



Product Safety – Water Burns

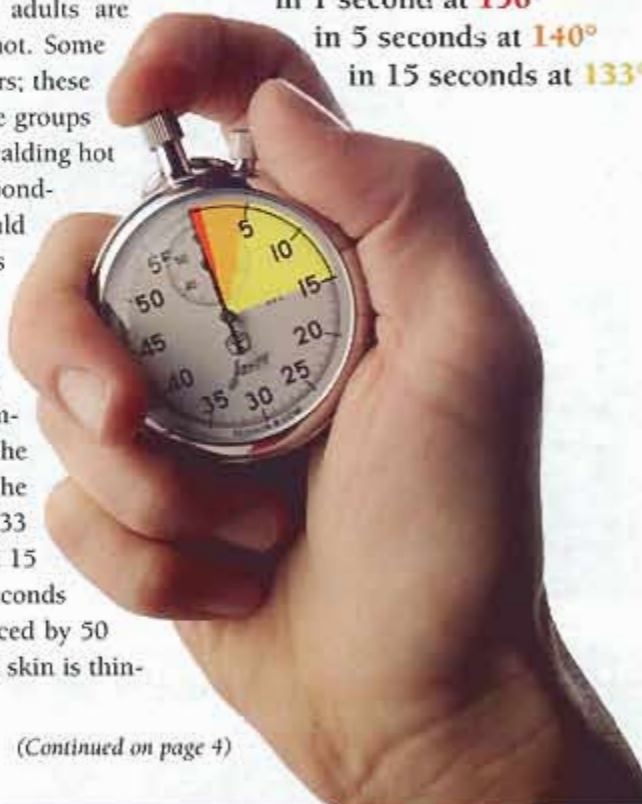
By KENNETH BERKOWITZ

Each year, several thousand children and adults are burned by tap water because the water is too hot. Some people are more likely to be permanently injured by hot water than others; these include the elderly, children, the infirm, and those with disabilities. These groups of people are oftentimes incapable of reacting properly when exposed to scalding hot water, either because they panic or are simply physically incapable of responding appropriately. While the average adult may realize that he or she should simply turn off the water, or add some cold water, those with special needs are frequently incapable of doing so.

...experts recommend adjusting the thermostat setting on your water heater to 120 degrees F or less...

Most experts recommend adjusting the thermostat setting on your water heater to produce a temperature of 120 degrees F or less. The lower the temperature, the lower the risk of burns. For example, at 133 degrees, a serious burn can occur in 15 seconds. At 140 degrees, only five seconds are required. The time may be reduced by 50 percent or more for children under age 5 and some adults over 65, whose skin is thinner than the average adult's skin.

Hot water causes third degree burns...
in 1 second at **156°**
in 5 seconds at **140°**
in 15 seconds at **133°**



(Continued on page 4)



Breast Cancer

By CAROL FORTE

Breast cancer is the second leading cause of cancer deaths in women today, and is the most common cancer among women. The American Cancer Society estimates that in 2001 approximately 192,200 new cases of breast cancer were diagnosed among women in the United States. In New Jersey alone, there were an estimated 6,000 new cases of breast cancer in 2001, and an estimated 1,400 breast cancer deaths.

Attorneys here are currently handling over a dozen breast cancer cases. They are typically based on the theory that there was a delay in diagnosis of the cancer, which worsened the patient's prognosis or resulted in radical surgery or therapy that otherwise would not have been required. The delay in diagnosis can arise in several ways. The following are several examples:

(Continued on page 2)

Breast Cancer

(Continued from page 1)

• **Failure to Diagnose.** A patient feels a lump or thickening and reports it to a primary care physician, typically a gynecologist. He assures the patient that it is probably nothing, and that she should come back at a different point in her menstrual cycle, or in six months time for a recheck. The patient, having been reassured, then may fail to have a follow up examination. Or the gynecologist may send the patient for a mammogram and, upon

learning that no mass has been found on the mammogram, falsely reassures the patient that there is no need for concern. The fact is, perhaps as many as 10 to 15 percent of cancers are not visible on even a properly interpreted mammogram, and the existence of a lump that can be felt mandates further investigation even when the mammogram is read as negative.

• **Misreading of Mammogram.**

Sometimes, the radiologist misses the existence of an obvious mass. In other cases, warning signs of cancer—such as a change in the normal breast tissue pattern or tiny grains of calcium—are overlooked.

• **Failure of Communication.** Sometimes the mammogram is properly read, but there is a failure of communication. A patient may not be informed of an abnormal result by the radiology center, or the abnormal result may be sent to the primary care physician's office, only to be misfiled or misplaced and the patient never notified. We have had some patients who were told of questionable findings, but were not told of their option to have those findings further investigated. In those instances, a physician has effectively deprived the patient of her right to determine for herself whether she wants to opt for further investigation despite the probability that it is benign.

If you, or someone you know, have been diagnosed with an advanced stage of breast cancer after having a previously normal mammogram, or if you have experienced any of the scenarios described above, I would be happy to speak with you to see if you have a situation that may be actionable.

For more information on risk factors for breast cancer and early detection of the disease, please visit:

www.breastcancerprevention.org/breastcancerrisks.html
www.familydoctor.org/healthfacts/018 ♦

...in 2001 approximately 192,200 new cases of breast cancer were diagnosed among women in the United States.



Recent Settlements and Verdicts

Auto and vehicular related cases

- A. John M. Blume, Auto, \$5,000,000
- B. Ronald P. Goldfaden, Bus Passenger, \$2,500,000
- C. Dennis M. Donnelly, Auto, \$300,000
- D. David M. Fried, Auto, \$500,000
- E. John E. Molinari, Auto, \$300,000
- F. Kenneth W. Elwood, Auto, \$275,000
- G. Mitchell J. Makowicz, Auto, \$265,000
- H. Jeffrey J. Zenna, Auto, \$123,000



Results vary depending on the facts of each case.

