Ricci Tyrrell Johnson & Grey
ATTORNEYS AT LAW

QUARTERLY NEWSLETTER

June 2019
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News and Events:

Ricci Tyrrell Johnson & Grey *Eagles Autism Challenge Team.* *See page 9.*

Ricci Tyrrell Johnson & Grey celebrated its 5 year anniversary in April, 2019. The firm's Members consider this half-decade to be the highlight of their respective careers. Ricci Tyrrell has grown steadily in its evolution to 25 attorneys and almost 50 employees currently. We believe further evolution and growth is a certainty. With our collective hearts, we thank our clients and other friends of the firm for taking this journey with us.

William (Bill) Ricci and **Francis J. Grey, Jr.** were both again selected as **2019 Pennsylvania Super Lawyers**. Every year Super Lawyers selects attorneys from all firm sizes and over 70 practice areas throughout the United States. Only 5% of attorneys in Pennsylvania receive this distinction.

Brian Wolensky was elected to join **PLAC** (formerly the **Product Liability Advisory Council**) as part of the Future Leaders Program. PLAC is a not-for-profit association of product manufacturers, suppliers, retailers and select regulatory, litigation and appellate professionals who work to shape the common law of product liability and complex regulation, provide

guidance on changing regulations, and strategically help corporations manage risk throughout the entire product lifecycle. Mr. Wolensky is looking forward to participating in PLAC and continuing to assist product manufacturers in the development of their products

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The lead article in the May 2019 Edition of **CounterPoint** was co-authored by **William (Bill) Ricci**. The article traces current developments relating to Pennsylvania standard products liability jury instructions and is titled "Pennsylvania Supreme Court Overrules *Azzarello*, Only to Have PBI Suggested Jury Instructions Continue To Seek *Azzarello's* Reinstatement." CounterPoint is an official publication of the **Pennsylvania Defense Institute**.

On March 28, 2019, **Alisha Rodriguez**, on behalf of the **Barristers Association of Philadelphia**, was invited to present to Philadelphia City Council about her *pro bono* efforts with the statewide Clean Slate screening project. The Pennsylvania Bar Association and Community Legal Services, Inc. are overseeing a *pro bono* project where attorneys screen individuals interested in sealing or expunging criminal records under Pennsylvania's amended Clean Slate law.

John E. Tyrrell and **Patrick J. McStravick** will both serve on the faculty for the **Pennsylvania Bar Institute 2019 Personal Injury Conference**. Mr. Tyrrell will present on the topic of "How to Avoid a Catastrophic Verdict in a Catastrophic Case". Mr. McStravick's presentation is titled, "If It's Not Broken, Don't Fix It: How to Defend a Products Liability Case".

SUMMARY JUDGMENT AWARDED IN RETAIL STORE ACCIDENT CASE

The *Stagnaro* case was defended by Member **Francis J. Grey, Jr** with assistance from Associate **Samuel Mukiibi**.


Ricci Tyrrell secured Summary Judgment for firm client Target Corp. in *Stagnaro v. Target*, Eastern District of PA, No. 16-cv-03535. Plaintiff alleged she was caused to slip and fall due to the proximity of a clothing rack to a structural pole. She suffered a comminuted fracture and dislocation of her right hip. Her injuries eventually resulted in a total hip replacement. *Daubert* motions to preclude both of Plaintiff's liability experts were granted. After striking Plaintiff's experts, the Court ruled insufficient evidence of causation existed for the case to be presented to a jury.

DEFENSE OF BRAKE LATHE LEADS TO SUMMARY JUDGMENT

The team defending the *Mellott* case included Members **John E. Tyrrell, Nancy D. Green** and **Patrick J. McStravick**.



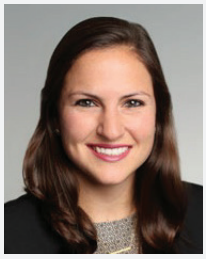
In *Mellott v. Snap-on Incorporated, et al.*, Philadelphia County Court of Common Pleas, May Term 2017, No. 1228, Plaintiff contended exposure of decedent to

asbestos from numerous products, including a Snap-on branded brake lathe. Ricci Tyrrell's defense team demonstrated, however, that the brake lathe neither contained any asbestos nor was designed to be used with any asbestos-containing product. Summary Judgment was awarded weeks before the scheduled trial date.

