

Spring
2016

SPANGENBERG SHIBLEY & LIBER ATTORNEYS AT LAW

POINTS OF INTEREST

NEWS AND VIEWS OF THE SPANGENBERG LAW FIRM.

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OVARIAN CANCER LINKED TO TALC USAGE

BY: PETER J. BRODHEAD, ESQ.



Ovarian cancer has been linked to Johnson & Johnson's Baby Powder and Shower to Shower deodorant body powder when used for feminine hygiene. Internal J&J documents show that the company has been marketing its Baby Powder to women for this purpose for decades, and especially so to Black and Hispanic women after its Baby Powder sales began to lag in 1992. Both products contain large amounts of talc, a fibrous mineral. J&J's Baby Powder contains 99% talc and a small amount of fragrance. Shower to Shower, developed and sold by J&J for several decades until late 2012, contains about 45% talc.

In February, a St. Louis jury ordered Johnson & Johnson to pay \$72 million (including \$62 million in punitive damages) to the surviving family of Jacqueline Fox, who had died from ovarian cancer after using J&J's Baby Powder for feminine hygiene for many years. Evidence at that trial revealed that doctors had found the presence of talc fibers in Mrs. Fox's ovaries.

The jury in the Fox case also heard evidence that J&J was aware of at least nine studies that showed a statistically significant association between hygienic talc use and ovarian cancer. In fact, they were told that "Anybody who denies this risk that the talc industry will be perceived by the public like it perceives the cigarette industry: denying the obvious in the face of all evidence to the contrary."

Despite this, Johnson and Johnson has steadfastly refused to warn women about the risk of ovarian cancer. In fact, the evidence at the Fox trial showed that J&J had, and still has, no intention of warning women about the risk of ovarian cancer in connection with the hygienic use of its Baby Powder even if the jury were to find against them—which it did.

If you or a loved one has been diagnosed with ovarian cancer that may be related to the use of J&J's talcum powder products, please call us today to learn more about your possible options.



December 18 Deadline to File Class Action Lawsuit Claim Form

BY: WILLIAM B. EADIE, ESQ.

The U.S. District Court for the Northern District of Ohio has granted preliminary approval to a proposed settlement in a class action lawsuit filed by two Ohio residents - represented by the Spangenberg Law Firm - on behalf of themselves and those similarly situated against retail giant Wal-Mart.

Our clients claimed that when items they purchased from Wal-Mart or Sam's Club retail locations, or on-line from Walmart.com or Samsclub.com, were returned to a location different than the location of purchase, the amount of sales tax refunded or credited was, at times, less than the full amount of sales tax paid at the time the product was purchased.

Wal-Mart has agreed to pay \$5 million to pay for claims, attorneys' fees and expenses, incentive awards to class members and administration of the settlement proceeds. Eligible class members will have the opportunity to apply for and receive a credit in the form of a gift card that is redeemable towards purchases made at Walmart stores, Sam's Club stores, walmart.com, or samsclub.com.

Who is Eligible?

The Court has decided that for settlement purposes, any individual person who purchased a product from or was given as a gift a product purchased from Wal-Mart or Sam's Club, then returned the product and the amount of sales tax refunded or credited was less than initially paid between May 2, 2010 and July 16, 2015, is considered a Settlement Class Member.

How to Receive a Benefit

To receive a settlement benefit, you must submit an online Claim Form on the settlement website on or before December 18, 2015.

Class Members also have the right to exclude themselves from the proposed settlement or object to a portion or all of the proposed settlement. A fairness hearing is scheduled on December 17, 2015, in the United States District Court for the Northern District of Ohio.

For more information about the settlement - including instructions about how to exclude yourself from the settlement and preserve your right to sue on your own, and on how to object to the settlement - visit www.WalmartSalesTaxSettlement.com or call the Claims Administrator toll free at (844) 239-6705.

Halloween Safety

Halloween Safety Tips

- Costumes should be made of fireproof fabric and include reflectors and bright colors
- Costumes should not obstruct vision or movement
- Bring flashlights or glow sticks to increase visibility
- Adults should accompany children under 12. Children over 12 should go in groups and stick to familiar areas
- Always cross at street corners, using traffic signals and crosswalks
- Look left-right-left when crossing and keep eye contact with drivers to make sure they see you
- Watch out for cars backing out of driveways

Have a safe and happy Halloween!

