

Kline & Specter Eletter October 2023

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\$11M settlement reached with agency over child abuse



Specter



Lepisto



Dunbar

Shanin Specter, Braden Lepisto, Aaron Dunbar and assistants Angela Fattizzo and Stacey Ciotti obtained an \$11 million settlement with a Philadelphia social service agency for its alleged failure to oversee an infant's care, causing a

catastrophic brain injury that resulted in spastic quadriplegia and blindness. The child will require skilled care for the rest of her life. The lawsuit was brought by the baby's eventual adoptive mother against Tabor Community Partners for providing inadequate in-home safety and case management services. When the child was born in 2017, Tabor was responsible for providing child welfare services through its contract with the Philadelphia Department of Human Services (DHS). But for several months, Tabor allegedly failed to ensure that case goals were being met, to complete required weekly visits to ensure the infant's safety, to obtain the child's medical records as required, and to ensure that the infant was attending well-baby visits. During this timeframe, the child was physically abused and neglected by her biological parents, parents who years earlier had been responsible for their other child's broken leg. These events resulted in a DHS Near Fatality Review and Report. Claims against Tabor settled, but the case continues against Children's Hospital of Philadelphia. A CHOP nurse practitioner and social worker are alleged to have

failed to properly report suspected abuse and neglect of the infant before she suffered the traumatic injuries at the hands of her biological parents. “The criminal justice system punished the child’s biological mother years ago. Now, the others responsible for her safety are being held accountable for their role in the injuries suffered by this defenseless, months-old child,” Specter, Lepisto and Dunbar said in a joint statement to the news media. “Organizations that take on the public function of protecting at-risk children must be held publicly accountable when they don’t do their job. We continue to work to hold CHOP accountable, as they also should have prevented this terrible outcome.” ([See news article](#))

Inscho, Donnelly reach \$3.5M settlement in priest abuse case

David Inscho and **Lorraine Donnelly** with assistants **Kim Comey**, **Jill Stewart**, and **Migdalia Carrion-Barr** obtained a \$3.5 million settlement from the Archdiocese of Philadelphia in a case alleging one of its priests sexually assaulted a 14-year-old boy in 2006. The agreement came just before the case was to go to trial and after Inscho and Donnelly had rejected a \$400,000 offer from the archdiocese’s



victims compensation fund. The lawsuit accused the late Pastor John Close of raping the child, who attended religious classes at St. Katharine of Siena, in Wayne, Pa. The assault occurred after Close heard the boy’s confession, telling the child the assault was necessary to absolve him of his sins. As is the case with many survivors of child sexual assault, the plaintiff did not report the incident until years later, in this case in 2018. The student-parishioner, whose name was not used in the public filings, is now 30 years old and continues to suffer from post-traumatic stress disorder because of the assault. The archdiocese had notice that Close was a danger to children as far back as the 1970s when a pastor reported that Close had teenage boys sleeping overnight in his rectory room. The archdiocese simply reassigned Close to another parish. Other children also reported sexual abuse but the archdiocese did not remove Close from ministry. When Close died in 2018, he was a retired priest in “good standing” with the Catholic Church and still held the honorary title “monsignor.” Following announcement of the settlement, Inscho and Donnelly told the news media: “Through litigation we were able to expose that the archdiocese protected Father Close despite multiple reports of inappropriate behavior with children. The archdiocese’s handling of allegations against Close, through secretive and biased investigations, allowed him to remain in ministry and assault our client.”

Safier, Specter, Zakeosian obtain \$14.25M settlement in medical malpractice case

Regan Safier, **Shanin Specter** and doctor/lawyer **Gary Zakeosian** negotiated a \$14.25 million settlement in a case involving a pediatric ENT and pediatric



anesthesiologist. The matter involved a child born with several anatomical congenital defects, some of which required surgery to repair. The child did not have any cognitive delays and was meeting her developmental milestones for a baby but she was born with a narrow airway that required her to have a tracheostomy until she grew a little bigger. When the child was two months old, the doctor had to replace the tracheostomy tube. However, the doctor created a fistula in the back of the baby's throat where the tube went instead of in her airway, but the doctor failed to recognize the error and did not remove the tube and reinsert it. Instead, the patient suffered a prolonged lack of oxygen that resulted in anoxic brain damage. Because of that, the child, now nine years old, is unable to walk or talk and requires round-the-clock care. She will never be able to read, write, work or care for herself.

