



BEWARE OF CLICKING AWAY YOUR RIGHTS

By Thomas N. Sweeney

The kids have an expression on social media: “TLDR.” It stands for “too long; didn’t read.” But this isn’t just something kids do. We have all done it—whether registering to use your bank’s website to check your balance, when signing up for Netflix or to rent a car online—we click through the boilerplate “terms and conditions” on our tiny smartphone screens to speed through the process. Who has time to read all of that?

But there are some real consequences for not reading that boilerplate language contained in those terms and conditions.

Companies know that we are in a hurry when we click past them. So they try to slip in forced arbitration clauses which would deprive us of our right to a jury trial—something enshrined in the United States and Pennsylvania Constitutions. But corporations don’t want us to exercise our constitutional rights.

Here, at Messa & Associates, on October 12, 2022 we secured an important win for ride share customers in Pennsylvania. In *Chilutti v. Uber Technologies, Inc.*, the Superior Court held that the ride share company must show that a rider saw, understood and assented to an agreement to arbitrate during the registration process thereby waiving the right to a jury trial. Hyperlinks with contained “terms and conditions” on a rider’s website or smartphone application did not automatically form a contract on the issue of whether they waived their constitutional right to a jury trial.

The Chilluti Court emphasized that the constitutional right to a jury trial should be afforded the greatest protection in Pennsylvania. This constitutes a landmark decision which safeguards consumers from one-sided corporate practices. It is another warning, however, that Pennsylvania residents need to be wary and read the fine print in these contracts because they might be throwing away their rights.



WHAT'S IN THIS MONTH'S ISSUE:

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About the Author: **Tom Sweeney** concentrates his practice on complex personal injury litigation including premises liability, toxic tort, products liability, construction injuries, civil rights, and other catastrophic injury cases. He has practiced in trial and appellate courts across the United States and has represented clients before the American Arbitration Association.

“To deny people their human rights is to challenge their very humanity.” – Nelson Mandela

October is Fire Safety Month!

As the seasons change and the temperature starts to get cooler, you might be breaking out the space heaters, getting the fireplace going, or gathering around a bonfire in the backyard!

It is important you check the products you have in your home to keep you and your family safe! Here are some tips from our attorneys to get you started.

Messa & Associates Partner, Richard J. Heleniak, says **"Have an escape plan, and practice it."** Does your home have more than one floor? Consider keeping an emergency fire escape ladder on your higher floors. Most models hook right over your windows so you can safely climb down if getting down to the exit floor isn't safe. Make sure to practice this with your children, fire drills don't just have to be for school! You can purchase these ladders online or at some hardware stores.

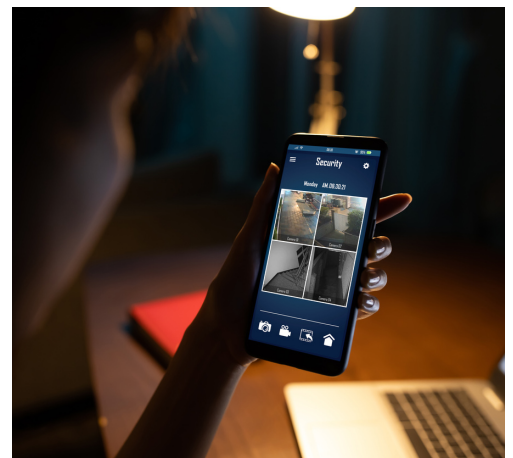


This one may seem simple, but it is imperative in keeping your home safe: **"Make sure the batteries in your smoke detector are working."** -Laura Laughlin, attorney at Messa & Associates. Nobody likes the loud chirping noise when your smoke detector is low on batteries, but you have to resist the urge to remove the batteries completely, and replace them right away! While you are at it, make sure you are checking what type of smoke detector you have, there are two main types- Ionization and Photoelectric. Photoelectric smoke detectors work best for a residence, it will catch the smoke in a slow moving fire, which is most common when there is a house fire. Attorney, Suzanne DePillis emphasizes, **"Test your fire AND carbon monoxide detectors monthly and don't leave a burning candle unattended!"**

Listen to what Thomas Sweeney, partner at our firm has to say about space heaters, **"While it might seem convenient or cost effective to use space heaters, I would warn you against that. They are very dangerous home products and are well known to start fires. Thousands die a year in home fires started by space heaters. Never use them unattended. Most importantly, never use them while sleeping."** So let's skip the space heater and grab an extra blanket!

This last tip is from managing partner, Lee Rosenfeld, and is important for all year round! **"Use Ring Cameras (or similar ones) at both the front and rear doors of your home. This allows you to see and record people at your entrances and can greatly reduce your home from being targeted for crime."** Ring cameras allow you to check on your home when you are away to check for any hazards that may occur.

A bonus tip from me! Do you have kids or animals in your home? Purchase an 'In Case of Fire' sticker that goes right on your window to alert emergency personnel when they arrive to an emergency call. Let's have a safe season ahead!



Settlements and Verdicts

- 7 Million recovery for a woman rear ended by another driver on the clock for a popular fast food restaurant. The plaintiff suffered a traumatic brain injury.
- Court denies 3M's motions for remittitur, new trial, and judgement as matter of law. \$50 million verdict for Luke Vilsmeier stands!

Halloween Past At Messa & Associates



Attorney
Laura Laughlin
as Mermaid!



Legal Secretary
Melinda as Black Cat!



Medical Records
Coordinator Fran as
the Tin Man!



Law Clerk Colby counting pumpkins!



Marketing Coordinator
Sarah & sister as
Princesses!



Attorney
Alaina Gregorio as the
Devil!

MDL Updates



CPAP: Philips announced a new CEO and 4,000 jobs cut. This month, company SoClean Inc. filed a separate lawsuit accusing Philips of wrongfully trying to blame their cleaning device for being the reason why the machines were recalled. Also in the complaint, SoClean provided documents discovered within the MDL showing Philips Defendants knew the real reasons for foam degradation since 2015. With the latest recall, more cases against Philips have been filed and even more are expected to be filed over the next several months.



Zantac: The Zantac class action plaintiffs are asking the court for spoliation of evidence sanctions against defendant Sanofi-Aventis after the pharmaceutical company admitted to deleting thousands of potentially relevant emails. The sanction sought by the plaintiffs is an adverse inference against Sanofi. This would give the plaintiffs a victory on certain contested factual issues in the case. The final brief in connection with this motion was filed last month and a hearing will likely be scheduled before a decision is made.

Plaintiffs with injury claims are awaiting the Court's Daubert rulings, which are expected very soon.



3M filed an appeal to the seventh circuit court trying to reverse the decision of the bankruptcy court in Indiana. The 7th circuit court agreed to an immediate expedited review of the case since they understood waiting could affect important decisions in the Plaintiff's cases.

On Thursday, Judge Rodgers ordered an immediate stay of the Wave 1 cases and upcoming stays of Wave 2 and Wave 3 cases. She also stayed the transition process. Judge Rodgers' Order mandates monthly settlement conferences, and states that Court intends to sua sponte certify its decision regarding successor liability for interlocutory appeal.



BOY SCOUTS
OF AMERICA

Boy Scouts of America: In September, Judge Silverstein approved a \$2.46 billion reorganization plan proposed by the Boy Scouts of America, which will allow it to keep operating while compensating tens of thousands of men who were sexually abuses children while involved in scouting.

The amount each individual survivor will receive from the bankruptcy plan depends on multiple factors relating to the alleged abuse.

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