

Preventing Tragedy In Foster Care

In Partnership with



Rhonda Sciortino

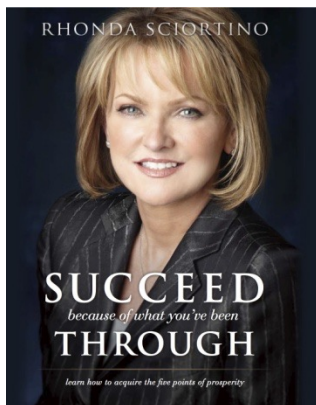
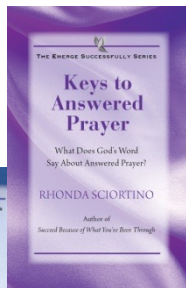
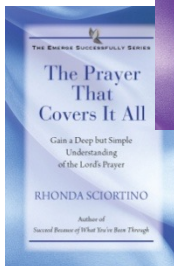
author, speaker, child advocate, foster alum, podcast host of
EMPOWERING RESILIENCE



Be a Successful Survivor!



rhonda
SCIORTINO



rhonda@Rhonda.org

949.689.5611



Deborah Ausburn

Attorney, author, speaker, foster parent & stepparent

Raising Other People's Children

WHAT FOSTER PARENTING
TAUGHT ME ABOUT BRINGING
TOGETHER A BLENDED FAMILY

Debbie Ausburn

Coming May 25, 2021



OtherPeoplesChildren.org

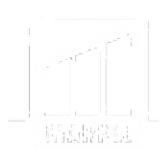
taylor | english

the purpose-built law firm®

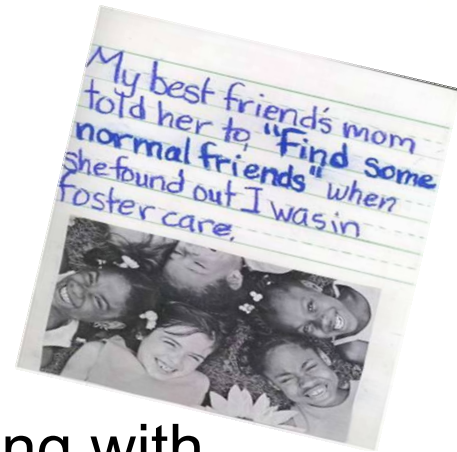
Debbie@taylorenghish.com

Newsletter and Law Alerts about legal issues

Blog: YouthServicesLaw.com



Workshop Description



Caring for kids who have been abused, and dealing with their dysfunctional families, is difficult work.

Despite your best efforts, foster kids sometimes get injured or killed. And sometimes they make allegations against their caregivers.

What you do to prevent the preventable, mitigate the foreseeable, and respond to tragedy or allegations, may determine your future and the future of your family.

*Our thanks to Foster Care Alumni of America for the use of their Postcard Project
EXPLORING THE CULTURE OF FOSTER CARE.*

Don't think it can't happen to you

It's not "if," it's "when" there'll be a claim.

And when there is a claim, there are "crusaders"

- Reporters
- Attorneys
- "Advocates"

LAWYERS

Nursing-Home Verdicts: There's Guilt All Round

Boomers sue on their parents' behalf, and win big

homes." In the past plaintiff lawyers shied away from nursing-home suits—there was no money in it. Elderly residents, the thinking went, were going to die soon anyway, so juries weren't inclined to deliver large "pain and suffering" awards. So starting in the late 1980s lawyers devised a "quality of life" strategy, arguing that a resident's remaining years—regardless of how few or riddled with disease—had a value. "We showed that a bed sore on a 95-year-old person is worth real money," said Jack Harang, a New Orleans lawyer.

But now juries are going further than just compensating victims for damages. They are handing out big punitive awards. The legal strategy: plaintiff lawyers try to show that injuries such as bedsores and falls resulted from systemic problems—like repeated understaffing or poor supervision. The goal is to convince a jury that a nursing home acted with "conscious indifference" toward a resident. That strategy was used in Florida's biggest nursing-home verdict. Two years ago Charles Barnes, 68, wandered away from a Boca Raton facility and drowned in a pond. The family sued. "I was angry," recalled Charlotte Hamilton, Barnes's stepdaughter. "I felt like somebody needs to know what's going on, and the lawsuit was the only way to do that."

