

ZALMAN SCHNURMAN & MINER P.C.

1430 Broadway, Suite 1802, New York, NY 10018

Toll Free: 1-800-LAWLINE
Phone: (212) 668-0059

Email: info@1800lawline.com
Website: www.1800lawline.com

Experienced. Aggressive. Compassionate.

WINTER
2020

We hope you spend
this holiday season
with the ones you
love the most!

*From our family to yours,
Happy Holidays!*



Fatal crash risk doubles if driving on opioids

A new study from Columbia University has found that drivers under the influence of prescription opioids are twice as likely to trigger a fatal crash. As our nation continues to deal with the opioid epidemic, this study highlights a serious concern that is often overlooked.

"The impact of the opioid epidemic goes far beyond the body count from overdoses," according to Guohua Li, a physician who was the study's lead researcher. He said the findings should be a warning to doctors and patients that these drugs are risky, even if they are legally prescribed.

Many patients underestimate the risks of opioids like OxyContin, Percocet, Vicodin and others because they trust that a legal drug prescribed by their physician must be safe. Before the opioid epidemic, only 1 percent of fatally-injured drivers were found to have prescription narcotics in their systems. That number rose to more than 7 percent in the past twenty years.

Driving under the influence is a problem far bigger than just alcohol. When a prescription drug carries a warning about operating a motor vehicle, it is best to take that warning seriously and behave as you would when drinking – by passing the keys to someone else.

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

WINTER KNOW DRIVING BEFORE YOU GO

Check road conditions.

Call 511 or visit your state's DOT webpage to check on road conditions. Choose a different route or adjust your travel plans if road conditions are poor.

Pack an emergency supply kit.

Stock your vehicle with a mobile phone, charger, batteries, blankets, flashlight, first-aid kit, high-calorie, non-perishable food, candle to melt snow for drinking water, sack of sand or cat litter for traction, shovel, scraper, and battery booster cables.

Get the weather forecast.

Change your travel plans if hazardous weather is expected.

Ready your vehicle.

Check your battery, wipers, coolant, and other systems affected by cold temperature. Make sure your tires have good tread. Clear snow, ice or dirt from your windows, lights and camera.



NYC property owner liable for ICE ON SIDEWALK

Is an out of possession New York City landlord liable for ice on the public sidewalk, in front of property leased to a tenant? New York's Court of Appeals held that the owner is liable for injuries caused by an unsafe icy sidewalk.

Under NYC Administrative Code 7-210 "It shall be the duty of the owner of real property abutting any sidewalk...to maintain such sidewalk in a reasonably safe condition." Further, the owner of property abutting the sidewalk "shall be liable for any injury to property or personal injury... caused by the failure of such owner to maintain such sidewalk in a reasonably safe condition. Failure to maintain such sidewalk in a reasonably safe condition shall include...the negligent failure to remove snow, ice, dirt or other material from the sidewalk." While there are some exceptions to this rule, the rule applies to all sidewalks in front of commercial establishments and apartment buildings in the City of New York. Many other municipalities in the State of New York have a similar rule.

Despite the plain reading of the Administrative Code, which names the "owner" as the one with the responsibility and liability, some Courts had ruled that if the owner was out of possession, it could avoid liability, and an injured pedestrian would need to look to the tenant in possession.

In the case of *He v. Troon Mgt., Inc.*, a pedestrian slipped on ice on the sidewalk and sued the abutting property owner

for damages. The Appellate Division, First Department, dismissed the case on the basis that the out of possession owner contracted with its tenant to remove snow and ice from the sidewalk, and thus the owner shifted any liability to the tenant. The pedestrian argued that the dismissal of the case was wrong, because the Code only names the Owner as being the responsible party, and that the pedestrian was not privy to the lease between the owner and tenant, and thus should not be bound by their agreement.

Luckily, on October 24, 2019 the Court of Appeals, reversed the decision of the First Department, holding that owners of property have a non-delegable duty to maintain the abutting sidewalk, and that duty applies with full force, even if the owner is out of possession or transfers maintenance of the sidewalk in a lease to the tenant. The Court of Appeals went on to say that the landlord in its lease may require that the sidewalk be cleaned by the tenant, and may require the tenant to maintain insurance to protect the tenant. However, the ultimate responsibility to the public is on the owner of the property abutting the sidewalk in the City of New York.