PUMPKIN CHEESECAKE

It's hard to resist the fun and excitement of Halloween. Here is one more temptation that's sure to become a holiday favorite in your home: Pumpkin Cheesecake, from the kitchen of our Director of Information Technology, Alex McLaughlin:

INGREDIENTS:

For filling:

- 24 oz cream cheese, at room temperature
- 15 oz pureed pumpkin
- 2 eggs plus 2 egg yolks
- 1/4 cup sour cream
- 1 1/4 cups sugar
- 1/4 teaspoon ground cinnamon
- 1/4 teaspoon fresh ground nutmeg
- 1/8 teaspoon ground cloves
- 2 tablespoon all-purpose flour
- 1 1/2 teaspoon vanilla extract

For crust:

- 1 3/4 cups graham cracker crumbs
- 3 tablespoons light brown sugar
- 1/2 teaspoon ground cinnamon
- 1 stick melted salted butter

DIRECTIONS:

Crust:

In medium bowl, combine crumbs, sugar and cinnamon. Add melted butter. Press down flat into a 9-inch springform pan. Set aside.

Filling:

Beat cream cheese until smooth. Add pumpkin puree, eggs, egg yolks, sour cream, sugar and the spices. Add flour and vanilla. Beat together until well combined.

Pour into crust. Spread out evenly and place in oven for 1 hour at 350 degrees. Remove from the oven and let sit for 15 minutes. Cover with plastic wrap and refrigerate for 4 hours.



WELCOME MAXINE EADIE!

We are thrilled to announce the arrival of little Maxine Eadie, daughter of Spangenberg Law Firm attorney William Eadie and his wife Christine.

Born on October 4th, the newest member of the Eadie family weighed in at 6 pounds 13 ounces and measured 19.5 inches.

Congratulations Will and Christine and big sisters Stella and Vivienne!



PRESIDENT'S DAY FUN FACTS

- The federal holiday established to honor President George Washington dates back to 1879. It was celebrated on Washington's actual birthday - February 22 - until 1971, when it was shifted to the third Monday in February.
- Although President Barack Obama is our 44th President, there have actually been only 43 individual Presidents. Grover Cleveland was elected for two nonconsecutive terms and is counted twice, as both our 22nd and 24th Presidents.
- The tallest President was Abraham Lincoln at 6 feet, 4 inches tall. James Madison was our shortest President at 5 feet 4 inches.
- Contrary to popular belief, George Washington's teeth were not made from wood. His dentures were made of gold, ivory, lead, and animal teeth.
- President Ulysses S. Grant was given a \$20 speeding ticket for riding his horse too fast.
- The only President to be elected unanimously was George Washington. He refused to accept his Presidential salary, which was \$25,000 a year.
- President Woodrow Wilson would paint his golf balls black during the winter so he could continue playing in the snow.
- Presidents William McKinley, Grover Cleveland, and James Madison are on the \$500, \$1,000, and \$5,000 bills, respectively. While these bills are still used as legal tender, they are no longer being printed.



3

TIPS FOR ACHIEVING YOUR NEW YEAR'S RESOLUTION

2016, here we come!

Here are three tips to help you keep your New Year's resolutions and increase your chances of reaching your goals.

#1

Prioritize Three Goals- Stop, Start, Continue

"When we set too many goals for ourselves, we lose track over time of what is most important and often fail to accomplish much of anything."



STOP

We all have habits that are holding us back from being the best version of ourselves. So call yourself out on one habit that you are going to stop in 2016.



START

It is likely that we also have something that we have talked a lot about doing but never transitioned to action. 2016 is the year to start something we have always wanted to do but never quite made it past the starting line.



CONTINUE

We have all likely been doing something that has been contributing to our success. So keep it up and continue to reap the rewards.

#2

Engage With Others



Engage with your circle of friends

I believe that every individual should also establish their own group of advisors, influencers that positively and proactively challenge us and energize us to reach our peak performance.

We should communicate with them our three prioritised goals and enlist their support in holding us accountable throughout the year.

By sharing our goals with others, we breathe life into them and invite those that we trust to be our biggest supporters.

#3

Track and Celebrate Your Milestone

Completed Level 1 of Japanese language June 2016

Had a conversation in Japanese May 2016

Sign up for Japanese language class March 2016

We must move forward one step at a time which is why it is important to both track and celebrate our milestones along the path to our goals.

These shorter term accomplishments keep us motivated and on track to achieving our longer term plans.

UPDATE: BLUE BUFFALO CLASS SETTLEMENT REACHED

This past December, Spangenberg Law Firm attorneys Stuart Scott and Dan Frech were part of a team of lawyers who reached a settlement in a Class Action lawsuit against Blue Buffalo pet food for false and misleading claims regarding the nutritional value and content of its pet food products. Blue Buffalo touted its product as a premium brand of pet food that contained no poultry byproduct meals; no corn, wheat or soy; and no artificial flavors, colors or preservatives. The plaintiffs' case alleged that Blue Buffalo's products actually did contain these ingredients and that consumers were being ripped off by paying a premium price for falsely-marketed premium pet food.

