

The Boyk Bulletin

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Avoid wrong-site surgery by talking to your doctor

A client of ours went under the knife for a knee surgery, but when she woke up she found her doctor had operated on both knees.

The reason? Her surgeon operated on the wrong knee and then decided to perform the surgery on the injured knee. Not only did it affect our client's recovery time, but the knee that was improperly operated on may be permanently damaged.

Our client isn't alone. The number of people suffering from wrong-site surgery ranges from 1,300 to 2,700 per year in the United States, according to the *New York Times*.

Wrong-site surgery is a form of medical malpractice that occurs when a doctor mistakenly operates on the wrong organ, part of the body, or even on the wrong person. Frequently the surgeries are performed on the wrong leg, arm or ear.

The result is unnecessary recovery time to heal from the incorrect surgery. The patient is still left with injuries from the wrong surgery plus the need for the original operation.

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procedures occur
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- New York Times

A recent study at John Hopkins University involving surgeons, doctors and nurses suggested team meetings as a way to reduce wrong-site surgeries, according to Science Daily. A team meeting would consist of a brief, two-minute gathering of all members of the OR team immediately before the operation takes place, yet after anesthesia is administered. All medical staff present would state their name and position, and the head surgeon would identify the patient, the surgical site on the body, and any necessary health concerns.

The study showed that 90% of the participants required to take part in the team meetings agreed that,

"a team discussion before a surgical procedure is important for patient safety," according to John Hopkins Medical Institution. David Gifford, the head of the Rhode Island Health Department, also agrees. He states: "To do that double-check takes a minute or two. To operate on the wrong side, that takes more than a minute or two."

To avoid the dangers of wrong-site surgery, make sure every aspect of the operation is agreed upon between you and your surgeon. Ask the surgeon if he uses a team meeting approach in his operating room, and if not, suggest it. Introduce yourself to all doctors and nurses involved in your care. This will help them to place a face to your name, in turn reducing your risk for wrong-site surgery. Some patients even go to such extremes as to write "right" and "wrong" in permanent marker to the appropriate two body parts, just to be sure. If that is not for you, asking a lot of questions and talking openly to all surgeons, doctors and nurses can help them to give you the best service and the swiftest recovery.

Who is entitled to this found treasure?

By: Dale Emch, author of "Legal Briefs." Reprinted with permission from The Blade



While knocking out plaster walls during a bathroom renovation project, a contractor discovers a box that had been squirreled away.

"treasure trove" that dates back to the English common law through which so much of our own law flows may put the money in the hands of the contractor.

owner of the store would have superior rights to everyone except me.

Opening it, the contractor finds \$25,000 in old bills. He calls the homeowner and she rushes home. More plaster comes down, more money is discovered.

An old case from England that was cited by an Ohio appellate court in the 1940s says that "the owner of the soil whereon treasure is found acquires no title or right thereto by virtue thereof, as against the finder or the true owner." So, it's sort of like finders-keepers.

So, where does that leave us with the feud between the contractor and the homeowner? Well, if the court that hears this applies the old English common law of treasure trove, it looks pretty good for the contractor, at least as the rule is applied to the money he found before the homeowner came home and started searching with him.

They agree to some sort of split of the money, but then, as is so often the case when money is at stake, the deal falls apart and lawyers get involved.

A few other Ohio cases discuss the concept of treasure trove, but seem to improperly apply the term to situations where property was lost or abandoned. In other words, the found money hadn't been hidden away for a long period in a wall, mattress, piano, or hole in the ground.

Then again, it doesn't appear the Ohio Supreme Court has addressed the issue, so the reviewing court may apply holdings from other states, which could lead to a different result. The outcome could be different still if the money is determined to be misplaced or lost, though I'm not sure how that would be the case here. In short, it's impossible to say how a court would rule on this, but it should be interesting to watch.

Sound farfetched? This rough scenario was pulled from a recent Cleveland Plain Dealer story that chronicled the legal tussle between a Cleveland-area contractor and a homeowner.

The crux of the struggle is, who gets the dough. The \$182,000 that was found could be worth around \$500,000 because some of the bills are rare. Apparently it was hidden sometime before World War II by a previous homeowner.

Lost property and misplaced property each has its own rules. If I lose my iPod because it falls out of my pocket, whoever picks it up has superior title rights to everyone but me, the true owner. It doesn't matter who owned the property where the iPod was found unless the finder was a trespasser. There are other exceptions, such as whether the item was found in an office or a home, but that's the rough gist. If I misplace my iPod by setting it on the counter of a store and another customer finds it, the

The real shame, though, is that a court has to be involved at all. Instead of coming up with a split that both could live with, a judge may decide that one party gets nothing. The excitement of finding this treasure has probably been swept away by the fighting.

Most of the friends and family members I polled believe the money should go to the homeowner, the rationale being that she owns the home and everything in it. Makes sense, right? If only it were that simple. A legal concept called

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- What will an attorney do for me?



