

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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Denture Venture

The plaintiffs' trial bar hopes to take a bite out of makers of denture cream, alleging the product causes neurological problems due to zinc buildup in persons using it. A dozen cases are now pending in federal courts in California, Colorado, Florida, New York, Ohio, Oklahoma, Pennsylvania, and Tennessee against GlaxoSmithKline PLC for PoliGrip and against Procter & Gamble Co. for Fixodent.

A lawyer in Florida is reviewing about 3,000 cases for filing there and has 40 selected so far. More than 100 more cases are expected to be filed soon across the country.

Procter & Gamble said Fixodent is tested rigorously for safety and is "generally recognized as safe in the amounts used." The company says daily use of Fixodent exposes users to the same amount of zinc as about six ounces of beef. "Zinc is a common ingredient in many over-the-counter products, a variety of foods, and is a vital part of our daily diet," P&G said. "In fact, zinc supplements are commonly sold."

GlaxoSmithKline had no comment.

Source: Sheri Qualters, "Plaintiffs' lawyers are stuck on denture cream lawsuits," National Law Journal, June 4, 2009

He Got His Kicks

In another lawsuit by a man claiming he was injured by a stripper while in a strip club, a Florida man is suing a West Palm Beach nightclub, claiming a dancer kicked him "without warning," causing "permanent injuries."

The club manager said that's not what happened. "A patron violently slapped the young woman on her buttocks, and she was walking around the top of the bar, and I guess out of a natural response she turned around and kicked him. From what I'm told he refused medical attention and came back in the club after that and had beers," the manager said.

Source: Jamie Holmes, "Man claims stripper permanently injured him," WPTV, June 3, 2009

Fruits and Nuts

A California judge made short work of a woman who claimed the makers of "Cap'n Crunch with

Crunchberries" breakfast cereal engaged in fraud because the cereal doesn't contain any actual "crunchberries." The woman alleged she bought the cereal for four years before figuring this out. She sought class-action status.

"So far as this Court has been made aware, there is no such fruit growing in the wild or occurring naturally in any part of the world," the judge wrote in dismissing the suit. A "reasonable consumer" would not believe the cereal "contained a fruit that does not exist," he said.

The same judge dismissed a similar suit by the same lawyers against the makers of Froot Loops, claiming fraud because the cereal doesn't contain any "froot."

Source: Kevin Underhill, "Reasonable Consumer Would Know 'Crunchberries' Are Not Real, Judge Rules," Lowering the bar.net, June 2, 2009

Plane But Not Simple

Passengers on the plane ditched in the Hudson River earlier this year by Captain Chesley B. Sullenberger are eligible for compensation of up to \$20,000 each, but some are grumbling. Litigation might be on the way.

U.S. Airways is not the problem. Instead, it's the airline's government-run insurer, the American International Group (AIG), blocking passenger compensation. AIG notes airline liability law conditions compensation of passengers on pilot negligence. That's a hard case to make given the natural causes of the accident—bird intake into the plane's engines—and Sully's miraculous landing on the Hudson River.

Among the passenger complaints: one wants unlimited psychiatric counseling so her four-year-old daughter can avoid post-traumatic stress syndrome, but AIG is offering only three sessions.

The compensation issues involve a bewildering array of insurers. The way it usually works, aviation law experts say, is that the passengers' health insurers initially pay counseling costs and other medical expenses. In the meantime, U.S. Airways will be arguing with (and suing if necessary) AIG for coverage of what it has paid the passengers. An AIG-led insurance pool then decides whether coverage exists, and if so, the passengers' insurance companies assert claims against this pool.

It could take years, but it's a lawyers' full employment scenario.

Source: Mary Williams Walsh, "A.I.G. Balks at Claims From Jet Ditching in Hudson," New York Times, June 12, 2009

Fowl Attitude

A class-action lawsuit has been filed against Kentucky Fried Chicken and its parent company to recover the costs of an Oprah Winfrey free lunch giveaway.

On a May Oprah show, the entertainment icon offered a downloadable coupon on her Web site for a free lunch consisting of two pieces of chicken, two sides, and a biscuit. KFC restaurants across the country were overwhelmed with customers and ran out of food. They offered customers a rain-check coupon good for the free lunch plus a medium soft drink.

That wasn't good enough for one California couple, who have filed a lawsuit for restitution on behalf of themselves and other disappointed customers. They want to be repaid for the costs of travel to the

restaurant, paper and printing costs, and postage for mailing in a form to get the rain-check coupon.

Source: Cindy Tickle, "Lawsuit filed against KFC for Oprah giveaway gone astray," Examiner, June 23, 2009

Tall Tale

A South Carolina funeral home and its director lost their licenses after the state funeral board found they had sawed off the lower legs of a very tall dead man so he'd fit in the casket.

The 6' 7" man had paid for a casket before his death in 2004, but it was too short for him. A funeral home employee used an electric saw to cut him to fit a normal-sized casket rather than paying more money for a longer one, according to the state. Rumors circulated after the man's burial, and the state eventually ordered the body exhumed.

The funeral director also was ordered to pay fines for the violation and investigative costs.

Source: "South Carolina funeral home closed after dismembering corpse to fit casket," WCBD-TV, NBC 2, Charleston South Carolina, June 3, 2009

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