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How Would We Feel if This Was Going On In Our Kids' Schools?

This [school negligence](#) claim certainly takes the cake, as far as I'm concerned, for being a headline grabber.

On a dare, a student taking an electrical trades class hooks up the electrodes to his own chest, and then gets a terrible shock which causes him serious personal injuries: his heart stopped, and may now have permanent brain damage.

Granted, at first blush I think this case lacks merit. After all, if you're a high school student, and you know that electricity can turn on lights in a room, you should have an appreciation that it can hurt you.

But there is one interesting - and important - wrinkle to this case: apparently, *the teacher may have been the one daring the student to hook up the electrodes to his body.*

Under those circumstances, the school's presumed freedom from liability isn't as clear-cut as you originally thought; or is it?

Let's cast the question in different terms: do you think that a school can be held legally responsible under these circumstances for the injuries sustained by a peer-pressured high school student? One thing is for sure: it is certainly food for thought.

Tort Reform Is a No-Brainer - Or Is It?

A few weeks ago, I read a very troubling article discussing one of the greatest [road hazards](#) facing both other drivers and pedestrians alike: overworked and unchecked truck drivers. And in this particular case, the outcome was tragic - and predictable: a truck driver who had well exceeded the number of legally permitted hours behind the wheel, was exhausted and fell asleep. As a result, he rammed into the back of a school bus that had 22 children on board, causing the bus to burst into flames, and killing one of its passengers, a 12 year-old girl.

It gets even worse.

Apparently, earlier that morning, the truck had been stopped by troopers at

Apparently, Even the Wall Street Journal Likes Good, Free Information

After reading some of my articles on the subject, a reporter for the WSJ asked me to answer some questions she had about finder's fee agreements, and how they're handled under New York law. She was kind enough to quote me in her article (a copy of which is below).

Finders Play Matchmaker, for a Fee



You can access a full copy of the article by going to this link:

<http://nysmallbusinessattorney.com/ws-j-notes-trend-toward-finders-fee-agreements-instead-of-brokers-agreements/>

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How You Can Recover Your Legal Fees in a NY Breach of Contract Case

Let's start with the general rule: New York courts disfavor allowing parties to recoup their legal fees that are incurred in litigation. As New York's courts have put it: "It is well settled that legal fees are not recoverable unless provided under the terms of a contract or authorized by statute." See, [U.S. Underwriters Ins. Co. v. City Club Hotel, LLC, 3 N.Y.3d 592, 597, 789 N.Y.S.2d 470, 822 N.E.2d 777 \[2004\] \).](#)

So, you may be wondering, how specific do you need to be, or what language do you need in your contract, in order to recover legal fees?

"What language do you need in your contract in order to recover your legal fees?"

Fortunately, New York's Appellate Division, First Department recently provided us with some guidance on this issue. In [Nigri v. Liberty Apparel Co., Inc.](#), the plaintiff sued to recover in [breach of contract](#), and the defendants counter-claimed to recover the legal fees they incurred in defending the action, as well as in prosecuting their own counterclaims under the agreement.

In affirming the trial court's award of a judgment allowing the defendants to recover their legal fees, the Appellate court cited the language in the underlying agreement that formed the basis for this ruling:

"The parties' contract provided, in pertinent part, that the plaintiff would pay certain "Guaranteed Obligations," which were defined as "one-half of all claims, actions, litigation, and other liabilities, costs and expenses (a) in [certain pending legal actions, including a customs matter]...", and "all out-of-pocket expenses (including reasonable attorneys' fees and disbursements) ... incurred by [defendants] ... in enforcing or collecting upon [the] Guaranty."

The court went on to state that "[T]he clause 'all claims, actions, litigation, and other liabilities, costs and expenses' constitutes broad language that is generally interpreted to include attorneys' fees."

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3 Reasons That Your Employment Agreement May Not Be Worth the Paper It's Printed On

by Jonathan M. Cooper

This new **FREE Book**, which explains the 3 reasons why an employment agreement may not be worth the paper it's printed on - and how to get around them - is available to be downloaded directly from:

www.JonathanCooperLaw.com

Tort Reform is a No-Brainer - Or Is It?

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a weigh station, and been given an "out-of-service order," which meant that the truck should be taken in immediately for repairs by a certified mechanic before it would be permitted to continue on its route. The driver ignored this order, however, and continued on his way. (Instead, he made some hasty repairs on his own.)

And, not surprisingly, at depositions it was revealed that the trucking company had no internal oversight to assure that the drivers complied with these laws.

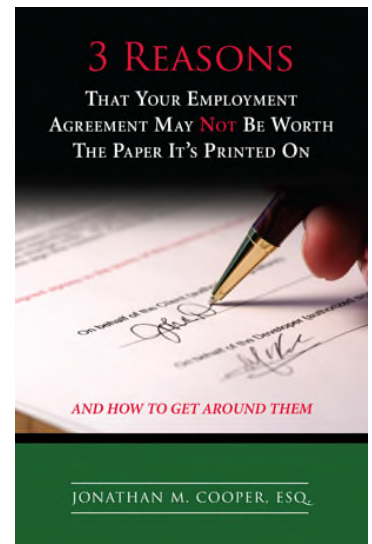
The result? A \$54,000 fine from the United States Department of Transportation.

While I certainly agree that there should be some mechanism or disincentive to filing frivolous or idiotic lawsuits, consider the following: Do you think that this fine is adequate?

Or, do you think that there should be some method for assuring - rather than limiting - the ability of these children, who were passengers on this bus, to recover their parents' expenditures on their medical care, and perhaps some fair compensation for their pain and suffering due to the gross negligence of this trucker and his trucking company?

Perhaps you feel that all 22 of these children (including the one who died), as well as the school bus driver (who was also apparently injured while saving two of the children), should have to share in one lump sum of \$250,000 (bearing in mind that the deceased child's funeral expenses would likely also have to come out of this same pot of money); but if you think this trucking company needs to be sent a stronger message than a \$54,000 fine to compel them to act safely, then guess what? You are - at least partially - anti-tort reform.

COMMUNICATION POLICY: As a general rule, Mr. Cooper does not accept unscheduled phone calls. This policy affords Mr. Cooper the ability to pay closer and more focused attention to each case, resulting in more efficient and effective representation for his clients. Moreover, it avoids the endless and needless game of phone tag played by most businesses and law firms. To schedule a phone call or in-person appointment with Mr. Cooper, please call his office at 516.791.5700.



"If you think that this trucking company needs to be sent a stronger message than a \$54,000 fine to compel them to act safely, then guess what? You are - at least partially - anti-tort reform."

New York City to Install Countdown Clocks at City's Most Dangerous Intersections

In response to a lengthy safety study on [traffic fatalities](#) across New York City, the City's Transportation Commission announced earlier today a new broad-based initiative that will see the installation of roughly 1,500 countdown clocks at some of the City's most dangerous intersections, such as the Queens Boulevard, which was previously dubbed "the Boulevard of Death."

Another major part of the initiative includes reducing the speed limit to 20 mph from its current level of 30 mph in several areas.

The reason for this is relatively obvious: the higher the speed of the vehicle, the smaller chance for survival for pedestrians hit by those vehicles.

I have to admit that I am pleasantly surprised by the alacrity with which the City seems to be approaching this report; the announcements of these new initiatives followed almost immediately the public release of the report.



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