

Inside

Blume Goldfaden Berkowitz
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Attorneys at Law

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Defective Plane Engine



Blume, Goldfaden is well known throughout the state for our work in medical malpractice, automobile accident, product liability, construction and premises cases. We also work with other firms from time to time on unusual cases, such as in an airplane accident case which David M. Fried successfully concluded

after working with a New York law firm that specializes in aviation cases. This proved to be an outstanding partnership, since the client received one of the largest recoveries ever obtained in New Jersey for an injury of his type.

Working closely with our partner firm, David was able to uncover facts that the defendants did not want us to know. He learned that the engine manufacturer had recalled the engine of this plane because of a potential problem with its crankshaft. The manufacturer recognized that it needed to perform an ultrasonic inspection of that part; in order to do so, the crankshaft had to be disassembled, and then put back together after the inspection was complete. The manufacturer could have had the engine shipped to its facility where its highly trained mechanics would have taken the engine apart and put it back together. Instead, the company provided disassembly and reassembly instructions to local airplane mechanics, even though it knew that they rarely, if ever, perform this type of work.

By taking testimony from key employees, David learned that the manufacturer failed to give the local mechanics critical instructions on how to properly put the engine back together.

The local mechanics (known as Fixed Base Operators, or FBOs) were also defendants in the case. Working with his New York counterpart, David found out that other FBOs around the country actually contacted the manufacturer to get the crucial specifications and instructions so that they could put the engine back together properly. The defendant FBO in our case did not get that information, and failed to properly reattach all the engine components, allowing the plane in question to be used with an improperly reassembled engine. After several hours of operation, the parts dislodged and caused sudden catastrophic engine failure that resulted in the plane crash.

Together with his New York partner, David retained three world renowned experts to prove that the engine failure was caused by the improperly reinstalled part. It is doubtful that all of this information would have been uncovered if not for the combined efforts of both firms. Ultimately, David obtained a seven million dollar settlement. It is clear that our decision to work with an aviation firm resulted in a recovery which will help provide a reasonable quality of life for our client and his family.

Please visit our Spanish website at:
www.njatty.com/espanol

Blume Goldfaden: Trial Attorneys



Blume Goldfaden has 14 Certified Civil Trial Attorneys (Certified by the Supreme Court of the State of New Jersey). To become certified, an attorney must have tried a number of cases, and must pass a written examination demonstrating proficiency in trial skills, and knowledge of evidence, law and rules. We have the expertise not just to settle your case, but to take it to trial if necessary. This newsletter contains some examples of what we do to prepare cases for trial, and why we get good results before, during and after trial.

QUESTIONS?

If you'd like to make an inquiry of one of our attorneys, please e-mail us by logging on to:

www.njatty.com/contact-us.htm



Blume Goldfaden has numerous attorney affiliations nationwide. We can refer you to qualified attorneys to handle your case in any state.



Changed Deposition Testimony

There are supposed to be few surprises during civil trials in New Jersey. The exchange of information through answers to interrogatories, production of documents including expert reports and the taking of witness testimony via depositions is called "discovery", and gives the attorneys an opportunity to discover relevant information possessed by the other parties, and eliminate surprises. Recently Daryl Zaslow found himself in a case where a doctor changed sworn deposition testimony after two years.

The case involved the interpretation of a prenatal ultrasound performed on the plaintiff's mother when she was in her 16th week of pregnancy. The ultrasound technician performed the ultrasound and took measurements of the fetus. The Defendant doctor obstetrician originally testified that she did not "perform or interpret the ultrasound" and "did not review any of the ultrasound images". After the doctor hired a new lawyer, the doctor suddenly "clarified" her prior deposition testimony, and claimed that while she did not review any of the images, she did review photographs of the images, and that she saw nothing abnormal.

Daryl demanded another deposition of the doctor to explore why and how she changed her testimony, and videotaped it. He was ready to show the jury the two versions of the defendant's testimony on a split screen monitor, and argue that the new testimony was untrue. The defendants settled this case during trial for 2 million dollars before he could show the videotape to the jury.