EXCAVATOR NOT RESPONSIBLE FOR AMPUTATION INJURY

The *Pauseiro* case was defended by firm Members **John E. Tyrrell** and **Patrick J. McStravick** and Associate **Kelly J. Woy**.



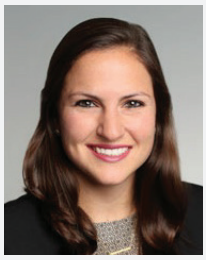


In *Pauseiro v. Volvo Construction Equipment North America, et al.*, Superior Court of New Jersey, Docket No. MID-L-2312-15, Plaintiff claimed injuries, including partial amputation of his foot when a concrete highway barrier ("Jersey Barrier") fell on him after being dropped from a clamp. The clamp was raised by a Volvo excavator. Ricci Tyrrell defended Volvo and demonstrated the excavator was safe, compliant with all industry standards and had no role in the cause of the incident; Summary Judgment was awarded to Volvo as a result.

SUMMARY JUDGMENT FOR AIR COMPRESSOR MANUFACTURER IN DEATH CASE

Ricci Tyrrell's long-time client Clark Equipment Company was defended in the *Grimming* case by Members **John E. Tyrrell** and **Patrick J. McStravick** and Associate **Kelly J. Woy**.





Clark Equipment Company was defended by Ricci Tyrrell in *Grimming v. PBF Energy, Inc., et al.,* New Jersey Superior Court Docket No. CAM-L-4431-16. Grimming involved the death of a worker involved in an operation of a blasting pot, powered by an air compressor, to clean a petroleum tank. In its Summary Judgment Motion for the air compressor manufacturer, Ricci Tyrrell demonstrated that Clark's compressor was not defective and did not contribute to the occurrence of the accident in which decedent was killed. Summary Judgment was awarded to Clark.

ENHANCED VIDEO PROVES HELPFUL

Michael T. Droogan, Jr. is a Member at **Ricci Tyrrell Johnson & Grey**.

Keeping up with technology has been something that has intrigued firm Member **Michael Droogan** since his children began to exceed his skills on a computer ... when they were in grade school. Recent developments in video enhancing software have proven beneficial to Mr. Droogan at arbitrations and trials in Philadelphia.

In one trial, the Plaintiff sued a Speedway convenience store over what she claimed was a defect in a sidewalk that caused her to trip-and-fall. The alleged incident occurred at 1:00 a.m. on a sidewalk that was a considerable distance from the store, but it was still captured on video footage. After locking Plaintiff in to her story during deposition testimony and cross-examination, Mr. Droogan presented Plaintiff's counsel with copies of the enhanced footage that he intended to show during closing arguments. The enhanced footage revealed that Plaintiff never fell. Instead, it revealed she was likely in a stupor when she looked backward, pirouetted and then caught her stride and continued walking serendipitously up the sidewalk, away from the store. After showing the video to the Plaintiff and the Judge, the case was dismissed.

In two recent Philadelphia arbitrations against Speedway, enhanced video revealed the Plaintiff in each case did not fall to the ground as they testified to at arbitration and on direct and cross-examination. Defense verdicts were entered in favor of Speedway and there were no appeals taken.

SELF-DRIVING TECHNOLOGY & THE HUMAN ELEMENT: QUESTIONS OF LIABILITY REMAIN

Alisha S. Rodriguez
is an Associate at **Ricci Tyrrell Johnson & Grey**.

Following a March 2018 crash involving a self-driving vehicle and a pedestrian, the company testing the vehicle – Uber Technologies, Inc. – has avoided criminal liability but questions still linger about the criminal liability of the vehicle operator in what is believed to be the first pedestrian fatality resulting from self-driving technology. The crash involved a 2017 Volvo XC90 modified with a self-driving system[1] and an aftermarket camera system.[2] The vehicle was traveling on a roadway with a posted speed limit of 45 mph in computer control mode while occupied by a vehicle operator. The pedestrian, a 49-year old woman, was walking her bicycle across four lanes of traffic and a bike lane while the Uber vehicle was completing a second round of an established test route. Though the self-driving system, utilizing radar and LIDAR (Light Detection and Ranging) technology, observed the pedestrian six (6) seconds before impact, the self-driving software initially classified the pedestrian as an unknown object. It later updated its classification to a vehicle and ultimately a bicycle prior to impact.

