



THE LAW OFFICES OF
CHAIKIN & SHERMAN, P.C.

SPRING 2004

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The law firm wins \$500,000 settlement against the District of Columbia in "group home" case

Dedication ceremony with memorial honoring wards who died while residing in the District's group homes to be scheduled this spring

The deaths of wards of the District of Columbia living in group homes were brought to public attention by Katherine Boo of the *Washington Post*, who won a 1999 Pulitzer Prize for Public Service for two series, which were entitled "Invisible Lives: D.C.'s Troubled System for the Retarded" and "Invisible Deaths: The Fatal Neglect of D.C.'s Retarded." The articles, and more than a dozen lawsuits that followed these articles, led to discovery of the serious deficiencies in the District's system and in the level of custodial care offered to individuals with developmental disabilities.

William Moxley, Jr., was an individual who was profoundly retarded, and had cognitive capabilities of a 6-9 month-old. Mr. Moxley was also blind and had other disabilities. Mr. Moxley resided in a group home operated and managed by the District of Columbia under the supervision of the Mental Retardation and Developmental Disabilities Administration, a division of the District's Department of Human Services (DHS). The law firm filed a lawsuit alleging that the District of Columbia was on notice that Mr. Moxley was in immediate risk of harm and that the group home could no longer provide appropriate care for him. Despite such notice, Mr. Moxley remained in the group home for

three months, where he eventually died. The lawsuit also asserted claims against the group home and Mr. Moxley's doctors.

The law firm was successful in winning a settlement of the lawsuit. First, the law firm reached a confidential settlement with the group home and the doctors. Thereafter, the law firm obtained an additional \$500,000 settlement from the District of Columbia.

We are proud that the years of effort the "group home" cases have consumed have resulted not only in dollars and justice, but also in the District of Columbia agreeing to commemorate the life of William Moxley, and other clients who died while in the District's group home system, at a memorial plaque dedication ceremony in May. The Deputy Mayor for Children, Youth and Families, among other dignitaries, will take part in the dedication ceremony at DHS headquarters. The memorial plaque will be permanently installed in the DHS building for all to see, but also as a permanent memorial to all of those who died.

We will send a special newsletter announcing the date, time, and place of this service. Following the ceremony, we hope all of you will attend a reception in our offices in celebration of the life of our client.

EXTRA! EXTRA! EXTRA! EXTRA! EXTRA! EXTRA! EXTRA!

Partner Allan M. Siegel elected Secretary of the D.C. Trial Lawyers Association

On April 1, 2004, **Allan M. Siegel** was elected secretary of the Trial Lawyers Association of Metropolitan Washington, D.C., in a hotly contested election. Allan has served on the Board of Governors of this organization for six years, and follows a long Chaikin & Sherman tradition of involvement in this organization. As many of you know, partners **Donald J. Chaikin** and **Ira Sherman** have both served as President. Next time you speak to Allan, wish him congratulations.

We take your family's safety and security personally.

Law firm goes head to head against former world middleweight boxing champion William Joppy

The law firm filed two lawsuits against William Joppy, former world middleweight boxing champion, as a result of two separate alleged assaults by Mr. Joppy.

The first lawsuit arises out of an incident that occurred on November 26, 2003, when our client, Mr. James Ware, was working in his capacity as an adjuster for an automotive repossession company. He approached a car parked outside of the Round 1 Fitness Center in Prince George's County, Maryland, for the purpose of repossessing a car due to delinquent loan payments. As Mr. Ware peered through the automobile's front windshield to identify the VIN number, he reported that he was rushed by Mr. Joppy, who allegedly used his skills and agility to land, in rapid-fire fashion, at least two blows to Mr. Ware's head and face, which caused injuries, including a shattered jaw—requiring Mr. Ware's jaw to be wired shut—cracked teeth, and a concussion. Mr. Joppy was arrested for first-degree assault as a result of the incident.

"Round 2" allegedly occurred on December 4, 2003, again at the Round 1 Fitness Center, following a sparring session between Mr. Joppy and our client, Teddy Reid, current North American Boxing Federation (NABF) welterweight champion. Mr. Reid, who fights in a lighter weight classification than Mr. Joppy (147 vs. 160 pounds), was reportedly "getting the better" of the middleweight boxer Joppy. At the end of the training session, Mr. Joppy allegedly attacked Mr. Reid, first striking the welterweight with the "spit bucket" and then throwing a pair of two-pound weights at Mr. Reid, one of which struck and injured Mr. Reid's elbow. The incident forced the cancellation of Mr. Reid's January 2004 scheduled fight, and a derailment of Mr. Reid's quest for a fight with Cory Spinks for the undisputed world welterweight championship. Mr. Joppy was arrested for second-degree assault as a result of this incident.

