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ROSENBERG & GLUCK LLP

PERSONAL INJURY LAW

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WINTER | 2022

*May all that
is beautiful,
meaningful
and brings
you joy, be
yours this
coming year.*

2022 has come in with a bang with our first blizzard in four years dumping just about 2 feet of snow on many parts of the island! The impending storm had many of us feeling like school children again, watching the news and speculating on just how much snow we were going to get. And then came the digging out – making us feel our age again.

We look forward to another year of doing what we love at Rosenberg & Gluck, and we hope as we come out of our recent increase in COVID-19 cases we are finally able to put the pandemic in our rear-view mirror and resume operations more in line with our pre-pandemic function. All signals point in that direction, although time will tell. We can't wait to see what 2022 has in store for us.

From all of us at Rosenberg & Gluck, L.L.P.

-Erin and Matt

Who's to Blame for a Chain Reaction Car Accident?

Automotive accidents are rarely straightforward. While some collisions may only involve one or two vehicles and exhibit obvious liability, other crashes are much more complex. This is the case for "chain reaction" traffic accidents, which happen when three or more cars hit one another in a series of rear-end collisions. Typically caused by the powerful force of the first collision, the last car in the lineup (Driver D) will rear-end the second to last vehicle (Driver C), pushing them forward into the third to the last car (Driver B), causing Driver B to hit the first driver (Driver A).

Although these pileups can be caused by a sole driver's negligence, chain reaction crashes may also involve cases of carelessness from the other drivers involved. Many people, including the passengers, can sustain injuries. Thus, litigating the resulting personal injury lawsuits can be a huge challenge.

Who's at Fault?

If you're involved in a multi-car accident and file an insurance claim, it's imperative that you're able to prove liability under a legal theory known as "negligence." Establishing which driver was negligent comes down to determining which driver's carelessness caused the accident in the first place. Additionally, it's smart to also figure out if more than one driver was negligent.

One crucial rule of the road that often comes into play during chain reaction auto accidents is if the drivers were maintaining a safe following distance between their vehicle and the car in front of them in order to stop in time to avoid a collision. A driver who was tailgating the car in front of them and rear-ends them as a result will almost always be considered careless.

Let's assume that in the sample we discussed above, Driver B was following too close behind Driver A. When Driver A suddenly slammed on their brakes, Driver B rear-ended them. This sudden crash caused Driver C to rear-end Driver B and Driver D to rear-end Driver C. Since Driver B was driving too closely to Driver A, they would be at fault for the chain reaction accident. However, Drivers C and D were also negligent for failing to allow adequate stopping distance.

Critical Sources of Evidence

Regardless of how a chain reaction car crash happened, it's always important to gather as much evidence as you can to help you establish whose negligence caused the impact. This evidence can include:

- ▶ Police reports
- ▶ Eyewitness accounts
- ▶ Vehicle damage
- ▶ Evidence gathered from the scene of the accident, such as pictures of skid marks

If you suffered from injuries due to a chain reaction accident, call a personal injury attorney now to get the compensation you deserve.

ATTORNEY ADVERTISING



ULTIMATE Chicken Casserole!!!

Ingredients:

2 cups egg noodles, cooked
2 cups chicken, cooked/shredded
2 cups corn
1 cup milk
2 10 oz. cans cream of chicken soup
1 onion, diced
1 tbsp garlic, minced
1/2 cup cheese, shredded
1/2 cup bacon, cooked/chopped
3/4 cup French fried onions
salt/pepper (to taste)

Instructions:

- ▶ Preheat oven to 350 degrees and grease a 9x13 baking pan with cooking spray.
- ▶ In a medium bowl, combine the cooked pasta, chicken, corn, milk, cream of chicken, onion, garlic, cheese, bacon, and salt/pepper.
- ▶ Pour mixture into greased pan.
- ▶ Sprinkle French fried onions evenly on top.
- ▶ Place pan into preheated oven and bake for about 30 minutes.
- ▶ Remove from oven and serve warm!

Thousands of Patients Were Implanted with **Dangerous Heart Pumps** *Are You One of Them?*

Throughout the summer, the Food and Drug Administration (FDA) recalled several different medical devices because they caused serious injury and even death to users. One of these mass recalls was for the HeartWare HVAD System distributed by Medtronic.

The FDA recall came as no surprise because Medtronic issued its own Urgent Medical Device Communication letter in June, urging health care providers to promptly stop the distribution and production of the HVAD system. However, what's surprising is that the FDA started finding manufacturing issues at the HeartWare plant as early as 2011, yet did not penalize the company.

What is the HeartWare HVAD System?