A year lawyer Richard he home was under- it placed a monitoring verdict: \$6.3 million, in punitive damages. ld reporters the large end a message" to the s appealing. "The veracily and passion and awyer Jonathan Abel. but nursing-home care issue is low Medicaid are payments to nurs- Nurses and aides are ly—which drives out ople," says Paul Will-

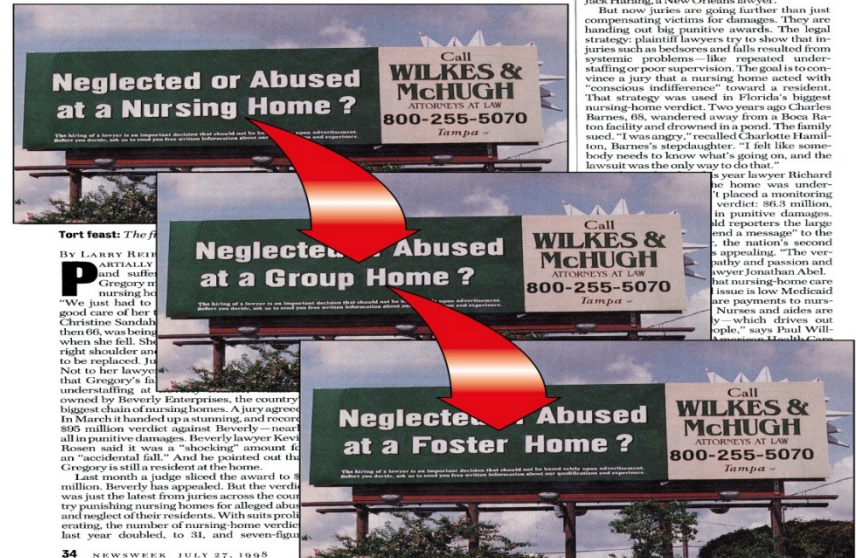
Tort feast: The fi

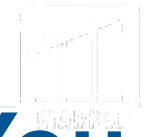
BY LARRY REIB
ARTICALLY
and suffer
Gregory in
nursing he

"We just had to good care of her, Christine Sandak, then 66, was being when she fell. She right shoulder and to be replaced. Ju Not to her lawyer, that Gregory's fa understanding at owned by Beverly Enterprises, the country biggest chain of nursing homes. A jury agrees. In March it handed up a stunning, and record \$85 million verdict against Beverly—near all in punitive damages. Beverly lawyer Kevin Rosen said it was a "shocking" amount if an "accidental fall." And he pointed out the Gregory is still a resident at the home.

Last month a judge sliced the award to \$1 million. Beverly has appealed. But the verdi was just the latest from juries across the cou try punishing nursing homes for alleged abus and neglect of their residents. With suits prolif erating, the number of nursing-home verdict last year doubled, to 31, and seven-figu-

