



... And Justice For All

A LEGAL NEWSLETTER FROM THE LAW OFFICES OF

Moore, O'Brien, Jacques & Yelenak

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DEADLY POLICE CHASE WARRANTS \$625,000 AWARD

On the cold night of November 7, 1996 the New Haven Police Department received a report of shots fired at a downtown intersection. One victim was down and the shooting suspect was fleeing the scene on a motorcycle. Police units were immediately dispatched. At the same time several blocks away, our client, Chet Y. was on his way home on his motorcycle with diapers in his backpack for his two infant daughters.



As police fanned out they had a description of the suspect as wearing a hooded sweatshirt, a maroon helmet and driving a red and white motorcycle with a passenger on the back. They also had information that an officer already knew the identity and address of the person who usually rode the motorcycle of that exact description. Nevertheless, and despite the fact that Chet was riding alone, was not wearing a helmet nor riding a motorcycle that fit the description, a Yale police officer, hearing the radio dispatch and spotting Chet as he proceeded toward home, gave chase. After just a few blocks, the officer was joined in the chase by two New Haven officers who, passing in the opposite direction executed a sharp U-turn. As Chet approached a traffic light, one of the officers pulled alongside and told him to pull over. Instead, Chet accelerated. And the officers began a high-speed pursuit.

After several miles and nothing more to go on than the mere fact that the suspect, like Chet, was a motorcyclist, the dispatch officer told both the Yale and New Haven police units to break off the chase. The Yale officer complied. However, the two New Haven officers did not. They proceeded to chase Chet to obtain his license number even though they knew the police already had the name and address of the likely shooting suspect. At least one witness to the pursuit later testified that the pursuing police vehicle did not have its lights or siren on and that during the pursuit a pedestrian was nearly hit by the police unit. Another police cruiser soon joined the chase which proceeded at speeds up to 70 miles per hour on the dimly lit downtown streets.

As Chet came around a sharp curve he encountered a slow-moving truck and crashed into the back of it. The crash killed Chet instantly and orphaned his two baby girls. Almost immediately, officers at the scene concluded that Chet was not the man that had fled the shooting. "Tragically, the fact that Chet was not the suspect was readily known by the police from the clear discrepancy between the description of the suspect and motorcycle and Chet", states Moore, O'Brien, Jacques & Yelenak, partner Garrett Moore. "Even if the officers had reasonable suspicion to believe Chet was the shooter, with the information they already had of the suspect's name and address, the chase was unnecessary."

Although it will never be known why Chet fled the police, our firm filed a wrongful death lawsuit against the Yale-New Haven Police Department because they had violated their own rules for high-speed suspect pursuits. According to general Order 94-2 of the New Haven Police Department, "As a general rule, pursuits are not recommended or favored when the potential danger to the officer, suspect, or the general public outweighs the potential advantage of apprehending a fleeing suspect." The Order further states that even if pursuit is necessary, continued reconsideration of its possible consequences should be made by the officer. The pursuit policy also required pursuit authorization from a supervisor. None was given. In fact, police dispatch had ordered the pursuit terminated. The officers ignored it.

In March 2002, Chet's case was arbitrated with Attorney Joe Foti representing Chet's estate. After two days of testimony, the arbitrator rendered a decision against the New Haven Police Department for its violation of the pursuit order and for Chet's death the sum of \$625,000.

CRIME PREVENTION TIPS FOR SENIOR CITIZENS

Although surveys consistently show that senior citizens are victims of crime far less than young people, seniors are typically targeted more often for crimes such as purse snatching, mugging and fraud. The following are simple common sense tips for seniors to avoid becoming a statistic.

When You're Out

If you carry a purse, hold it close to your body and don't dangle it. Never carry a wallet in your back pocket. Put it in an inside jacket pocket or front pocket. Avoid dark, deserted routes, even if they are the shortest. Whenever possible, travel with friends to stores, the bank or the doctor. Your local police or senior citizens center may offer escort services for chores. If using public transportation sit nearest to the driver. Always have your car or house key in hand as you approach your vehicle or home. And when you drive, keep your doors locked and windows up.

When You Are At Home

Use deadbolt locks on all exterior doors, and whether at home or away, always make your home appear occupied by using a timer to turn on lights and a radio. If you live alone, don't advertise it. Use only your first initial in phone books, directories and apartment lobbies.. Don't hide extra house keys under a doormat or other obvious spots.

Protect Your Money

If you receive checks in the mail regularly, arrange for them to be sent directly to the bank instead. Never display large amounts of cash in stores or other public places. And never place your purse or wallet on a counter while examining merchandise in a store.

