

February 2012 Newsletter

Featured Cases

This month's featured cases are brought to your attention because we want to remind our readers that negligence can occur in many unique settings, and we handle all types of cases involving negligence. We provide you with two examples.

Estate Accepts \$500,000.00 Settlement for Death Caused by Fire

During trial in Niagara County Supreme Court, insurance companies for a local chimney sweep paid \$500,000.00 to the estate of an elderly homeowner who died in a fire. We contended that the fire was caused by the negligence of the chimney sweep in failing to identify unsafe conditions during a routine cleaning and inspection three months before the fire. We sought to prove that those deficiencies caused the fire. We utilized expert fire investigators and an expert chimney sweep to prove our case. Unfortunately, the settlement was modest because there was a very short duration of conscious pain and suffering. Under New York state law, wrongful death damages are limited to conscious pain and suffering where the person who died did not monetarily support other persons.

Negligent Skier Responsible for Damages

We represent a skier who was very significantly injured when an uphill skier came down the hill in a reckless manner and at an excessive speed and skied right into our client. Our client was a very well experienced skier, but he had no opportunity to avoid the crash. We filed suit against the negligent skier to seek compensation for the physical and financial injuries caused by his negligence. The negligent skier carried homeowner's insurance, and the insurer is responsible for paying out any monetary damages afforded as a result of the negligence of the skier/homeowner. Many people are surprised to find out that a standard homeowner's policy would cover such a situation, but such policies generally will provide coverage for negligent acts committed on or off the property. The case is scheduled for trial early next year.