34 NEWSWEEK JULY 27, 1995



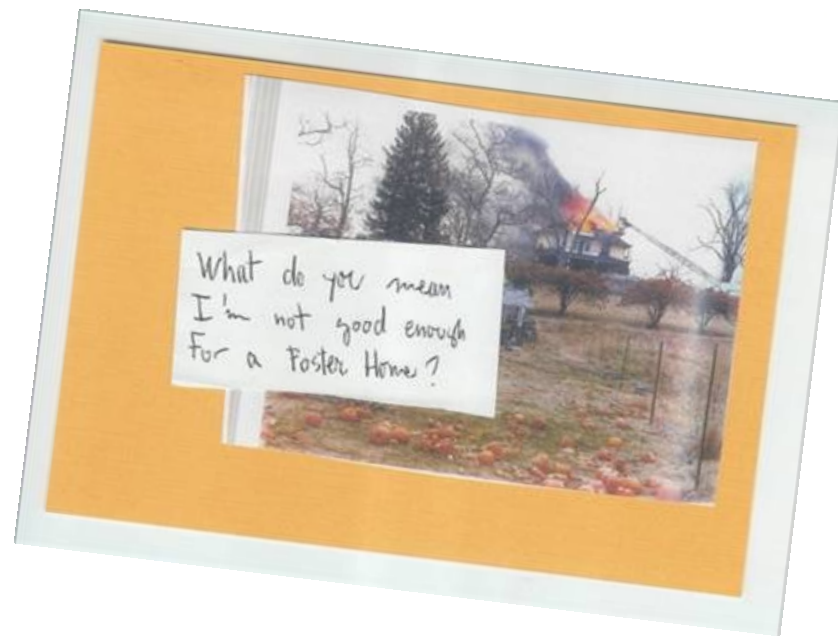


It Can Happen To You

Stories

- Toddler drowning
- Six year old brain injury
- Eleven year old kicked by a horse
- Suicides
- Hit by a car while AWOL
- Girls who burned the house down
- Burglary and indoor target practice
- Toddler and baby died in hot car

What went wrong and why?



Mitigate or prevent similar tragedies

What do you think some of the known risk “triggers” are?

- Changes in routine
- Times of day, days of week, months of year
- Boundary violations
- Caregivers:child ratios
- Oversight of group homes and foster homes
 - **Frequency of visits**
 - **Unscheduled visits**
 - **Visits with kids outside the home**
- Known triggers for your kids
 - **Visits from Mom**
 - **Someone released from jail**
 - **Special days/holidays**



Risk and Resiliency Quiz

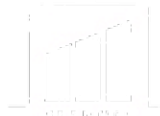
Which of the following are known risk factors for abuse and/or neglect in out-of-home care?

- Care givers' age
- Care givers' marital status
- Care givers' ethnicity
- Care givers' income
- Care givers' educational level
- Number of birth children the care givers have raised
- Care givers' own previous history of abuse and/or neglect
- Number of unsubstantiated previous allegations
- The care givers' willingness and ability to have empathy for the children placed in their care, especially regarding their developmental needs and delays
- The care givers' willingness and ability to have empathy for the parents of the children placed in their care, especially regarding child-parent relationships
- The number of children placed with the foster family
- The care givers' willingness and ability to use preventive precautions regarding potential abuse allegations against them, especially regarding child protection
- The interrelationship between the needs of the placed child, the strengths of the foster families, and the practices of the agency
- The relationship between the care givers and the agency, especially the identification of the care givers with the agency, and the "claiming" by the agency of the care givers (dynamics of teamwork).

Know YOUR Statistics

- Times of day and months of the year injuries are most likely to happen.
- Top five most common injuries to children
- Top five most frequent injuries to caregivers
- Cause of number one most severe claim





How can you know **YOUR** risk factors

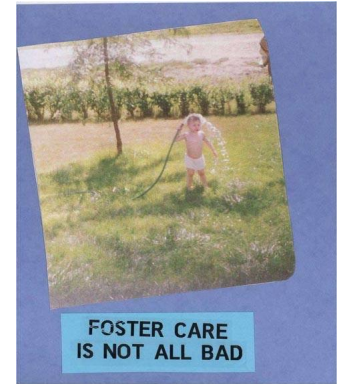
- Risk management self-assessment
 - **Locations**
 - **Times of day**
 - **Who's involved**
 - **Types of incidents**
- Suggest assembling a committee that crosses all levels to review every incident and make recommendations



Actions that can make a difference

BEFORE tragedy strikes

- Help everyone become Risk Managers
- Document everything in a fixed binder
- Clearly communicate expectations and responsibilities
- Create program around the times of vulnerability
- File incident reports WITHOUT editorializing
- Assemble your team of advocates
- Build support and emotional investment



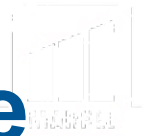
Actions that can make a difference

AFTER tragedy strikes

- Appoint ONE media spokesperson and issue ONE statement
- Video and/or voice recordings of everyone involved
- **Share all documentation with your lawyer**
- Prepare and file all appropriate incident reports
- Appeal any administrative citations!!
- Call insurance broker to file the “incident”
- Cooperate with investigations
- If the incident becomes a lawsuit, remain actively involved.



