



Told Ya So!

Case Against Subway's Footlongs Falls Short

Years ago, Subway found itself at the center of a viral controversy.

A teenager in Australia posted a picture of a Subway "footlong" with a tape measure next to it, showing it to be an inch shorter than advertised.



After a few days of internet outrage, lawsuits started pouring in. It turned into a bloated class-action case across several court systems.

The plaintiff claimed members of its class received less food than it was promised and that, in effect, Subway was guilty of false advertising (a foot is a foot, right?).

Back in 2013 when this hit, I listed the case as my "Dumb Lawsuit of the Month," and had a Google Hangouts chat with California attorney Todd Friedman explaining why I thought this case had no place in an American courtroom. Todd argued that there was real harm done and that Subway should pay.

Look, when someone hands you a sub that's close to 12 inches, and you pay money for it and accept it, you've agreed to "what you see is what you get." You are voluntarily paying for the sub, and you get to see the sub before you purchase it. No real harm has been done, and if you're dissatisfied with your sandwich, you vote with your wallet and choose not to return to Subway. Any complaints need to happen at the point of purchase, not dragged out in the court system for several years.

In 2014, lawyers struck a deal with Subway to get paid \$525,000. Consumers got nothing other than a promise that quality control measures would be implemented and a disclaimer on their website informing its customers that "due to natural variations in the bread baking process, the size and shape of bread may vary." In other words, these lawsuits have forced Subway to say what we've *always* known about our lunches: results may vary, and that's OK.

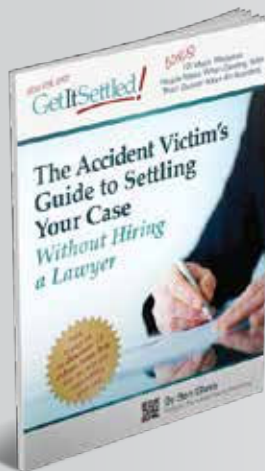
Well, to no surprise, a three-judge panel of the Seventh U.S. Circuit Court of Appeals recently ruled that this "half-baked" case needs to be thrown out. The court argued that it was near impossible to prove any real injury to the class and that the vast majority of Subway's footlong sandwiches are at least 12 inches long, as advertised. To top it all off, the court made it clear that the only real beneficiaries of the prior case were the attorneys. (Hey! Nobody even got a coupon for free chips.)

In the end, we're back where we started: everyone knows that bread size will vary when you bake it. It's unfortunate that it took hundreds of thousands of dollars and years of wasted litigation to get there. I hate to say I told you so... ■

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Be Wary of Those Selling Solar Panel Systems to Senior Citizens

- ① ***We have not guaranteed, promised or otherwise represented any reduction in electricity costs in relation to the system that will be installed on your property.***

Huh? Their entire marketing is about saving energy costs. How do they get around that? Their marketing has tiny fine print stating that any representation regarding savings is just an average of all customers.

Now, I'm going to go through some of the things the salesperson said about why these two families should buy, and I'm going to show you how one could be misled by the contract.

These quotes came, word for word, from the salesman's mouth:

- ② ***"We are going to install a solar panel system for free."***

This statement is technically "correct." You buy the system from them for \$25,000-\$35,000, and they don't charge any extra to install it. It's all included. I guess you could call that "free." Vivint will hook you up with "our green lender" so that you stretch your payments out 20 years at 3.99% interest. Vivint's sales rep says that you end up paying a little less each month than you are currently paying to your power company and that energy costs from your current system will go up in the future. (Caution: You still stay hooked up to your power company. You still buy electricity from them on the days where the sunlight doesn't provide you with all the energy you need.)

- ③ ***"Once you install this system, the government will write you a check for 30% of the value of the system."***

Later, he amended this statement to correctly state that this is a tax credit and that you can only use it if you actually pay taxes.

The first problem with this is that the contract says:

- ④ ***"We make no representation or warranty to you as to the availability, amount or ability to claim any credits, rebates, incentives, tax benefits or certificates that are attributed or related to the System or environmental attributes thereof."***

That's pretty much what they should say; however, a senior citizen might just hear the government will send you a check for 30% of the value of the system part.

The second (and bigger, in my view) problem with this is that these two elderly gentlemen pay almost nothing in taxes, so the tax credit is of no benefit to them.

When this was pointed out to the Vivint salesperson, he said, ***"Well, maybe what we can do is put the system in the name of one of your children."***

That sounded like a suggestion of tax fraud to me. I don't know, and I'm not a tax expert. Unless they are actively working and

receiving earned income, most seniors are not going to be able to use the tax credit.