The HeartWare Ventricular Assist Device (HVAD) is an internal pump that helps the heart pump blood throughout a patient's entire body. The device is primarily used by patients who are at risk of death due to end-stage heart failure, who are in the process of heart tissue recovery, or patients who did not plan for heart transplants.

Why is the HeartWare HVAD System Being Recalled?

Medtronic halted the sale and distribution of the HeartWare HVAD System for two main reasons, including that the company uncovered an increased risk of patients who suffered from neurological adverse events and mortality from using the device and that the pump might immediately stop, causing a delay in restarting or failing to start altogether.

Both of these problems can put patients at risk for serious injury and even death, including heart attack, stroke, worsening heart failure, and additional hospitalizations and treatments.

Dangerous Devices

Despite numerous inspectors discovering manufacturing and quality control problems with the pump, the FDA failed to penalize Medtronic and numerous patients had the system implanted on their hearts without knowing all of the facts. By the end of 2020, about 20,000 injuries and 3,000 death reports related to the HVAD system were filed with the FDA.

If you are a patient who suffered from health problems related to the HeartWare HVAD system implant, it's in your best interest to contact an attorney today. They can help you get the compensation you need and deserve.



Who is Responsible for That Fallen Tree in Your Yard?

Picture this: During a severe storm, your neighbor's large tree comes crashing down in your yard, destroying your property and making an unsightly mess. But who's responsible for the cleanup? Your neighbor or you?

It can be tricky to know who is responsible for funding cleanup efforts and damages caused by a fallen tree. The situation can become even more complicated if the tree fell because of natural circumstances, such as a powerful storm. In order to protect yourself and your property, it's important to understand your local laws and even contact an attorney for answers.

Who is Responsible for a Fallen Tree?

While laws vary from state to state, in most states a person is not responsible for a fallen tree or the damage it caused if they were unaware of any rot or other hazards.

If you have noticed a sickly or rotting tree in your neighbor's lawn, and you have repeatedly spoken and documented your concerns with the issue to your neighbor,

they could be held financially responsible if the tree falls. If your neighbor is found responsible for personal injury or property damages related to a downed tree, their homeowner's insurance may end up covering the costs.

If your neighbor is not found negligent, you can rely on your own homeowner's insurance to cover any damages after a deductible. If your car was struck, check with your auto insurance provider to see if they will pay for any damage.

What You Should Do if a Tree Falls on Your Property

If your neighbor's tree came toppling down on your lawn, you should try to prevent any further damage from occurring. Take photos of any damages, as well as of the fallen tree. Afterward, call your insurance provider right away. An agent will help you navigate the claims process. If the tree fell due to negligence, it's in your best interest to contact an attorney to receive compensation to repair the damage.



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How Do I Claim a Hardship for Jury Duty? 6 Tips You Need to Know

Most of us won't jump for joy when we receive a letter in the mail summoning us for jury duty. However, being a no-show can lead to some serious legal consequences, including hefty fines and even jail time.

While most potential jurors won't have a permissible reason to not serve on a jury, others will have a legitimate excuse. If you're considering claiming a hardship for jury duty, here are six tips to simplify the process:

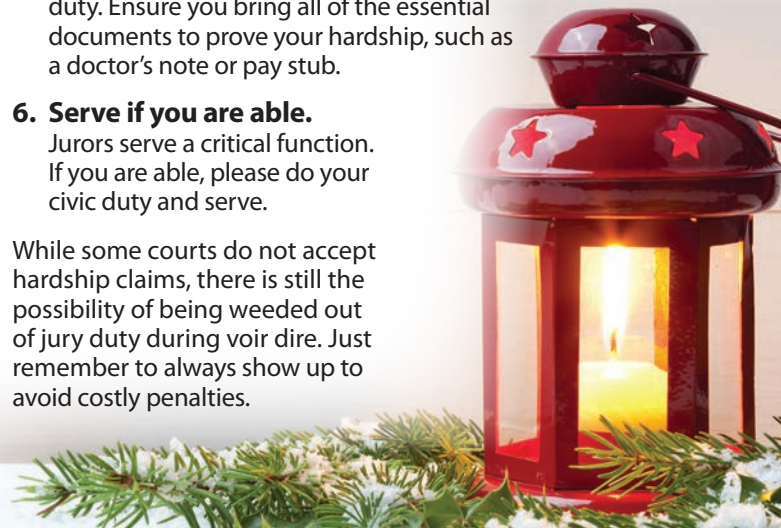
- 1. Always check with the court.** Every court will have its own jury policies and procedures when it comes to jury service excuses. Always learn about your local court's policies before attempting to claim a hardship.
- 2. Understand your jury summons.** Another important item you need to pay close attention to is your jury summons. When you receive your jury summons in the mail, it will typically include instructions on how to claim or defer a hardship. This may require you to fill out a form and mail it in, or go to the courthouse in person. Don't delay! There are always stringent deadlines to claim a hardship in person, electronically, or via mail.
- 3. Call your court clerk.** If you can't find any details on how to claim a jury hardship in your summons, call the court clerk to find out more. They will be able to tell you how to claim a hardship.