The settlement would create a \$32 million fund to compensate consumers nationwide who purchased the falsely-labeled pet food.

Attorneys Scott and Frech filed the initial case in Ohio, which was later consolidated into multi-district litigation before a federal court in St. Louis. For more information or to make a claim, go to www.PetFoodSettlement.com.



IT'S CALLED THE 'CLASS ACTION FAIRNESS' BILL- BUT IS IT REALLY?

BY: WILLIAM HAWAL, ESQ.

On January 8th, The U.S. House of Representatives passed a bill that if enacted would protect corporate wrongdoers while creating barriers to those seeking justice through class action lawsuits and in addition, would expose asbestos victims' information.

A class action lawsuit enables those who have been harmed and who do not individually have the financial resources to mount a lawsuit against a corporate giant to join together to seek justice.

H.R. 1927 – ironically named the "Fairness in Class Action Litigation and Furthering Asbestos Claim Transparency Act" – would require that class action plaintiffs show that all potential class members suffered the same type and scope of injury.



This change would significantly limit the ability of

injured individuals to sue while protecting corporate wrongdoers. If enacted, this bill would have potentially limited the ability of the plaintiffs in the Blue Buffalo class action case (see article above) to hold the company accountable for its false marketing.

H.R. 1927 would also require trusts that manage the claims of those who have suffered injuries from exposure to asbestos to disclose the injured parties' information and make it public, including their name, personal asbestos exposure history, and the amount of compensation for their injuries.

This public disclosure would impinge on asbestos victims' privacy rights and would cause an unnecessary risk of identity theft as well as the potential to harm their efforts to obtain employment, credit and insurance.

At this time the White House has threatened to veto the bill, stating that the courts already have authority to screen out frivolous class action lawsuits and that the asbestos claim-related sections of the bill are based on a false assertion that there is rampant fraud in the asbestos trust system.

NEW WEBSITE DELIVERS

We are pleased to announce that we have launched a new website to provide even greater access to those seeking information about their injuries or those of their loved ones. We invite you to visit www.Spanglaw.com and let us know what you think.

The new website is designed to be “responsive,” which means that it is easier to use on mobile devices such as cell phones and iPads. We hope that our visitors will find it easy to get the information they are seeking and to get in touch with the law firm.

There is a wealth of information on all the firm’s areas of practice, including personal injury and medical malpractice, serious car and truck collisions, injuries caused by police misconduct, birth injuries, and more.



TEAM UPDATE: WHAT WE'RE WORKING ON

A Hit and Run Leaves Student Severely Injured

Our client, a graduate student attending school outside of Ohio, was riding her bicycle and training for a triathlon when she was struck from behind by a car. She flew over the hood of the car, crashed into the windshield, and landed on the side of the road. The driver fled the scene, but was later arrested and sentenced to jail for a felony hit and run. The client suffered a broken leg, which required surgery, could not return to work for several months, and has struggled to resume activities, including riding her bike. The Spangenberg firm represents the young woman in a civil claim against the driver and her underinsurance carrier for the serious injuries she suffered.

Potential Overdraft Errors at Fifth Third Bank

In 2010, Fifth Third Bank agreed to pay \$9.5 million to settle claims that it was charging its customers excessive overdraft fees. In 2015, Fifth Third Bank paid \$18 million to settle claims that it unlawfully charged higher interest rates on auto loans to African-American and Hispanic customers, without regard to their creditworthiness.

We are once again hearing about issues at Fifth Third bank, this time regarding excessive and unlawful overdraft fees related to debit card transactions. We are investigating the matter currently. If you or someone you know has been charged excessive or inappropriate overdraft fees on an account at Fifth Third Bank, we invite you to contact us at (877) 976-7807.

VERDICT SENDS STRONG MESSAGE ABOUT WORKER SAFETY

A recent verdict obtained by Spangenberg attorneys Nicholas DiCello and Jeremy Tor sent a strong message about protecting the community’s workers. The case involved a young man, Xavier, who shortly after graduating from high school started a temporary job at a local plastics manufacturing company. Just a few days after starting his job, he was assigned to work a routing machine. On his second day working on the machine, his thumb became trapped inside the router blade, causing permanent, severe injuries that led to amputation of his thumb. As a result of his injuries, Xavier had to abandon his dream of joining the Air Force.