- ⑤ ***"This system will increase the value of your home when it is sold by \$5,000."***

Maybe, maybe not. The value of a home when sold depends on many, many factors. But think about this: You are investing at least \$25,000 in something that is going to increase the value of the home by \$5,000? Oh, and here's something the salesman didn't say. When you use the tax credit, you reduce your basis in the house. It's a small point, but when you sell your house, everything else being equal, you could pay a higher tax on the proceeds of the sale.

But then he said perhaps his biggest whopper of the evening:

- ⑥ ***"We do not put a lien on your house when we install the system."***

The salesman made this statement in response to a question from my dad to the effect of, "I'm borrowing \$30,000 on a 20-year note. If there comes a time that I can't pay, it looks like I'm leaving my wife or my kids saddled with a big debt."

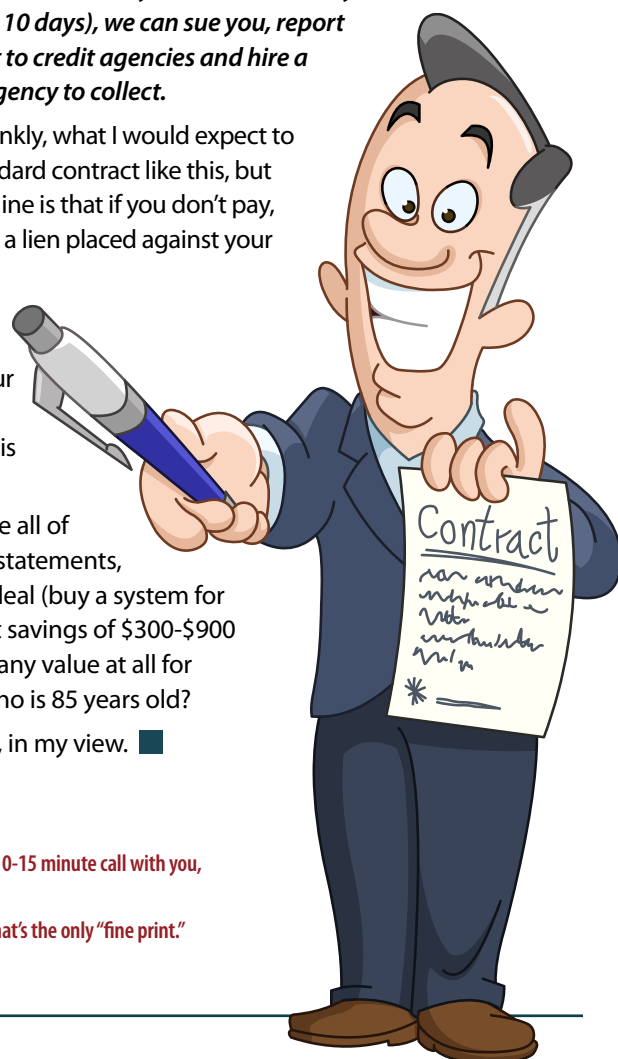
It's technically true that they don't put a lien on your house when they install the system. But here's what the contract says:

- ⑦ ***If there is more than one person signing the agreement, each of you is jointly and severally liable to us and if you default (miss a payment by 10 days), we can sue you, report your default to credit agencies and hire a collection agency to collect.***

This is all, frankly, what I would expect to see in a standard contract like this, but the bottom line is that if you don't pay, there will be a lien placed against your house and you will, in effect, be saddling your spouse and heirs with this debt.

Putting aside all of the oral misstatements, how is this deal (buy a system for \$30,000, get savings of \$300-\$900 per year) of any value at all for someone who is 85 years old?

It's not, ever, in my view. ■



*** To take advantage of my free solar contract review offer:**

You must secure a copy of the contract proposal and forward it to us along with your contact info. We'll have a brief 10-15 minute call with you, then review your contract and give you a report in writing.

You have to be 62 or over and contemplating buying or leasing solar energy panels for your home here in Virginia. That's the only "fine print." No tricks. No. B.S. Just info that can help you make a decision.

Thanksgiving Special

GREAT-GRANDMA EDNA'S CRANBERRY PIE RECIPE

From Colin's
Great-
Grandmother

This recipe has a SECRET TECHNIQUE to it that Edna told the Lynch family not to share, because "Then everyone's pies will be as good as mine!" Now that pie making isn't the neighborhood status symbol it once was, we're comfortable sharing it. Happy Thanksgiving, everyone!

