

Kline & Specter Eletter January 2024

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Kline & Specter/ Arnold & Itkin teams win \$175M Roundup jury verdict



Tom Kline, co-lead counsel Jason Itkin, of Arnold & Itkin, and co-counsel **Tobi Millrood, Christopher Gomez and Melissa Merk**, of Kline & Specter, won a \$175 million verdict — including \$150 million in punitive damages — against Monsanto Co. in the first Roundup cancer case tried in Philadelphia’s mass torts program. Plaintiff Ernest Caranci, 83, of Philadelphia has been diagnosed with Non-Hodgkin’s

Lymphoma from years of using Monsanto’s weed killer Roundup and is currently undergoing treatment for the fourth recurrence of the cancer. The verdict in Philadelphia Common Pleas Court followed a three-week trial and was the bellwether case among hundreds awaiting trial in Philadelphia. Also assisting in the case from Kline & Specter were attorneys **Chip Becker, Andra Laidacker, Alex Van Dyke, Jon Goodall, Tim Burke, Ryan Lim** and paralegal **Lisa Lewandowski**, and attorney **Noah Wexler** with Arnold & Itkin. The verdict received wide news coverage, including by *The New York Times*, Bloomberg News and *The Philadelphia Inquirer*. In a joint statement, Kline and Itkin told the news media: “We are pleased that Ernie Caranci got justice today. We believe that the jury’s finding that Monsanto’s conduct was

outrageous is a harbinger of things to come in the Roundup litigation nationally.” The lawsuit on behalf of Caranci, an Italian immigrant who was the owner of Original Ernie’s Pizza across from Northeast High School in Philadelphia, proved to the jury that Roundup – and its key ingredient glyphosate along with the surfactant polyethoxylated tallow amine – is carcinogenic. Caranci used more than 500 gallons of Roundup between 1989 and 2014 for lawn and garden use two to three times a week without protective equipment, which was never recommended by Monsanto. Kline noted that the jury’s punitive damages award under Pennsylvania law was based upon a finding of outrageous misconduct by Monsanto, which was in reckless disregard of Caranci. Roundup remains on store shelves and in use throughout the world, though it has been banned in several countries. ([Read article](#))

Bezar, Marks win \$37.5M against hotel for three victims of sex trafficking

Nadeem Bezar, Emily Marks and assistant Jennifer Levita won a \$37.5 million arbitration award for three women who were the victims of sex trafficking when they were minors. The award came against North American Motor Inns, the Philadelphia hotel where they were victimized, the establishment’s owner and its then-president, Richard Melius. All parties had agreed to arbitration after three lawsuits were filed in Philadelphia Common Pleas Court. Arbitration was before William Ricci. The events happened many years ago, over one to four months in

2012, when the girls were 16, 15 and 14 years old. The lawsuit claimed that the hotel owner and management should have known what was occurring on its premises and had a responsibility to protect the girls from offenses that were obvious as men came continuously, day and night, to the hotel where the girls were forced into prostitution. “The big point to realize is that this trafficking occurred more than a decade ago and these women have been living with it for more than a decade and will be living with it for the rest of their lives,” Bezar told *The Legal Intelligencer*. He said the girls were lured into the sex trafficking scheme through social media by someone pretending to be a woman offering young women an opportunity to make money. After they arrived, they were manipulated mentally and threatened physically to an extent to which they were scared to even leave or run away from the hotel. The sex trafficker was convicted and imprisoned. The case was not the first in which a hotel owner was forced to make a monetary payment for similar behavior. Earlier this year, Bezar and Marks obtained a \$24 million settlement with the Days Inn for eight victims



of human trafficking that occurred at its Roosevelt Boulevard establishment.
([Read article](#))

\$9M settlement reached with rideshare, hotel in rape case



Bezar

Lawless

Zindel

Larkin

Nadeem Bezar, Helen Lawless, George Zindel and Wyatt Larkin obtained a \$9 million settlement with a rideshare company and a Days Inn hotel on claims they enabled a

man to rape an 11-year-old girl. Bezar told *The Legal Intelligencer*: “We are happy that this matter is resolved and are hopeful that Lyft will continue to do what it can to limit or even eradicate these types of occurrences.” The alleged rapist has been charged with multiple offenses in the 2018 incident, with the criminal case still ongoing. According to pretrial memos, he initiated communication with the girl via Instagram and eventually arranged for a late-night meeting with her at the Days Inn Roosevelt Boulevard Hotel in Northeast Philadelphia, ordering rideshare vehicles to transport the minor to meet him. Bezar said the rideshare company has since adopted more stringent measures to ensure drivers do not transport unaccompanied minors. Bezar said the litigation had at times been contentious, with legal questions arising about the ridesharing company’s duty to the plaintiff and the fact that the assault was by a third-party perpetrator. But he said that as the mid-December trial approached, he and his co-counsel were able to negotiate the settlement. In a statement, Lawless told the news media that “rideshare companies like Lyft and Uber represent that their passengers are safe, and we intend to hold them to that.” Assisting the Kline & Specter attorneys in the case were Jennifer Levito and Barbara Carberry. ([News coverage](#))

