

INSIGHTS

NEWSLETTER

WINTER 1992

HEALTH CARE PROXIES

In June, 1990 the U.S. Supreme Court decided the highly publicized case of Nancy Cruzan. Ms. Cruzan was in a persistent vegetative state since the 1983 automobile accident which caused her heart to stop beating for 15 minutes. During this time Ms. Cruzan's family fought to have the feeding tubes which sustained her "life" removed. The Supreme Court held that there was not enough evidence that Ms. Cruzan would have wanted life sustaining measures terminated.

As a result of this decision, laws have been passed on the Federal and State level which insure your right to determine in advance whether you wish to receive life sustaining medical treatment should you become hopelessly ill. The New York Health Care Proxy law allows you to appoint someone to make legally binding decisions regarding your health care treatment should you become unable to decide by yourself. This appointment is made by executing a Health care Proxy Form.

The Health Care Proxy Form enables you to give your "proxy"

as little or as much authority as you chose. You may allow your proxy to make decisions relating to all health care or limit decisions to certain treatments. You may include specific instructions which must be followed by your proxy.



In addition, you may provide for an alternate in the event your first choice is unable or unwilling to carry out your wishes.

If you wish to execute a Health Care Proxy to protect your wishes, please contact Edward J. Nitkewicz, Esq. of our office for further information.

WHAT CAN YOU DO ABOUT THE CURRENT COURT CRISIS

Justice delayed is not Justice. Our court calendars now have extensive delays and each day the wait gets longer. Although the budget cuts to our court system imposed by Governor Cuomo have been rescinded, the effect of the cuts are still being felt. From the time a matter is put on to the court calendar, until the time it is reached for trial, there is a two year delay in Nassau County. There are similar or greater delays in the New York City boroughs and in other counties. The insurance companies are the winners during this period in that they are holding on to settlement monies for longer and longer periods of time.

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PROFILE: MARTIN BLOCK

"If you have a personal injury case, you must be prepared to go to trial to obtain the highest possible settlement," Martin Block, a senior trial attorney of this firm with hundreds of successful trials to his credit, advises. Insurance companies know which lawyers and law firms are not equipped to proceed to trial. Based upon these appraisals, greater settlement offers are extended to those firms which the insurance company feels have sufficient competency and confidence to successfully present their case in court.

Martin Block, who has been practicing law for 26 years, is a member of the New York State Trial Lawyers Association as well as a founding member and on the Board of Directors of the Long Island Trial Lawyers Association. He has been a guest lecturer at the New York

Trial Lawyers Academy.

Lawyers today, as well as doctors, must specialize. The law is so complex that in order to be a specialist in any one area, you must

OVER THE YEARS, LAW FIRMS
TEND TO GET SOFT!



concentrate on that area only. Mr. Block believes that the key to being a successful trial attorney is a thorough knowledge of the case and thorough preparation. It is the small details and facts of the case, often overlooked by inexperienced counsel, that cause a case to be won or

lost. As a successful law firm, we hire the proper experts that you need, prepare the right exhibits for Courtroom presentation, and otherwise present the case to the jury in your favor.

"While most cases that we handle are favorably settled out of Court, I believe the best possible settlement can only be realized when you are prepared to go to trial."

WHAT CAN YOU DO ABOUT THE CURRENT COURT CRISIS

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WHAT CAN WE DO ABOUT EXTENDED COURT DELAY

There are programs that can be undertaken that will ease this crisis:

- Mandated conferences at an early stage aimed at settlement should take place.

- The insurance companies can be ordered to pay lawyer's costs and/or interest if the plaintiff at the trial level is successful in obtaining a verdict equal to or greater than his original settlement demand. Thus delay would become a two sided sword. The insurance companies would no longer be able to use the plaintiff's settlement money interest free throughout the years of protracted litigation.

- The Court system can be reorganized to modernize the management of cases and eliminate the inefficiencies built into the present system.

Please take the time to protect your civil rights by sending a copy of this article to the Governor, our legislative leaders, and the press. Please write your own letters about the meaning of the Court delay to you. You are the citizen taxpayers of this state and you must protect your rights by making your concerns known.

MOTORCYCLIST AWARDED \$1.6 MILLION DOLLAR VERDICT

Recently we were awarded a \$1.66 million dollar verdict in damages for leg injuries a motorcyclist suffered in a collision with an automobile that fled the accident scene. Without the defendant driver to sue, we were able to collect the uninsured motorist coverage, which was \$10,000. Upon further investigation we believed that the condition of the property on the corner where the accident occurred contributed to this accident in that neither driver could see the other as they approached the intersection. The jury found that a real estate investor who owned the property was fully liable because of his failure to clear the sidewalk portion of the undeveloped lot he owned of trees. It was found that the lot obstructed the vision of drivers at the intersection.

Senior trial attorney Martin Block argued that the property owner's failure to maintain his property in a reasonable condition was one of the causes of the accident. The jury deliberated for approximately 6 hours before returning the \$1.66 million dollar verdict against the property owner, demonstrating the importance of determining all possible parties to a lawsuit.

NOW MAY BE THE TIME TO REFINANCE YOUR HOME MORTGAGE

Many experts feel that now is the time to refinance your existing mortgage. Mortgage interest rates are now at the lowest levels they have been in the past 15 years. Lending rates are likely to slide even lower in the next six to eight months.

There are a wide range of products available, including 15-year fixed rate mortgages as low as 8% and 30-year fixed rate loans at 8.5% and adjustable rates with annual and lifetime caps starting at around 5.5%.

Now is the time to refinance your mortgage. Personal credit debt is no longer tax deductible.

By refinancing, you can consolidate your debt and avoid payment on credit cards as high as 19.8% to a tax deductible mortgage on your home at the lowest interest rates in the last decade. You can even

include your closing costs in the amount of your refinance so that you will have no out-of-pocket expenses. Don't miss out on this opportunity. Contact our offices at your earliest convenience to schedule an appointment and discuss your



real estate financing needs. Please contact in our office Frank Andrea, Esq. if you have any questions.

UPDATE: PRODUCT LIABILITY

As reported in the New York Daily News, a Federal Magistrate recently held that one of our clients, a youngster who was blinded in one eye by a defective toy dart gun, is entitled to \$3 million dollars in damages. The court found that the defective design and manufacturing of the toy gun was the cause of the accident. This case was developed by Neil Moldovan of our Products Liability Department. Martin Block, Esq. was the trial attorney who tried the case and obtained the verdict.