



MN MARASCO & NESSELBUSH LLP LAW OFFICES

New England's Trusted Personal Injury & Social Security Disability Law Firm

AREAS OF PRACTICE

Personal Injury Law:

- ↔ Auto Accidents
- ↔ Medical Malpractice
- ↔ Motorcycle Accidents
- ↔ Wrongful Death
- ↔ Uninsured Motorist
- ↔ Premises Liability
- ↔ Alcohol Related Accidents

Social Security Disability Law:

- ↔ Social Security Disability Insurance (SSDI)
- ↔ Supplemental Security Income (SSI)

SEVEN CONVENIENT LOCATIONS

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51 Jefferson Boulevard, 3rd floor

WOONSOCKET, RI: (401) 762-9800
2168 Diamond Hill Road

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439 South Union Street, Suite #B-11A

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This newsletter is intended for current and former clients of Marasco & Nesselbush. We thank you for your many kind referrals, and for placing your trust and confidence in our firm.

EMERGENCY ROOM NEGLIGENCE –

Firm's Recent Wrongful Death Victories Illustrate Perils

Recently a family placed their trust in our firm after their 19-year-old son met his demise hours after being discharged by a local emergency department. They came seeking answers not provided by the hospital regarding the cause of their son's death.

The young man went to the emergency room after suffering for a few days from intense headaches and vomiting. In the ER, he was examined by a physician's assistant, not a medical doctor. Emergency department protocol allows a physician's assistant to see patients who present with non-life-threatening conditions. Emergency department caregivers are asked to consider various "differential diagnoses" and to rule out the most severe potential conditions through diagnostic testing, physical examinations and laboratory results.

The tragedy in this case occurred because the hospital staff failed to recognize all potential causes for the young man's headache. They wrongfully attributed the headache to dehydration from the vomiting while diagnosing the young man as suffering from "gastritis" (stomach upset). In actuality, the young man's autopsy determined the vomiting was a result of swelling in his brain. The physician's assistant did not have the depth of knowledge and experience to recognize the more serious potential cause of the symptoms. In this case, the diagnosis was further misplaced because the young man did not exhibit other symptoms of "gastritis."

Prior to resolving the case, the hospital argued that the care given was reasonable because the symptoms were not consistent with swelling in the brain and because the young man reported feeling "better" prior to discharge. Only after extensive litigation and disclosure

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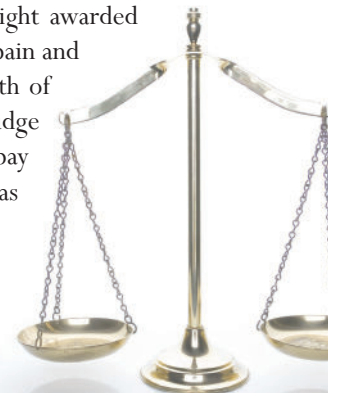
RARE FEDERAL COURT DECISION

Reverses Denial and Awards Benefits to Woman without Health Insurance

After extensive legal advocacy, U.S. District Judge John J. McConnell, Jr. reversed a ruling by a local Social Security disability judge and outright awarded disability benefits to a woman plagued by debilitating back pain and orthopedic issues. The Judge's rare "reversal" illustrates the strength of the case and the degree of defects in the lower court's decision. Judge McConnell ordered the Social Security Administration (SSA) to pay Maria Borino Provancha 6 years' of back disability benefits, as well as ongoing benefits.

Provancha, 46, is very deserving of these benefits. She has long suffered from lower back pain, debilitating scoliosis and emotional problems. At age 13, she had ten-inch steel "Harrington" rods

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Emergency Room - continued from page 1

of extraordinary medical experts, was the hospital forced to resolve the case.

Partner, Joe Marasco handled the case and reflected that, while the outcome of the case cannot bring back our client's loved one, the objective of "compelled accountability" was achieved. Among other things, the family expects to establish a memorial foundation to honor their son and keep his memory alive for years to come.

In another tragic case recently resolved by our office, emergency room negligence resulted in the death of our client's husband. We were retained by a woman who was asking why her husband of over 25 years was taken from her in spite of his attempts to get treated for his condition at an area emergency room.