Medical malpractice case brings \$19.5M settlement

Elizabeth Crawford, working along with Shanin Specter and Michelle Paznokas, achieved a \$19.5 million dollar settlement in a medical malpractice case in Delaware County involving a college student who suffered a brain injury caused by an allegedly mistreated infection.



Guerrini, Pasquarello achieve \$10M settlement in fatal housefire litigation

Dominic Guerrini and Philip Pasquarello reached a \$10 million settlement in a Pennsylvania case involving a house fire. The fire killed a 69-year-old man and caused his 71-year-old brother to suffer minor burn-related injuries. Other details of the settlement are confidential. Assistants who worked on the case were Angela Preston, Kathleen Paffett and Susan Grady.



\$5M settlement reached in death of prison inmate



Shanin Specter and Philip Pasquarello reached a \$5 million settlement with Dauphin County and a healthcare company in the death of an inmate who was doused with pepper spray, constrained by his wrists and ankles and struck repeatedly. The settlement in the 2021 death of Ishmail Thompson, 29, of Newark, Del., was one of the largest in a civil rights death

case in Pennsylvania. The prison will pay \$4.25 million and \$750,000 will be paid by PrimeCare Medical, Inc., of Harrisburg, which held a contract with the Dauphin County Prison but provided substandard medical attention to the prisoner. The incident began after Thompson was arrested on relatively minor charges that included trespassing, simple assault, lewdness and harassment when, police charged, he began exhibiting symptoms of a mental health episode

at a Comfort Inn in Middletown, Pa. At one point, Thompson was taken to a prison shower where corrections officers sprayed him with oleoresin capsicum, also known as pepper spray. Then he was wrestled to the ground, handcuffed and shackled and a hood was placed over his head. Corrections officers then struck him repeatedly in the stomach and legs. Body camera footage confirmed that Thompson never threatened the officers nor became physically violent prior to this unprovoked attack. Thompson's appeals for water and cries that he couldn't breathe were largely ignored. A nurse came to see the inmate but conducted only a cursory examination that lasted about one minute. Less than 15 minutes after being placed in a restraint chair, Thompson suffered cardiac arrest. He was later diagnosed with severe anoxic brain injury, which caused an irreversible coma. He died six days after his arrest. Two other inmates at the prison had died under similar circumstances, most recently in 2019. ([Read article](#))

Suit filed claiming doctor performed unnecessary surgery

Shanin Specter, Frank Mangiaracina, Michael Cavaliere and Richard Gorman filed suit on behalf of a woman who suffered a leg amputation as the result of an unnecessary



surgery. Maria Rohena, 69, had to have her leg amputated above the knee following the medically unnecessary surgery by Dr. James McGuckin, an interventional radiologist. The suit notes that McGuckin was named in May, along with his affiliated practices, in a qui tam complaint by the U.S. Attorney's Office for collecting at least \$6.5 million in federal payments for allegedly performing numerous other medically unnecessary procedures from 2016 to 2019. In the case of Rohena, he performed a first procedure in June 2021 that was followed by three more surgeries. After the last procedure, she developed a massive bleed that led to amputation of her leg. Also named as defendants in the lawsuit as well as the government's complaint are these Pennsylvania firms: Peripheral Vascular Institute of Philadelphia, LLC; Main Line Vascular Institute LLC, of King of Prussia; Lehigh Valley Vascular Institute, LLC, of Bethlehem; and PA Vascular Institute, LLC, of East Stroudsburg.