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Grandma's Sweet & Sour Meatballs

The perfect appetizer for a cold winter's day



Ingredients

1 pound ground beef or veal • 1 medium onion, grated • 1 egg • 1/4 cup oatmeal
2 Tablespoons water • 1/4 teaspoon salt • 1 cup flour • 2 Tablespoons cooking oil

Sauce

1 cup ketchup • 1/2 cup white raisins • 3 Tablespoons brown sugar
1 Tablespoon chili sauce • 2 12oz bottles of Vernor's Ginger Ale

1. To prepare sauce: In large saucepan, combine ketchup, raisins, brown sugar, chili sauce, and ginger ale. Cook on medium heat, stirring frequently for 5 minutes, until smooth. Simmer on low 45 minutes to an hour, stirring occasionally.
2. While sauce is simmering, mix ground beef, onion, egg, oatmeal, water and salt in large bowl. Wet hands before forming meat mixture into 2 inch balls.
3. Shake uncooked meatballs in paper or plastic bag filled with flour.
4. Pan fry meatballs in large skillet coated with cooking oil.
5. Add meatballs to sauce and serve hot. Makes about 25 meatballs.

**Try freezing this recipe
for a quick and easy
mid-week meal!**

New Year perfect time for estate planning, living wills

Everyone has heard the saying that the two things you can't avoid are death and taxes.

While some people manage to duck taxes, no one dodges death.

That hard fact isn't a lot of fun to face up to, but you ought to plan for it. Everyone should have an estate plan that includes a will or trust, a living will, and a durable power of attorney for healthcare.

Though we focus our practice on personal injury issues, our office puts together simple estate plans as a service to our clients. But we refer clients who have more complicated estates to attorneys who specialize in probate matters.

Having a will allows you to determine who will inherit your property and it also makes life a lot easier on your loved ones after you're gone. If you don't have a will, a complex formula dictated by state law will determine how property is distributed. So, even if

you told your daughter you want her to have your engagement ring and you want your son to take the antique dining room set, the law will specify who gets what. A will allows your wishes to be followed and helps avoid trouble between you and your family members after you pass away.

Having a will makes life easier on your loved ones.

For those with minor children, a will has a far more important function than determining how an estate will be distributed. A will can be used to specify who will care for your children after your death. With a decision of that magnitude, it's obviously important to specify your wishes in writing rather than leaving it to others to sort out.

In addition to a will, many people are

having living wills drafted for them. A living will provides instructions if you're critically ill and unable to make decisions yourself. It dictates who may make end-of-life decisions for you and under what circumstances. It's a valuable document that allows your wishes to be followed, and it makes those wishes known to family members and health-care providers if tough decisions need to be made.

A companion to a living will is a durable power of attorney for healthcare. This document allows someone to act on your behalf if you are incapable of making decisions for yourself. It allows whoever you trust with that authority to handle things like your finances and living arrangements. It's a very powerful tool that stays in affect only as long as you're incapacitated.

Having an estate plan will give you some peace of mind that your wishes will be followed and that your loved ones won't have to deal with a stressful legal situation while they're grieving.

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RETURN SERVICE REQUESTED



Pit bull bites cause serious injuries

Recent news reports of dog attacks involving pit bulls have brought media attention to a problem that many believe has been going on for years.

In our office, we've seen the devastating injuries that pit bulls can cause. We're representing a toddler who a pit bull attacked, leaving a large scar down the middle of her forehead. Another client had a chunk of his muscle ripped from his arm after a pit bull attacked him. In both cases, the attacks were unprovoked.

Dr. Finocchio of the Rhode Island Society for the Prevention of Cruelty Against Animals believes that pit bulls are genetically predisposed to being aggressive, since they were originally bred to be fighting dogs as far back as the Roman Empire. Violent behavior is thought to be ingrained in pit bulls. The result of this behavior are attacks on humans - especially helpless children.

Pit bull attacks almost always cause open wounds and scarring, many times

to the faces of young kids. Pit bulls have a tendency to not show any signs of aggression before they attack. Their hair does not stand on end, nor do they growl or bark prior to biting someone. The adrenaline in a pit bull does not stop during an attack. This means that a pit bull will continue to maul, even if the dog was previously familiar with the victim. Dr. Finocchio believes that although pit bulls may not always bite more frequently than other breeds, it is the viciousness of the bite that inflicts so much damage. When pit bulls bite, the power comes from their back legs, and the dog will violently shake a victim, ripping and tearing the body, unlike other breeds such as a Doberman or German shepherds, according to Dr. Finocchio.

To avoid dog bites, never touch a dog that is eating or sleeping. Call to the dog from a distance to get their attention, then have the dog come to you. Never tease or taunt an animal, and keep young children away from new dogs until it has a chance to become familiar with the child.

Cases of Interest our office is handling

11-year-old girl chased and mauled by chow mix not controlled by dog handler.

Elderly kidney dialysis patient not properly strapped down in ambulance falls over, suffering serious permanent injuries.

Bicyclist sustains knee injury resulting in need for knee surgery, after being struck by large box truck.

5-year-old boy sustains permanent facial scar after falling on a school field trip.

Driver and passenger suffer fractures to leg and arm after drunk driver runs stop sign at intersection.

4-year-old girl sustains facial wounds and scarring after being bit by pit bull boxer mix.