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Legal Matters®

The key to winning a lawsuit might be right in your pocket

Almost everyone today carries a cell phone, and many people snap photos with their phone all day long. But surprisingly, many people forget to take photos or videos at the exact moment they could be extremely helpful – when you or someone else has been in an accident.

If you're ever in a car crash, for instance, a simple cell phone can be the key to making sure you're properly compensated for any damage or injury.

Of course, the first priority in a crash is to attend to anyone who might be hurt. But as soon as it's safe to do so, it's a good idea to take photos of the entire scene and of all vehicles that were involved. You want to have a record of what everything looked like immediately after the accident, before anything was moved.

If possible, take pictures both inside your car and outside to give a real sense of how serious the impact was. Take pictures of the scene, too, including any skid marks, traf-

fic lights, street signs, roadside debris and anything else that can help you get a complete picture.

A camera phone can also help you make sure you get all the necessary documentation. You can take pictures of license plates, car models and VIN numbers. And you can use your camera to record insurance information and driver's licenses.

Having a photo record of the accident scene can be very helpful when dealing with an insurance adjuster. It's tough for an adjuster to question the extent of the harm when there are photos taken directly at the scene.

If your camera lets you record video with sound, this can be even more powerful. You might be able to record a statement from a witness on the spot.

Don't assume the police will take photos of the scene. In most cases, they won't.

Here's another example: If you or someone you're with slips and falls, it's always a good idea to use photos or video to make a record.



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That's because people often don't realize immediately after a fall how seriously they've been hurt.

Also, it might be very difficult to prove later what it was that caused the fall. After snow and ice have melted, a grocery store aisle has been cleaned up, or a broken sidewalk has been repaired, it might be all but impossible to show that these things caused

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Truck driver could be held liable for ‘negligent parking’

We’ve all gotten frustrated at some point by the careless way that another driver has parked a vehicle. But did you ever think that somebody could be sued because of it?

That actually happened recently when a truck driver pulled off a freeway in San Bernardino, California to eat his lunch. He parked in a dirt area alongside the interstate in a spot where he had routinely pulled over in the past to eat – while ignoring an “Emergency Parking Only” sign that the California Highway Patrol had put up there because so many truckers were parking for non-emergency reasons.

While the trucker was eating, a driver lost control of his vehicle and slammed into the rear of the parked truck, dying instantly.

A jury found that the trucking company was 10 percent at fault because its driver parked in a dangerous spot on the highway with no good reason, thus increasing the

likelihood that any traffic mishap would lead to a serious injury or death. Therefore, the trucking company was responsible for a portion of the damages.

The trucking company appealed, but the California Supreme Court agreed with the jury and said careless parking can result in a trip to court.



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Blood pressure drug is linked to chronic diarrhea

More than 73 million Americans suffer from high blood pressure. And one of the most popular blood pressure drugs on the market these days is Benicar.

However, a recent report from the Mayo Clinic in Minnesota has suggested a link between Benicar and a condition known as “sprue-like enteropathy.” The condition can result in chronic diarrhea, colitis, weight loss and severe gastrointestinal issues.

Sprue-like enteropathy can appear very similar to celiac disease. In fact, some patients using Benicar have even been diagnosed with celiac disease, when in fact it was apparently their use of the drug that was causing their symptoms. As a result, many of them continued to use Benicar, and now may have suffered long-term intestinal damage.

Recently, the U.S. Food and Drug Administration issued warnings about the link between Benicar and celiac-like symptoms. A number of lawsuits have now been filed across the country claiming that Benicar’s manufacturers designed a defective product and ignored the risks that the drug posed to its users.

General Motors expands its recall for ignition problems

General Motors has recalled millions of cars due to ignition problems, and if your car is on the list, you should have it checked out as soon as possible.

A defect in the ignition switch can cause it to switch into the “off” position while driving, possibly resulting in the driver losing control while at the same time keeping the airbags from deploying. The issue has been linked to dozens of crashes and at

least 13 deaths.

GM says an insert being added to car keys should solve the problem, and dealers can perform the fix. Until repairs are made, though, drivers are being warned to remove everything from their key chains and drive with only the key in the ignition so the key remains more evenly balanced in the ignition slot.

Until repairs are made, drivers are being warned to remove everything from their key chains and drive with only the key itself in the ignition slot.



