

Legal Report

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Safety Should Come First for Summer Road Trips

Summer means road trips. Even with the high price of gas, many families will take to the roads this summer, either for extended vacations or day trips. Warm, sunny days also bring motorcycles and bicycles out of storage, so automobiles and trucks are sharing the roads with more traffic. Unfortunately, traveling by motor vehicle can be hazardous. Since knowledge is power, the following information can help as you hit the road this summer.

Cars are safer but accidents happen

Motor vehicle accidents are costly. Each year, approximately 400,000 lives are lost and \$150 billion in property damage results from crashes. In New York State alone there were 314,974

accidents reported in 2009 (the most recent DMV statistics), with 4.1 percent resulting in serious



personal injuries and .4 percent resulting in a fatality.

Distracted driving has become a major concern. Accidents are often caused by drivers talking on cell phones, texting or otherwise not paying attention. Alcohol, illegal drugs and prescription medications are factors in 38 percent of all deadly crashes and 7 percent of accidents overall.

Drivers are not always the cause of accidents. Other causes include: vehicle defects, improper highway signage or road design, road construction, broken traffic lights, and poor lighting.

Injuries from motor vehicle accidents almost inevitably result in financial hardship. Even under New York's No-Fault Insurance system, people have out-of-pocket costs and can easily fall behind on their regular household bills. To avoid a denial of benefits or minimize delays in payment of your benefits, you must notify the no-fault insurance carrier in writing within 30 days of an accident. Don't wait to contact our experienced personal injury attorneys. Call 1-800-343-8537 for your free consultation, we would be happy to explain the process even if your injuries seem minor.

Continued on next page

Inside

June 2011

Mans Best Friend? Not Always!.....3

Sharon Clemons: Highlighting the Role of the Paralegal in a Successful Personal Injury Practice.....4

Cases Highlight Personal Injury Practice.....5

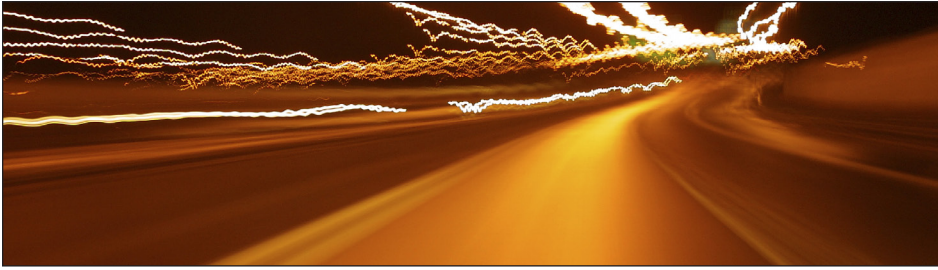


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Safety Should Come First for Summer Road Trips *(Continued)*



Motorcycle popularity comes with increased risks

“Riding” has become more and more popular over the past several years, with the National Highway Traffic Safety Administration reporting motorcycle ownership increasing from 3,897,191 registered bikes in 1995 to 5,780,870 in 2005. And here in Western New York, what could be more enticing on a nice summer day than heading out through the countryside on a motorcycle?

Unfortunately, the increase in motorcyclists combined with the increase in distracted automobile drivers has had disastrous consequences. The New York State DMV reports that in 2009 there were 5,150 motorcycle accidents, with 3.3 percent involving fatalities and 21.6 percent resulting in serious injuries.

None of us can control what other drivers do, so if you are going to ride a motorcycle it is critical you drive defensively. Get experience in a safe environment, mastering your cornering and braking skills; don’t push yourself to dangerous limits, be aggressive, or speed; learn to be hyper-vigilant; and, of course, wear a helmet and other protective clothing.

If you are injured in a motorcycle accident, contact one of our personal injury attorneys as soon as possible so that we can investigate and gather the evidence we need to win your case. Remember, in addition to suffering pain and disability, without legal help, you could be financially devastated.

Trucking is big business, but creates big accidents

On your summer road trip you’ll see how critical the trucking industry is to our economy. According to www.truckinginfo.net there are 3.5 million registered common carrier trucks in the U.S., which generate about \$255.5 billion in revenue each year.

Although the trucking industry and government regulators work diligently to try to make commercial trucking safer for everyone on the road, there are still problems. Commercial trucks may be involved in only 2.4 percent of all vehicle accidents, but nearly 98 percent of the time -- in a “head-on” collision with a truck -- the driver of the other vehicle is killed. Car drivers should exercise caution when in proximity to trucks: know the blind spots, turning hazards, and appropriate following distances.

There are many factors that impact truck safety. Accidents can result from a truck driver’s fatigue, inadequate training, tight scheduling, risk taking, or use of drugs and alcohol. Trucks may not be properly maintained or loads may be beyond the truck’s limit or improperly balanced.

