

RAWLE'S REPORTS

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ANNOUNCEMENTS

American College of Trial Lawyers



Fred B. Buck

Fred B. Buck has become a Fellow of the American College of Trial Lawyers, one of the premier legal associations in America. His induction took place before approximately 800 attendees at the 2011 Annual Meeting of the College in LaQuinta, California.

Fred is a graduate of Georgetown University and the Temple University School of Law. He served as a judicial clerk for the Honorable J. William Ditter, Jr. of the U.S.

District Court for the Eastern District of Pennsylvania. He has maintained an active trial practice at Rawle & Henderson for 26 years. Fred has tried numerous jury and non-jury trials to verdict in federal and state courts in such diverse areas as general negligence, product liability, defamation, civil rights, insurance bad faith, and construction site accidents. He is frequently retained as trial counsel shortly before trial in matters involving significant exposure to the defendant.

The American College of Trial Lawyers, founded in 1950, is composed of the best lawyers of the trial bar from the United States and Canada. Fellowship in the College is extended by invitation only, after careful investigation, to those experienced trial lawyers who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility and collegiality. Lawyers must have a minimum of 15 years of trial experience before they can be considered for Fellowship.

NBI Asbestos Seminar



Aaron M. Dorfzaun

Aaron M. Dorfzaun, Of Counsel in the Firm's Pittsburgh office, spoke at the National Business Institute's seminar on **Asbestos: Current Issues and Effective Litigation Tactics** at the Pittsburgh Marriott City Center. Aaron presented a session on "Providing Liability and Calculating Injuries." He focused on employer liability and product liability; premises liability and secondhand exposure; improper removal; problems associated with statute of limitations on latent injury; proving exposure history; medical evidence—proving the connection between asbestos and health problems; and methods for calculating the value of asbestos-related injuries.

For more information, please contact Aaron at adorfzaun@rawle.com.

Quaker Classic Mock Trial / Leadership Conference



J. Fred Lorusso

J. Fred Lorusso sat as a judge for the University of Pennsylvania Mock Trial Team's 9th Annual Quaker Classic Tournament in Philadelphia. Teams from several colleges and universities competed in the Quaker Classic.

Fred was also a presenter at the 2011 North Atlantic Region Leadership Conference at the Philadelphia Downtown Marriott, organized by DECA. The conference focused on leadership development and college and career preparation through a variety of workshops and speakers.

For more information, please contact Fred at jflorusso@rawle.com.

National Constitution Center



David DuBois

David DuBois gave presentations to hundreds of local Boy Scouts at the National Constitution Center in Philadelphia. DuBois talked about the role of lawyers in society; how to become a lawyer; laws to protect consumers and sellers; defamation and media law; how judges are selected; how you can retain a lawyer when you cannot pay for legal assistance, as well as how to find a lawyer when you *can* pay for counsel; and legal issues surrounding privacy issues for telephone conversations, emails, caller ID, reading someone else's diary, or even going through someone's trash.

For more information, please contact David at ddubois@rawle.com.

NEW YORK MEDICAL MALPRACTICE DEFENSE VERDICT



Derek E. Barrett

Derek E. Barrett, Counsel to the Firm in our New York office, recently obtained a defense verdict in a medical malpractice case, involving the death of a 20-day-old child, in Kings County (Brooklyn). The verdict has been featured in the

New York Law Journal and *Verdict Search*.

On November 29, 2007, plaintiff Maureen Janvier gave birth to a baby boy, whom she named Christopher, in Brooklyn Hospital. The child was 26 weeks premature and was already in respiratory distress. He was immediately sent to the neonatal intensive care unit (NICU) where he came under the care of the two attending neonatologists, Drs. Patrick LeBlanc and Belen Fineza.