In its preliminary report, the National Transportation Safety Board determined that 1.3 seconds before impact, the self-driving software determined that an emergency braking maneuver was necessary to avoid a collision with the pedestrian.[3] As the vehicle was in computer mode, the automatic emergency braking was disabled to "reduce the potential for erratic vehicle behavior," according to Uber. The automatic braking feature along with other collision avoidance features are factory equipped by the vehicle's manufacturer, Volvo Cars, but those features are only operational when the vehicle is in manual control. As configured at the time of the crash, the self-driving system was not designed to alert the vehicle operator when it determined emergency braking was necessary. Less than a second before impact, the vehicle operator grabbed the steering wheel but did not brake until after the crash. The vehicle was traveling at 39 mph at the time of impact and the pedestrian died as a result of the crash.

The crash took place in Maricopa County, Arizona but the Yavapai County Attorney's Office took over the initial determination of criminal liability due to a potential conflict of interest.[4] Yavapai County determined there was no basis for criminal liability of Uber in the fatal crash. Their analysis of the vehicle operator's liability was not as definitive. Yavapai County recommended the Tempe Police Department conduct further investigation, specifically recommending expert analysis to "closely match what (and when) the person sitting in the driver's seat of the vehicle would or should have seen that night given the vehicle's speed, lighting conditions, and other relevant factors."[5]

Following the preliminary NTSB report, questions arose about what the vehicle operator was doing just prior to the crash. The vehicle operator initially stated she was monitoring the self-driving system interface and not using her cell phones at the time of the crash. Later reports from Tempe Police Department revealed she

was streaming a television show on her phone just moments before the crash.[6]

As criminal charges are still looming for the vehicle operator, questions of civil liability in self-driving vehicle accidents remain. Uber reportedly settled with the daughter and husband of the pedestrian killed in the crash, however, there are still questions about a suit by her parents and son. There is also the possibility of a civil suit against the vehicle operator, which may result in liability for Uber. Depending on the employment status of the vehicle operator, Uber may be exposed to liability under a theory of respondeat superior – imposing liability upon the master or employer for employee acts committed within the course or scope of employment. This theory of liability arises from considerations for public policy, convenience and justice – arguably areas of concern for emerging self-driving technology.

Uber may also face liability under a theory of negligent hiring, retention and supervision considering the potential criminal conduct of the vehicle operator. When a vehicle is in computer mode and being operated by self-driving software prior to a collision, courts will have to grapple with liability and the culpability of a human operator who failed to intervene. According to Uber, it relies on vehicle operators to monitor the self-driving interface, flag events of interest for review and intervene as necessary. The company employs a strict policy prohibiting its vehicle operators from using mobile devices.

Further complicating the matter is the possibility of a comparative liability defense as the pedestrian was jaywalking at the time of the crash. A review of the video also reveals the pedestrian was dressed in dark clothing, walking at night on a section of the roadway without lighting and the reflectors on her bicycle were not visible from the angle which the pedestrian was crossing. Toxicology reports for the pedestrian were positive for methamphetamine and marijuana.

In addition to claims against the vehicle's owner and operator, municipalities may also face potential civil suits. The family of the pedestrian filed suit against the City of Tempe and State of Arizona for negligence based on inadequate oversight of the self-driving cars in Arizona, the non-delegable duty of the city and state to provide safe roadways, and negligent median design.[7] Since the crash, Uber has ceased all testing in Arizona and laid off approximately 300 workers in the state.

In the midst of the uncertainty regarding liability, Uber is forging ahead with its self-driving car unit as it closes in on a deal that would increase valuation of the unit to $7.25 billion following an investment of $1 billion from Japan's Softbank, Toyota Motor Corp and Denso Corp., a Japanese auto-parts supplier.[8]

[1] The self-driving system was composed of forward- and side-facing cameras, radar, LIDAR (Light Detection and Ranging), navigation sensors, and a computing and data storage unit.

[2] The system consisted of cameras in the front and rear of the vehicle as well as an inward facing camera to capture video of the vehicle operator.

[3] https://www.ntsb.gov/investigations/accidentreports/reports/hwy18mh010-prelim.pdf

[4] The Maricopa County Attorney's Office previously partnered with Uber on a public safety campaign on drunk driving.