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The affected models include:

- Buick Lacrosse, 2005-2009
- Buick Lucerne, 2006-2011
- Buick Regal LS & GS, 2004-2005
- Cadillac CTS, 2003-2014
- Cadillac Deville, 2000-2005
- Cadillac DTS, 2004-2011
- Cadillac SRX, 2004-2006
- Chevrolet Cobalt, 2005-2010
- Chevrolet HHR, 2006-2011
- Chevrolet Impala, 2000-2014
- Chevrolet Malibu, 1997-2005
- Chevrolet Monte Carlo, 2000-2008
- Oldsmobile Alero, 1998-2002
- Oldsmobile Intrigue, 1998-2002
- Pontiac G5, 2007-2010
- Pontiac Grand Am, 1999-2005
- Pontiac Grand Prix, 2004-2008
- Pontiac Solstice, 2006-2010
- Saturn ION, 2003-2007
- Saturn Sky, 2007-2010

Soldier's family can sue over injury in training accident

There's an old rule of law that says a member of the military can't sue the government for injuries that are connected to service. That's generally true even if the person could normally bring a lawsuit against someone else in similar circumstances – for instance, if a soldier were injured due to medical malpractice at a VA hospital, or harmed during peacetime in a barracks fire caused by a defective heater.

However, that doesn't mean that soldiers and their families are completely without hope of compensation.

In a recent case, a Navy SEAL named Alexander Ghane was engaged in a combat training exercise at a private Mississippi gun range when a bullet struck him through a gap in his bulletproof vest.

The Navy had organized the training exercise at the range, which both the military and law enforcement agencies had used for training for years.

Ghane's mother sued the shooting range, saying that while it had claimed the training facility was able to handle such drills safely, the wall through which the bullet passed wasn't bulletproof as intended.

A judge initially threw out her lawsuit, saying it



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was prohibited because it involved a question of U.S. military policy and operations.

But the Mississippi Supreme Court disagreed, and said the case didn't involve military policy, but merely the design, construction and maintenance of a wall at the rented facility – conditions that were in place before the Navy took control of the shooting range.

The court said the gun range had allegedly told the Navy that the walls were capable of withstanding the ammunition and training tactics being used, and if that wasn't true, it could be liable for the resulting harm.

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The key to winning a lawsuit might be right in your pocket

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someone to slip and hurt themselves. But a picture is worth a thousand words.

In one recent case, a tradesman who was working at a home building site fell through some poorly constructed temporary stairs and badly injured his leg. Some other workers eventually found him and took him to the hospital. Later, the contractor for the site dismantled the stairs and got rid of all the evidence.

Fortunately, at the hospital the tradesman had asked his wife to go to the scene and pick up his tools. While there, she used her phone to take some photos of the stairs.

When the case went to court, those photos were the key evidence and made it possible to prove to the jury that the contractor had been negligent and caused the accident.

As a final thought, if you see a dangerous condition in general – such as a gaping pothole or broken playground equipment – why not take a photo and



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send it to the local government, so they can take care of the situation before someone gets hurt?

Many cities and towns have rules saying that they're not legally responsible for a safety problem unless somebody told them about it. So it's a good idea to tell them about it. You might well prevent a serious accident, or at least help the victim to be fairly compensated if one occurs.

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Injured? Never just assume there's not enough insurance

Many people get into an automobile accident, and later find out that the other driver doesn't have enough insurance to pay for all their injuries and vehicle damage.

But you should never just assume that you're out of luck. You should always talk to a lawyer who can investigate the situation, because it may turn out that there's more insurance coverage than you initially thought.

In one recent case, a driver in Florida caused an accident and it appeared there wasn't enough insurance to cover all the injuries that resulted to him and to the other driver.

But an investigation revealed that the driver had been volunteering that day for a non-profit youth group on a local clean-up project. The volunteer had planned to photograph the end result, but realized he had left his camera at home. He went back to get it,

took the pictures, and headed home once again, which is when the accident occurred.

It turned out that the youth group had purchased insurance to cover volunteers – so the accident was actually covered by the policy

that the group had purchased for just this sort of situation.

Initially, the insurance company refused to pay. It said that while the man had been a registered volunteer with the organization for decades, he wasn't acting as a volunteer at the time of the accident because he was on his way home after the event.

But a Florida appeals court decided that the man might have still been participating in the larger



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clean-up activity, because he would have developed the film and provided it to the organization once he got home – if not for the accident.