

INSIGHTS

NEWSLETTER

WINTER 1993

MEDICAL MALPRACTICE AND NEGLIGENCE

Think there are too many suits? Think again.

Media attention on medical malpractice cases focuses almost exclusively on those few that result in unusually high verdicts and settlements. In reality, a large percentage of legitimate medical malpractice claims are never filed.

In a research study conducted by the Harvard Medical Practice Study, and published in the July 25, 1991 issue of *The New England Journal of Medicine*, of 280 cases of medical malpractice identified from New York State hospital records, only 47 cases were pursued. Of those, only eight resulted in plaintiff awards.

"Many people simply do not bring suit. They are often unaware of their rights, unsure if their case has merit, or hesitant about beginning what could be a very time-consuming process," attorney Stanley Sanders explains. These reasons and others keep individuals from seeking compensation even when their health has been damaged, their ability to earn a living

has been impaired, or when a loved one has needlessly died as a result of medical malpractice.

According to William Ira Bennett, editor of *The Harvard Medical School Health Letter*, writing in the July 24, 1988 *New York Times Magazine*,

"Public discussion of malpractice is clouded by the belief that malpractice suits are a vulgar effort to capitalize on misfortune.

But the malpractice system can be dispassionately analyzed as though it were a form of medical testing, a way to find out whether something unhealthy is happening, and to correct it."

He argues that the compensation awarded in malpractice suits, instead of being harshly judged as a way to replace a bodily function or loved one, can be viewed as "...an inducement to set aside grief and bring suit, (thus) providing the incentive to doctors to practice as they should."

Few studies have been conducted to determine the rate at which mal-

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SANDERS, SANDERS & BLOCK WELCOMES ITS NEWEST ATTORNEY: E. DAVID WOYCICK

E. David Woycik, Jr. has joined the firm as Senior Trial Attorney. David is a graduate of Hofstra Law School and was admitted to the bar in 1981.

Mr. Woycik began his career as an Assistant District Attorney for Suffolk County. In 1985, he left the public sector and became the Vice President and General Counsel of Pharmafair, Inc., pharmaceutical company based in Hauppauge. During his tenure with Pharmafair the company sales grew exponentially from \$8 million to \$20 million in gross yearly sales.

In 1988 Mr. Woycik returned to the trial practice of law with the law firm of Legan and Welsh. During his tenure there, Mr. Woycik handled hun-

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MEDICAL MALPRACTICE & NEGLIGENCE

PROF. E. DAVID WOYCICK

DO I HAVE A MEDICAL CLAIM?

DECEMBER 1992 - BANNER MONTH

THE IMPORTANCE OF UNDERSTANDING

WHAT TO DO IN CASE OF AN ACCIDENT?

Profile: E. David Woycik

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dreds of civil cases for clients and was acknowledged by the New York Jury Verdict Reporter for his \$2 million verdict in favor of a worker who had been injured on a job site in Queens, New York. Mr. Woycik's aggressive and tenacious style led to several large verdicts for injured victims, who otherwise would have gone uncompensated for their serious and permanent personal injuries as a result of the negligence of third parties.

Since joining our firm, Mr. Woycik has received a settlement of \$610,000 for a young man injured in a construction accident after being on trial for several weeks in Suffolk County.

He is a member of United States Army Reserves since graduating in 1977 and recently completed a seven-month tour as a member of the 301st Area Support Group in Southwest Asia fighting in Desert Storm. During this conflict, Mr. Woycik was awarded the Bronze Star and the Army Commendation Medal for Meritorious Service.

Mr. Woycik currently teaches trial advocacy for the National Institute of Trial Advocacy Program at Hofstra University Law School. He is also an active member of the New York State Bar Association, Suffolk County Bar Association, Nassau/Suffolk Trial Lawyers Association and the New York State Trial Lawyers Association. He serves on the Town of Huntington Mental Retarded Site Review Committee wherein mental retarded adults are placed in the community affording them a better life style and a better interface with the community.

DECEMBER 1992 IS BANNER MONTH FOR SANDERS, SANDERS & BLOCK CLIENTS

Our clients received a record number of settlement dollars during the month of December. These settlements included: a products liability claim settled by Neil Moldovan in the amount of \$345,000; an automobile claim settled by Stanley Sanders for \$450,000; a labor construction claim settled by David Woycik during trial for \$610,000; and finally, Martin Block settled an automobile claim during trial for \$275,000 and another automobile claim right before jury selection for \$1.2 million dollars.

