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Attorneys at Law

Working for Justice

Winter 2021

*Happy Holidays from CSCS!*

## My Thoughts on the Election, the Orderly Transfer of Power, and the End of the COVID Crisis



*A message from Managing Partner Ira Sherman*

***"Ours is a government of laws and not of men."***

**John Adams (1774)**

The law of our land is the Constitution of the United States. It establishes three branches of government: the executive branch (the President), the legislative branch (Congress), and the judicial branch (the courts). With regard to the executive branch, the Constitution provides: "The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years." The person elected president takes an oath to "preserve, protect, and defend the Constitution of the United States."

Months before the election, President Trump declared that the election was "rigged" against him and that mail-in ballots would result in tremendous fraud. In fact, he said he could only lose if the election is "rigged." He claimed that mail-in ballots would be used to steal the election from him, and attempted to dissuade pro-Trump voters from mailing in their ballots, despite the fact that the COVID crisis might dissuade people from voting in person. Yet in spite of these claims, the rule of law prevailed, and the votes in each state were fairly cast and accurately counted. Ironically, President Trump's decision to dissuade voters from mailing in their ballots resulted in fewer Republican voters casting their ballots, because they were forced to stand in long lines and, in some states, very cold weather.

The unsupported claims that the election was rigged have caused turmoil and chaos that upset the democratic process we are used to, and unsettled

our own personal sense of well-being. However, in the end, the democratic and legal systems worked, and we can all breathe a collective sigh of relief. President Biden was elected, and we made history with the election of Kamala Harris as Vice President.

Similarly, the other unique stressor this season — the COVID-19 pandemic — will also soon be "moving out" of our lives, and we will have another opportunity for a collective sigh of relief. We will have a new president, and we will have vaccines!

And then it will be spring. In April, the cherry blossoms will bloom, the daffodils and tulips will spring from the earth, and the azaleas, in all their glory, will not be far behind. The political, personal, health, and economic crises that so many of us felt will begin to feel like they are behind us.

There is so much to be grateful for in this season of Thanksgiving and the holidays that December brings. There is so much to look forward to — Inauguration Day and the vaccines that will hopefully erase the pain of the pandemic. We wish you all a wonderful holiday season, with a new sense of optimism and excitement for the future.

Stay safe and healthy, and we look forward to seeing you back in our office for a cup of coffee, a handshake, a hug, and an opportunity for us to catch up.

P.S. Until then, please write to me at [sherman@dc-law.net](mailto:sherman@dc-law.net) and let me know what you would like me to address in the next newsletter, and what information you would like us to include in our newsletter.

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### Practice limited to personal injury

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We do not get paid  
unless you do.

## CELEBRATING A TRIFECTA OF ACCOLADES

We are honored to wrap up the year with a trio of accolades that reflect our firm's reputation for excellence in the legal community and the high-quality legal service we provide our clients each day.

- **Washingtonian Magazine** conducted their biannual survey and identified partners Ira Sherman, Joseph Cammarata, and Allan Siegel as three of Washington's top legal talents. The December 2020 edition of the magazine names all three partners as "**Top Lawyers**" in the D.C. metropolitan area in the category of Personal Injury Litigation.
- Chaikin, Sherman, Cammarata & Siegel has also been named as one of 2021's "**Best Law Firms**" by **U.S. News & World Report**. To be eligible, firms must have a lawyer recognized in The Best Lawyers in America®, which only recognizes 5 percent of lawyers practicing in the United States. Mr. Sherman, Mr. Cammarata, and Mr. Siegel have all been previously named as Best Lawyers®. The firm received a Tier 1 ranking in Plaintiff Personal Injury Litigation in Washington, D.C.
- **Northern Virginia Magazine** also compiles a "Top Lawyer" list. To compile its list, the magazine asks area attorneys: "If you had a close friend or relative who needed a lawyer and you couldn't handle the case yourself, to whom would you refer them?" Ira Sherman, Joseph Cammarata, and Allan Siegel all received enough votes to be included in this elite list. Chaikin, Sherman, Cammarata & Siegel is the only plaintiff's personal injury firm to have three lawyers included in the 2020 list.



## DISTRICT OF COLUMBIA PAYS \$3,500,000 TO BICYCLIST INJURED BY NEGLIGENT POLICE OFFICER

Our client was proceeding on his bicycle when a District of Columbia police officer parked his car and opened his door into traffic. District of Columbia Municipal Regulations specifically require that no one shall open a vehicle door on the side of approaching traffic unless it is safe to do so for both the individual, and moving traffic and pedestrians. Of course, one would expect a trained police officer would know and adhere to the law.

Unfortunately, the District of Columbia did not initially accept responsibility for the actions of its police officer. They claimed that the officer did not act unreasonably, even though he violated the law. The City even went as far as hiring an accident reconstructionist in an attempt to claim that the vehicle had a "blind spot" to excuse the officer's failure to check for bicyclists before opening his car door into traffic.

Our client was thrown from his bicycle and suffered severe and permanent injuries, including multiple facial and nasal fractures, a traumatic brain injury, and fractures of his teeth. The brain injury caused debilitating headaches and cognitive problems, which interfered with our client's ability to successfully pursue his career. However, the District of Columbia retained medical experts to dispute the seriousness of our client's injuries.

Partner Allan Siegel litigated the case in the Superior Court of the District of Columbia. He took the deposition (sworn testimony) of each expert hired by the District of Columbia, and demonstrated to opposing counsel that these experts' opinions would not hold up in court when subjected to the rigors of cross-examination.

The District of Columbia ultimately agreed to settle the case for \$3,500,000.