Suit vs. Panera energy drink evokes warning by company

Elizabeth Crawford, working along with Tom Kline and Michelle Paznokas, filed a highly publicized lawsuit against Panera Bread on behalf of the parents of a University of Pennsylvania student with a heart condition who died after drinking the restaurant's "charged lemonade," a super-energy beverage. The story was carried by news media across the country – from Connecticut to



Georgia to Texas — and as far as England and India. The lawsuit terms the lemonade a “dangerous energy drink” and states that Panera failed to appropriately warn consumers about its ingredients. A large cup of the charged lemonade available and encouraged for free refills with the Unlimited Sip Club

membership contains 390 milligrams of caffeine, nearly the 400-milligram daily maximum of caffeine that the U.S. Food & Drug Administration says healthy adults can safely consume, or more caffeine than a can of Red Bull and Monster energy drinks contain combined. (A large size also contains the equivalent of 30 teaspoons of sugar and guarana, a stimulant that enhances the effects of the caffeine.) Sarah Katz, 21, had a heart condition called long QT syndrome type 1. She generally avoided energy drinks at the recommendation of her doctors, but the charged lemonade was offered side-by-side with Panera’s non-caffeinated drinks. Katz bought the drink while with friends at a Philadelphia location and went into cardiac arrest hours later, according to a news report. “I think everyone thinks lemonade is safe. And really, this isn’t lemonade at all. It’s an energy drink that has lemon flavor. It should have an adequate warning,” Crawford told NBC national news. The lawsuit had a positive impact only days after it was filed, with Panera saying its more than 2,000 restaurants would use “enhanced” disclosures about its charged lemonade and caution customers that it should be used in moderation and that it is “not recommended for children, people sensitive to caffeine, pregnant or nursing women.” It has also been moved behind the counters. ([See story](#)) Kline & Specter recently filed a second lawsuit on behalf of a 46-year-old Florida man with special needs who suffered cardiac arrest and died immediately after drinking Panera’s charged lemonade.



Lawless, Waldenberger win critical motion vs. Uber in fatal accident case

In a wrongful death case, a judge denied Uber's motion for summary judgment that argued it could not be held liable for the negligence of one of its drivers. **Helen Lawless** told *The Legal Intelligencer* that the ruling by Philadelphia Common Pleas Judge Jacqueline Allen was “an important step toward undoing the fiction that Uber and other rideshare competitors are merely technology companies that do not employ drivers and should not be held responsible for their negligence.” Lawless and **Jim Waldenberger** represent the estate of Uber passenger Chloe Robertson, a young woman who was killed in a collision in 2020. The ruling dealt a blow to Uber’s



Lawless

Waldenberger

position that drivers are independent contractors, not employees of the rideshare company. Robertson alleged that the driver negligently stopped his vehicle in a hazardous location, and that Uber was vicariously liable. Plaintiffs argued that, despite the fact that Charles signed an agreement stating he was not an Uber employee, the totality of the facts demonstrated an employer-employee relationship and that a jury

should decide the matter. Uber has faced a growing number of lawsuits over the conduct of its drivers, including those claiming assaults on passengers. Across the country, “the independent contractor defense is something they can use in every one of those cases to get off the hook,” Lawless said.

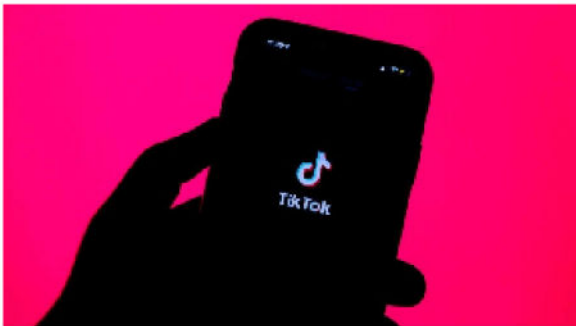
Tim Burke elected to LGBTQ Bar Association

Tim Burke was elected to a three-year term on the board of directors of the Philadelphia LGBTQ Bar Association, an organization formed in 1986 as Philadelphia Attorneys for Human Rights (PAHR) and later named the Gay and Lesbian Lawyers of Philadelphia, or GALLOP, before adopting its current title in



2019. The 180-member organization has since the 1980s supported Philadelphia's LGBTQ+ legal community and paved a legal path for gay rights in the city and nation. It organized the first-ever Lavender Law Career Fair for students, which now attracts more than 175 employers each year. The Philadelphia LGBTQ Bar Association also hosts local and state political candidates during election years at its May Garden Party.