Our client's husband was a veteran who had fallen on hard times. He had visited a local hospital where he was diagnosed and treated for a MRSA infection. MRSA is a bacterial infection which is resistant to antibiotics and, as a result, is difficult to effectively treat. A month later he returned to the hospital emergency room department with complaints of pain in his chest. The physicians failed to appreciate the risk of recurrence of the MRSA and believed he had a mild case of inflammation in his rib cage. The physician in charge failed to order diagnostic tests or laboratory work that may have shown the true cause of his symptoms. The ER physician discharged him without ruling out the potentially deadly diagnosis of a recurrence of the infection.

Unfortunately, two days later he returned to the ER, now with a fever and weakness. By now the MRSA infection had lodged in his spine,

causing damage that could not be successfully treated. He became quadriplegic and ultimately passed away nine months later.

The case was difficult. Our client's husband had been given a full course of antibiotic treatment for his first bout with MRSA, had been clear of any signs of MRSA for weeks, and did not have obvious signs of infection when he returned to the emergency room. Defendants also had a very strong medical argument that an earlier diagnosis would not have prevented the quadriplegia and death given the nature and location of the MRSA infection his spine.

After extensive litigation and developing a strong panel of medical experts, we were able to achieve a substantial recovery for the widow before trial in the federal court.

Again, the case illustrates the dangers that exist in the emergency room when protocol is not followed. By holding the emergency departments in these cases financially accountable, we hope and expect the hospitals involved and others will continue to monitor and strive to improve the quality of care provided.

If the unthinkable should ever happen, know that you have a trusted ally in Marasco & Nesselbush. Our medical-legal attorneys have decades of experiences handling cases involving medical negligence and understand the difficulties surrounding these situations. Do not hesitate to contact us with questions. We'll be happy to evaluate your case and review your options with you.

“Freedom has its life in the hearts, the actions, the spirit of men and so it must be daily earned and refreshed – else like a flower cut from its life-giving roots, it will wither and die.”

~ DWIGHT D. EISENHOWER



14 YEARS OF GROWTH & STRENGTH



Recently, Marasco & Nesselbush celebrated their 14th anniversary of helping clients obtain extraordinary legal results. Through the years, we have grown, mainly, thanks to the trust that clients, fellow attorneys and medical professionals have placed in us. We are now the largest Rhode Island firm representing the injured and disabled. We were also recently named the 11th largest law firm in Rhode Island by *Lawyers Weekly* and 13th largest firm in Rhode Island by *Providence Business News*. We are proud that our growth is due to our core values that we adhere to each day. We continue to be propelled by values such as intelligence, respect, kindness & compassion, honesty & integrity, team spirit, enthusiasm, positivity, patience, high standards, attention to detail, efficiency, and productivity. We hope to continue this trend of growth in the years to come, helping more individuals obtain compensation for injuries and a better quality of life.

placed in her back to help contain and straighten the spinal column. However, these rods make sitting, standing and moving painful and difficult. Provancha stated "I fought my disabilities for years. I worked and took care of my family, but by 2007, I couldn't take the pain any longer. I had to stop working." However, when she left the workforce, she notes, "I quickly became one of the millions of Americans who must try to survive and battle health problems without health insurance."

In 2011, after denials at both the initial and reconsideration levels, Provancha went to a hearing before a local disability judge. The judge denied Provancha, holding that Provancha's lack of treatment from an orthopedic specialist (although she had no health insurance) was a factor indicating that she was not suffering from disabling back pain. Provancha's primary care doctor fully supported her claim of disability. Provancha would not give up, and she appealed again to the Appeals Council in Falls Church, VA. The Appeals Council upheld the judge's decision and denied her as well.

Partner Donna Nesselbush and Associate Attorney Joseph Wilson accepted the case and filed a complaint in the U.S. District Court for the District of Rhode Island. They detailed the reasons why Maria could not work, they cited the full support of Provancha's doctor, explained why she was disabled and why the local judge's decision was unjust. Through lengthy written and oral arguments, Attorneys Nesselbush and Wilson argued that Provancha's lack of health insurance and inability to obtain orthopedic specialty treatment should not be used to deny her benefits. The attorneys also pointed out many factual errors made by the judge.

