



## CINDY G. FLYNN

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Cindy G. Flynn joined the firm in 1996. Ms. Flynn's practice emphasizes civil litigation, insurance injury litigation, construction and commercial litigation, I-502 business-litigation, and complex and class action litigation. Her litigation experience includes, in part, products liability, automobile and premises personal injury, construction, wrongful death, traumatic and brain injury cases and health care.

Before joining Carney, Ms. Flynn was an Army JAG captain. While in the military, she prosecuted as a Special Assistant U.S. Attorney, was chief of the litigation branch defending medical malpractice and injury claims, and was defense counsel for soldiers at courts-martial.

### Honors and Recognitions

Ms. Flynn was named by *Super Lawyers* magazine as one of the top attorneys in Washington State for each of the years 2007-2011 and 2013-2020 and by the *Corporate Counsel Edition* as one of the top attorneys for Civil Litigation. In addition, she is listed in the *Super Lawyers Business Edition* and the *Super Lawyers Women's Edition* as a top attorney in Washington State 2013-2018. She was listed in *Washington Rising Star* magazine in 2002 as one of the top up-and-coming attorneys in the state.

Ms. Flynn has been listed in *Seattle Metropolitan Magazine* and *Seattle Business Magazine* as one of King County's "Top Lawyers" 2010-2011 and 2013-2018. They cull their listings from *Super Lawyers* and *Martindale-Hubbell*.

### Representative Matters

#### Construction Defect (2013)

Multiple plaintiff homeowners in Grays Harbor County brought four different lawsuits against developer / general contractor for various construction defects. The general contractor brought in all of the subcontractors as third-party defendants and the four lawsuits were consolidated for discovery only, not trial. The plaintiffs' expert witness's reports detailed several defects most of which related to exterior water intrusion problems. Our client, an insulation subcontractor, did not appear to be implicated in the plaintiffs' expert's reports and so we moved for summary judgment. The general contractor opposed the summary judgment motions with a declaration from its own expert implicating the insulation subcontractor's work. The summary judgment motion was continued while we deposed the

### Education

JD, Santa Clara Law School,  
1990  
BS, Santa Clara University,  
1987

### Bar and Court Admissions

State of Idaho, 2007  
State of Utah, 2007  
State of Oregon, 2007  
State of Washington, 1996  
State of California, 1990  
U.S. District Court, Eastern  
District of Washington, 2004  
U.S. District Court, Western  
District of Washington, 1998  
U.S. Navy-Marine Corps Court  
of Military Review, 1993  
U.S. Army Court of Military  
Review, 1991

### Publications

2009, Chapter 1, Supplement to  
the *Washington Motor Vehicle  
Accident Deskbook*

### Professional Associations

Idaho State Bar Association  
Oregon State Bar Association  
The State Bar of California  
Association  
Utah State Bar Association  
Washington Defense Trial  
Lawyers  
Washington State Bar  
Association

general contractor's expert on his declaration and opinions. Our motion reply and a motion to strike the contractor's expert's declaration was filed and aggressively prosecuted at the motion hearing. The Grays Harbor County judge granted summary judgment in favor of the insulation subcontractor in all four cases. The general contractor agreed not to appeal the orders.

#### Premises Liability–Negligence (2012)

Plaintiff was an animal communicator and used his talents with race horses. After completing his work in the barn area with some of the race horses, the plaintiff started walking from the restricted barn area toward the grandstands as the next race was starting. The race horses were in the paddock area and the jockeys were mounted and the horses were being led onto the race track when two of the horses spooked, broke free from their handlers, bucked off their jockeys and began running back toward the barn area at full race speed. The plaintiff was still in the restricted area when the horses ran him over. The plaintiff was severely injured and brought his lawsuit against the race track, the horse owners, jockeys, and the horse trainers / handlers. Representing one of the horse owners, we brought summary judgment for dismissal against plaintiff's claim that the owner had a duty under a King County ordinance not to allow its horse to run at large and that the owner was vicariously liable for the negligence of the horse's trainer / handler. After extensive briefing and argument, the King County judge granted summary judgment in the horse owner's favor and the horse owner was dismissed.