Proactive defense



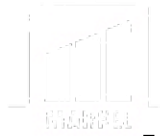
YOU are your own best advocate:

- Request a lawyer who understands foster care
- Consider hiring a specialist to consult with the insurance adjuster and insurance assigned defense lawyer
- Stay involved to educate the claims adjuster, lawyer, paralegal, and anyone else involved in your defense.

Possible Factors in Your Defense

- Foster care or “childhood” injury?
- Your statutory requirements
- Contracts
- DOCUMENTATION
- Accreditation
- Who’s suing? *No one should ever financially benefit from having abused or neglected their child*
- You shouldn’t be held vicariously liable for actions outside the course and scope of your contract or which were violations of policies and *procedures*
- Who might share the responsibility for what happened?
Was all available information disclosed prior to the placement?





Things that can damage your defense

- Inconsistent statements
- Incident reports that include opinions
- Inconsistent or missing documentation
- Licensing violations or citations that may or may not have anything to do with the current situation
- Overreaching websites, brochures, program and mission statements
- Statements of disgruntled ex-foster parents or staff
- Case law in your state from other children's agency's lawsuits can negatively influence your case
- Hiring the wrong "expert"



ALL INSURANCE COVERAGE IS NOT COMPARABLE



- ✓ Don't delegate the handling of your insurance coverage to someone who will never be named in a lawsuit.
- ✓ Some policies exclude *“social work,” “coverage for licensed professionals,” “claims reported after the end of the policy period,” “molestation of a child by another child,” and many other typical areas of risk.*
- ✓ Don't rely solely on the recommendations of the person selling you the insurance policy. They may be influenced by the insurance policy commissions rather than the protection of you and your family.
- ✓ Make sure the insurance company has good experience in handling emotionally charged, child-related claims.
- ✓ Check the history of the company's underwriting profit at www.ambest.com because financial security is key for long-tail risks like yours. (*California now allows former foster kids to allege a claim up until the age of 40!*)

***When Tragedy Occurs,
Insurance Is No Longer
About Premium***

The Ultimate Defense

Do your best

- Meet your statutory and mandatory duties
- Be prepared to prove that you've done everything you can possibly do at or above the regulations in your state
- Maintain involvement with your local, state and national associations, including NFPA!
- Stay current on your continuing education training



PREVENTING TRAGEDY IN FOSTER CARE

- Know risk factors, triggers, and statistics
- Take the actions that make a difference
- Defend yourself proactively
- Know the variables in your defense
- Know what can damage your defense
- Choose the right insurance coverage, company, and broker
- Do your best

For more information, contact Rhonda Sciortino

RHONDA@RHONDA.ORG 949.689.5611

FREE VIDEO RESOURCES

Better Results Through Better Conversations Video Series Tackles

- Drugs
- Anger
- Inappropriate behavior
- Sexting
- Stealing
- Lying



www.youtube.com/successfulsurvivorsfoundationinc

Here's how to help the kids you care about PLAYLIST:

<https://youtube.com/playlist?list=PL6MYCsFQzDCmw-GCi-z6m1AX51e-03pfu>



Your Real Success

**Curriculum for TAY to mine the good character
traits from what they've been through**

www.yourrealsuccess.com

empowering
RESILIENCE
podcast



Strategies and stories to empower resilience

www.rhonda.org/podcast



Books to help survivors of trauma create good lives

www.rhonda.org/books

Raising Other People's Children



WHAT FOSTER PARENTING
TAUGHT ME ABOUT BRINGING
TOGETHER A BLENDED FAMILY

Debbie Ausburn

Book to help foster parents & house parents build resilience in children

www.debbieausburn.com