[5] https://assets.documentcloud.org/documents/5759641/UberCrashYavapaiRuling03052019.pdf

[6] https://www.azcentral.com/story/news/local/tempe-breaking/2018/06/21/uber-self-driving-car-crash-tempe-police-elaine-herzberg/724344002/

[7] Complaint, *Wood v. State of Arizona, et al.*, No. CV-2019-090948 (Ariz. Super. March 18, 2019).

[8] https://www.wsj.com/articles/uber-nears-investment-deal-for-self-driving-car-unit-11555523985

JUST HORSING AROUND: THE STRANGE *TAIL* OF A CONSTRUCTION DEFECT CLAIM

Michael T. Droogan, Jr. is a Member at **Ricci Tyrrell Johnson & Grey**.

Michael Droogan was retained by a truss manufacturer to represent it in a construction defect claim involving a 100' x 70' pole barn that was constructed to serve as a riding arena for just two rescued thoroughbred horses. Plaintiff claimed the barn was improperly constructed and that the trusses were not manufactured to the

correct tolerances and engineering specifications to support the metal roof. Mr. Droogan was hired just prior to the arbitration, which was conducted by a single arbitrator in the United States District Court for the District of New Jersey. Mr. Droogan was taught by his late father how to build garages and other free-standing structures. Using his construction knowledge, Mr. Droogan was able to convince the Arbitrator that the purlins, braces and insulation board and metal roof sections tied the entire roof together in such a way as to eliminate any discrepancy with the seams in the joist tolerances. The Arbitrator returned a defense verdict in favor of our client, but against the general contractor and the sub-contractor.

REMOVAL: SUFFICIENCY, OTHER PAPER AND TIMELINESS

Jonathan A. Delgado is an Associate at **Ricci Tyrrell Johnson & Grey**.

On March 28, 2018, Eastern District of Pennsylvania Judge Eduardo C. Robreno authored an opinion in the case *Rosenfield v. Forest City, Enterprises, L.P., et. al.* on the timeliness of the Defendants' removal of a state court action. The issues addressed in the opinion were whether pre-suit communications between counsel qualified as "other paper" under the removal statute, and if not, was the Defendants' removal timely. Judge Robreno found in the negative for the former and the affirmative for the latter. *Rosenfield v. Forest City, Enterprises, L.P.,* 300 F. Supp. 3d 674, 675 (E.D. Pa. 2018).

As an initial matter, district courts have subject matter jurisdiction over a case when it is between citizens of different States and the amount in controversy exceeds the sum of $75,000, exclusive of interest and costs. 28 U.S.C. § 1332. The removal statute provides that the

> Notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the Defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the Defendant if such initial pleading has then been filed in court and is not required to be served on the Defendant, whichever period is shorter.
>
> 28 U.S.C. § 1332 (b)(1).

If the case by the initial pleading is not removable, it may be removed within thirty days after receipt by the Defendant of "... a copy of an amended pleading, motion, order or *other paper* from which it may first be ascertained that the case is one which is or has become removable." 28 U.S.C. § 1332 (b)(3) (emphasis added).

In *Rosenfeld*, the Plaintiff slipped and fell on ice and broke his patella. *Rosenfield,* at 675. The injury required surgery and rehabilitation. *Id.* Pre-suit, Plaintiff's counsel sent a demand letter to the Defendants detailing the treatment, theory of liability and set forth a demand accounting to an approximate value of $320,000. *Id.* at 675-676. Counsel for the Defendants responded to the demand letter via e-mail and requested that Plaintiff agree to cap damages at $75,000, and explained if he did not agree, the Defendants would likely remove the case to Federal Court. *Id.* at 676. Plaintiff refused to enter into a stipulation, and subsequently filed his Complaint in Philadelphia County Court of Common Pleas on March 15, 2017. *Id.* The Complaint was eight pages in length, contained twenty-nine paragraphs, and included various pictures of the alleged condition. With regards to damages, it was alleged that:

Plaintiff had suffered "Serious and permanent injuries more fully described below";

- "Plaintiff was caused to suffer various injuries including, but not limited to: *fractured left patella*; and great physical pain and mental anguish, some or all of which may be permanent in nature";
- Had to "expend various sums of money for medicines, *surgery* and medical attention, and has been prevented from attending to his usual activities and duties, all to his detriment and possible financial loss"; and
- "Plaintiff suffered physical pain and mental anguish and humiliation and may continue to

> suffer same for an indefinite period of time in the future".