Specter and Van Dyke write on reforming social media



Shanin Specter and **Alex Van Dyke** co-wrote an article for Smerconish.com on a much-debated topic: “Here’s How to Reform Social Media.” They note that Congress in 1996 “unwisely” gave Internet providers immunity from civil liability for what is posted on their sites. That allows social media giants like Meta and TikTok “off the hook” for publishing items that are inarguably unlawful, such

as child and revenge pornography, false advertising, threats and terrorist recruitment videos. While nodding to the social media companies’ argument that they cannot pre-screen everything that goes on their sites, the authors suggest “narrowly amending”

the current immunity to make providers potentially liable in civil court if they are notified of unlawful conduct on their platforms and then fail to remove the content within 48 hours. “This proposal strikes the appropriate balance between free expression and responsible moderation,” they contend. Other countries have adopted similar provisions, including the United Kingdom and New Zealand. The European Union, Australia and Japan impose liability if a social media company has “actual knowledge” of unlawful content and fails to remove it, even if the company has not received a specific takedown notice. They conclude: “Such civil liability would very likely cause social media companies to take down unlawful content after being given notice. Harm to victims of online abuse would be reduced. That would be very good for the people of the United States.” ([Read the complete article](#))

Specter presents at Judicial Conference

Shanin Specter was one of four panelists who spoke to about 175 Pennsylvania judges on developments in medical malpractice law during a four hour Zoom seminar conducted on Oct. 31 and Nov. 7. The program, sponsored jointly by the Administrative Offices of Pennsylvania Courts and the American College of Trial Lawyers, was held pursuant to Pennsylvania’s requirements for continuing judicial education. The seminar covered a dozen topics within the two sessions, including statutes of limitation, substantive legal theories of liability, substantive defenses, jury instructions, recoverable damages and jury forms. The panelists also included Carolyn Bohmueller of O’Brien and Ryan, John Conti of Dickie, McCamey & Chilcote and John Gismondi of Gismondi & Associates.



New Attorney – Wyatt Larkin



Wyatt Larkin has felt an obligation to help people through the civil justice system since growing up in a mom-and-pop law firm. Literally — his father was a solo plaintiffs trial attorney and his mother was his father’s paralegal. Being raised in such an environment, one of assisting those whose rights had been violated, was what ultimately inspired Larkin to become a trial attorney. A *magna cum laude* graduate of Harvard Law School, Larkin’s own path to the law began with public service. After earning his undergraduate degree with honors from the Johns Hopkins University, he began his career working on behalf of the constituents of his home district in Arizona as an aide to then-Rep. (now Sen.) Kyrsten Sinema, working his way up from intern to digital director. Larkin briefly left Capitol Hill to work with

campaigns and non-profits as a web design and online fundraising consultant before making a return to Congress, this time as digital director and speechwriter for Sen. Mark Warner of Virginia. After seven years in Washington, he enrolled in law school at U.C. Berkeley, where he won the Prosser Prize in Written and Oral Advocacy and American Jurisprudence Awards in Property, as well as in Shanin Specter's first-year Torts class. Larkin then transferred to Harvard Law School, graduating in the top 10% of his class and winning Dean's Scholar Prizes in First Amendment, Digital Governance, Legal Profession, and Drug Product Liability Litigation. Outside the classroom, he served as a technology editor on the *Harvard Journal of Law & Technology*, secretary of the Harvard Plaintiffs' Law Association, and a member of HLS Lambda and the HLS American Constitution Society chapter. Larkin worked as a law clerk at Kline & Specter before joining the firm as an attorney. He becomes the firm's 59th attorney.

COMMUNITY

Sock drive expected to net 20,000

People make many donations for the needy around the holidays, but for all the food and clothing and other donations that are made, one badly needed item often goes missing – socks. But not if **Linda Knellinger** can help it. She collected 158 pairs of socks at the firm to help warm the feet of the homeless and veterans this year on behalf of Socks for the Street, an organization that expects to collect some 20,000 pairs this year. If you missed Linda's sock drive at the firm, it's not too late to make a donation. Socks can be sent to: The Cassidy's, 2841 Norcom Court, Philadelphia, PA 19154. Or call for a pickup at 215-939-2569. Socks are needed for men, women and children. New socks only, please.



PHOTOS

Kline addresses students, advising they set their goals high

Tom Kline teaches at Drexel Kline School of Law, here before Professor Gwen Stern's class on Introduction to Trial Advocacy. He discussed strategic decisions involving his \$175 million jury verdict with co-counsel Jason Itkin. Kline explained to the 2L and 3L students the intricacies of decision making in a complex product liability trial from



jury selection to closing arguments.

Tom Kline chats it up before a game with former 76er Georges Niang, now a member of the Cleveland Cavaliers.





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