



MondayMonday

You Are What You Sign

June 15, 2015

There are things that annoy us that we ignore because we are, at heart, good people. Like children misbehaving in a restaurant (that poor mother!) or crunching in a movie theater (who every heard of a silent potato chip?) Inevitably, the individual who overreacts to such annoyances is viewed with disdain, though we silently gives thanks for his curmudgeonly command to have that lousy kid sit down and shut up so we all can enjoy our dinner. In strict psychological parlance, it's know as the "Let Mikey Do It" syndrome.

Enter Jay Foster, Superintendent of Schools in Senatobia, Mississippi, just south of Memphis. During graduation ceremonies at Senatobia High School, he told all the parents and relatives sitting in the audience to hold their applause and cheers until the end of the ceremonies. Now, all of us have heard that same caution at graduations and, nonetheless, been forced to put up with the yahoos who stand up and shout out huzzahs when they hear



their child's name announced. We sit quietly and endure. But not Mr. Foster. He had the misbehavers, three in number, arrested on misdemeanor charges of disturbing the peace, though the charges were dropped prior to arraignment. Mr. Foster, you rock!

It would be easy for us to discuss the Court of Appeals' decision in *Doerr v. Goldsmith*, the misbehaving dog case decided last week. However, that is a decision you should read for yourself and appreciate, firsthand, the efforts of Judge Lippman, in dissent, as he tries to bring the law of torts into the 21st Century here in New York.

Instead, we turn to a case argued last week in a Florida intermediate appellate court, *Phillip Morris USA v. Skolnick*, Case No. 4D13-4696 (District Court of Appeal of Florida, 4th Dist.) Beatrice Skolnick was the widow of a smoker. She received a \$2.6 million award from a Palm Beach County jury (reduced 40% for comparative negli-

gence.) Mrs. Skolnick was a qualifying member of the original 1994 *Engle* class action which had been decertified, sending the 700,000 plaintiffs into the Florida court system to try their cases individually.

On this appeal, Philip Morris and R.J. Reynolds argued that they should have been summary judgment based on a release that Mrs. Skolnick signed in Hicksville, Long Island, in 1993. The release, of Verizon and other companies, also released all other tortfeasors "known and unknown." It came about as a result of Mrs. Skolnick's claim that nuclear materials in a processing facility near the couple's home caused her husband's lung and colon cancer, leading to his death in 1993. The current suit against the tobacco companies was instituted a year later, after Mrs. Skolnick had already accepted a \$60,000 settlement from Verizon.

Personal injury law has become global in nature; plaintiffs don't stay put anymore. Good intake requires asking the potential plaintiff "Did you ever sign anything relating to any injury?" In the meantime, we'll stay tuned for a decision from Florida.

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