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Experienced. Aggressive. Compassionate.

FALL
2020

Top 10 ways to avoid distracted driving

By now, we all know the risks of distracted driving. We also know how common it has become on our roadways. While it's easy to say "just pay attention!", that's much easier said than done. The best way to avoid distracted driving is to plan ahead and create habits that make focusing on the road the default. The following ten ways to avoid distractions was provided by The USAA Educational Foundation.

1. **Prepare for your drive. Get what you need to take with you in advance.**
2. **Plan your route before you go. Set up the GPS or consult your map ahead of time.**
3. **Get yourself looking good before you hit the road. Hair, makeup, nails, clothing...these things shouldn't be fixed behind the wheel.**
4. **Don't eat, drink, read, or smoke while driving.**
5. **Keep the radio volume at a reasonable level.**
6. **Don't watch videos while driving. Just don't.**
7. **Keep your phone within reach, just in case you need it for an emergency.**
8. **Let calls go to voice mail and respond after you arrive at your destination.**
9. **If your passengers are extra chatty, politely ask them to allow you to focus on the road.**
10. **Focus on what's going on around you. Be aware of the other vehicles on the road and anything that may come out into the road.**

Adopt these habits and you will be less distracted on the road and much more likely to arrive at your destination in one piece.

Covid-19 and the Courts

At the moment the New York Courts are very slowly opening up for civil cases. Court personnel have returned to the courthouses to process cases. Many Courts are scheduling remote conferences via telephone or Skype. There is talk about starting trials on limited basis in court rooms which have been renovated for a post-Covid world. Outside of the Courts we have been holding depositions, hearings, mediations and arbitrations via Zoom or other remote means.

However, there have still been no in-person Court conferences, motions or other appearances. Some motions are being decided on submission, but we are also waiting on motions to be decided that were submitted to the Court prior to the shutdown in March. The Courts are starting to automatically issue discovery schedules on newly filed matters, but such has yet to occur in a systematic manner.

Many time limitations have been tolled, so that the time to file a claim, lawsuit, and motion, has been extended several months. No one is being penalized for missing a deadline. Such is good news for those that have been affected from acting due to Covid-19 or have put things off for other reasons. The bad news is that there is no penalty against a party who delays in proceeding with discovery, or other deadlines. Lack of trials has also allowed insurance companies, and their attorneys, to avoid settling cases or risk a jury trial resulting in an adverse decision.

In summary, the Courts and the legal profession are adjusting to the "new normal" like everyone else, in fits and starts, one step at a time. There is no doubt many of the innovations that have been put in place using technology have been a long time coming and will be beneficial in the future. However, we all look forward to a time when there is a vaccine and Covid-19 is behind us, allowing for trials, court appearances and cases being processed in a more timely fashion.

Lawyers you can rely on and a law firm you can trust.

Areas of Practice:

Personal Injury | Car Accidents | Premises Liability | Construction Site Accidents | Medical Malpractice
Trips, Slips, and Falls | Wrongful Death | Dog Bites | Traumatic Brain Injuries | Other Types of Accidents

Business Interruption Insurance for COVID-19

Will my Business Interruption Coverage cover business loss due to Covid-19?

Most businesses have insurance policies to cover losses due to damaging events (e.g. fire, hurricanes, water damage, theft, etc.). Business owners pay insurance companies premiums year after year, to provide protection in case of a loss. If a business such as a restaurant has a fire and has to close while repairs are being made, the insurance policy will normally pay for both the cost of repairs, and the loss of business income while the repairs are being made.

If a business has had to close its normal operations, and lost income due to Covid-19, the business may be entitled to compensation under its business interruption policy. Compensation would include lost sales minus saved expenses, or net income plus continued expenses. Compensation would also include additional expenses due to Covid-19.

Many insurance companies have pro-actively sent letters to their insured, stating that their policy will not cover losses due to Covid-19. The most common reason given is that the policy will not pay for any business interruption losses unless there is actual damage to the property. However, Courts have found coverage when a property had to be closed due to conditions such as E Coli, radioactive dust, presence of carbon monoxide or pesticides, and risk of falling rocks, none of which caused actual damage to the property. Insurance companies may also claim that a particular policy excludes coverage due to damage from a "virus", "bacteria" or "contamination". However, most businesses have not closed due to a "virus" but rather due to an Executive Order directing their closure.