Ingredients:

- 2 cups apples, peeled and cut
- 3 cups cranberries
- 1 cup sugar
- ¼ cup seedless raisins
- 2 tsp grated orange peel
- 4 tsp flour
- Pinch of salt
- 3 tbsp melted butter
- 2 pie crusts large enough for a 9-inch pan



Directions:

Prepare Filling:

- 1 *Edna's secret technique:* Cut the cranberries in half and soak them in water. The seeds will drop to the bottom. The seeds are the most bitter part of the cranberry and this is the best way to separate them. Extra tip: if your cranberries have "bounce," they're fresh.
- 2 Mix all ingredients together (except the melted butter and pie crusts) in a large bowl
- 3 Prepare two pie crusts large enough for a 9-inch pan. After putting the bottom crust in the pie pan, spoon in the pie filling.
- 4 Place melted butter on top of the filling and cover with the second crust.
- 5 Bake at 450 for 10 minutes.
- 6 Lower the oven temperature to 350 and bake for 30 more minutes or until golden brown. ■

Serve with love! Happy Thanksgiving.

Reader Feedback

We love feedback from our readers! We are humbled and blessed to know that this newsletter has become such a fun part of people's lives on a regular monthly basis. The BGL Newsletter has always been by Virginians for Virginians, and we aim to keep it that way.

Audrey in Alexandria writes:

I look forward to your newsletter in the mail. You have done a great service to society by sharing all the info. I also love the info about soccer as we have two of our triplets that play college soccer.

Your family has the ties that bond! God bless.

Susan in Richmond writes:

I just wanted to thank Mr. Glass for all of the information that he offers to non-clients. I enjoy reading his newsletter as well as the information I receive in the emails. If more attorneys would emulate him, they would improve their reputation in society. Thank you, Mr. Glass, for all that you do to help educate the general public. I so greatly appreciate it.

Thank you, Audrey and Susan, for your kind words! This is exactly why we do what we do. To everyone who has made the newsletter a monthly part of their lives, thank you from the bottom of my heart. ■

Reminder About Our Firm's Communication Policy

Our promise to you is that while we are working on your case, we don't take inbound phone calls, faxes or emails. Ben Glass takes no inbound unscheduled phone calls whatsoever. It makes him much more productive and helps get your case resolved faster. You can always call the office at 703-544-7876, and schedule an in-person or phone appointment, usually within 24-48 hours. This is a lot better than the endless game of "phone tag" played by most businesses today. Remember, too, that email is "quick," but is checked no more than twice a day. Replies are then scheduled into the calendar. So if it's really important, don't email—call the office instead.

This publication is intended to educate the general public about personal injury, medical malpractice, and small business issues. It is not intended to be legal advice. Every case is different. The information in this newsletter may be freely copied and distributed as long as the newsletter is copied in its entirety.

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Be Wary of Those Selling SOLAR PANEL SYSTEMS to Senior Citizens

by Ben Glass

*Note: Read this article. I'm so upset at what this company tried to do to my mom and dad that our firm is now offering ABSOLUTELY FREE REVIEWS of solar energy contracts being presented to senior citizens here in Virginia. The details are at the bottom of this article, but you will see that there is nothing else in Virginia like our offer here.**

Recently, my 86-year-old father, who lives in his fully paid-up house built in 1960, called to let me know that a solar panel system salesman had rung his doorbell and wanted to install a solar panel system free and "what did I think?"

I told him that nothing is free, but I'd be glad to be in the room when the salesman came by in the next day or two to explain the deal.

I want to begin by saying that buying a solar panel system might be a good deal for someone - especially if you are younger, make decent money, plan to live in your house for a long time, and like the feeling of "going green." I'll also say that the contract Vivint Solar presented was a pretty standard contract for home renovation. There was nothing unusual in it. It just didn't match what the salesperson was saying at certain critical points.

So, I sat in on the sales pitch delivered by a young guy to my mom and dad and their 84-year-old friend and his wife. I took copious notes and here is my conclusion:

Beware: A senior citizen on a fixed income from social security, with a paid up 57-year-old house, could easily be misled into a financial disaster by this pitch.

First, my dad's average energy costs per year are approximately \$3,000. So, this pitch is that "we can save you \$300-\$900 per year." Remember that figure.

But here's what the actual contract says:

—continued on page 2





Who Is Responsible for a College Student's Success?

According to a recent article in the *Wall Street Journal*, the average college graduate shows little to no improvement in critical thinking skills over four years. This is according to a little-known test, The College Learning Assessment Plus (CLA+), that is given to freshmen and seniors at about 200 colleges across the United States. The test requires students to use spreadsheets, newspaper articles, research papers, and other documents to answer questions, make a point or critique an argument.

The test, of course, has detractors. Those schools whose students fared poorly say, "The reason our students didn't improve over four years is because they were all so smart when they got here in the first place!" The *Journal* article then dove deep on evaluating "quality" at a college.

