

KLINE & SPECTER^{PC}



Kline & Specter Eletter - December 2021

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Specter, Baldwin et al win \$9.7 million verdict



Specter



Baldwin

Shanin Specter and **Kila Baldwin** were co-lead counsel in a trial that resulted in a \$9.7 million verdict — including periodic payments — against a neurosurgeon and Thomas Jefferson University Hospital for a retired teacher who suffered brain damage during surgery. With delay damages the total verdict will reach nearly \$11.6 million and be Specter's 17th career verdict of \$10 million or more, including two in nine figures. Monteris Medical Inc., the maker of a device whose tip broke off during the operation to remove a benign brain tumor, was assessed 42 percent of the verdict, or about \$4.1 million, but had

previously agreed to a \$12.75 million settlement. The neurosurgeon in the case, Dr. Kevin Judy, was found 43 percent liable, or for nearly \$4.2 million, while the jury in Philadelphia Common Pleas Court apportioned 15 percent, or almost \$1.5 million, against Jefferson. The surgery occurred in 2015 and left patient Michael Brassloff, then 71, severely and permanently brain injured. Brassloff, who attended the trial in a wheelchair, has difficulty with balance, walking, emotional stability, speaking and dexterity and has developed a seizure disorder and Parkinson's-like symptoms. The trial lasted two weeks and the jury deliberated into a second day before reaching a unanimous verdict. The verdict was not only large but unusual at a time when only a handful of civil cases are being tried in City Hall because of COVID concerns. The jury found that not only was the medical device used in the surgery defective but that Dr. Judy and the hospital were at fault. The Brassloffs alleged that the surgeon failed to get proper informed consent prior to surgery, misstated his experience, used the wrong probe, misplaced the probe, caused the probe to break and failed to recognize it had broken. It had been only his second surgery using that device, called a NeuroBlate 2.2 mm SideFire. **Eleanor Aldous** sat second chair at trial while also assisting were **Gary Zakeosian** and **Jill Casarella**. Also assisting in the case were paralegal **Barbara Carberry** and legal assistants **Diane Grimmie** and **Mariaelena Realdine**.

Millrood joins Kline & Specter as Mass Tort chief

Tobi Millrood, a national leader in the trial bar with 25 years of complex litigation experience, joined Kline & Specter as a partner and chair of the firm's Mass Tort Department. He has held court-appointed leadership positions in mass tort litigation and has won a number of major verdicts, including several eight-digit jury awards. Millrood's focus is on pharmaceutical, medical device and complex personal injury litigation. He has had numerous highlights in the field of prescription drug and medical device litigation, including success against Wyeth, Pfizer and other Fortune 100 companies in the landmark Hormone Therapy litigation. Millrood was the first in the nation to file a hormone therapy lawsuit and served as Plaintiffs' Lead Liaison Counsel for the matter in Philadelphia Common Pleas Court. He tried four hormone therapy cases to verdict, winning all, among them verdicts of \$72.6 million and \$34.3 million. Earlier in his career he was co-counsel in a medical malpractice case that produced a \$22 million verdict. Millrood is Immediate Past President of the American Association for Justice, having completed his term as president this past July. With the AAJ he received several awards, including the Distinguished Service Award, Heavy Lifting Award and the prestigious



Millrood

President's Award in 2015. Millrood earned his bachelor's degree from Tulane University and his law degree from the University of Tulsa College of Law. ([Read more](#))

Balefsky leaving Mass Torts, oversaw great successes



Balefsky

Lee Balefsky is stepping down as head of Kline & Specter's Mass Tort Department and will become senior counsel to the firm. Balefsky established the department 18 years ago and had great success in an array of cases, including those involving asbestos, pharmaceuticals, denture creams and medical devices. Most recently, Balefsky helped spearhead the firm's efforts against the makers of vaginal mesh, achieving recoveries for thousands of women implanted with the defective surgical device. He was a member of the Plaintiffs Steering Committee involved in all vaginal mesh cases and served as liaison counsel in the Philadelphia Mass Tort Pelvic Mesh Program. He has had immense success in other mass tort cases, playing a leading role in the \$4.85 billion Vioxx settlement as well helping achieve significant settlements in litigation involving the drugs Fen-Phen and Baycol. Balefsky's Mass Tort Department was recognized

nationally following a survey by U.S. News Media Group and Best Lawyers that designated the department as one of the best in the United States. Individually, Balefsky has been named for 18 consecutive years in Super Lawyers and also from 2013-2021 was selected by Best Lawyers in America as among the best attorneys in Pennsylvania and the country. Balefsky earned his undergraduate degree from Temple University and his law degree from Wake Forest University School of Law.