Mammogram Misinterpretation

Carol Forte recently tried a case against two radiologists who interpreted mammograms done a year apart. Neither of them reported an increase in the number of microcalcifications in one of the patient's breasts. Microcalcifications are tiny bits of calcium, visible on a mammogram, which may signal the presence of a cancer nearby. It is one of the signs of cancer a radiologist looks for in analyzing a mammogram. In this case, there were a few microcalcifications that were not described in the radiologist's report the first year. The following year, there were even more, but the second radiologist did not report them either. The third year, there were more still, and that is when a 3rd radiologist finally sounded the alarm, a biopsy was done, and the patient's cancer was discovered in the very area where the bits of calcium were seen. Unfortunately, the cancer was by then well advanced and had spread. The plaintiff's expert radiologist showed each juror individually, using a magnifying glass, the calcium on each of the 3 mammograms, demonstrating how they had increased in number from one year to the next.

The jurors were permitted to question the witnesses after the attorneys had finished the direct and cross examination. From the questions asked of the defense witnesses by the jurors, it became clear that they wanted an explanation as to why the patient had not been told of the calcium that they had been able to see for themselves. It became apparent to both sides that the jurors would probably find in favor of the plaintiff if they deliberated. Before closing arguments, the case settled for 2.2 million dollars.



Motor Vehicle Accident: Trial Verdict of \$600,000

In August, a Morris County jury returned a verdict of \$600,000 against a driver of a car involved in a collision with the car of our client. Our client's vehicle was struck from the rear, causing it to flip and roll over. She had a torn shoulder ligament and head trauma, resulting in memory and cognitive problems. The defense argued that the plaintiff's brain injuries were not related to the accident, but were preexisting conditions. Jeff Zenna and Rich Villanova reviewed and evaluated our client's pre-accident medical records throughout discovery, and consulted with experts and the client's treating physicians. At trial, they presented testimony from the director of a world renowned brain trauma unit of a respected rehabilitation hospital to prove that our client's neuropsychological problems were caused by the accident.

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



Use of Radiographic Studies and Medical History - Failure to Diagnose Cancer in a Teen

Michael B. Zerres represented the family of a deceased teenage girl whose doctors failed to diagnose her bone cancer despite the presence of a tumor seen on a hip x-ray. The defendants claimed that the girl's symptoms were consistent with tendonitis, which was most unlikely since there was no history of trauma or injury to the hip. This resulted in a 1.5 year delay in finding the cancer, by which time it had spread. Critical to the preparation of trial was a careful review of the original hip x-rays, and those taken 1.5 years later. The comparison showed the larger tumor in the same location as the smaller tumor 1.5 years earlier. Michael was able to work with experts to determine that the growth of the mass, and its spread during the ongoing period of delay in diagnosis, deprived the girl of an 80 - 90% cure rate. Michael had retained as experts, an orthopedist, a radiologist, and a pediatric oncologist. Despite multiple surgeries and extensive oncological treatment, the teen could not survive the disease. The case settled on the eve of trial for 2 million dollars.



Premises Liability - Inadequate Security

On New Year's Eve 2003, 24 year old man went to a Paterson night club with some family members. The club always had an off duty police officer working at the front door on weekends and holidays to check the proof of age of patrons, and also to perform a weapons check. On this particular evening the owner was unable to get anyone to work security, but she opened for business anyway. At closing time, our client exited the door to the street outside where he was viciously attacked and stabbed several times. His heart stopped beating at one point, but the ambulance personnel were able to revive him. The attacker was never identified. A lawsuit was filed against the club alleging they did not maintain adequate security. John Molinari worked with a premises liability expert who testified that the bar should not have opened on New Year's Eve without security. The defendant also hired a security expert. John Molinari was able to convince the Judge that the defense expert's opinion should not be allowed into evidence, and the jury returned a verdict for our client in the amount of \$175,000.