If you are in an accident with a truck, the driver or trucking company may be at fault. The consequences for you -- lost wages, medical expenses, property damage, pain and suffering and permanency -- can be severe. Call us at 1-800-343-8537 to find out how our attorneys can help.

Share the Road

In recent years, we have all seen bumper stickers, billboards and lawn signs imploring drivers to share the road and keep a lookout for motorcyclists (and their passengers!). The message needs to get out even more. Every year we handle motorcycle accident cases that could easily have been avoided. Often, the other driver causes the accident because he or she did not properly assess the motorcycle’s speed or did not “register” that a motorcycle was approaching. This bad habit of only looking for other cars and trucks causes most car versus motorcycle accidents. Many times the motorcycle is coming from the opposite direction and the car driver makes an unsafe left turn in front of the cyclist.

At a recent deposition, the defendant in one of our cases claimed to have looked down the road before his left turn. He never saw the motorcyclist approaching. There were no obstacles blocking his view, he just wasn’t keeping a proper lookout. The poor motorcyclist had no opportunity to lay down his bike, steer to avoid the collision or even reduce his speed. Unfortunately, this is an all-too-familiar story. There are few, if any, “fender-benders” involving motorcycles. In this case, the injuries ended a man’s career and could have ended his life.

Man's Best Friend? Not Always!

While Western New York winters tend to clear the sidewalks and parks of people, as soon as the sun arrives and the weather turns warm, residents and their dogs take to the streets. Most of us, especially children, find the sight of a dog on a leash an irresistible lure. But although it's probably safe to pet many dogs, some can instantly dislike a certain individual and deliver a nasty bite. According to the Centers for Disease Control and Prevention (CDC), dogs bite nearly 2 percent of Americans each year -- more than 4.7 million people. Each day, more than 1,000 Americans visit emergency rooms due to dog bites.

Those with the highest rates of injury are typically children ages five to nine, with seniors over 65 coming second. The U.S. Postal Service reports that 2,851 letter carriers are bitten by dogs every year. Average cost of treatment for these dog bites? \$18,200. Since that is just the average and there is a wide range of injuries, it's best to exercise caution when approaching dogs.

Owners who are aware their dog has been vicious in the past or could attack in the future are liable for bites, even if they post "Beware of Dog" signs at their home or place of business. Owner liability also depends on whether or not the dog was provoked and the laws of the particular state.

In New York, court decisions regarding a dog owner's prior knowledge of the likelihood his pet will attack have varied widely, depending on what part of the state the attack occurred. A recent decision from a court in one area defined liability narrowly: the dog had to have behaved very similarly in the past. This means that if the dog had not shown any signs of viciousness in the past, it was allowed, "one free bite." Personal injury attorneys who



Winning a dog bite case requires creative investigation

Attorney Christopher C. Kerr handled an interesting dog bite case for a two year old boy who sustained a nasty bite on his face while his family visited acquaintances in their rural community. Like any two year old he wandered and was alone when he approached two chained dogs, a three year old chow and a 12 year old mixed breed. No one saw him get bitten but everyone was shocked at his horrific injuries.

Soon after the incident the dog owner's insurance company pointed out that the case could not be won without proof which dog bit the boy. The family hired Chris Kerr and he immediately consulted an expert who shared his knowledge of an Australian case (made into a movie) that centered on the difference in bite marks made by wild versus domestic dogs. Kerr obtained a court order before one or both of the dogs could be put down. The order allowed him to briefly take custody of the dogs, have them sedated, and have a dentist take impressions of their teeth.

By then Kerr had a strong belief that the three year old chow had bitten the boy. The dog owner had recently been given the animal by its unnamed prior owners for unknown reasons. Chows are known to be fierce aggressive protectors -- it is one of the breed's traits. The other dog in question was a 12 year old mixed breed with no records of prior bites. Based on a rumor that the chow's prior owners lived in a nearby Pennsylvania county, Kerr traveled there and searched two years of dog bite reports until he found record of an incident involving the same dog. It soon became clear that the Pennsylvania owners gave up the chow because of his history of biting.

When the dental impressions of the two dogs were made into plaster casts, the distance between their canine teeth was compared. The distance between the boy's wounds was also measured. Based on the investigation and preparation of this case, the insurance company did not dispute that the chow bit the boy and that the owner knew he had vicious propensities. They paid a large settlement that was put into an annuity for the boy's benefit.

Continued on next page

Man's best friend? Not always!

handle dog bite cases will typically argue that behaviors such as chasing, jumping, threatening, growling, pulling against restraints, or killing other creatures are enough of an indication of viciousness to hold owners liable for bites, whether it is the first incident or a subsequent one.