Therefore, should a business owner file a claim with their insurance company for business losses due to Covid-19, even if their insurance company has told them in advance that they will not pay?

The answer is YES. The obligation is on the insured to make a formal claim. Keep in mind that claims are supposed to be made within a reasonable period of time after loss is incurred. If the insurance company denies that claim, then the insured can sue the insurer for formally denying the claim. Within the time that the insurer denies the claim, until the deadline for filing the lawsuit, the legal landscape may change. The Courts, or the legislators, may rule that insurance policies are required to cover Covid-19 claims.

Every insurance policy is unique and thus every insurance policy must be reviewed as an individual contract between the insurance company and the insured. While the insurance company may rely on one paragraph for denying coverage, another paragraph in the insurance contract may provide coverage. One of the basic rules of insurance law is that all ambiguities in the contract should be decided in favor of the insured and against the insurer.

Before believing the insurance company's self-interested position, it would be best to speak with someone with expertise in dealing with insurance companies and insurance policies to have them review your policy. An insurance policy expert may be able to convince the insurance company to provide coverage. In many cases, it may be necessary to bring a legal action against the insurance company to force it to pay under the policy.

Our firm will review your business interruption policy at no cost to you. If your insurance company denies your claim, we will represent you on a contingency basis, which means our fee is limited to a percentage of the recovery. If there is no recovery there is no fee.



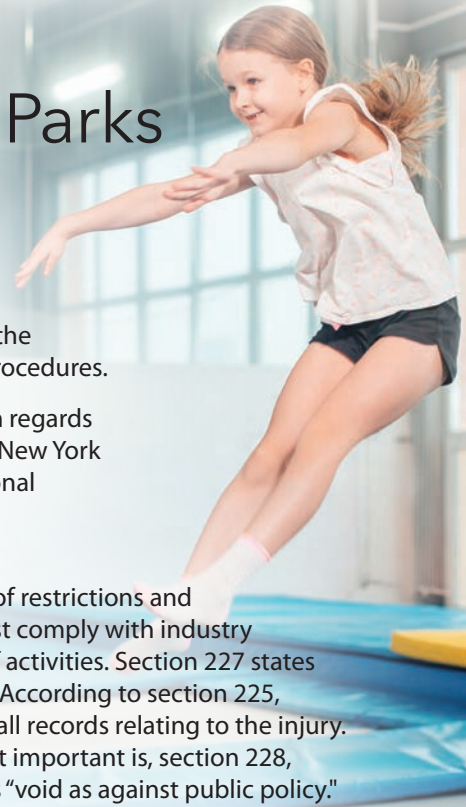
NY Passes New Law Regulating Trampoline Adventure Parks

In recent years, there has been an increase in action course entertainment businesses known as Trampoline Adventure Parks. Trampoline Adventure Parks tend to include obstacle courses, ropes, climbing walls, and of course, trampolines. These businesses cater to a younger audience and have risen in popularity due to the success of shows such as American Ninja Warrior and Wipeout. Trampoline Adventure Park visits often result in serious injury because of the haphazard chaotic nature of energetic children and the laissez faire style of the management procedures.

Despite the frequent occurrence of injuries, most jurisdictions have not promulgated statutes in regards to safety procedures and operational requirements for Trampoline Adventure Parks. Previously, New York injury lawsuits involving injuries at Trampoline Adventure Parks were resolved using the traditional principles of negligence. However, the State of New York recently introduced and passed a bill, effective 4/18/2020, instituting some of the strictest trampoline park safety laws in the nation.

New York General Business Law Article 12-C, titled "Trampoline Park Safety," instituted a variety of restrictions and requirements for operators of trampoline parks. Section 223 states trampoline park owners must comply with industry standards regarding safety postings, employee training, security equipment, and supervision of activities. Section 227 states safety postings must be placed "conspicuously" and be approved by the Department of Health. According to section 225, owners/operators must implement injury reporting and emergency response plans, and retain all records relating to the injury. These records must be made available to the Department of Health upon request. Possibly most important is, section 228, which states that any waiver of liability signed between the trampoline park and a participant is "void as against public policy."

Therefore, even if the injured party signed a waiver, they can sue operator for negligence and recover. With strict rules now in place, owners of Trampoline Adventure Parks have fewer mechanisms of avoiding liability for the accidents they cause. Hopefully, as result of this law, Trampoline Adventure Parks increase in safety.