The two lawsuits are currently pending in the Circuit Court for Prince George's County.

ATLA approves litigation committee to ensure careful internal use of superglue

Previous newsletters described the case of a client who at 14 years of age collapsed at a school dance as a result of a bleeding malformed blood vessel in her brain. Her mother was told that she was in a "life-threatening" situation, and the only available option to save her life was the injection of "superglue" to seal (embolize) the malformed blood vessel. Under the circumstances presented by the doctor, the mother believed that she had no choice. A catheter was inserted into the blood vessel, but we asserted that it was not inserted deeply enough. The catheter popped out of the vessel, and the glue, which is the chemical equivalent of "superglue" (mixed with a chemical intended to dilute the "superglue"), spewed onto the brain. Serious permanent brain injuries resulted from the alleged failure. The lawsuit alleged that all of the client's disabilities were solely the result of the "superglue" spewing onto her brain. This case has now completely resolved to the satisfaction of all parties. However, the problem of doctors inappropriately or carelessly injecting cyanoacrylates—the chemical name for the compound that is "superglue"—into blood vessels surrounding the brain, on a nationwide basis for the last 20

years, remains.

The **American Trial Lawyers Association (ATLA)** has now approved the establishment of a litigation committee whose purpose it will be to educate lawyers around the country regarding the use of cyanoacrylates as an embolization device (a device used to seal and close off malformed blood vessels). **Ira Sherman and Anthony Newman** (of counsel to the firm) spoke on the subject at ATLA's Winter Convention in Orlando, Florida, in January 2004.

Our firm looks forward to presenting the problems associated with the use of this medical device to lawyers at seminars not only at the American Trial Lawyers Association's conventions, but also at seminars to lawyers—conducted by other groups of lawyers—who seek to protect the rights of individuals and who represent people just like you.

If anyone would like more information about the use of cyanoacrylates as an embolization device, or know someone who has had this procedure performed, please contact Ira Sherman directly by phone or by e-mail at sherman@dc-law.net.

Spring training starts early— Partner Allan M. Siegel hits two out of the park

U.S. District Court Judge awards \$450,000 verdict against United States for negligence of U.S. postal worker

Allan M. Siegel obtained a \$450,000 verdict on behalf of a client who was rear-ended by a U.S. postal truck. The verdict was returned in U.S. District Court for the District of Columbia by Judge Thomas Penfield Jackson, the same judge who resided over the Microsoft antitrust case.

On May 11, 2001, our client was stopped in traffic on 16th Street in Northwest Washington, D.C., when a postal worker's truck struck his vehicle at a high rate of speed. The postal worker reported to his supervisor that he was adjusting his glasses and failed to notice the stopped vehicle. As a result of the collision, our client suffered severe and permanent injuries to his right knee and back. While the government acknowledged its driver's fault for causing the collision, U.S. attorneys, defending the Postal Service, declined to engage in meaningful settlement discussions, discounting the serious nature of our client's injuries.

Initially, our client hired an attorney who was unable to get any response from the government, in the absence of a lawsuit. Dissatisfied with the lack of progress, he engaged the services of **Chaikin & Sherman**. After the institution of the lawsuit, the government made a settlement offer of approximately \$12,000. Attorney Siegel aggressively pursued the case, ultimately bringing the case to trial. After listening to medical experts, the testimony of our client, and the arguments of the lawyers, Judge Jackson handed down his \$450,000 verdict on February 19, 2004. Hopefully, the magnitude of this award will send a message to the government, prompting its lawyers to more diligently evaluate cases of this nature in the future.

Geico pays client \$135,000 for aggravation of pre-existing condition

A month earlier, Allan M. Siegel won a \$135,000 settlement on behalf of a 30-year-old woman who was born with a genetic defect in the low back region of her spine. On July 22, 2000, the defendant made a left turn in front of our client's vehicle, causing a collision. Prior to the collision, the client did not have any complaints of back pain. After the collision, our client had persistent back pain, and ultimately her doctors recommended surgery to repair the genetic defect. The doctors believed that the collision caused her asymptomatic condition to become symptomatic, thus requiring surgery.