Since there are exceptions to the rule, and different Counties, Towns, Cities, and Villages have different rules, it is best to consult with an attorney as soon as possible if you have been injured due to an unsafe sidewalk condition.

WINTER DRIVING WHILE ON THE ROAD

Don't crowd the plow.

The road behind an active plow is safer to drive on. Give them plenty of room to work and only pass when it is safe to do so.



Change the way you drive.

Drive slower than normal and leave more room between you and surrounding vehicles when roads are wet, snowy or icy. DO NOT use cruise control, brake quickly or take sharp turns.



Stay alert.

Make sure you keep your gas tank over half full and keep a close eye on road conditions, which can change rapidly. On road trips, take breaks often so you can stay focused on the road.

Defective earplugs a pain in Vet's ears

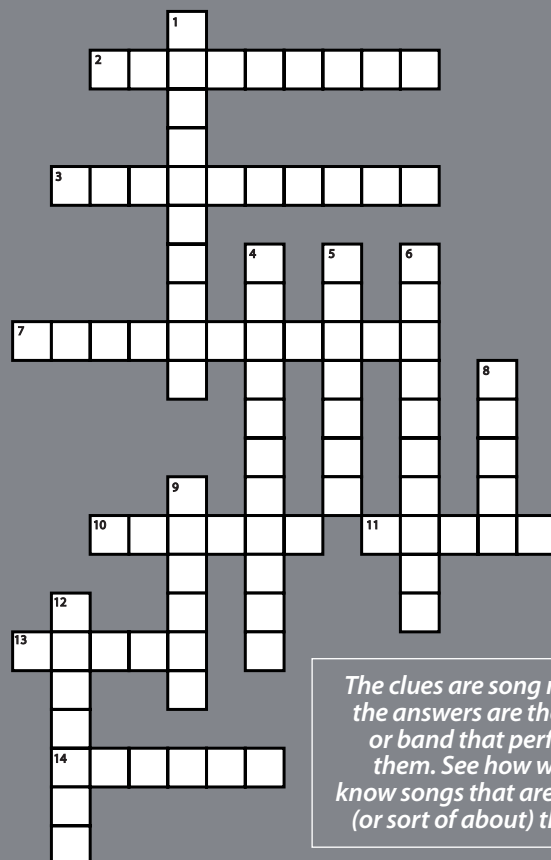
Hundreds of U.S. veterans are suing 3M, the company that made the Combat Arms earplugs that were in use from 2003 – 2015. The earplugs had a bad seal, which allowed dangerously loud sounds to slip into a soldier's ear without the wearer knowing. The failure resulted in hearing loss, tinnitus and loss of balance.

In 2018, 3M agreed to pay \$9.1 million to resolve allegations that it knowingly sold the dual-ended Combat Arms Earplugs, Version 2 (CAEv2) to the United States military without disclosing defects that hampered the effectiveness of the hearing protection device. The settlement with the U.S. Justice Department made things right between the company and the government, but individual veterans who were harmed are also pursuing justice.

Since February 2019, 100 lawsuits have been filed in the United States District Court for the Western District of Texas — Waco Division. Considering the widespread harm these defective ear plugs have caused, this could be just the beginning. Documents in these suits allege that 3M knew about the defect in 2000 due to their own testing, but falsified certification stating that the testing complied with military standards.

If you or a loved one served between 2003 and 2015 and suffered hearing loss after wearing Combat Arms earplugs, contact our office for a free consultation.

CROSSWORD PUZZLE



The clues are song names, the answers are the artist or band that performed them. See how well you know songs that are about (or sort of about) the law!