Specter, Waldenberger get \$6.5M settlement for elderly woman killed by auto

Sharin Specter and **James Waldenberger** obtained a \$6.5 million settlement with Piazza Nissan of Ardmore, Pa., for the family of an 89-year-old woman who was struck and killed as she was walking along the sidewalk by a company driver as his vehicle exited the dealership. Susan Simpson, of Lower Merion, sustained a few minutes of suffering in the 2021 accident before she lapsed into unconsciousness and was pronounced dead at Lankenau Medical Center. The lawsuit filed was on behalf of Simpson's children, Christopher Simpson and Susan Landgraf. Susan Simpson was a widow and tax return preparer for more than 40 years before she retired. In a statement, Specter and Waldenberger said: "Pennsylvania law is stingy in death cases of retired and widowed elderly persons, especially where suffering was very limited, as here. Despite these limitations, the defendant has acknowledged through the amount and public nature of this resolution the great loss sustained by Ms. Simpson's passing. We hope this may be a benchmark for such cases moving forward."



Settlement of \$7.5M reached in med mal case

A \$7.5 million settlement was achieved for a woman who entered a hospital seeking help for alcohol abuse and instead suffered a medical error that resulted in severe brain damage. **Regan Safier**, **Tom Kline** and **Sherrell Dandy** obtained the settlement for the wife and mother of two young children who had a history of



Saher



Kline



Dandy

struggles with alcohol dependency but had committed to sobriety. She entered a hospital where she could be monitored for alcohol withdrawal and then was to be transferred to an inpatient rehabilitation facility. At the

hospital, close watch was supposed to have been kept of her electrolytes, which can fluctuate wildly during withdrawal and, without necessary replenishment, impact a patient's cardiac rhythms. The patient was placed on a cardiac telemetry monitor that was not supposed to be removed for any reason for 24 hours. But the monitor was inexplicably removed overnight by a nurse who did so without approval of any doctor, nor did the nurse report to anyone what had been done. The patient was later found in cardiac arrest that had been so prolonged she suffered catastrophic brain damage. She never regained consciousness and is now in a near-vegetative state.

SUITS FILED

Suit filed against Lyft, driver in death of former Cuomo aide



The firm filed suit in Delaware against Lyft, Inc. and one of its drivers in the July 2022 death of Sidney Wolf, who had been a top staffer to former New York Gov. Andrew Cuomo. The tragedy occurred when Wolf was forced to exit a Lyft vehicle on a highway. According to the suit filed by **Shanin Specter, Regan Safier, Braden Lepisto and Robert Leoni**, the Lyft driver stopped in the left lane of Delaware State Route 1 and ordered Wolf and five of his

friends out of her Honda SUV. Since the left passenger door of the vehicle was inoperable, Wolf was forced to exit from the right side and into moving traffic when he was struck by a car. The Lyft driver, Laquise Leon, had become irate when her passengers discovered she had a five-year-old child in the SUV's rear cargo space and, concerned for the child's safety, they began asking the child questions, according to the lawsuit filed in Delaware Superior Court. Instead of stopping on the highway's grassy center median or on the right lane shoulder, the driver stopped in the left lane without turning on the hazard lights. Wolf, 43, a husband and father of two and one-time senior policy advisor to Cuomo, was pronounced dead a half hour later. Named as defendants were the driver and Lyft, incorporated in Delaware, since it had employed the driver, who was an agent of the company and was acting within the scope of her employment with Lyft, the lawsuit said. Representing Wolf's wife, Lindsey Wolf, the Kline & Specter attorneys said in a statement to the news media: "What occurred here was a deadly disgrace, which we intend to set right."



