

IS IT GOOD TO BE CONSISTENT? NOT ALWAYS!

SOMETIMES BEING CONSISTENT JUST MEANS WE'RE BEING LAZY

In our society, when we say that someone is consistent, chances are we mean it in a relatively positive way. However, according to Arizona State University Professor of Psychology Robert D. Cialdini in his book "Influence: The Psychology of Persuasion," the kind of consistency we tend to value is not always a good characteristic. In fact, we can be consistent to a fault, and I think this year's presidential election season was evidence of that.

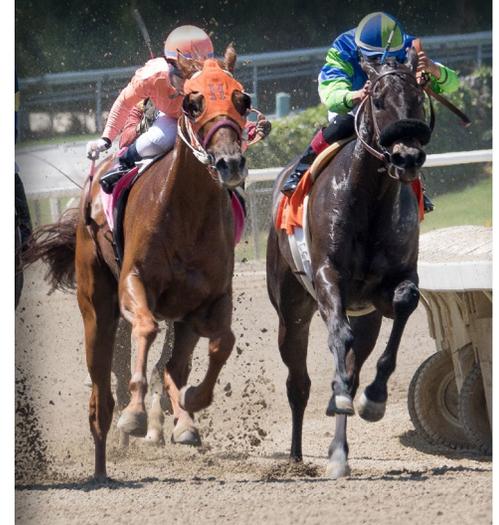
Before the election, many people on both sides of the political spectrum were firmly entrenched in support of their candidate. It seemed like no amount of information would cause any of them to reconsider their views. (That's not to say no one did — it just seems like it was uncommon.) Facebook was awash with "friends" trying to convince each other of the wisdom or folly of their choice for president. Why the reluctance to change positions? Why the insistence on trying to persuade others to our point of view? I believe most people fell victim to blind consistency, myself included.

You wouldn't be wrong to call people on either side consistent. Regardless of what they might have heard in support of the other guy, they stuck to their guns, so to speak — and that's where the pitfalls of being consistent begin.

Of course, it's not always bad to be consistent. One study that Dr. Cialdini references had to do with sunbathers and beach thieves. In the study, one participant would pose as a sunbather who set their towel and their valuables down near some strangers and then left. Then, another participant posed as a thief, who would then go and "steal" the other participant's things in full view of the strangers. The strangers who saw the sunbather's items being stolen only confronted the thief in about 4 of the 20 instances.

However, when the sunbather simply asked the strangers to watch their things while they were away, the strangers confronted the thief 17 out of 20 times. The difference being that this time the strangers had committed to something and their actions were consistent with that commitment. Our desire to be consistent with a commitment can no doubt lead to good behavior.

However, the automatic nature of consistent behaviors can lead to some nonsensical — and even harmful — outcomes as well. Another study referenced in the book looked at betting at horse races. Dr. Cialdini explains that before the subjects chose a horse to bet on for a race, they were uncertain about which one would win. However, after they chose, they felt much more assured that their chosen horse would be the winner.



Bettors had a desire to be consistent in their support because they had committed themselves by placing their bet, even though nothing had changed regarding the horses' ability to race. The only thing that had changed was that they had picked one of them to win.

In 2020, we placed our bets long ago on whether we loved Trump or hated him. Either way our bets were placed, our confidence cemented, and no further deep thinking was required or desired! And almost nothing could change our minds. That's not a good thing.

Consistency can be both good and bad. However, in order to avoid the pitfalls of consistency, we should seriously consider what's motivating it. If we're remaining consistent out of laziness or to avoid deeper thought about a subject matter, then it might be time to stop valuing consistency above all and look at whether or not that subject is really worth being consistent about. Otherwise, it will only become harder and harder to reach a mutual understanding with one another as we journey into 2021.

-Len Spada



I SIGNED A WAIVER, THEN I GOT HURT

CAN I STILL SUE?

If you've ever signed up to do a recreational activity that's more dangerous than your average activity, you may have had to sign a liability waiver. I know I've had to sign several such waivers for things like skydiving, snowmobiling, zip lining, and even go-kart driving. Chances are, you've probably signed one of these waivers too.

I've worked with clients in the past who have injured themselves while participating in activities for which they signed one of these waivers. While they generally (and I stress "generally") preclude participants from filing a suit against the company that made them sign the waiver, determining whether this is actually the case requires careful review of the waiver itself, knowing the circumstances under which it was signed, and understanding the level of negligence involved.