A Case Management Conference was scheduled. The Plaintiff filed his Case Management Conference Memorandum on April 4, 2017 which contained a formal settlement demand of $350,000. *Id.* Thereafter, on May 3, 2017, 30 days after the filing of the memorandum, but forty-nine days after the service of Plaintiff's Complaint, the Defendants removed the case to federal court. *Id.*

Plaintiff timely filed a motion for remand and argued that the removal was improper because the time to remove this matter had tolled. It was his contention that the Defendants were aware of the amount of controversy based upon the pre-suit communication. *Id.* at 675 He argued that the pre-suit communication qualified as "other paper" considered by the removal statute. *Id.* In response, the Defendants argued that the amount in controversy was not ascertainable by the complaint, and that the case management memo constituted "other paper", which triggered the 30-day removal period. *Id.*

Having considered the respective positions, Judge Robreno rejected Plaintiff's argument. *Id.*, at 680. He specifically noted that pre-suit correspondence is not relevant to analysis of removal because the statutory language "makes clear that only post-suit writings qualify as 'other paper'". *Id.*

The above determination having been made, Judge Robreno focused his analysis to the initial pleading and stated that "the amount in controversy was not apparent from the face of the barebones Complaint[.]" *Id.*, at 675. Judge Robreno described the allegations as largely boilerplate, generic and failing to contain detail. *Rosenfield*, 300 at 676. It was determined that the allegations in the Complaint were insufficient to put the Defendants on notice as to the value of the case, and that "the first time that the grounds for removal were apparent under §1446(b) was when the case management conference memorandum was filed[.]" *Id.*, at 680. Judge Robreno denied the motion for remand and found that "the case management conference memorandum [was] the 'other paper' in this case." *Id.*, at 680.

This case provides interesting insight on removal and the sufficiency of an initial pleading. Even though Plaintiff's Complaint alleged that he sustained a fractured left patella and required surgery, Judge Robreno did not find this sufficient to put the Defendants on notice as to the amount in controversy. This ruling would seem to provide Defendants a longer opportunity to assess the value of the case. That said, there is no guarantee that a different Judge would not view a different Complaint alleging a fracture and surgery differently.

PATENTS (AND AVOCADOS)

Stuart M. Goldstein heads **Ricci Tyrrell's** Intellectual Property Practice.

In past articles, I have discussed the most familiar types of patents, i.e. utility patents and design patents. However, there is a third category of United States statutorily granted patents: plant patents.

> Title 35 U.S.C. §161 states that:
>
> > Whoever invents or discovers and asexually reproduces any distinct and new variety of plant, including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber propagated plant or plant found in an uncultivated state, may obtain a patent therefore . . .

In other words, plant patents can be granted for living plant organisms which express a set of characteristics determined by its single, genetic makeup or genotype. The plant must be invented or discovered in a cultivated state and duplicated through asexual reproduction, not otherwise made or manufactured. Asexual reproduction is defined as the propagation of a plant without the use of fertilized seeds, thus assuring an exact genetic copy of the plant being reproduced. The acceptable methods of asexual reproduction include rooting cuttings, grafting, budding, bulbs, runners, tissue culture, and nuclear embryos. The statute requires that the plants may be spontaneous or induced, and hybrid plants may be natural, from a planned breeding program. Although natural plant mutants might have naturally occurred, they must have been discovered in a

cultivated area. Algae and macro-fungi are considered to be plants for patenting purposes.

A plant patent lasts for twenty years from the date the application is filed and it provides the patent owner the right to exclude others from asexually producing the plant and from using, offering for sale, or selling the plant so produced in the United States or from importing the plant into the United States. However, a plant patent is limited to one plant or genome. A plant which is derived from a sport or a mutant is not likely to have the same genome type as the original plant. It therefore would not be covered by the plant patent directed to the original plant, but it could, conceivably, be the subject of a separate plant patent.

While there are far fewer plant patents than utility and design patents (approximately 23,000 plant patents compared to almost 11,000,000 utility and 1,000,000 design patents), plant patents are important nonetheless. Newly patented plants result in many benefits, for instance in providing unique, colorful flowers, advancements in natural medications, and of course, new and healthy food.