Five things to do if you're the victim of a hit-and-run

The risk of an accident is something every driver must accept when they get behind the wheel. If we are unfortunate enough to be involved in an accident, we deal with the situation as best we can. We call the police, exchange insurance information, get treated for any injuries, and call an attorney. But what do we do when the situation is complicated by the fact that the other driver left the scene of the accident? What should we do if we are the victim of a hit-and-run?

- 1. Call the police.** Leaving the scene of an accident is illegal. The police may be able to help track down the culprit. NY law requires you report a hit and run accident to the police within 24 hours of the accident to qualify for hit and run insurance.
- 2. Record any information you can gather.** Write down anything you remember about the vehicle that hit you - license plate (even a partial), color, make, and model. Make notes about the appearance of the driver. Take pictures of your vehicle and the scene of the accident. Get names and contact information of any witnesses.
- 3. Do not chase.** As tempting as it may be to chase down the car that hit you, it is not a good idea. You're more likely to cause another accident than catch them.
- 4. Call your insurance company.** Your coverage will determine if the insurance company will pay for any damages or medical expenses. A lot depends on if you have Uninsured Motorist (UIM) coverage. In fact, when you're done reading this newsletter it would be a good idea to check your policy to make sure you have UIM coverage. We recommend carrying at least \$100,000 in coverage.
- 5. Call an attorney.** An attorney can help you deal with the insurance company and may be able to help track down the driver who hit you.

Uninsured Motorist (UIM) coverage protects you when the other party in an accident is at fault and they are uninsured. Even though it is required by law to carry insurance, many drivers do not. If one of these uninsured drivers causes an accident that you are involved in, the UIM coverage will protect you. UIM can also protect you if you are the victim of a hit-and-run. We recommend carrying at least \$100,000 in UIM coverage.



Avoiding COVID-19 SCAMS

The ongoing pandemic is causing numerous problems for people around the world, including the obvious health consequences involved with Covid-19. One of the sadder problems we now must deal with is unethical scammers trying to take advantage of the situation by preying on people's fears. Fortunately, we can protect ourselves if we know these scammers are out there and what their more common methods are, we can protect ourselves. The following tips from the Federal Trade Commission will help you to avoid these scammers:

- ▶ Don't respond to texts, e-mails, or phone calls about checks from the government. They won't be coming from the government.
- ▶ Beware fake contact tracers. Legitimate contact tracers need health information and contact information for people you may have been in contact with. They will never ask you for financial information or money.

- ▶ Ignore offers for home test kits or vaccinations. Scammers are selling these, as well as "treatments" that are not proven to work.
- ▶ Hang up on robocalls. Covid or not, hang up on robocalls.
- ▶ Don't trust e-mails claiming to come from the CDC or WHO. You can find all the latest information at www.coronavirus.gov.
- ▶ If you wish to make a donation to a good cause, that's great! You should never pay in cash, with gift cards, or by wiring money though. Take a moment to make sure the organization you wish to donate to is real.

Follow these tips and you will be far less likely to be taken in by a scammer. They count on our willingness to trust and desire to help. We can't let them succeed. For more information on Covid-related scams, visit www.ftc.gov/coronavirus/scams-consumer-advice.

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Election Day 2020 is **November 3**.

Turnout is always higher in years when the President is on the ballot and we don't expect this year to be any different. With adjustments being made for the pandemic, make sure you know where your polling place will be this year or get your mail-in ballot returned in time for it to be received by the deadline. Whoever you're voting for, we encourage you to turn out and cast your ballot.



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What our **CLIENTS** are saying:

I was impressed with the firm immediately. They showed kindness and a good listening ear in our initial conversation and throughout my legal journey. They took my case when nobody else would and always paid infinite attention to detail, even though my case was not a big claim in the grand scheme of settlements. The respect they gave to my concerns will not be forgotten. I'd recommend the firm to anyone without hesitation.

— Wes, Queens, NY

Marc was recommended to me by a few of my colleagues from work. I was in a bad car accident and needed professional help. Marc completely changed my expectations as to what a personal injury lawyer could do. He was fantastic and everything was taken care of. Marc's professionalism was unquestionable. I would recommend him to anybody who needs a caring lawyer to solve their problem.

— Ludmila B., Queens, NY