Lawsuit filed for woman in NYC crane collapse



Patrick Fitzgerald filed suit in New York City on behalf of a woman whose vehicle was bombarded by debris from a falling crane in Midtown Manhattan. Marcy Olin, 59, of New York City, suffered severe emotional distress while she watched helplessly as the collapsing crane caught fire and crashed into a nearby building and the streets below. She was in her vehicle, which

was smashed by falling debris, as people screamed and ran from the scene. Fitzgerald told the news media that the lawsuit is intended to get answers to why the incident at 550 Tenth Avenue occurred and to hold accountable those responsible for the collapse. He was quoted by *The New York Post* as saying: "All of us rightly expect that cranes will be constructed safely, inspected regularly and properly, and operated carefully to avoid disasters such as the one we witnessed in Manhattan last week." The crane was more than 40 stories above the ground when it burst into flames during early morning operations and then partially collapsed. Olin heard a loud explosion and looked up to see the crane collapsing and debris falling from above. She braced herself in terror, believing she was about to die. Many others were injured, including firefighters, workers, and others on the ground. More than 200 firefighters and emergency rescue workers responded to the scene. A portion of the crane's 180-foot boom carrying 16 tons of concrete collapsed, according to reports.

NOTABLE

Laidacker wins PAJ award



Andra Laidacker won the George F. Douglas Jr. Amicus Curiae Award given annually by the Pennsylvania Association for Justice to a member in recognition of outstanding accomplishments in brief writing or oral argument before Pennsylvania's highest courts on behalf of PAJ. The prestigious award, created in 1995, is bestowed upon "a trial lawyer whose devotion to injured victims, qualities of leadership, and service to the organization best represent the life of the late and revered past PAJ president after whom the award is named."

Becker and Laidacker prevail in Mallory

Chip Becker and **Andra Laidacker** have worked extensively over several years on the issue of Pennsylvania's power to exercise personal jurisdiction over foreign companies registered in Pennsylvania. This included authoring amicus briefs both in the Pennsylvania and United States supreme courts in *Mallory v. Norfolk Southern Railway*, where the constitutionality of Pennsylvania's general jurisdiction statute was addressed. In a 5-4 decision, the U.S. Supreme Court held that the Pennsylvania statute authorizing exercise of general jurisdiction over a foreign corporation based on its registration with the commonwealth was consistent with the Due Process Clause of the Fourteenth Amendment. The court's decision will have a powerful impact in future litigation. *The Legal Intelligencer* opined that it will create "ripple effects" that will be felt across many areas of law, including wage and hour." The decision also means a great deal to Robert Mallory, a mechanic with Norfolk Southern Railroad who used an asbestos spray and handled other chemicals and later became ill allegedly due to the use of the carcinogenic materials. Mallory sued in Pennsylvania as Norfolk had registered in Pennsylvania as a foreign corporation. The trial court found and the Pennsylvania Supreme Court agreed that no jurisdiction existed in Pennsylvania. But the U.S. Supreme Court's vindication of its earlier precedent means that Mallory's case may go forward in Philadelphia Common Pleas Court. Laidacker was counsel of record for the amicus brief filed on behalf of the Pennsylvania Association for Justice in the U.S. Supreme Court.



Van Dyke hired by Kline & Specter



Van Dyke

Alex Van Dyke joined Kline & Specter after gaining experience with a plaintiffs firm in Los Angeles and a large defense firm in the nation's capital. The graduate of Harvard Law School was previously an associate at D.C.-based Williams & Connolly LLP, where he worked in a wide variety of endeavors — from taking depositions and preparing witnesses in a mass tort case to litigating a felony arson case to handling consumer protection class actions to overseeing discovery and training of a team of discovery attorneys in a False Claims Act case. Right after law school, Van Dyke was an associate at the Los Angeles plaintiffs firm of Dovel & Luner, where he also worked on a broad array of litigation, including those involving personal injury, wrongful death, antitrust, class actions, bankruptcy, false advertising and breach of contract. Before earning his law degree, Van Dyke worked as a class action clerk for the firm of Nichols Kaster PLLP, which advocates for people on matters concerning issues such as illegal workplace conduct, wage theft, civil rights violations, consumer deceit and whistleblower cases. A native of Minnesota, Van Dyke worked while an undergraduate at Georgetown University as an intern for U.S. Sen. Amy Klobuchar, for whom he researched legislation regarding consumer rights and economic policy. He graduated Georgetown *summa cum laude* with a degree in international politics, then graduated *magna cum laude* from Harvard Law School. At Harvard he was senior editor of the *Harvard Journal of Sports and Entertainment Law*, student attorney for the Criminal Justice Institute and won the Dean's Scholar Prizes in constitutional law, legal research and writing, contracts and patent trial advocacy.