Xavier sued the company for a workplace intentional tort claim. This case was unusual in that the underlying “cause of action” has been practically eliminated in Ohio unless the plaintiff can show that the employer “committed the tortious act with the intent to injure another or with the belief that the injury was substantially certain to occur.” Proving this requires proof of the company’s “deliberate intent to cause... an injury, a disease, a condition, or death.”

By demonstrating that the Defendant removed an equipment safety guard from the machine, DiCello and Tor were able to obtain a presumption under the law that the corporation acted with intent. The jury agreed with the Plaintiff and awarded Xavier \$400,000 in compensatory damages. The case settled before a second phase on punitive damages.

NEWS AND ANNOUNCEMENTS



Managing Partner Peter H. Weinberger co-authored an article that was recently published in The Health Policy and Law Review of Loyola University Chicago School of Law. This is the first law review article published on efforts to use the Affordable Care Act to reduce damages for further medical expenses.



Florida Justice Association

Spangenberg attorneys Dustin Herman and Michael Hill were invited to speak at the 2016 annual Workhorse Seminar hosted by the Florida Justice Association. Michael presented on excessive police brutality cases. Dustin was a panelist on a session entitled “Daubert/Frye University,” which focused on the requirements under Daubert and Kumho regarding the admissibility of expert opinions.



International Society of Barristers

Peter H. Weinberger was inducted into the International Society of Barristers at its 2016 annual meeting. Membership in ISOB, which was formed to recognize each era’s best advocates, is by invitation only after a rigorous screening process that considers the lawyer’s ability, experience, accomplishments and ethical standards as assessed by his or her peers.



Partner Peter J. Brodhead has been appointed to the Ohio Civil Justice Reform Task Force, which was formed by the Ohio State Bar Association’s Litigation Section Council.

ON THE MOVE: We welcomed **Carrie Kasiguran** and **Anca Andreias** to the Spangenberg Team in 2016. They came to us with considerable prior law firm experience and we are pleased to have them on board assisting our attorneys. In addition, we are fortunate to have with us two outstanding college interns: **Tara** is senior at Case Western Reserve University, where she is pursuing a B.A. in both Chemistry and Medical Anthropology and an M.A. in Bioethics. **Logan**, a Junior at Baldwin Wallace University, is majoring in both Marketing and Arts Management with a Minor in Theatre. And **Cassandra Hayes**, who has been greeting guests and callers since 2013 as our Receptionist, was promoted to the position of Accounts Payable Specialist.

YOUR VOTE COUNTS! Spangenberg Law Firm’s Video PSA Scholarship Contest

We invited students who will be enrolled in college next year to participate in our 2016 Spangenberg Law Firm Scholarship Contest. We received over 100 outstanding entries from students around the country who responded to our challenge to create an original, compelling, and impactful video public service announcement that engages its viewers and inspires them to become part of the solution in addressing one of these topics:

- **What can students do to help prevent bullying?**
- **Elections: Why is voting important?**
- **How can we help young people make healthier food choices at home and in school?**
- **Distracted driving: What can young people do to help end this epidemic?**

The First Prize winner, who will be named by a Selection Committee, will receive a \$2,000 scholarship.

The Second Prize winner, who will receive a \$1,000 scholarship, will be selected by popular vote. **We invite you to help select the Second Prize winner by casting your vote on our firm’s Facebook page any time during the open voting period from May 9 to 27, 2016.**

Spangenberg Shibley & Liber



Video PSA Scholarship Contest

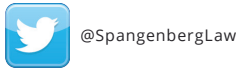
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A referral from a client or friend is the greatest compliment our firm can receive. We are grateful for every one of these gestures and for the confidence you place in us by doing so. From all of us at Spangenberg Shibley & Liber, we express our sincere appreciation. Thank you!

NURSING HOME NEGLECTS SHORT-TERM RESIDENT

BY: WILLIAM B. EADIE, ESQ.

I had the pleasure of representing an incredible family who lost their mother unexpectedly as the result of a short-term nursing home stay. The woman's adult daughter, a retired nurse, had cared for her mom at home for many years. Despite being wheelchair bound, she was always up and part of the family in the home. In an effort to provide care while the family traveled—and a rare break for her care-giving daughter—an Ohio nursing home took over her care for a 12 day stay.

When the family returned, they found their mother near death, severely dehydrated. Due in large part to the excellent care the woman had received from her daughter for years before the nursing home, the woman was able to stabilize, but she never recovered. She died as a result of the neglect. We were able to hold the nursing home accountable, but only after filing a lawsuit and going to the literal courthouse steps: the nursing home finally took responsibility through settlement the first day of trial.

Every client I work with has a different story. This family's example of caring so deeply for a parent, and of steadfast resolve in the face of denials from a nursing home corporation, was a story I wanted to share.