# **“CANCEL THE CAP”**

## **An Initiative to Help Victims of Medical Malpractice Obtain Complete Justice**

Partner Joseph Cammarata is spearheading an effort to change the law in Virginia, to hold negligent medical providers fully accountable for the harm they cause their patients.

In July 2019, Mr. Cammarata was successful in obtaining a \$35.6 million verdict in a medical malpractice case in Virginia on behalf of a client who was injured during spinal surgery. While operating, the surgeon negligently cut an artery, causing our client to lose oxygen to her brain for approximately 23 minutes. She was resuscitated but now requires lifetime 24-hour care. At trial, we presented to the jury evidence of out-of-pocket and future lifetime expenses and losses totaling \$9.3 million.

Unfortunately, due to Virginia's current law, which puts a “cap” on the amount of money a victim of medical malpractice can recover, our client's recovery was limited to \$2.2 million.

As a result of this travesty of justice, Mr. Cammarata has taken steps to eliminate the cap in Virginia. He is involved in drafting legislation that will be introduced in the January 2021 legislative session in Virginia. Mr. Cammarata has already obtained bipartisan support for the legislation.

The legislation would permit any victim of medical malpractice to obtain all damages awarded by a jury. This would remove the special legal protection that medical providers currently enjoy against complete accountability for the harm they cause to the victims of their negligence.

Eliminating the cap on damages will allow seriously injured persons to be fully compensated by wrongdoers. It will ensure that these persons, who may face exorbitant medical expenses for the rest of their lives, don't have to rely upon government programs paid for by taxpayers, and it will stop the practice of placing arbitrary limits on the value of human life.

## **Update on Regional Court Operating Status**

As we have discussed in our previous newsletters, the global pandemic forced every court in the region to, in one way or another, restrict operations in order to combat the dangers of spreading COVID-19. The courts canceled non-emergency hearings and trials, and extended various deadlines and statutes of limitations (the time limits to file lawsuits) through the fall. By September, most courts had implemented procedures to begin the slow process of reopening to the public, albeit with many restrictions. A few courts had even resumed holding jury trials. However, now that the nation is in the midst of an explosion of new infections, the courts have been forced to respond again by restricting public access and by canceling jury trials well into next spring.

Though the interim outlook may appear bleak, there are still positive developments to share. One is that, in response to the pandemic, the courts have implemented robust procedures to conduct hearings and non-jury trials remotely. Although jury trials have been canceled, most courts continue to hold civil bench trials (trials decided by judges, not juries) throughout the winter. This is excellent news for individuals with small civil actions in the District Courts of Maryland and Virginia. The backlog of hearings and trials remains an onerous obstacle for the courts to contend with. However, being able to conduct these proceedings remotely is a positive development for everyone trying to seek justice.

With the promise of three highly effective vaccines being released within the next few months, we are hopeful that the courts will ultimately return to normal operations, as will the rest of our society. As your attorneys, we continue to track the many orders and updated operating procedures being issued by each of the various courts. We are always available to answer any questions you have regarding how court operations may affect your case and your health and safety. The courts may have closed, but Chaikin, Sherman, Cammarata & Siegel is always available to best serve our clients' needs.





## SETTLEMENT OF REAR-END CRASH CASE FOR \$1,375,000

Partner Joseph Cammarata successfully won a settlement of a rear-end car crash involving a client traveling in a Lyft vehicle that was hit by a delivery truck in Washington, D.C.

Our client, age 46, who had already had problems with his neck and back that predated the collision, suffered new injuries to his neck and back requiring surgery. In addition, our client suffered a traumatic brain injury with a resulting seizure disorder, requiring lifetime medication. Further, our client, who had undergone psychiatric therapy for 12 years before the collision, suffered a worsening of his psychiatric condition due to the crash.

Mr. Cammarata filed suit in the D.C. Superior Court. After Mr. Cammarata engaged in extensive fact-finding and developed the client's claim for damages, the delivery company agreed to mediate the case. At mediation, the case was successfully settled, with the delivery company agreeing to pay \$1,375,000.

### We are your law firm

We want you to think of us as your law firm.

If you have legal matters that need attention, please let us know. If we cannot handle the matter, we will refer you to a competent firm that can.

Please feel free to refer us to your family, friends, and neighbors for their legal needs. We welcome the opportunity to help.

**Call us. You're going to feel a whole lot better about things.**

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## Partner Cammarata Speaks to Media About Trump Lawsuit

The media sought out partner Joseph Cammarata for his views on President Trump's attempt to block a defamation lawsuit brought against him by E. Jean Carroll. Ms. Carroll sued President Trump for comments he made in response to Ms. Carroll's public accusation that he sexually assaulted her. President Trump asked the court to have the United States of America replace him as the defendant in the lawsuit, claiming that when he disparaged Ms. Carroll, he was acting in his official capacity as an employee of the United States. If the United States were to replace President Trump as the defendant, then by law the case would have to be dismissed because the United States cannot be sued for defamation.

Mr. Cammarata was called to comment because of his landmark victory against President Clinton on behalf of Paula Jones. In that case, the Supreme Court ruled that a sitting president can be sued for misconduct unrelated to his official duties, and that the case could be litigated while the president was in office. Further, Mr. Cammarata has extensive experience in defamation cases, as he was lead counsel in defamation lawsuits filed on behalf of seven women against Bill Cosby.

It was Mr. Cammarata's opinion that President Trump's attempt to substitute the United States for himself as a party should be rejected, and that if a president makes defamatory statements about his own alleged private misconduct, then under the law such statements are not part of the president's official duties. Mr. Cammarata expressed to the media that President Trump was merely using this tactic as a ploy to shield himself from personal accountability. The federal court agreed with Mr. Cammarata and rejected President Trump's gambit. President Trump has appealed the ruling.