Zindel joins firm

George Zindel was a top student and successful mock trial team member and coach who later worked in the U.S. Attorney's Office and for a federal judge. He is also a former licensed financial broker and investment analyst. Zindel's first job after graduating from the University of Pennsylvania Law School, *cum laude*, was as a law clerk for Judge Gerald J. Pappert of the U.S. District Court for the Eastern District of Pennsylvania. Prior to that, he was an extern for the Narcotics and Organized Crime Unit in the U.S. Attorney's Office. Zindel was a law clerk at Kline & Specter and also worked as a summer associate at Duane Morris LLP and as a paralegal at a small firm in Jenkintown, Pa. Before going to law school, Zindel was a FINRA (Financial Industry Regulatory Authority) licensed broker and a financial analyst. He worked for two years at Macquarie Capital, Principal Investments in New York doing private equity-style investments for the bank through their Principal Transactions group. Zindel earned his undergraduate degree at La Salle University, where he graduated *maxima cum laude* and was a member of the Beta Gamma Sigma honors society. At La Salle he won the Finance Department Award and was president of the mock trial team and a seven-time recipient of the "Best Advocate" award. Zindel was senior editor of the *Penn Law Review* while also winning the Outstanding Pro Bono Service Award. He was co-president of Penn Law's mock trial team that was selected as champion and semifinalist in several competitions.



Zindel

He has worked as mock trial team coach at Roman Catholic High School and also was an adjunct professor/trial team coach at Villanova University Charles Widger School of Law.

Specter at PBI forum on "How to Ask a Question"



Shanin Specter was the featured guest of a Pennsylvania Bar Institute Fireside Chat on the subject of "How to Ask a Question." Specter, who lectures on the subject at several universities discussed many strategies he uses. To mention a few: Questions should be brief and narrowly focused, requiring either a yes-or-no response or brief answers. Use short words – "use" is better than "utilize" – and short sentences. Questions should be easy to understand. If an answer is not

responsive, simply ask it again, don't appear annoyed or become rancorous. And once you've gotten the answer you were looking for, do not repeat the question. Too many questions can undo a good answer. As one example of good questioning, Specter played a recording of then-Sen. Kamala Harris questioning former Attorney General Bill Barr at a Senate committee hearing. "Has the president or anyone in the White House asked or suggested that you open an investigation," she asked. Barr hesitated in answering. "Yes or no," pushed Harris. Barr finally responded that he was struggling with the word "suggest" and still did not answer. Harris finally said: "You don't know. OK." And she let it go at that. But the significance of his not answering was clear. Specter noted: "She trusted her jury to understand the import of his non-answers. And you've got to be willing to do that with your juries when it's obvious the witness is lying, when it's obvious the witness will not answer because they know the answer will hurt them. Trust that the jury gets it." When the opposite occurs, when a witness avoids answering directly by going off on a lengthy tangent, Specter won't interrupt but will often put his head down and close his eyes. "That's a signal to the jury that it's not fair to anybody," he said. But he won't cut a witness off. Sometimes – but not often because he wants to avoid appearing combative or using "trash talk" – Specter will let the witness finish and then ask, "Sir, do you happen to recollect the question." ([Watch the entire Fireside Chat](#))

Kline and Specter named to City & State's Law Power 100

Tom Kline and **Shanin Specter** were named to the City & State 2023 Law Power 100. The multimedia news organization provides coverage of Pennsylvania's state

and local government, including “all things politics and public policy,” through its newsletter and print magazine. City & State Pennsylvania focuses coverage on the drafting of legislation, enactment of laws and the appeals of wrongfully applied statutes. It noted: “... At each step of the political process, the legal profession and its practitioners play crucial roles.



And as legal challenges to the electoral process continue apace, the role of attorneys and advocates only continues to gain importance.” Its Power 100 includes attorneys, elected officials, legal scholars and others who advise government bodies or advocate for change. It recognized Kline and Specter for heading “their eponymous Philadelphia firm known for record-setting, seven- and eight-figure verdicts and settlements.” It cited Kline’s \$50 million gifts to the law school’s named for him at Drexel University and Duquesne University, while noting Specter’s large medical malpractice verdicts. It noted not only record litigation results but also resolving cases “in ways that resulted in policy or regulatory change.”