This client also had hired a lawyer prior to retaining **Chaikin & Sherman**. That lawyer had obtained a \$15,000 settlement offer and was strongly urging the client to accept this offer. The client was dissatisfied with this lawyer's advice and came to us. We told the client that we believed her case was worth substantially more and that we would litigate the case to ensure she got fair compensation for her injuries. When we got involved, GEICO, the insurance company, was denying coverage, claiming that the driver of the vehicle did not have the permission of the owner. They eventually abandoned this defense, offering \$135,000 to settle this case.

Client attacked by on-duty and off-duty Prince George's County police officers case settles for \$250,000

A lawsuit filed against Prince George's County and Belford Towers, LLC, resulted in a \$250,000 settlement. The client was attacked in March 2001, when he refused to exit his automobile, which had been placed in tow by a tow-truck operator patrolling the premises of his apartment building parking lot. The tow-truck operator sought the assistance of an off-duty Prince George's County police officer, who was working as a security guard for the apartment complex, in order to remove the owner of the vehicle from his van. That security guard, rather than waiting for on-duty police and/or for "back-up," pulled our client out of his disabled vehicle, despite the fact that our client was unarmed and wanted to remain in the vehicle in protest of the tow-truck operator's decision to tow his vehicle for the third time in approximately 30 days. (Our client had lived at that complex for nine years without any similar problem in the past.)

The plaintiff alleged that when Prince George's County police officers arrived, he was struck on the head four times with a steel baton. The State of Maryland Local Government Tort Claims Act provides that liability of a local government entity, such as Prince George's County, may not exceed \$200,000 for each individual claim that arises from the negligent act of its employees. Prince George's County offered the entire \$200,000, the limit of its liability for a negligence claim, to settle the case. In addition, the owners of the apartment complex paid \$50,000 out of their own pockets. (Belford Towers' insurance company, American Indemnity Insurance Company, sued Belford Towers separately, claiming that it had misrepresented material statements on its insurance application, and that, therefore, there was no applicable insurance for this claim.) Although no amount of money could compensate for the injuries sustained, we were pleased to report that we obtained the limit of Prince George's County's immunity for negligence, as well as the out-of-pocket contribution by the other defendant.

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ABOUT THINGS.

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The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

Where we were, where we are, and where we are going

A message from Senior Partner Donald J. Chaikin

As you read this newsletter, you will see that our mission and goals have not changed since I started practicing law. We fight for our clients, no matter who the opponent. You will read about us taking on the government of the United States and the District of Columbia, a police department, and, of course, the insurance companies. You will even read about a case that we took involving a woman who was severely injured by someone who had no insurance. We obtained a verdict on behalf of this woman, because we knew that justice had to be done for this innocent victim. That is who we are and what we represent.

When I started practicing law 38 years ago, I handled automobile cases and the occasional medical malpractice case. I did it because it was right, and I did my best, with pride. We begin every battle for the same reason and use that same work ethic until the battle is won, regardless of who we are suing, the size of the case, or any publicity that is associated with it. I am excited about our achievements and the success we have consistently been having. I take pride in the efforts of all of our staff and the trust you, our client, place in us daily.

Steven Kaminski obtains a \$250,000 award for permanently injured woman

Chaikin & Sherman associate **Steven H. Kaminski** recently obtained an award of \$250,000 for a permanently disabled Prince George's County woman. In 2001, a car struck the woman as she was walking to a bank near the Washington Navy Yard in the District of Columbia. The woman suffered a head injury and a fractured leg when the car knocked her to the ground and drove over her.

Because the driver was not insured, our client could not find a lawyer who would take the case. When we heard the client's story, we could not turn her away and promised her that we would ensure that in the end, insurance or not, justice would be done. She now has an enforceable judgment for \$250,000.

Law firm files another case against District of Columbia group home

The law firm recently filed a lawsuit against another District of Columbia "Group Home" due to the assault of our client by a group home worker. John (not his real name), age 26, who is severely mentally retarded, was being transported in a group home van to a day program. The lawsuit alleges that a group home worker repeatedly burned John on his lower neck and back with the van's cigarette lighter, at least ten times, causing extensive scarring. The case is currently pending in the District of Columbia Superior Court.

Congratulations and good luck to associate Kelly Lippincott

Associate **Kelly Lippincott** was recently admitted to the District of Columbia Bar. She also sat for the Virginia Bar Exam in February 2004. If you talk to Kelly, wish her good luck!