Medical Malpractice

- A. John M. Blume, Failure to Diagnose Cancer, \$7,000,000
- B. Ronald P. Goldfaden, Birth Injury, Brachial Plexus, \$1,000,000
- C. Dennis M. Donnelly, Wrongful Birth, \$1,000,000
- D. David M. Fried, Surgical Error, \$585,000
- E. Carol L. Forte, Birth Injury, Brachial Plexus, \$1,000,000
- F. Carol L. Forte, Psychiatric Malpractice, \$870,000
- G. Michael B. Zerres, Medication Error, \$2,500,000
- H. Michael B. Zerres, Failure to Diagnose Cancer, \$950,000
- I. Mitchell Makowicz, Medical Malpractice, \$250,000
- J. Linda G. O'Connell, Delay in Diagnosis, \$157,500
- K. Daryl L. Zaslow, Surgical Error, \$500,000

The Doctor is In

As a Board Certified Internist serving as a full-time medical consultant at Blume Goldfaden, one of the great challenges of the position—and sources of enjoyment—is the sheer diversity of the medical malpractice cases I encounter on a daily basis. For example, a typical day this past week began shortly after 9:00 a.m. with a call from one of our attorneys about to take the deposition of a defendant physician. The case involves a plaintiff who was suffering from kidney stones, warranting hospital admission. Yet our client was negligently discharged home and nearly died. In our call, we reviewed the facts of the case as well as our theory of medical malpractice. The deposition went well, and the case looks promising.

The rest of the morning was spent reviewing a potential medical malpractice claim premised on the misdiagnosis of multiple sclerosis as opposed to what turned out to be a serious brain infection. Part of what I do here at Blume Goldfaden is examine medical records, in conjunction with the attorneys, to determine whether a meritorious medical malpractice claim exists. Although I did not have sufficient

medical records to offer an opinion on the merits of this claim, we will certainly be investigating it further.

By late morning we needed a rush review of a claim referred to us by an outside attorney regarding "cataract surgery gone bad." Upon reviewing the medical records, I determined this particular claim was

not meritorious, and advised rejection of the claim. Nonetheless, we

DR. JAMES DEPASQUALE



were able to offer the referring attorney, as well as the prospective client, a timely response.

One of the unique advantages of having a licensed physician on staff here at Blume Goldfaden is ready access to pharmaceutical agents and other materials restricted to those who are licensed. Thus, by early afternoon I was able to call in a prescription for the medication at issue in an ongoing medical malpractice claim based on medication error. With a sample of the medication and its packaging, we were able to improve our understanding of the case, as well as possibly use the sample as a courtroom exhibit should the claim proceed to trial.

The remainder of the day was the typical medical smorgasbord of potential claims, from obstetric malpractice resulting in a brain-damaged baby to delayed diagnosis of breast cancer. One thing is for sure, although not all of the potential claims I reviewed today were meritorious, I did find some promising cases. Tomorrow will no doubt renew the challenge of identifying the sort of high quality medical malpractice claims pursued by the attorneys here.

Part of what I do... at Blume Goldfaden is examine medical records...to determine whether a meritorious medical malpractice claim exists.

Premises, Products and Other Cases

- A. Kenneth A. Berkowitz, Wrongful Death, Gun, \$2,750,000
- B. Kenneth A. Berkowitz, Electrocution on Job, \$1,750,000
- C. John E. Molinari, Iron Worker, \$310,000
- D. Kenneth W. Elwood, Scissor Lifting Platform, \$885,000
- E. Elizabeth A. Brewster, All Terrain Vehicle, \$315,000
- F. Norberto A. Garcia, Loose Tiles Causing Fall, \$85,000



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Blume Goldfaden, New Jersey personal injury lawyers and attorneys, protect the rights of injured parties and recover damages for clients who are victims of accidents, medical malpractice, or defective products.

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Water Burns

(Continued from page 1)

All too often, burn injuries result from the water to which the client was exposed having been negligently set at a temperature hotter than was necessary. We have represented numerous clients who have been horribly burned when exposed to scalding hot water. More often than not, there is an unrealized theory of the case that, if properly pursued, will result in a substantial recovery for the client. ♦

For more information on hot tap water and scald burns, please visit the following websites:

www.tnva.org.uk/scalding.htm

www.safekid.org/scald.htm

www.shrinershq.org/prevention/burntips/water.html

Intentional or Negligent?



Jeff Zenna recently represented a 35-year-old man who sustained a traumatic eye injury. The man was assaulted by another tenant in his apartment building. The attack was unprovoked, and every indication was that the assailant intentionally injured the man. After being rejected by several law firms, the man contacted Blume Goldfaden. Zenna investigated the case and filed suit. During the course of discovery, he learned that the defendant was a paranoid schizophrenic. Fortunately, the defendant had a homeowner's policy with \$300,000.00 in coverage. However, the insurance carrier denied the claim because it felt the attack was intentional and the policy only covered negligent acts.

Zenna deposed the defendant and established that he did not intend to injure the plaintiff. Further, the state filed criminal charges against the defendant and he was found not guilty by reason of insanity. Zenna used the defendant's testimony and the defendant's own psychiatrist to establish that the defendant did not have the capacity to form the intent necessary to commit an intentional tort. Zenna then successfully convinced the carrier to pay the defendant's insurance policy to the plaintiff.

*If you or anyone
you know has
experienced an injury,
please feel free to speak
with one of us. We will
be happy to help you in
any way we can.*

*Blume Goldfaden is
always there to share
our expertise with our
extended family,
friends, and clients.*

**BLUME GOLDFADEN BERKOWITZ
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