Finally, the attorneys were adamant that enough was enough; Provancha's claim had been pending at SSA for 5 years. It should not be sent back for yet another Social Security proceeding; the case for disability benefits was clear. The attorneys requested that the court simply reverse the local judge, issue a decision finding Mrs. Provancha disabled and order the SSA to pay her retroactive and ongoing disability benefits. And that is exactly what United States District Judge John J. McConnell, Jr. did! Usually, if a federal District judge disagrees with a local disability judge, the Federal Judge will remand the case back to the same judge for a supplemental hearing. It is quite rare for a federal judge to outright reverse the decision of a local disability judge and order the payment of benefits, again a testament to the degree of Provancha's disability as established by the medical evidence and the numbers of errors made by the local disability judge in evaluating her claim.

"When I received the news of the decision I stood in disbelief and began to cry" said Provancha. "I couldn't believe I had finally won, after all these years it was finally over. I thank Marasco & Nesselbush from the bottom of my heart."

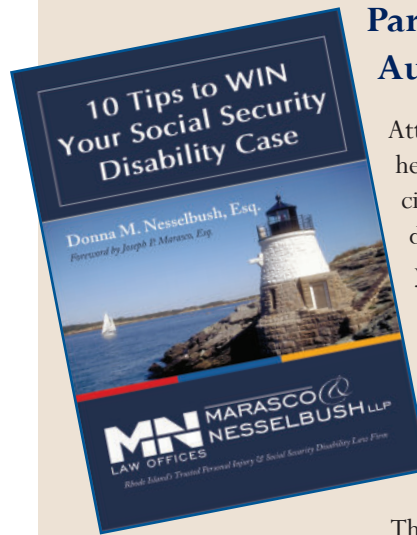
DID YOU KNOW...

Obtaining Social Security Benefits

Obtaining Social Security disability benefits has become increasingly difficult over the years, particularly in the State of Rhode Island. According to the most recent available data for 2012, the Rhode Island cadre of disability judges awards approximately 48% of the cases heard, while, for comparison, the cadre of Boston judges, only 50 miles away, awards 61%.

Partner Donna Nesselbush Authors SSD Book

Attorney Donna Nesselbush has dedicated her 22 year legal career to obtaining Social Security disability (SSD) benefits for disabled Rhode Islanders. Over the 22 years, she has learned many valuable tips that make the difference between winning and losing. Donna wants to share this information with the firm's clients. Accordingly, she has written and published a book, *10 Tips to WIN Your Social Security Disability Case*.



The book details the top issues to watch for when applying for Social Security disability; these are the issues that will make or break your claim! Attorney Nesselbush explains how to obtain proper medical documentation, how to ensure your work history is accurate, so you receive the most amount of money, and she clarifies the strict deadlines involved, pointing out that a missed deadline can derail even the best case. The book also explains in layperson's terms the many technical terms used by the Social Security Administration, often to trip people up! Attorney Nesselbush not only explains terms such as "Residual Function Capacity", "GRIDS" and "Listings" but she shares specific information about how to use these terms to WIN your claim.

10 Tips was written to serve as a roadmap for individuals seeking SSI and SSDI benefits. "I went to law school to try to help people. That's all I've ever wanted to do. I hope that *10 Tips* helps disabled Rhode Islanders obtain the benefits they need and deserve," said Attorney and Author Donna Nesselbush.

10 Tips was published in late 2012. It is the first of several books Attorney Nesselbush plans to author and publish on the subject of Social Security disability benefits. *10 Tips* is available in hard copy and is free to Marasco & Nesselbush clients, by calling our office at (401) 274.7400 or by requesting the book via our website, www.m-n-law.com/book-ssd.php. Further books are scheduled for publication later this year.

Make sure anyone applying for Social Security disability reads *10 Tips* before applying for disability. Literally, it can make the difference between winning and losing, but remember: the law firm of Marasco & Nesselbush is always here to help you at any step along the way.



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Thank You

For Referring Your Family & Friends!

Thank you to our loyal friends, our current and former clients, who have referred others to our firm.

We are humbled by and grateful for your trust and confidence. Thanks to you, we have received almost 200 referrals from clients this quarter! If you refer someone to our firm, please let us know so we can say thanks. We love to acknowledge the people who are pleased with the outstanding results we achieve and who refer friends and family to our law firm. Please email us at info@m-n-law.com and tell us who you referred; we will be happy to mention and acknowledge you in our next newsletter.

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