Throughout 1992 we successfully completed hundreds of cases and assisted our clients in obtaining the benefits that they were entitled to. If you or someone you know was in accident, please call us to see if we can help you.

DO I HAVE A MALPRACTICE CLAIM?

Determining if a potential malpractice case has merit is very exercise. Sanders, Sanders & Block suggests that a prospective plaintiff ask themselves the following questions:

Have I or has a member of my family suffered a severe, permanent injury while under the care of a physician or medical facility?

If so, was this injury more severe or devastating than would be expected from the doctor's original diagnosis or from the original trauma?

Has it come to my attention, perhaps through another physician, that the treatment received was inappropriate, or that the outcome from the prescribed treatment was unusual?

Do I have strong doubts about the competency of a physician, or the appropriateness of the care received?

Have I been kept in the dark about a medical situation?

Has my insurance company questioned the appropriateness of the specific procedures, tests or diagnoses?

Do I have concerns that a medical device may have seriously affected my health?

If the answer to any of these questions is yes, contact Sanders, Sanders & Block to review your medical records. Our attorneys can then determine whether there is a basis for a malpractice claim.

UNDERINSURANCE: AN IMPORTANT PURCHASE TO PROTECT YOUR FAMILY

Underinsurance is particularly important at this time because many vehicles, if not most vehicles being operated in the State of New York, have the minimum ten thousand dollars liability coverage. Underinsurance is inexpensive but you must ask for it and make sure it is part of your insurance coverage.

Underinsurance is the protection that you buy for yourself, your family and your passengers in the event that there is an accident. Underinsurance acts as a supplementary insurance in the event that the other vehicle involved in the accident has inadequate or no coverage for the injury sustained.

For example, if a client was involved in an accident and sustained a serious injury the amount of his or her recovery would be limited to the insurance policy of the vehicle which caused the accident. Therefore, if the vehicle which caused the accident had only the minimum ten thousand dollar coverage, that would be the extent of the recovery. However, if the client had underinsurance coverage, the recovery total available to the client would be the sum of both the liability insurance of the vehicle causing the accident and the client's underinsurance policy limits.

We have obtained a recovery of \$1.1 million dollars for a client which included \$1 million dollars in underinsurance from his own policy.

WHAT TO DO IF YOU ARE IN AN ACCIDENT?

There are more than 250,000 traffic accidents in New York State each year. Even if you obey the law and drive safely you may be involved in an accident.

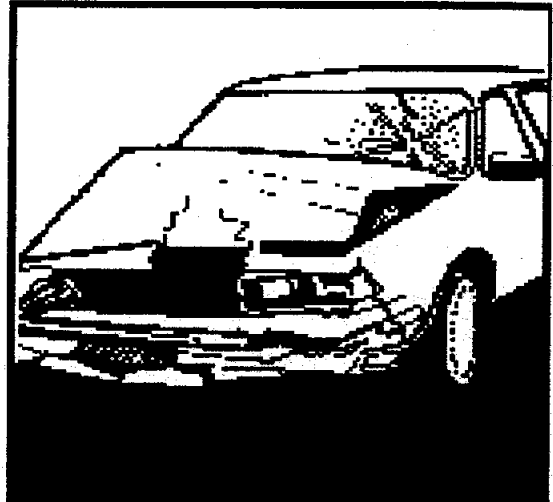
If you are involved in an accident you must stop regardless of the extent of damage. Leaving the scene of an accident in which there is only property damage is a violation. Leaving the scene of an accident in which there are injuries is a crime.

You should exchange information with the other driver. Make sure you obtain the:

- Name of Driver of vehicle;
- Name of owner of vehicle;
- Address of driver of vehicle;
- Address of owner of vehicle;
- Motorist ID# of driver;
- Vehicle ID#;
- License plate number of vehicle and car description;
- Insurance carrier of vehicle;
- Insurance policy number and effective date.

If the other vehicle does not stop, you should make an immediate report of the accident to the police. If possible it is a good idea to have the police make a report of any accident.

Call us with any question you have in regard to the accident.



MEDICAL MALPRACTICE CLAIMS

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practice suits are filed compared to those that the hospital records suggest could have been. Those that have been carried out show the rate of bringing suits is low; in one study Bennett cites, only one case was brought out of 100 possible claims.

Anyone who thinks they may have a medical malpractice claim resulting in

serious disability or death should act quickly. Many people agonize for months or even years wondering if they have a case. Usually one or two phone calls can answer that question, and either bring the issue to a close, or begin the process of legally pursuing their rights. Please contact Stanley Sanders, senior partner of our firm, if you have any questions regarding your rights.