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# SILBERSTEIN, AWAD & MIKLOS, P.C.

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SPRING 2017

## WITNESS an Accident?

### HERE'S WHAT TO DO

When you see an accident happen, your first instinct may be to stop and help or, if it was a fender bender, you may feel like you should mind your own business. Legally, either is allowable, but here is what to do (and not do) should you stop to offer assistance:

- **Park a safe distance away**—leave plenty of space for emergency-response vehicles—turn on your hazard lights, and call the police or 911. For noninjury accidents, call the police.
- **Carefully approach the vehicles.** This is especially important in the case of a serious accident that involves fire, but you should also be aware of broken glass, leaked fuel, and passing traffic.
- It is okay to **talk to the victims** and to try to help them remain calm. If someone is injured, do not attempt to move them; wait for a professional.
- **Do not confront anyone** about causing the accident, no matter how obvious it may seem to you. Provide all the information that you have to the police, and be sure to leave your contact information for further questions.
- **Move or stabilize vehicles** involved. If an accident is minor and no one is injured, it is preferable to move vehicles to the side of the road. If the vehicles are badly damaged or if there is an injured person inside, try to put the vehicles in park and turn them off.
- **What if I don't stop?** If you choose not to stop, as long as you weren't involved in the accident in any way, you can't be sued for not stopping. Likewise, if you do stop to help, most states have Good Samaritan laws to protect you from being held liable for emergency care provided (or not provided) at the scene of an accident.

## TIP-OVERS: Keep Your Children Safe

According to the Consumer Product Safety Commission (CPSC), there are more than 40,000 injuries due to furniture tip-over incidents each year; about 25,000 of the injuries are to children.

With IKEA's most recent MALM chest and dresser recall, which was in response to 41 reported tip-over incidents, 17 injuries to children, and three deaths, many parents are taking a harder look at how to childproof furniture and electronics. But with so many accidents occurring with the same piece of furniture, when is a furniture manufacturer to blame?

Many furniture manufacturers, including IKEA, face lawsuits for producing unstable furniture and for not including instructions or materials to anchor such furniture to a wall. In addition to design and manufacturing defects, a lawsuit may allege wrongful death, negligence, and deceptive advertising.

*Here are some tips from the CPSC to prevent a tip-over tragedy:*

**Secure top-heavy furniture**—Existing furniture can be anchored with inexpensive anti-tip brackets. New furniture items, such as dressers, are sold with anti-tip devices. Install them right away.

**Remove tempting objects**—Remove items that might tempt kids to climb up a piece of furniture, such as toys and remote controls.

**Use sturdy furniture for TVs**—Televisions should only be placed on furniture designed to hold a television, such as television stands or media centers.

**Secure or mount your TV**—Televisions that are not wall mounted should still be anchored to the wall. Mount flat-screen TVs to the wall or to furniture to prevent them from toppling over.

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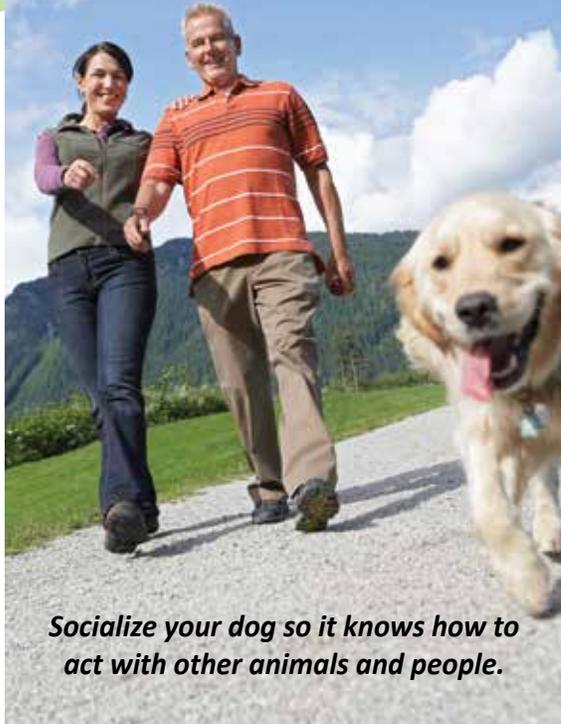
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U.S. News & World Report

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Lawyers lending a legal hand.

## DO YOU HAVE A DOG?



*Socialize your dog so it knows how to act with other animals and people.*

### *Then You Have a Potential Liability!*

If you own a dog, you are liable for its actions. According to the Insurance Information Institute (I.I.I.) and State Farm, dog bites accounted for more than one-third of all homeowners insurance liability claim dollars paid out in 2014.