Don't Be Conned

According to the American Association of Retired Persons, older citizens are victims of fraudulent schemes far more often than the general population. Be especially wary of "get rich quick schemes" for which you have to contribute "good faith" money. So-called good deals on expensive repair or home improvement jobs are usually cons. Avoid investments that promise unusually large returns, door-to-door sales, work at home schemes, supplemental Medicare insurance and offers of glasses and hearing aids at bargain prices.

If You Become a Crime Victim

If the attacker is only after your purse or other valuables, do not resist. However, make a conscious effort to get an accurate description of the attacker and call the police immediately. Also, call your local victim assistance agency to help you deal with the trauma that all crime victims experience. If you are a victim of fraud, call the police immediately. You may be embarrassed because you were tricked, but your information is vital in catching the con artist and preventing others from being victimized.

Staying active in your community will make you feel safer and help to make your neighborhood a better place to live. So, join a neighborhood, apartment or citizen patrol. Some neighborhoods with crime prevention programs have reduced crime by as much as 50%. Remember, seniors' safety is everybody's business.

BEWARE THE BITE

The recent criminal convictions of a San Francisco couple for manslaughter and murder for the death of a young woman attacked in an apartment hallway by the couple's dogs has highlighted the human toll and financial costs, that dog attacks inflict on the public, including a substantial number of children. According to the Centers for Disease Control, last year nearly 5 million people were bitten by dogs, out of which 800,000 required medical treatment.

Dog attacks account for a phenomenal one-third of all liability claims with medical bills totaling \$1,000,000,000 a year. Some insurance companies actually refuse coverage of homeowners who have dogs with a history of biting or who own a breed highly prone to attacks. The best way to protect yourself and your children from becoming a canine victim involves the following simple common sense practices:

Bad Matches between a dog's temperament and a family's personality spell trouble. People fall in love with a cute puppy only to discover months later they got more dog than they bargained for. The solution, according to experts, is to learn about the breeds you are interested in before you make a puppy purchase. Also, consider getting a mix breed because veterinarians say they have the best dispositions.

Proper Training of your dog is essential, especially for more aggressive and large dogs. This means finding time for walks, play and obedience classes - and sticking faithfully to the training regimen. According to experts, many people make the mistake of putting up with puppy rambunctiousness because they think its charming, only to discover that shortcut methods of obedience in the full grown pet can spell disaster. Also, dogs are sociable pack animals and, therefore, leaving a pet alone most of the time in an apartment or back yard without playtime and social interaction with people increases the chance of aggressive behavior. A safe dog is one that is used to people, including strangers.

Spaying And Neutering can reduce the risk of attack by two-thirds.

People Who Brag about having a way with dogs are often the ones who end up getting bitten. This is because they forget to take proper precautions with dogs they don't know. Children especially must be taught how to be smart with dogs, such as to avoid running and squealing. These behaviors look to a dog like the actions of prey and incite a dog's basic predatory instincts. Also make sure your children do not try stunts like riding a dog or blowing into the face of a sleeping dog.

Also Always ask the owner if you can pet a dog; never leave an infant or toddler alone with a dog; if you are confronted by an aggressive dog, place your hands at your sides and keep them still; if attacked by a dog, stand with your arms at your side and avoid eye contact with the dog. If you are knocked down, curl up and put your hands over your ears.

CASEFRONT

Moore, O'Brien, Jacques & Yelenak is currently litigating or has recently resolved by settlement or verdict the following cases which may be of interest to our clients. Of course, the results here should not be applied to other cases.

• ***Moore, O'Brien, Jacques & Yelenak Settles Alaska Airlines Death Cases***

Our firm is pleased to announce the recent settlement of two of the death cases from the January 2000 Alaska Airlines crash off the coast of Southern California. Although the amount of the seven-figure settlement is confidential, the settlement is considered to be one of the highest air disaster settlements reached by a Connecticut law firm in the past decade, reports partner Garrett Moore.

• ***Motor Vehicle Accident Settlement Yields Architect \$490,000***

In February 1993 our client, a 35-year old architect was involved in an accident with a teenage driver who crossed the center line of a country road in Wilton. Although there was minor damage to our client's vehicle and immediately after the accident he did not complain of injury, approximately one year later he underwent low back surgery in which a spinal disc was removed. The defendant, who had a \$500,000 insurance policy, contended that the accident did not cause the orthopedic injury to our client because of the one-year lapse of time between the accident and the surgery. Attorney Joe Foti settled the case during jury selection in Stamford for \$490,000.

