, correct diagnosis of conditions that might affect the fragile health of patients who need to be in the intensive care unit.

A study recognized by the National Institutes of Health, indicated errors in the ICU occurring with alarming frequency: of these errors, 41.3% were medication errors, 19.5% were related to intravenous infusions (IVs), 17.2% were due to technical equipment failures, and 21.8% due to miscellaneous causes. The study further noted that this "data does not represent the true incidence of errors in the period, which we believe was higher." <http://www.ncbi.nlm.nih.gov/pubmed/10408814>

Ken Berkowitz secured a settlement with a present value of \$7,250,000 on behalf of a young woman made a quadriplegic at the age of 18 years. The young woman was in the ICU of her local hospital for weeks, being treated for life-threatening illnesses including septic shock, a bleeding disorder, and acute

respiratory distress syndrome. While in this dire condition in the ICU, she developed a tension pneumothorax; (a condition where air is released through a hole in the lung, and then gets trapped in the chest cavity. The trapped air then causes a build-up of pressure around the heart, which can cause a heart attack).

Both her physician and the ICU nurse failed to diagnose and treat the tension pneumothorax for approximately 30 minutes, resulting in cardiac arrest.

Ken claimed that the defendants were negligent for failing to diagnose and treat the tension pneumothorax in a timely manner. The defendants claimed that they acted promptly, and that our client's condition was due to the multiple life threatening illnesses which had kept her in the hospital's ICU and on life support for weeks.

The medical issues in this case were so complex that Ken worked with 2 doctors to develop 3 medical computer animations to assist the jury in understanding what happened to the woman during the malpractice, and how it caused her injuries.

The case had originally been reviewed and rejected by other law firms as not being winnable.



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- **Ranked #1** in the US in Medical Malpractice Law with 6 attorneys listed.
- **Ranked #1** in New Jersey in Personal Injury Litigation with 8 attorneys listed.
- **Ranked #1** in New Jersey in Product Liability Litigation with 5 attorneys listed.
- **Ranked #1** in New Jersey in Medical Malpractice Law with 6 attorneys listed.



John Blume: New Jersey's Personal Injury Litigator of the Year for 2009

John Blume has been recognized by Best Lawyers as New Jersey's Personal Injury Litigator of the Year for 2009. Blume Goldfaden is also recognized by Best Lawyers as the **#1** firm in the United States in the field of medical malpractice, and the **#1** firm in New Jersey in the fields of personal injury and product liability.

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



\$2,750,000 Jury Verdict for Pedestrian Struck by Car's Mirror

John Molinari represented a plumber struck by the side view mirror of a passing car as he stood in the street speaking with employees at the start of his work day. John's client suffered herniated discs in his lower spine and his neck requiring medical care for pain management since the time of the accident. He has had chiropractic care, physical therapy, electric stimulator, biofeedback therapies and other pain management treatment including 13 epidural injections to his spine. The defendant's insurance company refused to make any offer to settle, claiming that the client was responsible for the accident and that his injuries were not permanent as required under New Jersey law. After a five day trial in which John called five medical experts to the witness stand, the jury returned a verdict finding the defendant 100% at fault and awarded damages totaling \$2,750,000.



\$2,300,000 Settlement ~ Defective Airbag/Brain Injury

Dennis Donnelly and Harris Feldman represented an 18 year old Miss Congeniality contest winner who was left with a permanent brain injury after being struck by a poorly designed and unsafe airbag, when it deployed in a low speed collision she caused. Their client was seat belted, and the police were shocked to find her in a coma after a 15 mile per hour impact. After years of investigation and analysis by three different automotive airbag design and performance experts, Dennis and Harris were able to prove that the car manufacturer cut corners and saved money by omitting safe airbag designs on this model, which caused the airbag to unnecessarily deploy, and cause their client's brain injury. Their expensive, extensive research and preparation resulted in a \$2,300,000 settlement.



3 Settlements: Nursing Home Negligence, Dog Bite and Slip & Fall

Ken Elwood represented an emergency medical technician who sued a nursing home where she was assaulted by a resident that the nursing home knew was violent. While responding to a call, Ken's client was punched in the face and fell, fractured her nose and tore her knee, requiring surgery. Ken obtained a settlement in the amount of \$375,000 from the nursing home for failing to warn her about the resident. He also represented a 13 year old boy who was playing in a neighbor's backyard when he was attacked by the neighbor's pit bull. The boy suffered multiple bites with resulting scars on his arms and torso. Ken settled that case for \$295,000. Lastly, Ken represented a woman who fell on an ice covered sidewalk in front of her residence, fracturing her ankle. This required surgery and the placement of hardware. Ken investigated weather records, retained a meteorologic expert, and obtained information from neighbors which proved that there had been no precipitation for a week prior to the accident and that the homeowner had left her front yard water hose on in the winter causing the icy condition herself. Ken settled this case for \$270,000.



\$2,975,000 Settlement ~ Premises Liability Hazardous Condition of a Racquetball Court

Carol Forte represented a recently retired 75 year old man who was injured while playing racquetball. He broke his neck and became a quadriplegic when he slipped on a dusty, dirty racquetball floor during a match at a sports club in New Jersey and crashed into the wall. There was testimony from several club members that the floor of the court was often dirty and dusty and that the staff refused to clean it more often despite complaints from members. While there was no direct eyewitness testimony as to how the plaintiff actually fell, and the plaintiff had no memory of it, we worked with a biomechanical engineer who after studying the floor and the available evidence as to the mechanics of the accident, and testimony from witnesses, concluded that our client must have slipped on dirt or dust that the club should have removed, establishing the club's fault.