Bezar, Nocho settle child abuse case for \$10.6M

Nadeem

Bezar and Kyle

Nocho achieved a \$6 million settlement from a private child welfare agency and \$4.6 million with a youth residential care facility for three sisters who were sexually and physically abused after they were negligently reunified with their abusive father. The total \$10.6 million settlement requires confidentiality of the defendants. The welfare agency serves Philadelphia



Bezar



Nocho

while the residential care facility serves Philadelphia, Montgomery and Delaware counties. The girls ranged in age from nine to 14 when they were victimized. They had been placed with their father in Philadelphia despite obvious problems: he lacked adequate housing, had no source of income and was facing outstanding charges for sexually assaulting his girlfriend. He was eventually convicted of crimes relating to the abuse of his daughters and sentenced to a minimum 37 years in prison. In an article in *The Legal Intelligencer*, Bezar said: "What these girls experienced was unspeakable. I am sickened that a person, let alone their father, could have done these horrible things to these children and that two agencies entrusted with their care allowed it to happen. I am happy that we were able to achieve a recovery that will give these girls some opportunity for a future." The \$6 million settlement with the welfare agency was for all of its available insurance coverage, Bezar said. He noted there were challenges in the case, including proving notice of the abuse. Negotiations in the case also were complicated because the defendants had joined the father as a defendant, creating the possibility that a jury would apportion all or some percentage of fault to the perpetrator. While the welfare agency reunited the girls with an abusive father, the residential care facility allowed one sister to have unsupervised visits at multiple off-campus locations without verifying her safety or even the existence of the locations.

\$7M stipulated verdict paves way for appeal on caps



Tom Kline and **Colin Burke** won a \$7 million stipulated verdict against SEPTA for a woman whose foot was crushed and partially amputated when run over by a city bus. But while the mass transit agency agreed to the verdict, it will only have to forfeit \$250,000 under state law placing a cap on payments. Kline said he sees the case as an opportunity to change or eliminate the cap law. He said that he, with **Chip Becker**, the firm's lead appellate lawyer, and **Andra Laidacker** will appeal on behalf of client Haley Freilich, 37, of Philadelphia, hoping to argue before the Pennsylvania Supreme Court that the limit on recoverable damages is unconstitutional. He noted that the stipulated past medical costs alone for his client are \$500,000. The \$7 million stipulated verdict was reached on the day of jury selection in Philadelphia Common Pleas Court. It represents an outcome consistent with the evidence that would have been introduced at trial and that a jury is deemed to have reached. However, state law limits actual payments by the commonwealth and state agencies to \$250,000 to an injured individual and to \$500,000 for municipalities and local governments. Kline said Freilich's case illustrates the unfairness and unconstitutionality of the cap and he feels the issue may be ripe for state's highest court and the state legislature to consider. A state Senate task force is currently considering the matter. Kline noted that in a 2019 decision, while the Supreme Court did not strike down the caps, four of its members acknowledged the unfairness of the law and urged lawmakers to consider changes. Kline told the news media: "We intend to continue to fight for Haley Freilich and other victims to obtain fuller and fairer compensation not only by litigating this issue in the Pennsylvania appellate courts, but also by making our case to the legislature and by educating the public that the draconian cap on damages must be revised or eliminated." ([Read more](#))

Trunk, Magen settle med mal case for \$1.8M

Michael **Trunk** and **Barry Magen** obtained a \$1.8 million settlement in the death of a five-year-old girl who was twice misdiagnosed and sent home with antibiotics only to discover later that she had bacterial meningitis. Assisting in the case were attorney **Sara Thomson** and paralegals **Michele Enley** and **Kathryn Longer**. The child had been first taken to a pediatric center and then a hospital emergency room, where she was given oral antibiotics and sent home. But her condition continued to worsen until, days later, she returned to the ER and was taken by helicopter to a hospital in Philadelphia. It was there that meningitis was diagnosed but, even though emergency measures were taken, it was too late to save the child's life. Under a confidentiality agreement, neither the names of the pediatric center nor the initial emergency room doctor and nurse, defendants in the case, was released. The original medical center itself was not part of the settlement. In a statement to the news media, Trunk said: "This is a tragic case where the lack of vigilance by her health care providers resulted in the preventable death of a beautiful five-year-old girl. The investigation into what happened and the ensuing litigation, which spanned more than four years, brought into focus the missteps that were taken and will hopefully help avoid a similar tragedy in the future." The lawsuit claimed that "dire and alarming signs and symptoms" were ignored in the child's early treatment and that if she had been properly and timely evaluated, diagnosed and treated, her death would have been prevented.