#### Class Action–Health Care (2010)

Plaintiffs brought a class action lawsuit alleging that the health insurer's contracts provided them and other plan members with medical providers that had agreed to accept lower negotiated fees for their services and that the language in the contracts led a reasonable consumer to conclude that at no time would the consumer be charged for the services from these medical providers at a rate greater than the negotiated lower rate, even after plaintiffs had reached their maximum benefits.

The health insurer's position was that the services covered in the contracts were subject to the limits stated in the contract. The limits were those covered benefits that had been enumerated in the Payment Schedule of the contract. Once the benefits had been exceeded, a service provided by a preferred provider was no longer a "covered service" or benefit and the preferred provider was no longer required to accept the lower negotiated amount from their patients.

After extensive discovery and motion practice by Cindy Flynn and Jason Anderson, the court dismissed the plaintiffs' group employer-based subscriber claims for lack of standing, but certified a smaller class of individual plan subscribers. The court subsequently dismissed the entire action for the failure to join indispensable parties, i.e., the preferred provider physicians. On appeal, the court upheld the dismissal.

#### Motor Vehicle Accident–Paralysis (2009)

The plaintiff was a thirty-four year-old male who was a passenger in a serious motor vehicle accident. He was married with one child. Following the accident, the plaintiff complained of a concussion, bruises, and a seat-belt injury to the right shoulder resulting in right upper extremity paralysis with severe arm and hand pain. The plaintiff's doctors diagnosed him with Complex Region Pain Syndrome (CRPS) and testified that it was a permanent debilitating condition of the right arm and hand for which he took large doses of Neurontin daily to help deal with the constant pain. The plaintiff claimed that he was unable to continue his employment as a college mathematics teacher and would require reeducation and retraining to allow him to be employed in the future. Plaintiff's experts opined that it would cost \$1,034,478 to compensate the plaintiff for his future medical care and wage impairment in addition to the \$1,569,500 claimed in general damages for a total of \$2.6M which plaintiff requested from the jury.

The defendant accepted liability and responsibility for the accident and wanted to pay for what injuries were related to the accident. Causation was disputed because the defense argued that the plaintiff's ongoing injuries were not related to the accident, but were instead a progression of the pre-existing right upper extremity complaints that the plaintiff had before the accident related to playing the Tabla drum. Defense

counsel, Cindy Flynn, asked the jury to award \$4,161 for medical bills for the first three months of treatment and \$5,000 in general damages. Ms. Flynn convinced the jury that the plaintiff's injuries were pre-existing and the jury awarded a total of only \$10,000. The plaintiff's recovery was reduced even further as a penalty for not accepting the pre-trial settlement offer (offer of judgment) that was greater than the final jury verdict.

#### Construction Site—Amputation (2003 / 2004)

The City of Seattle entered into a contract with a construction company ("company") under which it was to perform sewer repairs to existing sanitary sewer and side sewer pipe on property owned by the City of Seattle. The Resident Engineer for the City of Seattle inspected the work performed by the company to ensure proper completion of the contract.

On April 26, 1999, the company was conducting sewer repairs on Columbia Street between Third Avenue and Fourth Avenue in downtown Seattle. The plaintiff was a construction flagger employed by the company and was responsible for flagging cars around the active construction site. The company's excavator operator struck a steam line, which resulted in repair work that ran past the normal work hours and into the heavy commute traffic time period, resulting in increased traffic around the construction work site. While the excavator operator was pounding in a trench box, the plaintiff was flagging cars out of a parking garage and was struck by the track of the excavator, crushing her right leg and resulting in amputation of her right leg below the knee.

The plaintiff sued the City of Seattle for her injuries due to an alleged improper traffic control plan and failure by the City's on-site inspector to prevent the accident. Defense counsel Cindy Flynn represented the City of Seattle and convinced the jury that despite great sympathy for the plaintiff, the City was not at fault for the accident. The jury came back with a verdict in favor of the City.

#### **Seminars/Speaking Engagements**

"Real Estate Concerns in the Cannabis Industry," TSG, Medical and Medical Marijuana in Washington State, Seattle, WA November 29, 2016.

"Marijuana Policy and Law in Washington State: We're Not High, These Really Are the Regulations," ACIC Annual General Counsel Seminar, Las Vegas, Nevada, July 26-28, 2016

"Welcome to Washington – But As They Used to Say on Hill Street Blues ... Let's Be Careful Out There," ACIC Annual General Counsel Seminar, Las Vegas, Nevada, July 22-24, 2014