\$950,000 Settlement ~ Construction Accident

David Fried represented an ironworker who was working approximately twenty feet above the ground at a construction site. He had to walk across iron joists to get to the area where he was to perform his work. In violation of OSHA regulations, he was never given equipment to "tie off" to secure himself in the event of a fall. He did fall, and fractured a vertebrae at L2 and required surgery and steroid treatments. Three years later he developed avascular

Blume Goldfaden has 14 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.

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necrosis of the hip from the steroid treatments and needed a hip replacement. He was out of work in total for approximately 14 months. The defense challenged the connection between the accident and the hip necrosis since there was a three year delay in the onset of the necrosis after the steroid treatments. David settled this case for \$950,000.



\$1,600,000 Settlement ~ Failure to Diagnose Lung Cancer

Cynthia Craig represented the estate of a 55 year old man who complained to his doctor of pain in his chest. Rib x-rays were taken and were negative for a rib fracture, but the radiologist did see a mass in his lung on that film that was suspicious for cancer. No one at the internist's office told the man about that mass despite the fact that he was in that doctor's office many times over the next year and a half with similar complaints. 20 months later another chest x-ray showed that the lung tumor had grown significantly and spread. He died shortly thereafter. Cynthia obtained a \$1,600,000 settlement for his surviving family members.



\$775,000 Settlement ~ Premises Liability Building Explosion

Mitch Makowicz represented the tenant of an apartment complex in central New Jersey who entered one of the laundry rooms in the complex to use the clothes dryer. When he turned on the dryer, the laundry building exploded, causing serious back injuries. He was left permanently disabled from his employment as an iron worker. Investigation disclosed that the explosion was caused by the release of propane vapor which when mixed with oxygen became highly combustible. The official investigation by the town was inconclusive as to the cause of the fire, but Mitch was able to work with experts and establish the exact cause. Mitch settled the case following a mediation for \$775,000.



\$1,500,000 Settlement ~ Failure to Diagnose Prostate Cancer

Ronald Goldfaden represented a man, now 64 years old, in a claim against his general practitioner who failed to take action after three blood tests for prostate specific antigen (PSA) which returned results that were abnormally high. The defendant doctor told our client the results were normal for a man of his age. The client's son, who was a urologist, insisted that his father have a biopsy which led to the diagnosis of cancer and removal of the client's prostate. By the time of the cancer diagnosis, the cancer had spread and his chances of surviving for 15 years were less than they would have been had the cancer been diagnosed earlier.



\$225,000 Settlement ~ Lead Poisoning

Richard Villanova recently handled a case for a little girl who became poisoned after ingesting lead paint chips in the house her parents rented. Health Department documents supported Rich's claim that the girl had brain damage from high lead levels. Shockingly, the defendants claimed that the cognitive deficits the child had were caused by her growing up in a bilingual home with parents who did not have any higher education. Despite significant liability and causation issues associated with this claim, Rich was able to settle the claim for \$225,000.



\$1,000,000 Settlement ~ SCUBA Accident Wrongful Death

Daryl Zaslow represented the estate of a 43 year old man who drowned during a scuba diving lesson. The man became separated from his partner and dive instructors and was discovered to have drowned. There were no witnesses to the drowning. Examination of the equipment did not indicate any malfunction. The autopsy revealed that the death resulted from drowning with no medical event such as a cardiac arrest or stroke. Daryl retained a leading expert in scuba diving accidents who was critical of the diving instructors for losing sight of their student and who gave the opinion that if visibility was too poor to see all of the diving students, it was their responsibility to cancel the lesson. Daryl obtained the full insurance policy limits of \$1,000,000 for the estate.



\$605,000 Settlement/Appellate Division Decision Unsafe Work Environment

Jeff Zenna recently settled a claim on behalf of a self employed floor finisher who received serious burn injuries stemming from an explosion in an apartment building. Jeff claimed that the management company and the owner of the building had the responsibility to turn the gas off in the building before our client began his work. The defendants blamed our client for the explosion which occurred when flames from a hot water heater ignited the lacquer he had applied to the floor. The case was initially dismissed by the trial court which found that the owners of the building were not responsible for the plaintiff's injury. Jeff appealed and convinced the Appellate Division that the claim was dismissed in error, that the owner of the property had a duty to the plaintiff, and that they should be responsible for the negligence of their property manager. The case was reinstated and Jeff successfully recovered \$605,000 for the injured worker.

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Mike Zerres Makes New Law:



Hospitals Liable for the Negligence of Non-employees

A woman underwent a simple surgical procedure at a Jersey City hospital. Before it began she was introduced to the anesthesiologist on staff at the hospital who was actually employed by an anesthesiology group, not by the hospital. The group had a contract with the hospital to provide anesthesia services to admitted patients. The patient assumed that this physician, provided by the hospital, was employed by the hospital. She had no prior relationship with the anesthesiologist who was randomly assigned to provide anesthesia for her surgery. The doctor wore a name tag with the hospital's name on it and the hospital listed her as one of its anesthesiologists on its website. During the short surgery the anesthesiologist failed to administer quick acting medications when the woman's blood pressure began to drop. As a result, she had a cardiac arrest restricting the flow of oxygen to her brain and was permanently brain damaged. She was in a coma for three and a half years and died as a consequence of the brain injury. He settled the case against the anesthesiologist for \$1.95

million, and pursued a claim against the hospital arguing that the hospital should be legally responsible for the anesthesiologist even if she was not technically "employed" by the hospital. The New Jersey Appellate Court ruled that where a physician on staff at a hospital, such as an anesthesiologist or emergency room doctor, does not make it clear to the patient that he or she does not work for the hospital, it is reasonable for a patient to assume that the hospital has supplied that doctor, making the hospital responsible for any negligence by that physician.

QUESTIONS?

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