Luckily, there are plenty of ways to reduce the chances of your dog biting someone. Here are just a few tips from the I.I.I.:

- ◆ Consult with a professional (e.g., veterinarian, animal behaviorist, or responsible breeder) to learn about suitable breeds of dogs for your household and neighborhood.
- ◆ Spend time with a dog before buying or adopting it. Use caution when bringing a dog into a home with an infant or toddler.
- ◆ Be sensitive to cues that a child is fearful of or apprehensive about a dog and, if so, delay acquiring a dog.
- ◆ Never leave infants or young children alone with any dog.
- ◆ Socialize your dog so it knows how to act with other animals and people.
- ◆ Discourage children and guests from disturbing a dog that is eating or sleeping.
- ◆ Be cautious when exposing your dog to new situations in which you are unsure of its response.
- ◆ Immediately seek professional advice if your dog develops aggressive or undesirable behaviors.

*If you or a loved one has been injured by a dog bite, contact our office for a confidential case evaluation.*

## I Can Act as My Own Car Accident Lawyer...

### *How Hard Could It Be?*

If you've been in a car accident, it is really easy to just forgo hiring an attorney and let the insurance company take control. This could be a big mistake. The attorneys hired by the insurance company are hired to protect the best interests of the insurance company, not its clients.

If fault isn't being contested, injuries are nonexistent or minimal, and vehicle damage is less than \$5,000, some accident victims may opt to work solely with their insurance company, but with the exception of noninjury fender benders, it isn't advisable to skip hiring an attorney for several reasons.

If you've been injured, have expensive medical bills, have lost time at work, and expect to incur more time off and medical bills for future procedures and treatments, you really need an attorney familiar with automotive law to represent you during the settlement process. He or she will know what losses can be recovered, understand the tactics used by insurance companies to minimize settlement offers, and know the statute of limitations for filing a claim should that become necessary. When negotiating your settlement, an experienced attorney will collect evidence on your behalf and prepare a demand letter that considers your current and future needs.

If you or a loved one needs representation after an automotive accident, call our office for a confidential consultation.

## Parked Cars Can Be a Danger to Bicyclists

Riding your bike on trails and in designated bike paths is ideal, but for those who ride in cities and towns, navigating around parked drivers who open their doors without regard for passing traffic, including cyclists, know the danger of dooring (when a person opens their car door without looking and causes a cyclist to crash). This is almost always the fault of the person in the vehicle, yet bicyclists often have a difficult time recovering for losses from the auto insurance company.

Forty states have dooring laws to protect bicyclists from being injured in accidents where a door is opened carelessly, or for longer than it needs to be open. Virginia lawmakers, who recently approved a dooring law, noted that having a legal penalty for carelessly opening vehicle doors could help insurance companies determine fault. Without such laws bicyclists have to prove that they were not able to avoid hitting an opened door to recover for injury and losses, which is a difficult hill to climb.

***Forty states have dooring laws to protect bicyclists from being injured in accidents where a door is opened carelessly...***

# Slip and Fall Can Cause Extraordinary Damage

When you read or watch the news and learn about someone who fell down, hurt themselves, and sued for over a million dollars—and won!—it's hard not to be skeptical or wonder if the award was too generous.

One such case is that of Christopher Armstrong-Stevenson, of Oregon, an 84-year-old man who slipped on spilled laundry detergent in a Safeway grocery store, broke his femur (the large bone in the leg), and was awarded \$1.6 million. While a 20-year-old might recover from a broken femur with little incident, the injury and recovery prevented the older man from engaging in the activities that he did on a daily basis, and it is anticipated that he will have to sell his house because of ongoing mobility issues.

The grocery chain was quick to blame the victim's advanced age for both the accident and complications from the injury, despite the fact that Armstrong-Stevenson was active around

his home and shopped on his own regularly without incident. In addition to blaming the victim, video evidence was destroyed, and a manager's inspection conducted before the accident indicated that the floors were safe (although the manager later said the floor where the accident happened wasn't actually inspected).

When a business tries to blame age or disability for an injury, they may get slapped with punitive damages. Armstrong-Stevenson was awarded a little over \$100,000 for medical bills, \$525,000 for pain and suffering, and \$1 million in punitive damages (70 percent of which goes to a state crime victims' compensation fund).

Next time you hear a 30-second report about a seemingly frivolous slip-and-fall lawsuit, take the time to learn a little more about the case. There is almost always a good reason for a large reward.

*Next time you hear a 30-second report about a seemingly frivolous slip-and-fall lawsuit...there is almost always a good reason for a large reward.*

## TAKE A HIKE! Park and Trail Safety

During the springtime, many people travel to local, state, and national parks to hike, bike, and enjoy the outdoors. Those looking for outdoor fun count on government parks to be well maintained and to have appropriate signage regarding potential hazards. Keep in mind that winter thaws, spring rains, and trails that haven't been prepared for busy spring and summer seasons can be slick. After the winter, hazard and trail signs may have fallen or faded.

