



Keegan & Keegan, Ross & Rosner, LLP

ATTORNEYS AT LAW

Thomas J. Keegan Jr.
Daniel C. Ross
Jamie G. Rosner
Thomas J. Keegan (1923-2003)

147 North Ocean Avenue
Post Office Box 918
Patchogue, New York 11772

Phone » 631.475.9400
Fax » 631.475.0601
Web » www.keeganlaw.us

Do Not Delay

In May 2008 our office resolved a malpractice claim against a dentist who had failed to properly perform root canal treatment on a patient. Unfortunately the patient not only had a bad dentist, but trusted him and did not get a second opinion for over 4 years. When the patient learned what had been done - or better said NOT DONE - we were retained. She was referred to Keegan & Keegan, Ross & Rosner, L.L.P. by one of our previously, satisfied clients.

We consulted with a qualified expert and brought suit on their behalf.

The lawyers hired by the insurance company moved to dismiss the case since such suits must be started within 2 ½ years of the malpractice. The last time the dentist had even looked at the tooth in question was now over five years ago. Although the time to bring a claim for medical, dental and podiatric malpractice is limited to 2 ½ years, we were able to convince the judge that we were entitled to discovery of the dentist's records and argued equity should not allow this conduct. It just was not fair!

However, that argument usually does not go very far with judges who are bound to read, interpret and enforce the law as it is written. We argued the rule of "equitable estoppel" should be applied and not let the case be dismissed without discovery of the dentist's records and taking his sworn testimony. Equitable Estoppel is a rule that allows the judge to direct a "fair result" although the letter of the law may dictate otherwise. After years of insisting the case would eventually be dismissed and that no payment would ever be made, a settlement offer was made the week before the dentist's deposition. It was rejected as inadequate. On the day his deposition was set just before he was to be sworn to testify, the settlement offer was increased significantly and the case resolved.

We are prevented from disclosing the details of same, but we can say with confidence a less stalwart firm may have found the case without merit and advised the client not to pursue the claim. We felt it better to "fight the good fight" and at least let the clients know there was some possibility of justice for them. They got the best result from the justice system that could be expected based on when they contacted us for their claim, but had the clients acted within the 2 ½ years limitations, we could have fought for - and we believe delivered - a larger award. The delay left us in a very difficult negotiating position.



Keegan & Keegan, Ross & Rosner, LLP

ATTORNEYS AT LAW

Thomas J. Keegan Jr.
Daniel C. Ross
Jamie G. Rosner
Thomas J. Keegan (1923-2003)

147 North Ocean Avenue
Post Office Box 918
Patchogue, New York 11772

Phone » 631.475.9400
Fax » 631.475.0601
Web » www.keeganlaw.us

The lesson: If you suffer an injury that you believe is due to negligence do not delay in seeking professional advice from a qualified attorney. We at, KEEGAN & KEEGAN, ROSS & ROSNER, L.L.P., stand ready to act with speed and determination to protect our clients' rights, and we are waiting for your call to begin your fight - do not delay!

This article has been brought to you by:

Keegan & Keegan, Ross & Rosner, LLP

147 N. Ocean Avenue
Patchogue, New York 11772

Phone: 631-475-9400
Fax: 631-475-0601
Website: <http://www.keeganlaw.us>