Trunk

Magen

Lawsuits in the News:



Merson, left, appears with Lili Bernard on CNN

Jordan Merson, who heads Kline & Specter's New York office, filed suit on behalf of Lili Bernard, a former "Cosby Show" actress, who claims that Bill Cosby drugged and sexually assaulted her in 1990. Bernard alleges that Cosby, who has been the target of numerous sexual assault allegations, lured her to an Atlantic City hotel room under the guise of meeting with a producer who could help her acting career and then assaulted her. Cosby

last June was released from prison after the Pennsylvania Supreme Court overturned a criminal sexual assault conviction against him based on a technicality. Another woman is currently suing Cosby in California for alleged rape when she was 15 years old. Cosby has settled a number of

other sexual assault lawsuits by other women. ([Read more about the case](#), [Watch CNN interview](#))

Colin Burke filed suit on behalf of the family of a 23-year-old inmate of a Montgomery County jail who was treated for a dislocated shoulder at a local hospital but died hours later from an irregular heartbeat caused by an enlarged heart and aggravated by a form of congenital heart disease. The family of Terrence Taylor is seeking financial damages from Montgomery County and PrimeCare Medical, Inc., the company that treated inmates. They claim his death could have been prevented and that staff at the jail attempted to cover it up. Taylor was just six weeks away from completing his sentence. (Read complete coverage in [The Philadelphia Inquirer](#).)

Kila Baldwin filed suit on behalf of a western Pennsylvania woman who claims that a defective Flying Fairy toy came apart after launch and injured her eye. The helicopter-like toy, which goes airborne by pulling a cord, did not fly upward into the sky as intended but instead launched directly into the right eye of Robyn Shaw, of Blairsville, Pa., who was operating the toy for her daughter, the suit alleges. A medical exam showed excessive tearing, an irregular pupil, an injected sclera, and a subconjunctival hemorrhage on the right side of her eye. The toy is made by Magic Time International, Ltd., of Hong Kong, and was sold in Wal-Mart stores. (Read more in [The Pennsylvania Record](#).)

Kline featured on Sandusky TV special

Tom Kline was interviewed by WGAL-TV in Lancaster for a special report on the Jerry Sandusky child sexual assault scandal 10 years after the former assistant Penn State Football coach was convicted and sentenced to prison. Kline, who filed civil litigation against the school and was a voice in helping to change its regulations and state law in the



aftermath of the scandal, called the lengthy and highly publicized case a "landmark case" that should not be forgotten. "The legacy is long and it is important," he said, "The bravery of the young men who came forward and testified at that trial under the most trying of circumstances as to them I believe served as an inspiration to other individuals who saw that the criminal justice system can work and that their voices would be heard." The television special, titled "Chronicle: Sandusky Case Impact 10 Years Later," included interviews from a number of people involved in the case. Kline represented one



of Sandusky's victims in civil litigation against Penn State and was the first to achieve a substantial settlement for his client. He told a TV interviewer: "It's important that we not only move beyond this terrible tragedy that could have been and should have been avoided, but it's also important to remember it, to set it down as a marker that should not be forgotten by anyone

because the issues are too important and the stakes are too high." ([Watch the TV special](#))

Conferences

et

al:

Kline addresses students at his alma mater

Tom Kline spoke with more than 200 students at a "box lunch" at Duquesne University School of Law in Pittsburgh, where Kline attended law school and won the Most Distinguished Student Award. At the luncheon he spoke for more than an hour and a half about the legal profession and his career. He went from there to speak with 40 students in the law school's leadership program.



Kline serves as moderator on panel with ex-NFL players

Tom Kline was the moderator at the Pennsylvania Bar Association's Minority Bar Committee on the topic of "Social, Criminal and Justice Reform and the Role of Professional Athletes." Participating on the panel were

several former NFL players, including one-time Pittsburgh Steeler great Franco Harris, former Philadelphia Eagle Reggie Wilkes and former Steeler (and now Allegheny Common Pleas Judge) Dwayne Woodruff.

Kline teaches, lectures at Kline School of Law

Tom Kline taught a class on strict liability/products liability to international students at Kline Law. He also lectured on the topic "Anatomy of A Trial" to students in Professor Gwen Stern's trial advocacy class. He began with the opening speech, during which he



explained that he tries to convey to a jury that he is a "trustworthy messenger." Said Kline: "I think the fundamental error that is made by lawyers, is to try to turn an opening into a closing. An opening is an articulation of the facts, and that does not mean that you cannot be passionate, that you cannot be expressive, that you cannot give your version of the facts ... but you need to stick to the facts and you need to get the core facts out, you need to deal with the facts that are not favorable as well as the facts that are favorable." In another event, Kline addressed the Private Law Society Group on how to successfully start a law practice.