If you or your child has been bitten by a dog -- or any other animal for that matter -- clean the bite and seek medical attention. If the injury is serious enough to require extended medical treatment or miss time from work, call our attorneys at 1-800-343-8537 to see if you have a case against the owner of the animal. We have handled many cases based on dogs biting or knocking people down as well as other animal cases.

Why and How Scars are Compensated

Our firm has handled dog bite cases that would bring a tear to your eye. Beautiful children with permanent scars on the face, serving as reminders every time they look in the mirror or are asked about them by a new acquaintance. Plastic surgery, such as revision surgery and dermabrasion, can help but usually there will be some

residual permanency.

Telling a young child or a teenage girl that "beauty is only skin deep" could seem insincere. Most times plastic surgeons recommend waiting for the patient to reach maturity before attempting to repair a facial scar. Facial structure and scars can change over time, so it makes sense medically and cosmetically to wait for the patient to reach maturity. However, the delay can seem unfair and add to the emotional suffering of a scarred victim.

We have handled dog bite cases for victims with wounds that are not as visible but in other ways distressing. A woman that was bitten on the breast and reported intimacy issues. An artist and a musician both reported nerve damage and restricted motion when their dominant forearms were injured. An avid runner and athlete had his training interrupted and performance affected by a calf bite. And we actually represented a hand model whose scars limited her future opportunities.

Few injuries are ever minor to the victim. We believe telling our clients' stories is the only way to get them fair compensation for their injuries.

Sharon Clemons: Highlighting the Role of the Paralegal in a Successful Personal Injury Practice

The personal injury department of any law firm includes both attorneys and support staff. Paralegals are a special type of legal assistant whose duties extend far beyond secretarial or clerical work. Paralegals go to school to earn degrees or certificates in their field. They also receive valuable on-the-job training in one or more specialized areas of the law.

At Jeffrey Freedman Attorneys at Law, the most experienced litigation paralegal is Sharon Clemons. Sharon came to the firm over twenty years ago after having worked in the insurance claims industry. Through the years, her responsibilities have grown from secretarial tasks to primarily paralegal work. After starting at the firm, she went to night school at Bryant and Stratton Business Institute and earned her paralegal degree.

Sharon conducts investigations and helps with legal research. She drafts legal documents and obtains and organizes the clients' medical and employment records. She helps in our motion practice and trial preparation. She communicates with other firms, insurance compa-

nies and government agencies on behalf of our clients.

Perhaps Sharon's most important role is as a resource person for our clients as their cases progress. Many clients consider Sharon to be their primary contact at the firm. Sharon has also trained and supervised many other employees including summer clerks, law students, secretaries, legal assistants and paralegals. She has managed to do all of this while balancing her roles of wife and mother of two. Our firm and our clients are lucky to have her.



Cases Highlight Personal Injury Practice

Some examples of successful six figure personal injury cases handled by Jeffrey Freedman Attorneys at Law include the following:

- A negligence lawsuit was successfully brought against a building owner for failing to install proper smoke detectors. During a building fire, one of the tenants sustained serious back injuries when she and her daughter jumped from a window to escape.
- A settlement was obtained on behalf of a factory worker when the ladder he was holding came into contact with high voltage wires. Damages for burns sustained over 40 percent of his body were obtained because the wires were not properly insulated.
- A roofer who sustained serious injuries following a 40 foot fall won his case against the project's general contractor. The case was settled at trial after it was proven that the contractor failed to provide proper safety devices. A major factor in his compensation was the fact that the roofer's injuries prevented him from returning to his long-time career.
- A head-on collision on a wintry day prompted a nurse to seek remuneration for her severe leg injuries. Her lawsuit, based in large part on her inability to resume her career, succeeded in obtaining the money she needed for financial security and a fresh start.
- In a hard-fought Labor Law case, Jeffrey Freedman Attorneys at Law obtained a \$500,000 court settlement for a construction worker who was injured on the job. He fell 50 feet and had to find a new career. The settlement was for the full amount of insurance on the now-defunct company.
- A teenaged boy won nearly a million dollar settlement for hand and arm injuries he sustained in shop class.
- A young woman received two six figure settlements from a driver who rear ended her vehicle and from the bar where the driver was drinking.



Your First Consultation is Always Free

You should not have to travel far to receive quality legal service. That's why we have 15 offices conveniently located throughout New York and Pennsylvania.

You can make an appointment with one of our attorneys at the office nearest to you.

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Dunkirk • Erie, PA • Greece • Hamburg
Henrietta • Jamestown • Lockport
Niagara Falls • Olean • Syracuse • Tonawanda

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Jeffrey Freedman Attorneys in the News



Christopher C. Kerr is marking his 25th anniversary at Jeffrey Freedman Attorneys this October 1st. He joined the firm as its second attorney and the founder of the firm's Personal Injury Litigation Department in 1986. A resident of Orchard Park, Kerr is a graduate of Bishop Turner High School, Syracuse University and Duke University School of Law.