According to the National Park Service, 1,025 people died in national parks from 2007 to 2013. The majority of deaths were from accidental drownings, slip-and-fall accidents, and vehicle crashes. But those injured on trails that weren't maintained or labeled correctly may feel that the park is liable for all or part of their injuries. When determining if the government is partially or fully to blame, investigators will be interested in the maintenance records of the trail, proper placement of warning signs, whether hikers ignored posted warning signs, and whether there is a history of accidents occurring in the area of the park in question.



*Here are tips that hikers can take to preserve the trails and stay safe, from the Pennsylvania Department of Conservation and National Resources:*

- ◆ **Do not overestimate your abilities.** If you are a beginner or haven't been active in a while, don't take a long, grueling climb to the top of a mountain.
- ◆ **Wear comfortable shoes** with soles that provide good traction.
- ◆ **Bring a friend.** Although hiking can be a valuable solitary escape, many times the enjoyment and safety doubles when you hike with a friend.
- ◆ **Stay on the trail.** Wandering off the trail can have serious consequences. You could become injured or lost. Some trails have also been built through very delicate habitats. Wandering off the trail could disturb and destroy parts of the habitat you came to see.
- ◆ **Be sensible.** Take into consideration the weather and the duration of your hike. Bring along any extra clothing, water, or insect repellent in accordance with the conditions.

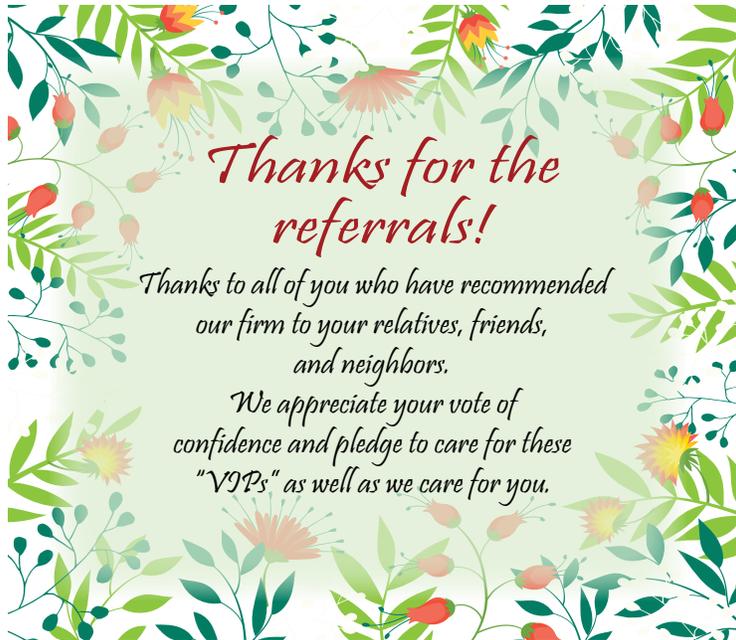


## New Food Safety Rules Guard Against Sabotage of the Food Supply

The U.S. Food and Drug Administration recently finalized a new food safety rule under the landmark, bipartisan FDA Food Safety Modernization Act (FSMA). The FSMA will help to prevent wide-scale public health harm by requiring companies in the United States and abroad to take steps to prevent intentional adulteration of the food supply. While such acts are unlikely to occur, the new rule advances mitigation strategies to further protect the food supply.

According to an agency news release, both domestic and foreign food facilities, for the first time, are required to complete and maintain a written food defense plan that assesses their potential vulnerabilities to deliberate contamination where the intent is to cause wide-scale public health harm. Facilities now have to identify and implement mitigation strategies to address these vulnerabilities, establish food defense monitoring procedures and corrective actions, verify that the system is working, ensure that personnel assigned to these areas receive appropriate training, and maintain certain records.

Food manufacturers are required to comply with the new regulation within three to five years, depending on the size of the business.



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## Morning Sickness Drug Causing Birth Defects

A drug used to control extreme morning sickness is causing birth defects. Nausea caused by pregnancy can last for months and can lead to missed work and make it difficult to get adequate nutrition.

Those who suffer find limited relief in home remedies (e.g., crystalized ginger, ginger ale, saltines). Drug companies would like to address the problem but haven't found a drug that would benefit women without being a danger to the fetus.

Zofran, a drug approved to treat chemotherapy-related nausea, is classified as a category B pregnancy drug (tested safe on animals, but not tested on humans) and has been used off-label to treat severe morning sickness. Unfortunately, some babies born to mothers using the drug have been stillborn or have suffered various abnormalities of organs and orofacial defects.

Over 200 related lawsuits have been filed over the last year. In the past, GlaxoSmithKline, the manufacturer of Zofran, paid \$3 billion for unlawful promotion of it and other drugs. While doctors may prescribe a drug for off-label use, a drug company may not promote drugs to doctors for off-label uses.