All rules have their exceptions, and in the case of liability waivers, the most common is made for gym memberships. Essentially, gyms can't use membership contracts as a means to protect themselves against lawsuits. In other cases, if the waiver was obtained through

fraudulent means or coercion, courts will usually deem it unenforceable.

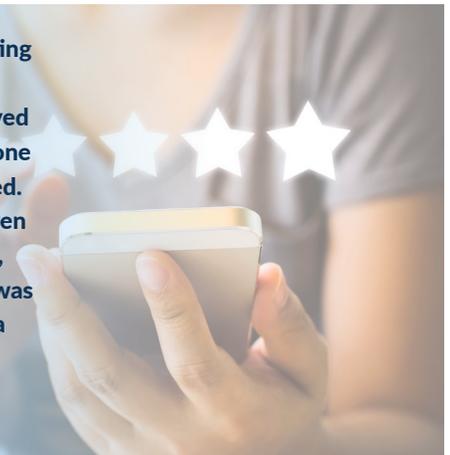
The most nuanced area of law surrounding liability waivers, however, is negligence. While waivers will protect businesses from claims of ordinary negligence, they cannot protect businesses from claims of gross negligence. Without delving too much into the legalese about what exactly constitutes "gross negligence," suffice it to say that it is negligence of a much higher magnitude and much less watchfulness in situations of great danger, even considering the already dangerous nature of the situation.

If you believe you signed your waiver under duress, or your injuries were a result of gross negligence, you may be able to pursue a claim against a business regardless of their waiver. If you believe you may have a case, you should first make sure you understand your rights and educate yourself about your situation. The Spada Law Group website has several free consumer guides and videos for you to reference. If you have any questions, just give us a call at 617.889.5000.

REVIEW OF THE MONTH

"Len, Robyn, and the entire Spada office staff were a pleasure to work with from our initial meeting to our wrap-up session. The office is in close proximity to North Shore, surrounding towns, and Boston. Len was courteous and sensitive to our issue as a whole and even more so that it involved a traumatic personal injury incident and our minor child. As the case came to a close, Len took one last step and recommended an additional visit to a specialist to be certain all bases were covered. Len and Robyn were responsive to all communications that included phone calls, emails, and even texts. The situation wrapped up quickly, which is not to say in haste, but rather via a thoughtful, realistic approach from start to finish. I would not hesitate to use the Spada firm again if there was ever a need. I would recommend to family, friends, and readers of his reviews who are seeking a personal injury attorney who cares as well."

-Allyson J.



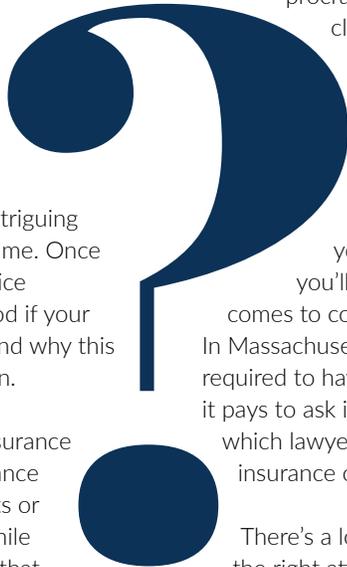
1 QUESTION PEOPLE SHOULD ALWAYS ASK THEIR ATTORNEY

I spend a lot of time writing about various subjects for this newsletter that I believe are of interest to potential clients. However, as I've continued to help clients fight their legal battles, I've noticed that there's one question that almost no one asks even though they absolutely should: Does their lawyer have legal malpractice insurance?

I know that's not the most intriguing question ever, but bear with me. Once I explain what legal malpractice insurance is, and why it's good if your lawyer has it, you'll understand why this is such an important question.

To start, legal malpractice insurance is a specialized kind of insurance policy that covers certain acts or omissions by the attorney while they're representing a client that cause their client financial harm. Obviously the goal for any competent attorney is to avoid mistakes, but having legal malpractice insurance helps lawyers cover their clients' financial losses if mistakes happen.

Keep in mind that it takes more than just a verdict that's not in your favor to claim legal malpractice. Some of the most common forms of legal malpractice include a failure to know the law, inadequate investigation, failure to file documents, failure to know and keep track of deadlines, procrastination, failure to obtain client consent, conflicts of interest, and fraud.



If your lawyer doesn't have legal malpractice insurance and ends up making a mistake that costs you a verdict in your favor, you'll be out of luck when it comes to collecting your compensation. In Massachusetts, lawyers are not legally required to have this type of insurance, so it pays to ask if they do. You can find out which lawyers have legal malpractice insurance on MassBBO.org.