DOWN

1. Folsom Prison Blues
4. Lawyers, Guns, and Money
5. Long Black Veil
6. Will Your Lawyer Talk to God for You?
8. Jailhouse Rock
9. Lawyers in Love
12. D-I-V-O-R-C-E

ACROSS

2. Murder Was the Case
3. Criminal
7. Breaking the Law
10. I Shot the Sheriff
11. I Fought the Law
13. Hurricane
14. A Legal Matter

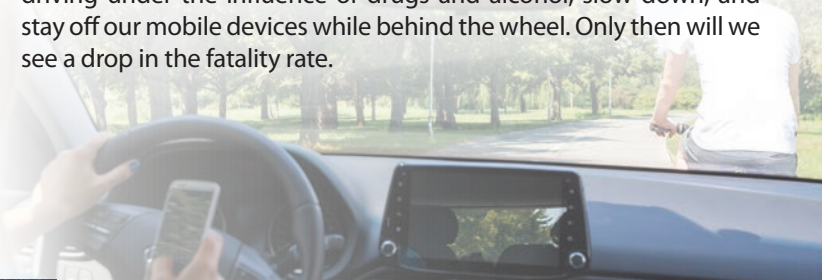
The 3 bad behaviors that kill 20,000 Americans per year

Traffic fatalities on U.S. roads reached 40,000 in 2018, hitting that mark for the third straight year. According to the National Highway Traffic Safety Administration, about half of those deaths (over 20,000) were caused by just three bad behaviors. Drivers continue to do these three dangerous things despite the fact that most of us know better. What are these dangerous behaviors?

- 1. Impaired driving.** Accounting for about half of the 20,000 fatalities, impaired driving remains a huge problem despite long-term and consistent education campaigns. Alcohol and/or drugs (legal and illegal) impair our ability to operate a vehicle, raising risks for driver, passengers, people in other vehicles, and pedestrians.
- 2. Speeding.** Next on the list is speeding—the go-to behavior of aggressive drivers. Driving too fast for the roadway or conditions increases the risk of accident in a pretty obvious way. Mixing this behavior with impairment or distraction is the fastest road to disaster.

- 3. Distracted driving.** Texting and other uses of electronic devices is the most common, though not only, cause of distracted driving. The spread of mobile technology is increasing the number of fatalities caused by distraction, while the spread of awareness of this risk is our only hope if we want to make our roads safer.

We all know these bad behaviors have deadly consequences and yet most of us are guilty of occasionally (at least) engaging in them anyway. We must hold ourselves and our loved ones honest and stop driving under the influence of drugs and alcohol, slow down, and stay off our mobile devices while behind the wheel. Only then will we see a drop in the fatality rate.



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◀ **2020 Magnet Calendar Inside**

**Zalman Schnurman
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1430 Broadway, Suite 1802
New York, NY 10018

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The information included in this newsletter is not intended as a substitute for professional legal advice. For your specific situation, please call the appropriate legal professional.

NOTABLE NEW LAWS

A number of new laws effecting safety have recently been enacted in New York, including:

Education Law Section 6811-c. Where there has been a class I recall of a prescription drug, pharmacies shall make a reasonable attempt to notify all patients that have been prescribed and who are currently taking such recalled drug dispensed from such pharmacy. Notification shall be within three days of the pharmacy being notified by the United States food and drug administration, a manufacturer, a wholesaler or by other notice of such recall. Effective 10/18/19.

General Business Law Section 399-ii has been enacted preventing any retailer from selling a new clothing storage unit more than 27 inches in height, to a customer, unless the furniture conforms to established standards to prevent tipping. Alternatively they may provide for sale tip restraint devices, and post warnings that the furniture may become unstable and tip over. This bill known as “Harper’s Law” is named after Harper, a three year old girl who tragically lost her life after a piece of children’s furniture tipped over and fell on her. Effective 11/11/19.

General Business Law Section 399-zzzz, requires that a retail

lessee shall not be liable for charges for the early termination of a retail lease agreement of a motor vehicle if he or she dies before the end of the lease. Effective 12/4/19.

Social Services Law Section 390-I has been enacted requiring that child care centers shall take measures to securely anchor to the floors or walls all items of large furniture and electronic appliances capable of being tipped over. Any such item that cannot be anchored shall be removed from the facility. Effective 2/9/20.

Public Health Law Section 2827 has been amended to forbid the performance of a pelvic exam on women who are anesthetized or unconscious, with certain exceptions. Effective 4/4/20

Chapter 338. The commissioner of motor vehicles shall publish on the department of motor vehicles’ website information to assist persons in determining whether a safety recall has been issued on motor vehicles and related equipment, child safety seats, or tires, including but not limited to providing and displaying a hyperlink to the National Highway Traffic Safety Administration’s safety issues and recall page, on the homepage of the department of motor vehicles’ website in a conspicuous manner. Effective 10/4/20.