These sorts of studies really beg the question: what is the role of college, anyway, and whose responsibility is it to get something out of your four (not five, not six) years? How will we measure whether the investment in time and money is really worth it?

I'll give you my view (and we welcome yours). As "Dad to 9," I've got some experience in helping kids choose colleges, watching them make their way through school, and seeing their success after they are launched. As the owner of two successful businesses, I also interview and hire people who have been "launched."

A couple of observations:

1. Where you go to college is important for your first job only. Once you've been out and working a few years, no one cares what you did THOSE four years that you were in college. We want to know what you've been doing since and how it is that you have (or have not) achieved success since then.
2. In life, money isn't everything. I recently met a guy who makes a ton of money after graduating from a terrific school. He had a cool job, but he wasn't happy in it. He was, in fact, miserable. He told me he felt "chained to the expectations that others had for him and to the standard of living he had set for himself. In short, he felt he couldn't "afford" to change jobs. Sad.
3. Critical thinking skills are important no matter what you do. You need to be able to evaluate situations/

problems/arguments, decide on how you are going to get accurate information (as opposed to opinions) about same, evaluate sources, and figure out how you are going to move forward.

4. I don't think that you can judge a college on this criteria at all! Improving yourself is all about what you TAKE from college, not what you GET from college. I've sent enough kids to college and been on enough college tours to know that every college has many good, caring, professors who honestly want to help you be successful. They are not, however, going to spoon feed this to you. You need to HUNT down those individuals and make it known to them that you are interested in improving yourself. Most will get excited about working with a student like that. Trust me! ■



Last month, our college visit tour took Matt and Emma to High Point University in High Point, N.C. High Point has developed a much deserved reputation for launching highly successful students into the world. Their hidden secret is their president, Nido Qubein, who in 12 years has turned the university from a little-known college with a couple of buildings to a "must see" on your college tour! Trust me, this is one college tour you have to go on!

SAD COMMENTARY ON MOST TEENAGERS' WILL TO SUCCEED

Summer employment for teens has dropped almost in half over the last 40 years. I get it. Keep forcing employers to pay a higher and higher minimum wage and we will get to the point where there are NO summer jobs offered to teens.

That's distressing because a summer job is the perfect way to learn and practice the virtues of **(1)** punctuality; **(2)** following directions; **(3)** learning new skills; and **(4)** learning new things from people you wouldn't usually run into.

What's even more distressing? Apparently, only 9% of teens without summer jobs last year said they actually wanted one! *Are you kidding me?* ■



QUICK BUSINESS TIP WHO MADE THAT RULE?

If you run a successful business, then I know you are busy. Successful people get asked to do a lot. Recently, a friend asked me how I got so much done in my life. I told him "I'm a jerk with my time; I guard it more ferociously than I guard my possessions. Things can be replaced. Steal 15 minutes of my time and it is irreplaceable."

Just about everything I learned about both the mindset and the techniques of ruthless management of your time I learned from this book and its author, Dan Kennedy. Dan's view, like mine, is that this is YOUR life and you get to run it YOUR way, not matter what your profession.

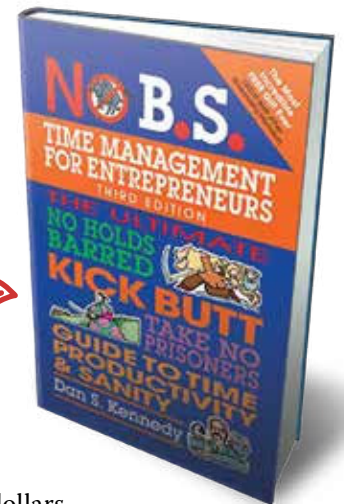
Here are the top three things I've done in my life that allow me to focus on my goals:

1. No unplanned inbound phone calls accepted. "They" said it couldn't be done, but every call I do at the office is scheduled. No phone tag, ever. No phone interruptions, ever. (How would your enjoyment of your job change if you employed that rule?)
2. Time blocking: Looking at my calendar and making appointments with myself for things that need to be done, then HONORING those appointments just like I would honor any other appointment in my life.
3. I've ruthlessly gotten rid of people and things that waste my time. Harsh? Sure. Think about this. Waste a dollar

today and I can make two dollars tomorrow. Waste an hour today and it's gone forever (or it's made up by stealing time from family).

Here's my offer to you: Last month, I interviewed Dan for an hour about the book and about his views on this subject. Send me an email with your receipt attached for buying the book (make sure to get the Third Edition) and I'll send you a either a CD or a link to the audio file for the call (your choice). If you feel that your business enslaves you (or you just want to get back a couple of hours in your day), get the book today.

Books have the power to change lives. Read one today! ■



Receive a gift from me when you buy this book

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