• ***Jury Awards 76-Year Old Woman \$763,214 For Medial Malpractice During Sinus Surgery***

In May 1997, our client, a retired widow, underwent sinus surgery for a chronic sinus infection. During the operation, the ear nose and throat specialist inadvertently entered the orbit of her eye and injured one of her muscles that control horizontal eye movement. As a result, she suffered from double vision unless she wore a patch over her injured eye. At trial in Hartford, the defendant doctor claimed, despite the fact there was no reported case in medical history of an infection causing such damage, that the disability was a result of post-operative infection rather than the surgical mishap. The jury disbelieved the doctor and partner Stephen Jacques won our client a verdict of \$763,214.

• ***Motorcycle Brake Lock-Up Results In \$157,500 Settlement***

In March 1994, our client, a resident of Rhode Island, took his motorcycle out of winter storage for a spring ride. During the ride the brakes of the bike locked up and our client was thrown to the pavement sustaining injuries to his spleen, rib fractures and multiple lacerations. An expert inspection of the motorcycle disclosed that residue in the braking system had caused the lock-up and that the residue should have been removed 18 months earlier by the Connecticut motorcycle dealer who sold the used bike to our client. The defense position was that the accident was caused by deterioration of the brake piston which occurred after the motorcycle was purchased. The defendant's expert also claimed that the brake fluid contained no residue that would have caused the lock-up. Ten days prior to trial Attorney Brian Flood settled the case for \$157,500.

• ***Attorney William Yelenak Wins Jury Verdict of \$332,000***

In October 1993 our middle-aged client was broadsided by the defendant's vehicle in the parking lot of the Danbury Mall. The client initially complained of neck and upper back pain and was diagnosed with a muscle strain and fibromyalgia for which she was assigned a 15% permanent partial disability of her neck. Although \$27,000 of her \$36,000 medical bills were for chiropractic treatment, and despite the fact that a low-speed impact was involved, partner William Yelenak won a jury verdict of \$332,000.

• ***Postal Worker Slip And Fall Accident Equals \$240,000***

Our client, a veteran mail carrier, slipped and fell on a thick layer of ice around the base of the centralized mailbox at a condominium complex. As a result, she suffered herniated discs in her neck and low back. Partner, Greg O'Brien sued the condominium complex and the snowplow contractor. Our investigation revealed that this mailbox area had been a problem long before the accident and prior complaints about the condition during winter months had gone unheeded by the condominium association. Our client had incurred substantial medical bills and lost significant wages due to her fall injuries. After five years of litigation, the insurance carriers for the condominium complex and the snowplow contractor agreed to settle the lawsuit for \$240,000.

We're Aiding Victims of 9/11

Our Firm is proud to report that each of our attorneys has agreed as part of the Trial Lawyers Care program, to represent without fee the families of victims of the September 11th World Trade Center disaster in their obtaining compensation for the loss of their loved ones. Eligible claimants may opt to participate in the monetary fund allotted for compensation or to pursue individual lawsuits. The attorneys in our firm will assist victims in deciding how to proceed and in pursuing their claims for fair, just and reasonable compensation. "Too often the public believes that lawyers goal is their own financial gain. Hopefully, our efforts in this program will serve to assist the 9/11 victims and improve the image of the legal profession," says partner William Yelenak.

Lawyers (and Clients) Say The Darndest Things

Although even the best of lawyers put their foot in their mouths in the heat of trial, the following illustrations demonstrate that from time to time the client may also turn in less than stellar performance. All in a day's work.

Q. What gear were you in at the moment of impact?

A. Gucci sweats and Reeboks.

Q. This medical condition, does it affect your memory at all?

A. Yes.

Q. And in what way does it affect your memory?

A. I forget.

Q. You forget. Can you give us an example of something you've forgotten?

Q. Did you blow your horn or anything?

A. After the accident?

Q. Before the accident.

A. Sure, I played for ten years. I even went to school for it.

Q. Now doctor, isn't it true that when a person dies in his sleep, he doesn't know about it until the next morning?

Q. The youngest son, the twenty-one year old, how old is he?

Q. Were you present when your picture was taken?

Q. She had three children, right?

A. Yes.

Q. How many were boys?

A. None.

Q. Were there any girls?

Q. You say the stairs went down the basement?

A. Yes.

Q. And these stairs, did they go up also?

Q. How was your first marriage terminated?

A. By death.

Q. And by whose death was it terminated?

Q. Can you describe the individual?

A. He was about medium height and had a beard.

Q. Was this a male, or a female?

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