

Lawsuit Abuse Fortnightly



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Real examples of how predatory trial lawyers profit by depriving victims of justice and undermining the Rule of Law in the United States.

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See No Evil

The plaintiffs in a class-action suit had their farsighted eyes fixed with Lasik surgery. It worked just fine, and they were not injured. But the surgery had been approved by the Food and Drug Administration only for correction of nearsightedness—approval for farsightedness came a few years later. So they sued.

They alleged there is a nationwide class of patients from whom the defendants had “concealed” the lack of FDA approval who were entitled to recover either the cost of the surgery or the difference in the value of the surgery they received versus what they paid for it. The patients admitted, however, they had not relied on any representations of FDA approval in deciding to have the procedure.

The case was dismissed but not because it was frivolous. Class actions must involve plaintiffs with limited individual factual claims, the court found, and this case would involve thousands of “mini-trials” on the communications between each doctor and each patient. The court therefore ruled it failed to qualify as a class action.

Source: J. Russell Jackson, “California Court Affirms Denial of Class Certification in Lasik Litigation,” Consumer Class Actions and Mass Torts, <http://www.consumerclassactionsmasstorts.com/admin/trackback/111179> via Point of Law.com

Our Father, Who Art in Court

The former Nebraska state senator who sued God to make a point—that citizens have the right to sue anyone, “even God”—is appealing the trial court’s decision dismissing his case. The issue is whether God was notified the suit had been filed.

The trial court ruled God had not received notice of the suit and it was impossible to serve God with notice. The former state senator argued in his appeal that because God is all-knowing, he knows about the suit and doesn’t need formal notice. The appeals court, however, asked him to serve another former state senator who has asked to represent God in the lawsuit. So the case goes on.

Source: Ashby Jones, “Does an All-Knowing God Need Notice of a Lawsuit?” Wall Street Journal Law Blog, February 11, 2009

Pursuit of Yappiness

A New York apartment dweller wants \$500,000 to compensate her for “emotional and physical distress” caused by the two barking Chihuahuas in the apartment below her. She alleges the dogs “bark in a manner that is offensive, constant, continuous and incessant.”

She says she can’t sleep and suspects the dog owner “may even be guilty of inciting his Chihuahuas to bark.” The woman’s lawyer said they seek an order restraining the dogs from barking or “some sort of soundproofing” to block the noise.

Source: Dareh Gregorian, “Yo quiero 500G for Yappy Chihuahuas,” New York Post, February 27, 2009

They Owe it to Themselves

Seattle city water customers were illegally charged fees for water used in fire hydrants, the Washington state supreme court ruled recently. So they’ll be receiving refunds—from themselves.

The court ruled the costs of hydrants should have been paid from the city’s general tax fund. Customers will get refunds of about \$45 each, but will have to pay a special water fee of \$59 to pay for the refunds.

“We are having an accounting game. It’s basically saying, ‘we’re sorry you paid it from this pocket, instead it should have come from this pocket,’” said one city council member. “The only party benefiting from this are the law firms,” he said, who will get paid \$4.2 million plus interest.

Source: KOMO staff, “City’s error trickles down, may cost residents,” KOMO, <http://www.komonews.com/news/local/39592632.html>, February 13, 2009 via overlawyered.com.

More than a Feeling

A California woman won a \$6.75 million jury verdict against a man who infected her with herpes.

The man, 77, had herpes for 25 years but didn’t inform the woman, 56, or wear a condom. The jury awarded her \$4 million in compensatory damages, \$2.75 million in punitive damages, and a BMW automobile the man had given her.

Source: Debra Cassens Weiss, “Herpes-Infected

Woman Gets \$6.75M, BMW in Suit Against Elderly Lover," ABA Journal, February 26, 2009

Body of Law

The California Supreme Court recently heard oral argument on whether a widow can sue the University of California Regents for allegedly losing her dead husband's body.

The case was brought after the widow learned her husband's body could not be located at UC-Irvine, to which it was donated for research purposes after his death. She alleged breach of contract, negligent misrepresentation, intentional infliction of emotional distress, among other claims.

The trial court dismissed the case and the Court of Appeal affirmed. So the state supreme court is the last stop for the case.

Source: Mike McKee, "Calif. Justices Seem Skeptical About School's Responsibility for Lost Cadaver," law.com, <http://www.law.com/jsp/article.jsp?id=1202428806482>, March 5, 2009 via iamlawsuitabuse.com, a project of the U.S. Chamber Institute for Legal Reform

Waste Mismanagement

A Seattle plumber is suing Sound Transit, alleging

excavation for the area transit authority's light rail system connecting Seattle-Tacoma Airport with downtown Seattle caused a toilet he was inspecting to explode, strike him, and cover him with raw sewage. His lawyers allege the excavation blocked or severed a sewer line, causing the sewage to become pressurized. No damages amount was specified.

Source: Levi Pulkkinen, "Lawsuit blames exploding toilet on Sound Transit rail line work," Seattle Post-Intelligencer, February 24, 2009

Flipping the Bird

Two Florida women have been offered a way to settle their litigation over ownership of a lost parrot.

The plaintiff alleges her parrot Tequila flew away about three years ago and was captured by the defendant. The defendant, who named the parrot Lucky, won't give it up. "He's my little baby, and he could be taken away from me," the defendant said. "He looked at me today and said, 'Ma, it's all right. Don't cry.'"

A third woman, not part of the lawsuit, offered to give the plaintiff her parrot, Travis, because she can't afford the \$100 a month it costs to feed him. "I'm looking for someone who can afford birds," she said. No word on whether the plaintiff will take the offer.

Source: "Parrot offered to settle lawsuit," United Press International, February 22, 2009

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