On December 4, 2007, as part of their normal procedure, they began to introduce small feedings of the mother's breast milk in order, they testified, to stimulate the intestines. The child was also receiving nourishment intravenously. Then, Christopher developed *patent ductus arteriosus* (PDA), a condition, common to premature infants, wherein a valve of the heart has yet to close. Because the treatment for the PDA was Ibuprofen, the doctors stopped the feeding by breast milk, but began feeding again on December 10, 2007, once the PDA was resolved.

On December 12, 2007, Christopher began to suffer severe apnea, with oxygen desaturation in his blood. There was also a positive blood culture, all of which could have been signs of Necrotizing Enterocolitis (NEC), a deadly bowel disease that attacks premature children. However, given the fact that the child's abdomen was still soft and he was tolerating the feeding, the doctors believed this was only an infection and began antibiotics and continued to feed the child.

Two days later, Christopher began to spit up brown discharge from the stomach. And, for the first time, his abdomen became tense. The two neonatologists now began to suspect that the child might indeed be developing NEC. The protocol for the treatment of NEC is first and foremost to stop feeding. Thus, the doctors, their suspicions heightened, ceased the feeding and continued the antibiotics that had already been introduced to counter the child's positive blood culture which had appeared on December 12th. Also following protocol, they ordered daily and twice-daily X-rays of the child's abdomen. This was necessary because, as the doctors explained, NEC cannot be diagnosed with certainty without pneumotosis, or air in the bowel, a condition that can only be seen in an X-ray.

On December 15th, the infant had bloody stools, another indication of NEC, with the hard abdomen and the discharge. On December 16th, all urine output ceased. On December 17th, his blood pressure began to drop to a very low level and he became

bloated, requiring a drain to be placed in his abdomen as surgery was out of the question given his fragile condition. Yet, it was not until that date that an X-ray finally revealed free air in the bowel, meaning that there had been a perforation. Christopher died on December 18, 2007 with a diagnosis of NEC. He had lived for 20 days.

It was the plaintiff's claim, articulated by her expert, Dr. Stuart Danoff, a well-known expert witness, that the defendants' decision to begin feeding the child again on December 10th and their failure to cease feeding on the 12th was a direct cause of the child contracting NEC. In short, the doctors caused the death of the child.

The defense retained Dr. Richard A. Polin, Chief of Neonatology at New York Presbyterian Hospital, an author of several textbooks on neonatology and a recognized expert on NEC who lectures worldwide on the disease. He testified that it was reasonable for our clients to not suspect NEC until the 14th and that as soon as they did so, they stopped the feeding. He backed up the doctors' testimony that feeding the child with very small quantities of his mother's breast milk was within the standard of care and was adamant that this could not cause NEC. He said that they were reasonable to assume on the 12th that the child

had only an infection and that they should give him antibiotics but there was no need to stop the feeding until the 14th. This was totally in line with our clients' testimony.

Derek Barrett also argued that plaintiff's claims of pain and suffering of the infant were not specific and were based on speculation. To that end, he elicited testimony from Dr. LeBlanc that based on the infant's condition, (no urine output and minimal blood pressure), he would have been unconscious the last two days of his life.

In his summation, Derek reminded the jury that doctors do not have a book of rules or instructions, but need to use their own professional judgment when they treat a patient, and plaintiff's claims amounted to second-guessing years after the event by a professional paid expert who regularly testified for plaintiff's firm.

The jury deliberated for one hour before returning a defense verdict.

Maureen Janvier as m/n/g of Christopher Miller v. Patrick LeBlanc, M.D. and Belen Fineza, M.D., Supreme Court of the State of New York, Kings County. No.: 23965/08

Derek E. Barrett, Counsel to the Firm in our New York office, is an active trial lawyer who has successfully defended clients in commercial motor vehicle accidents, civil rights, employment and premises liability matters. He is admitted to practice in New York and New Jersey, and before the U.S. District Court for the District of New Jersey and the U.S. District Courts for the Northern and Southern Districts of New York. He obtained his J.D. from New York Law School in 1991. He graduated with a B.S. from Queens College of the City University of New York.

For more information, please contact Derek at: (212) 323-7077 • dbarrett@rawle.com