4. Go to jury duty. If you couldn't get an answer in the aforementioned steps, then you will need to go to jury duty on the first day. If your local courthouse allows you to make a hardship claim, you can find out then. If the judge doesn't mention it, you may need to abide by your civic duty and serve. Also remember, your initial appearance may only be a call in - so review your summons carefully.

5. Fill out a hardship form. If your court accepts hardship claims, fill out the form that your clerk passed around to the potential jurors on the first day of jury duty. Ensure you bring all of the essential documents to prove your hardship, such as a doctor's note or pay stub.

6. Serve if you are able. Jurors serve a critical function. If you are able, please do your civic duty and serve.

While some courts do not accept hardship claims, there is still the possibility of being weeded out of jury duty during voir dire. Just remember to always show up to avoid costly penalties.



America Will Face **Long-Term Disability** as a Result of COVID

Despite the fact that millions of Americans have opted to get vaccinated against the COVID-19 virus, we are still not in the clear. Many survivors of the initial virus are still suffering from long-term effects. Unlike the common flu, the coronavirus can cause a baffling array of symptoms long after the acute illness has been treated, leaving some patients unable to resume their daily activities. As we continue to learn more about the "long-haul" course of COVID-19, policy makers need to brace for a looming tsunami of disability, including how it will affect disability insurance programs and worker's compensation.

Staggering Statistics

At least 34 million people in the United States have already contracted COVID-19. Moreover, recent studies have found that more than one-fourth of patients are experiencing prolonged symptoms of COVID. Common symptoms of long COVID include respiratory issues, fatigue, loss of smell and taste, cardiac, renal, and gastrointestinal problems, and "brain fog." These debilitating health complications have made it nearly impossible for many people to return to work, even months after their initial infection.

These statistics raise some critical questions, including:

- ▶ How many "long haulers" will never be able to return to their jobs?
- ▶ How many patients will require short-term disability payments?
- ▶ How many will become dependent on disability programs?
- ▶ How will this affect worker's compensation and disability programs in the long run?

But there is a light at the end of the tunnel.

What Needs to Be Done

In order to sufficiently prepare for a post-pandemic disability flood, policy planners and makers must:

- ▶ Conduct thorough research to deeply understand disability caused by long COVID
- ▶ Establish more clinics to care for "long haulers"
- ▶ Conduct a national consensus on criteria for qualifying for worker's compensation and disability insurance

As we continue to research and understand this brand-new virus, we must also make preparations for the long-term effects of COVID-19.




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REFERRALS

A referral is the greatest professional compliment we can receive. If you have a friend, neighbor, or family member who is in need of legal representation, please consider referring them to our firm. We will do our best to provide the highest possible level of service and deliver winning results.

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5 Safe Winter Driving Habits

When harsh, winter weather strikes, it can create numerous challenges for drivers across the country. Slippery road conditions, blinding sun glare from the snow, and less visibility from snowstorms can all put your safety in jeopardy.

In order to stay safe, it's imperative to practice good winter driving habits. Here are five tips to stay safe behind the wheel this winter.

- 1. Leave Lots of Room** You should never tailgate the car in front of you. This is especially important during wet road conditions. If you don't have a sufficient amount of space between you and the car ahead, you'll boost your risks of a fender-bender.
- 2. Go Slow and Steady** Speeding is never a good idea. You could get a hefty fine or even lose control of your vehicle. During winter, when roadways are slick with snow and ice, maintain a slow and steady speed at or below the speed limit.

Always leave your house early for work so you don't feel the need to rush.

- 3. Keep Your View Clear** Snow, ice, and sleet can drastically impair your visibility. Even if your wipers are working overtime, they'll have a tough time clearing ice off your windshield. Before you get behind the wheel, clear all of the snow off of your car's roof, windshield, and hood. Use an ice scraper to get caked-on ice off your windshield. Having a clear view of the highway ahead will keep you safe and secure.

- 4. Avoid Using Your High Beams** Don't use your high beams while driving on a congested road. Those blinding lights will obstruct other drivers' views. Additionally, it will also impact your vision. Use your low beams or fog lights instead.
- 5. Avoid Driving Altogether** If the weather outside is truly frightful, don't attempt to drive. Hunker down at home and wait for the snow to stop.