Take the example of U.S. Plant Pat. 139 issued to Rudolph G. Hass in 1935. The patent relates to a new and improved variety of avocado grown from patented avocado trees. Although the origins of the original avocado fruit date back many years, the new variety of avocado tree invented by Mr. Hass almost eighty-five years ago resulted in new and distinct characteristics of avocado fruit. This new avocado tree allowed for rapid growth of avocados around the tree. The resulting avocado had an appearance "quite pleasing which is usually not the case with dark fruit." The flesh of the fruit was "a rich cream color of butter consistency with no fiber and with excellent nutty flavor . . . smooth and butter-like," with an oil content of 18.30 percent. The fruit contained a seed sized such that "when the seed is removed the seed coat is always withdrawn within the seed, the seed cavity is symmetrically disposed so that a pleasing appearance is obtained."

Of course, today the Hass avocado is recognized throughout the world as the avocado of choice. It is a tasty and healthy fat component used in guacamole, avocado toast, and in a variety of baked goods. As a practical matter, the development and improvement of the Hass avocado has been ongoing. There have been a number of subsequent U.S. plant patents, the most recent one having been granted in 2016, which continue to enhance the appearance and food eating quality of Hass avocados. The intellectual property protection afforded by plant patents encourages and incentivizes inventors to continue to develop new, healthy and tasty fruits, like avocados.

JUNK SCIENCE: *ROVERANO V. JOHN CRANE, INC.*

Samuel Mukiibi is an Associate at **Ricci Tyrrell Johnson & Grey**.

Junk science. The term, as applied to the courtroom, was popularized in the 1990s in relation to expert testimony in civil litigation and application of *Daubert*. Federal Courts focused on relevance and reliability, allowing the court to be a gate keeper for the admissibility of expert testimony.[1] Pennsylvania, on the other hand, continued to apply the *Frye* standard tied to general acceptance in the scientific community.[2] Nonetheless, depending on where the case was venued, if the science cleared these hurdles, the jury had the last say.

On March 6, 2019, the concept of junk science was again raised as the Pennsylvania Supreme Court heard argument in *Roverano v. John Crane, Inc.*, pertaining to the application of the Fair Share Act, 42 Pa.C.S. § 7102, , et seq., and a jury's responsibility to assess and apportion damages against multiple product liability Defendants. William Roverano, a former PECO Energy employee, and his wife brought suit against multiple Defendants claiming that exposure to asbestos-containing products caused his lung cancer. In 2016, a Philadelphia jury awarded the Roveranos $6.3 million, holding eight Defendants liable. Instead of the jury determining how much each should contribute, the judge distributed the damages evenly amongst the eight Defendants. The Superior Court vacated the trial court's judgment and remanded the case for a new trial to apportion liability. The Roveranos appealed to the Supreme Court on whether the Superior Court misinterpreted the Fair Share Act in holding that the Act

requires the jury to apportion liability on a percentage basis as opposed to a per capita basis in strict liability asbestos cases.[3]

The Fair Share Act, enacted in Pennsylvania on June 28, 2011, discarded the rule of joint and several liability for most purposes and replaced it with a rule of several liability. Importantly, the Act explicitly applies to any action where more than one Defendant is found liable, "including actions for strict liability." Under the Act, a Defendant found less than 60% responsible is (absent certain exceptions) only severally liable for the percentage of the total damages the fact finder apportioned to that Defendant.[4] However, if a Defendant is found more than 60% liable, its liability is both joint and several.[5] The Act also allows a fact finder to allocate liability to Defendants and non-parties that the Plaintiff released.[6]

During the Supreme Court's oral argument, multiple justices worried that allocation on a percentage basis would open the door to "speculation" and "junk science" in the courtroom. Specifically, attorneys for appellee, John Crane, Inc., argued, that juries could utilize scientific evidence to determine a Defendant's responsibility for asbestos exposure, based on the length of time and frequency of the exposure. This prompted Justice Max Baer to respond that the theory interjected junk science and that the Court had never held that duration of contact corresponds with culpability. Additional justices questioned whether a jury could determine proportional fault in a product liability action in a "non-arbitrary way".

[1] *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 113 S. Ct. 1786, 125 L.Ed. 2d 469 (1993).