And Kurecian makes 49 ...

Amanda Kurecian joined Kline & Specter and currently is on the front line of litigation, a member of the team of attorneys that evaluates cases as they first arrive at the firm and helps to research and assign them for further investigation. She is an experienced attorney who opened her own firm in 2013 and first came to Kline & Specter to work on medical device product liability litigation, including vaginal mesh cases. She handled most aspects of the litigation, including evaluating claims, reviewing medical records, conducting research, drafting briefs and conducting depositions of clients, expert witnesses and treating physicians. Kurecian held legal internships with the Montgomery County (Pa.) Office of the Public Defender and the Hon. Edward G. Smith of the Northampton County Court of Common Pleas. She earned her bachelor's degree at Lehigh University and her law degree at the Thomas R. Kline School of Law.



Kurecian

Her addition plus that of Tobi Millrood to the firm brings its total number of attorneys to 49.

Honors/Elections/Appointments:



Nadeem Bezar was named a 2021 Best of the Bar honoree by the *Philadelphia Business Journal*, which annually recognizes “Philadelphia’s Top Lawyers.” The newspaper used a panel of outside judges to select 35 local lawyers who within the last 12 months “have distinguished themselves in their practice specialties.” Bezar was one of only two attorneys chosen for plaintiff personal injury litigation. Bezar has been recognized for representation of sexually and physically abused children, winning a litany of major verdicts and settlements for victims.

Priscilla Jimenez was elected to the national Board of Governors for the American Association for Justice. AAJ provides lawyers with information and assistance to help serve their clients and to “protect the democratic values inherent in the civil justice system.” It works to provide justice for people who are injured and to safeguard victim rights, particularly the right to trial by jury. The board meets quarterly and approves AAJ’s policies and budget. Jimenez also was selected as a 2021 *Al Dia* “40 Under Forty” awardee. The Spanish language newspaper recognized 40 young professionals who are making a positive impact throughout the Philadelphia



region.



Aaron Dunbar, third from left in photo, was sworn in as treasurer of The Barristers’ Association of Philadelphia, an organization founded in 1950 to address the professional needs and development of Black lawyers in the city.

Michelle Paznokas was named an adjunct professor at the Kline School of Law, where she

teaches Advanced Legal Analysis and Bar Skills. Paznokas graduated *magna cum laude* from Kline Law in 2017.

Arlen Specter US Squash Center opens



Shanin Specter participated in the official opening of the Arlen Specter US Squash Center at Drexel University with a speech celebrating the marvelous facility, the sport and memories of his father, an avid squash player to say the least. The late Sen. Specter carried his racquet everywhere he went, even on official Senate business, and played in more than 100 countries. The squash center contains 20 courts, including

two glass-walled courts for spectator viewing and plays host to the Squash U.S. Open, which attracts the world's best players. But a main feature is that it hopes to attract new players to the sport and those who can't afford memberships at high-cost clubs; it will offer free memberships for many in the local community. The center will have 10 public league teams, which Specter noted will be "the only public league for squash in the Western Hemisphere." Specter, who, with his wife Tracey, was the lead sponsor for the center, said, "If my Dad were here he would say ... he is so happy that this is a community center. It's the largest squash community center in the world. He'd be so happy about the slogan: 'You belong.'" The center also includes a training center and will be home to the U.S. Squash Hall of Fame. It also is bedecked with quotes from Arlen Specter, including one of his favorites: "You're never too far behind to win and you're never too far ahead to lose." ([Watch Shanin Specter speech](#))

PHOTO:

It is early in the NBA season, and **Tom Kline** is back sitting courtside next to the visitors bench at Sixers games. Here, Kline talks hoops with Detroit Pistons head coach **Dwane Casey** prior to the start of a game. The Sixers won 110-102.



Charity:

Kila Baldwin collected about 60 pounds of candy at Halloween, not for herself (well, maybe one Snickers bar) but for Germantown Academy's Community Service Organization to be handed out to those in need in the local community.

Jennifer Pinto is collecting for a Cradles to Crayons' program titled "Gear Up for Winter" that provides cold weather gear for local children whose families struggle to stay warm. The non-profit is collecting new and used coats, hats, gloves, sweaters, hoodies, pajamas, shoes, boots and socks (new socks only). Checks are also accepted.

Kline & Specter proudly supports ChildUSA.

**"No one has ever become poor by giving."
— Anne Frank**

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