

Lawsuit Abuse Fortnightly



April 2009 (Volume 8, No. 8)

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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Wedding Bell Blues

A Texas woman who spent her wedding night in jail after being charged with public intoxication has filed a complaint against the Harris County (Houston, Texas) Sheriff's Department alleging they mistreated her.

The woman's new husband spent the night in jail, too. He was stopped while driving away from the pair's wedding reception. She was arrested after becoming belligerent.

She alleges she was forced to sleep in her wedding dress and was photographed wearing it, was not offered substitute clothes, was put in an overcrowded and filthy jail cell, and male jailers opened the cell door three times so other jailers could see her. Her complaint also said she was bruised during the experience. She later pled guilty to public intoxication.

Source: Associated Press, "Arrested bride files formal complaint," March 25, 2009

Fertility Right

A sperm bank can be held liable under New York strict product liability law for selling "defective sperm," a New York federal court has ruled. The sperm bank is being sued by a 13-year-old girl who is mentally retarded because, she alleges, the bank failed to detect a "Fragile X" genetic mutation in the sperm her mother received. The mutation can cause mental retardation.

The mother received sperm from "Donor G738" from a laboratory claiming strict screening of donors' genetic background. Genetic testing established the sperm donor's sperm had the mutation. The girl was diagnosed with the mutation 11 months later.

The court dismissed the mother's case against the sperm bank, finding it was barred by the statute of limitations. The mother discovered the sperm's defect through genetic testing in 1998.

Source: Shannon P. Duffy, "Sperm Banks Can Be Sued Under Product Liability Laws, Federal Judge Rules," Legal Intelligencer, April 2, 2009, via lawandmore.com

Regulating the Regulator

The Equal Employment Opportunity Commission (EEOC) willfully violated the Fair Labor Standards Act

by failing to pay overtime to its workers across the country, according to an arbitrator's ruling.

Instead of paying overtime, EEOC offered employees compensatory time off. "The case before me, in my view, demonstrates action that went beyond mere negligence," the arbitrator wrote, because it was a knowing violation of the law. "This overtime ruling against the EEOC is vindication that the 'model employer' should not be exploiting the dedication of its hardworking employees," said the president of the union that brought the case.

EEOC is reviewing the opinion and examining its policies. It may owe employees pay dating to 2003.

Steve Vogel, "EEOC Willfully Violated Pay Law, Arbitrator Rules," Washington Post, March 31, 2009

Saving Disgrace

A British man received an undisclosed settlement from his lawsuit against the hospital that saved his life after a suicide attempt. He had imbibed 100 pills and rum and cola. Rushed to the hospital after his family found him, he later alleged the hospital's injection of drugs to neutralize the deadly mix damaged his right arm.

"I know they saved my life but if you went in with a heart attack you wouldn't expect to leave with a limb you can't use," he said.

Source: "Man who tried to kill himself sues hospital that saved him for compensation," Daily Telegraph, March 5, 2009

One for the Road

An Ohio man who thought he could beat driving-under-the-influence laws by driving a motorized barstool instead of an automobile may get his day in court after Ohio police arrested him for drunk driving. The arrest came after he crashed the barstool and called police for medical help.

The police report notes the man made the barstool himself, equipping it with a five horsepower Briggs & Stratton lawnmower engine. It goes up to 40 miles per hour, though he told police he was going only 20 miles per hour at the time of the accident.

Ohio statutes prohibit operating a "vehicle, streetcar, or trackless trolley" while under the influence of

alcohol. The key question here will be whether a motorized barstool is a “vehicle.” The man told police he “wasn’t driving a vehicle, he was driving a barstool,” according to the police report. The officer responded, “it has a motor, and four wheels and could very easily fit the legal description of a vehicle.” Ohio courts have held bicycles are “vehicles” but horses are not.

Source: “Cops Bust Stool Fool, Ohio man arrested for drunk driving on a homemade vehicle,” Police Report at the Smoking Gun, March 31, 2009 at <http://www.thesmokinggun.com/archive/years/2009/0331091stool1.html>; Ohio Revised Code §4511.19

Trailer Cash

A seller of manufactured homes who allegedly removed and resold the wheels and axles used to transport the homes to their owners, while charging homeowners for them, has settled with the class-action plaintiffs. The class got wheels and axles—not useable if the home is on a foundation, which most are—or vouchers. The lawyers got \$15 million.

Some homeowners—but not enough to derail the settlement—objected to the settlement, asking for cash in lieu of vouchers.

Source: Michelle Massey, “Settlement likely in axles and wheels case, attorneys could get \$15M,” Southeast Texas Record via overlawyered.com

Legal/Political Football

The Bowl Championship Series may be the object of a class-action lawsuit if Utah Attorney General Mark Shurtleff gets his way. The suit was inspired by the University of Utah’s exclusion from the BCS bowls. Teams from six football automatically get berths and \$18 million or more in revenue. Those from other conferences have to be invited and get less money.

Shurtleff hopes intends to file the suit in June. Antitrust experts say he might have a good case. “There is no doubt that the BCS is a near-monopoly,” said one. “There is no doubt that it uses its power to make unequal payoffs to conferences and schools. And there is no doubt that its opportunities for rewards are not equal. There is a good case to be made.”

Shurtleff also may get some help from U.S. Senator Orrin Hatch (R-UT), who has scheduled a hearing before the Senate Subcommittee on Antitrust, Competition Policy, and Consumer Rights. “I am not itching to have the government get into the business of regulating college football, but the BCS is patently unfair,” Hatch told ESPN.com. “More than half the schools have no chance of being in the championship game.”

Source: Lester Munson and Paula Lavigne, “Utah has BCS lawsuit in mind,” ESPN via FacesOfLawsuitAbuse.org, a project of the U.S. Chamber Institute for Legal Reform, April 1, 2009

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Published by The Heartland Institute, a nonprofit 501(c)3 organization founded in 1984. Phone 312/377-4000, fax 312/377-5000. Back issues are available online at www.heartland.org. Publisher: Joseph L. Bast. Editors: Maureen Martin, Diane Carol Bast

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