There's a lot to consider when hiring the right attorney for your case, and we sincerely want to help you make the right decision. Along with the advice in this article, check out our blog for more information on legal malpractice as well as our free guide for hiring the right injury lawyer at SpadaLaw.com.



Local Chef's Corner

A TASTE OF CHRISTMAS EVE

From My Childhood

When I was little, my mom used to prepare all the seafood dishes for the Feast of the Seven Fishes on Christmas Eve. My favorite one was always the swordfish, the pesce spada – and not just because it had my last name in it!

INGREDIENTS

- 2 medium potatoes, peeled
- 1/2 onion, finely diced
- 1 tbsp green olive tapenade
- 1 tbsp salted capers, rinsed
- 1 chile pepper, crushed
- 1 1/2 cup tomato purée
- Olive oil
- Salt and pepper, to taste
- 1 swordfish steak, sliced 1/8-1/4-in thick
- Fresh basil leaves, for garnish

DIRECTIONS

1. Boil potatoes until soft, remove from water and slice.
2. Cover the bottom of a large cast iron pan in olive oil. Sauté onions until soft, then add olive tapenade, capers, chiles, and tomato purée. Season lightly with salt and pepper. Simmer for 20 minutes.
3. Add swordfish to sauce and cook for 5 minutes or until cooked through.
4. Chiffonade basil, place on top, and serve.

Inspired by TheTasteEdit.com

WORD SEARCH

D L T F I G P F T U L D Y W X
 D Z T A X V H X B M I Z K O H
 Y X U R E C A M J L X Y G L H
 L C O D A M V M T H I L X Z T
 D P P X D Z J D U Y M L Y B J
 G W E I S N O W E R C O A U E
 F Y F A I Z J G W E A H D E Z
 J J W Q C A H F W E X X I S F
 F O Y H G E A J T H G A L I I
 T V U V U M G I W C L K O O L
 A L N F I C A R O L G A H U Q
 V Y M L H I D L E V O H S Q R
 T S Y W L J X R M Q D H F R V
 C Z C O C O A T G S C W B U Q
 C T V F G N I D D E L S S T N

- CAROL
- CHEER
- COCOA
- FAMILY
- GIFT
- HOLIDAY
- HOLLY
- PEACE
- SHOVEL
- SLEDDING
- SNOW
- TURQUOISE

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**Be on the lookout for our fresh
new look in the January edition!**

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MEET KISMET, A DENTIST'S TOOTHLESS THERAPY DOG



Therapy pets can have a powerful impact on dental patients, especially if those patients have anxiety.

"The studies are very clear: People who sit and pet animals have lower blood pressure, and that's what it's all about," Dr. Cameron Garrett told TODAY when the world found out about Kismet. Garrett's dental practice employs the adorable 13-year-old Chihuahua rescue as a therapy animal that patients can hold and pet while they get dental work done.

Kismet's life has not been easy. The Muttville Senior Dog Rescue has invested thousands of dollars into Kismet's health — they diagnosed her with heart disease, removed a cancerous tumor, treated a hernia, and removed all of her teeth due to periodontal disease. Yet, Kismet remains a very sweet dog. She never barks and loves back scratches and being held.

It's especially amazing that the toothless Kismet found such a perfect new home with dental professionals! This past July, Cameron Garrett and his wife, Debra Garrett (a hygienist), adopted Kismet into their home as well as their dental practice. The serene dog has provided a special experience for patients who come for exams, cleanings, and even root canals.

Of course, some patients are scared of dogs. In those cases, Kismet relaxes behind a closed gate. But over 98% of patients happily take Kismet on their laps while they undergo their dental procedure.

Cameron Garrett told CNN, "Quite honestly, as a dentist, I'm as much a psychiatrist or psychologist as anything else. Kismet has allowed us to have another tool in our toolbox." They can even use the toothless pup's story to teach patients about the effects of periodontal disease.

Getting love from patients also helps Kismet. "She just wants to be with us," Debra Garrett explained. The new owners suspect that she was abused in the past and is still recovering from that trauma. "When she is on a patient's lap, she's providing them comfort, but she's also getting comfort. It's hard for me to describe how nice it is for me to be looking at her while I'm working. It's just a win-win all the way around."

Our hearts are officially melted. It's only fitting for a pet hero to have heroic owners, too!