[2] *Frye v. United States*,293 F. 1013 (D.C. Cir 1923); *Stokes v. State*, 548 So. 2d 188 (Fla. 1989).

[3] The Pennsylvania Supreme Court also granted appeal on whether the Superior Court misinterpreted the Fair Share Act in holding that the Act requires the jury to consider evidence of any settlements by the Plaintiffs with bankrupt entities in connection with the apportionment of liability amongst joint tortfeasors.

[4] 42 Pa.C.S. § 7102(a.1)(1)-(2).

[5] 42 Pa.C.S. § 7102(a.1)(3)(iii).

[6] 42 Pa.C.S. § 7102(a.2).

IN THE COMMUNITY

Ricci Tyrrell Johnson & Grey was proud to again sponsor **Eagles Autism Challenge** ("EAC") which was held on May 18, 2019. One hundred percent of participant-raised funds from EAC cycling and 5K run/walk events go to autism research and programs. EAC aims to inspire and engage the community, so together we can provide much needed support to make a lasting impact in the field of autism. The 2019 EAC event raised over $3,000,000. Firm participants in the EAC cycling, run or walking events this year included Fran Grey, Patti Grey, their sons Fran and Mack, daughters Kirsten and Maddie and family friend Grace Binck; John Tyrrell, Kathy Tyrrell and their son Tom; Michael Droogan; Lisa and George Halbruner; Jason and Samantha Avellino with their sons, Dominic and Nathan; Kelly and John Woy; Brian and Amy Wolensky with baby son Colton; Matthew Mortimer; Yolanda Jenkins; Clara Brown; Megan and John McDonnell; Bernadette Golden; firm friend and accountant Charlie Tabolsky.

Ricci Tyrrell Johnson & Grey was pleased to be a showcase sponsor for the **2019 Philly Showcase of Wine, Cheese & Beer** on April 11th and 12th benefitting ***Boys & Girls Clubs of Philadelphia***. This year's event honored **Howie Roseman**, Executive Vice President for Superbowl LII Champions, ***Philadelphia Eagles***, for his generous support of *Boys & Girls Clubs of Philadelphia*. Serving our city's youth since 1887, *Boys & Girls Clubs of Philadelphia* has provided a safe haven and high-quality programming to youth in neighborhoods across Philadelphia in five core areas: Character & Leadership Development, Education & Career Development, Health & Life Skills, Arts & Culture, and Sports, Fitness & Recreation.

Ricci Tyrrell Johnson & Grey and Member, **William J. (Bill) Ricci** were sponsors for the February 23, 2019 ***Children's Hospital of Philadelphia (CHOP)*** fundraiser benefitting Childhood and Adolescent Leukemia research and treatment. The event was held at ***Twenty9* Restaurant & Bar** in Malvern, PA. Bill Ricci was one of the three organizers of the event and Mr. Ricci's band, ***The O'Fenders*** provided the entertainment. All food and beverages were donated by the owners of ***Twenty9***, along with Mr. Ricci and the other two organizers. One hundred percent of all ticket sales proceeds from the auction, and all other donations were allocated to and provided significant funding for CHOP Childhood and Adolescent Leukemia research and treatment.

Ricci Tyrrell employee, **Lisa Tiffany** once again this year co-chaired the ***Springfield Lions Club*** Easter basket deliveries. Sixty-three baskets were made and distributed to families in need in Springfield, Drexel Hill and Morton, PA. The *Lions Club* is a service club, with the goal of assisting the community and the less fortunate, primarily the hearing and sight impaired.

On March 16, 2019, **Alisha Rodriguez** and **Yolanda Jenkins** supported the ***National Coalition of 100 Black Women, Pennsylvania Chapter*** at its **33rd Annual Madame C.J. Walker Awards Luncheon**. The annual luncheon highlights African American women who have demonstrated excellence in entrepreneurial efforts and community outreach in the Delaware Valley area.

For the 10th year, **John E. Tyrrell**, together with **Barry Weisblatt** and **Sylvester McClearn,** again sponsored college scholarships awarded at their high school in memory of their best friend and brother **Billy Cathell McClearn**. Both a senior boy and girl athlete receive a scholarship each year. Over $50,000 in scholarship funds have been awarded in Billy Cathell's memory.