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



Medical Malpractice - Failure to Advise of Test Results

Ken Elwood and Mitch Makowicz settled a case for a man who suffered a stroke as a result of an untreated blood infection. They took many pretrial depositions of hospital personnel to unravel the question of who was supposed to notify the plaintiff that a blood test done in the emergency room of a Hunterdon County hospital contained the dangerous streptococcus bacteria. If left untreated, the bacteria can cause death, stroke or other serious injury. An emergency room doctor told the plaintiff he had pneumonia and discharged him with the blood test results pending. Ken and Mitch learned that although the hospital's policy required that a positive blood culture report be made known within 24 hours, it did not specify who was supposed to report it, how to do so, or to whom it was to be reported. They found out that the emergency room staff assumed that the laboratory would call the plaintiff's personal physician; the laboratory thought the emergency room staff would tell the plaintiff, and the plaintiff thought that somebody would tell him if the blood test results were abnormal. In fact, nobody told anybody anything, and the gentleman suffered a stroke that was completely avoidable. Just before the start of trial, Ken took the deposition of the hospital's risk manager for the purpose of finding out what the current hospital policy was on this topic. To his surprise, he learned that the hospital still had not put a policy in place to fix the gap in its procedures. The case settled for one million dollars during jury selection.



Car vs. Pedestrian Case - Audio Recordings Used to Discredit Defense

Throughout the discovery period (and sometimes even before), attorneys gather information from a variety of sources in order to effectively prepare for trial. Medical records, police reports, photographs, medical literature, witness statements, internet records, audio and video recordings are just a few of the types of information gathered for future use. In one of Norberto Garcia's recent trials, the defendant testified that he did not hit our client – rather, he claimed she walked into his car. However, years before, even before litigation was begun, Norberto had obtained a recorded audio statement made by the defendant driver 10 days after the accident, in which he admitted to hitting her. Norberto offered this audiotape into evidence, and was able to get the defendant to admit on the witness stand that indeed he ran into her. The jury found in favor of the plaintiff, and awarded her substantial damages.

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



The Value of a Case

We handle many types of cases with a wide range of values, from a few thousand dollars to millions of dollars. Ron Goldfaden, for example, recently settled a dog bite case for \$100,000, two cases involving falls for \$100,000 and \$150,000, and two auto accident cases for \$150,000 and \$300,000.

What are some of the things attorneys take into account when determining what a case is worth? One factor is how easy it will be to prove that the defendant was at fault. Another is the extent of the plaintiff's injury and other damages, and whether the plaintiff's actions or inactions contributed to the outcome. Also to be considered is whether there is enough insurance to cover the losses.

How do those factors affect an award? Here are a few examples. Sometimes the plaintiff's injuries are worth considerably more than the available insurance, and most times that will mean that the plaintiff will not be able to collect an amount to fully compensate them for their losses and injuries. An injury might be worth \$100,000, but if there is only \$25,000 in insurance coverage, we might be able to settle the case only for the amount of the insurance. Other times, the evidence might reveal that the injured person was partially at fault for an accident; then, the likelihood that a jury would find that they contributed a certain amount to their own damages will diminish the amount the plaintiff ultimately receives. Sometimes, the injuries are catastrophic, but there is only a small chance that the jury will blame the defendant, making the value of the case less than if the defendant were clearly to blame. Then, there are cases where the injury itself is not severe or was temporary.

These are just some of the factors that go into determining the value of a claim. You should not hesitate to call to discuss your particular situation with any of our attorneys. We have the experience to advise you.



New Attorney at Blume Goldfaden

J. Andrew Velez is an experienced plaintiffs' personal injury lawyer who joined Blume Goldfaden in 2006. With more than 19 years of legal experience, he has successfully represented hundreds of clients in personal injury cases involving paralysis, brain damage, burns, disfigurement, and the Dram Shop Act (injuries surrounding consumption of excessive amounts of alcoholic beverages). Some of Andrew's prior successes include representation of a quadriplegic client who fractured his spine in a motor vehicle accident, and a client who was rear-ended and required two surgeries on her knee and back three years after the accident. In the latter case, Andrew proved at trial that the need for the surgeries years later was from the original accident. Andrew helps to raise money annually for various charities involved in paralysis research and awareness, including The Miami Project to Cure Paralysis, and the Christopher Reeve Paralysis Foundation. He is a volunteer on the admissions committee of his son's school. Andrew will be working in Blume Goldfaden's Jersey City office.

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