LAWYER REFERRAL SERVICE CASE OF THE MONTH

Mother's death in car crash leads to tangle of tragedy

by Marc Songini

In 1995, Framingham resident Eva Marone (not her real parne) was involved in a horrifying automobile accident. Marone and her 98-year-old mother were on their way home from grocery shopping when Marone's car went out of control. She pumped the brakes, but the car wouldn't stop. Her car then crashed into the one in front of her.

Marone's mother was rushed to the hospital and later died. The two occupants in the lead car received minor injuries. Marone did not retain an attorney at that time and the car, which could have served as evidence for Marone's claim that the brake's failed, was not properly preserved.

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The case was referred to Edward C. Bassett Ir., head of the personal injury practice group at the Worcester firm of Mirick, O'Connell, DeMallie & Lougee. When Bassett interviewed Marone, he learned that she was named in her mother's will as the executrix of her estate and that she was the sole beneficiary of the estate. However, Marone had not taken any action to commence the pro-

Bassett immediately contacted Marone's auto insurance carrier and made arrangements to have Marone defended by separate counsel. While Marone was represented individually by independent counsel, Bassett began negotiations with the insurance company on behalf of her mother's estate.

Although there was no evidence of negligence on Marone's part, Bassett convinced the insurance company that the estate should be paid the policy limits for the wrongful death of Marone's mother. In wrongful death cases, the proceeds can be paid in part for "wrongful death" and in part for "conscious pain and suffering." Sometimes the apportionment between these two elements of recovery will have a substantial impact on the tax consequences for the estate.

Bassett also worked with the insurance company to be certain that the lawsuits against Marone individually were settled within the policy limits and releases were signed.

After resolving the car accident case, Bassett realized that he needed additional legal assistance to probate Marone's mother's estate and to clean up title on her mother's house. Bassett then learned that Marone's father had died more than 15 years earlier and that he was the record owner of the house. Unfortunately, his estate had never been probated.

Recognizing that this aspect of the case was beyond his expertise, he enlisted the help of Robert S. Heppe Jr., an attorney in Bassett's firm who works in the probate department.



Worcester attorney Edward Bassett Jr. assisted a woman with legal problems stemming from an accident in which the woman's elderly mother was killed while the daughter was driving.

When the case closed, the two lawsuits against Marone had been dismissed; the estate recovered the full policy limits on the wrongful death claim and the two estates were cleared up so that title to the house now stands solely in Marone's name.

In this age of specialization, Bassett believes he is fortunate that as a personal injury attorney, he can call upon the expertise of many other attorneys in his 44person law firm when he receives an LRS referral. Bassett sees the LRS as being of great value to individuals who do not know who to turn to when they have a

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Case of the month: the lawyer

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Over the past several years, Bassett has represented about 40 women in connection with the silicone breast implant global settlement. When Dow Corning filed bankruptcy, Bassett was able to walk down the hall to enlist the support of his partner, Joseph H. Baldiga, the head of the firm's bankruptcy practice group, to help work through the procedural aspects of this landmark bankruptcy case

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MBA says tort reform proponents "misuse statistics and perpetuate myths"

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Marylin A. Beck, president-elect of the Massachusetts Bar Association, testified at a May 28 Statehouse hearing that tort reform proponents have "misused statistics, cooked numbers and perpetuated myths of frivolous lawsuits" in their bid to insulate businesses from responsibility to consumers. Beck told members of the Joint Committee on the Judiciary that tort reform efforts are driven by manufacturers and other businesses that stand to greatly increase profits if they are no longer held accountable for dangerous products.

Beck cited an number of facts that contradict tort reform proponents' cries of lawsuits out of control. She noted:

 According to the Massachusetts Trial Court, Superior Court filings have dropped to their lowest point in at least 10 years. While data is incomplete, early reports indicate that the decline may be continuing.

Prior to the drop, filings had remained virtually level since 1986.

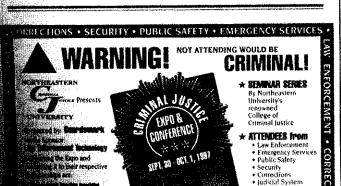
 Tort proponents say the National Center for State Courts has rated Massachusetts as the second most litigious state in the country. NCSC denies this. According to a letter from the NCSC to the bar association, NCSC wrote that its statistics are misused. NCSC says 10 states have higher filing rates and that Massachusetts' "fort filing rates are typical, or in the middle range.

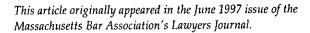
 There is no factual evidence of large numbers of frivolous suits. A 1986 study by the state administration found no evidence. More recently, a Boston newspaper's investigative team dropped work on a report about frivolous suits when evidence of such suits proved nonexistent.

Beck said that even Gov. William Weld appears not to believe in widespread frivolous suits. She noted that in a letter to the Legislature vetoing SLAPP suit legislation, Weld wrote, "I believe that in large measure the courts now possess the tools to deal with the relatively rare circumstances where ... frivolous lawsuits are

Beck said that "the more fortunate victims of shoddy products and services only lose their financial investments. The less fortunate are maimed or killed. To suggest locking the courthouse doors on these people in the name of bigger profits is unconscienable."

There are several bills before the Legislature that seek to make changes in the Massachusetts tort system Thebills websites web recuieume as aliminativa as inim and







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