Kline addresses 1L students, advising they set their goals high



Tom Kline spoke with first-year law students during lunch at the Kline School of Law of Duquesne University, touching on a variety of subjects from famous cases he has won (and a few he lost) to how to sustain a proper work/life balance. Kline mostly answered questions from students at his alma mater, including from one who asked for one piece of advice for those in law school now. “Find yourself a mentor,” Kline responded, “someone who believes in you and believes in the need to help a

young lawyer become an advanced and mature lawyer.” Kline said he was fortunate to have had two such mentors, the first when he clerked for Pennsylvania Supreme Court Justice Thomas W. Pomeroy and later when he was a young lawyer working at the law firm of James E. Beasley after whom the Beasley School of Law at Temple University is named. “But don’t try to be your mentor, your professor, your lawyer or your Mom or your Dad – be you,” he said, adding, “Take parts from each of what you see and is adaptable to your skills and your personality.” Kline suggested that law students go out to courthouses and even state Supreme Court sessions to watch some of the best lawyers in action. And, he advised that students and young lawyers set ambitious goals for themselves. Said Kline: “Don’t set the bar, your bar, too low. You’ll be surprised by what you can achieve.”

Kline comments on Roundup trials set to begin

The Legal Intelligencer ran an article on the start of trials in the cases of claims that the herbicide Roundup caused cancer. With the first seven trials expected to begin this fall, the newspaper sought comment from **Tom Kline**, who serves as a plaintiffs liaison counsel in the Roundup mass tort litigation. "It's really on track to the courtroom. That's good for the plaintiffs.



It's good for the clients. It's good for everyone involved," he said. In a case management issued earlier in the year, 12 cases were identified to start in October, with six plaintiffs firms assigned a date for their earliest-filed case; additional cases were set as a backups in the event the first case should fall through for some reason. Said Kline: "The key component is that every trial date has a backup to it, so you can expect a trial absent some extraordinary circumstance." *The Legal Intelligencer* noted that Kline is set to try the first of the Philadelphia bellwether cases, with a lawsuit filed on behalf of plaintiff Ernest Caranci set to begin with jury selection on Oct. 5. A second trial to be led by a Houston plaintiffs firm is scheduled for November. In all, the Roundup mass tort in Philadelphia currently comprises almost 200 cases, with a significant number of cases also filed in other courts. Plaintiffs allege in most cases that they developed non-Hodgkin lymphoma from the use of the weed killer.

COMMUNITY

Kline & Specter group collected for domestic violence victims

It was an early Merry Christmas for some folks as the Kline & Specter Women's Affinity Group headed by **Helen Lawless** and assistants **Linda Knellinger**, **Jennifer Levito** and **Jill Stewart** collected goods for distribution for the Christmas in July program to benefit Laurel House. The local, women-run charitable organization provides crisis intervention, safe haven and supportive programs for those impacted by domestic violence. The group seeks to advance social change through preventive education, community training, and collaboration to foster a coordinated response to domestic abuse. The Women's Affinity Group collected hundreds of items, including books, food, shoes, clothing, accessories, toiletries, toys and games.

Employees do volunteer work for meals program



Nineteen Kline & Specter employees volunteered at MANNA, packaging meals for the organization founded in 1990 with the goal of using nutrition to improve health for people with serious illnesses who need nourishment to heal. The medically tailored meals provided along with nutrition education helps to empower people to improve their health and quality of life. Volunteers chop, dice, cook, and package meals to help MANNA provide no-cost nutrition. Among the firm's employees who volunteered were **Kim Comey, Jodi DeStefon, Angela Fattizzo, Hallie Reardon, Kim Kelly, Katie Longer, Barb Carberry, Alyssa Haney, Ronda Page, Jill Stewart, Linda Cedeno, Eric Bowen, Shelby Redding, Tracy Leonardis, Jen Pinto, Amanda Kureclan, Kyson Martin, Jeneen Jarrobino and Amanda Bee.**

Donation buys 31 wheelchairs for Ugandans



Kline & Specter made a donation that enabled the purchase of 31 wheelchairs – actually a hybrid wheelchair-bicycle – to handicapped people in Uganda. Makepasi Match Ltd., the largest producer of wax safety matches in Sub-Saharan Africa and the largest employer of people with disabilities in Uganda, will distribute the wheelchairs that are made using new Raleigh brand bicycles. Priority will be given to children, orphans and widows.



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Philadelphia Business Journal

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