

# Texas Law Alert

Fall 2009

## Avoiding Car Accidents



If you've been injured in an accident, obtaining just compensation for your injuries is important. However, most people would agree that it is always better to avoid being injured in the first place. This is especially true when you are behind the wheel of a car, because car accidents can be the source of some of the most debilitating injuries that you can suffer.

Some of the things that we should do to avoid a collision are obvious: slow down, do not follow too closely, keep your eyes open, and take into account the weather and the traffic conditions when you drive. Make sure that your car is in good condition. Frequently, accidents are caused by bad brakes, balding or defective tires, or other maintenance problems. Also, don't get angry at other drivers, which can lead to road rage and aggressive driving.

### Not So Obvious

However, there are a number of other tips that may be less obvious,

but which can also help keep you safe. Many collisions occur when someone is turning or when vehicles have to stop and start. This makes traveling through intersections the most dangerous part of driving and, in fact, most collisions occur at intersections.

When you come to an intersection, take your time. Check all oncoming traffic for the driver who may be running a red light. Check

each direction twice—you will be surprised how many times you will have missed seeing a car or motorcycle hidden in a blind spot the first time around.

### Intersections

Don't be the first one into the intersection when the light turns green. Make sure that the vehicles

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## If You're in a Car Wreck, Here's What Our Firm Can Do for You

- Evaluate any bodily injury claim to determine the amount of money to which you are entitled.
- Help you with the property damage portion of your claim.
- Resolve complex issues and negotiate an overall settlement.
- Deal with your doctors, obtain your medical records, reports, and billing statements, and notify medical care providers as to whom to bill.
- Have an investigator interview witnesses, take statements, and photograph the accident scene and your vehicle.
- File a lawsuit, if necessary.

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# When You Suspect Child Abuse or Neglect

No one likes to think about it, but the fact is that children in Texas are abused and neglected every day. Almost every abused or neglected child is seen by people other than the abuser, each one of whom has a chance to step in and protect that child. What are your duties if you suspect that child abuse or neglect has occurred?

hygiene, unmet medical needs, frequent absences, or begging for food may be signs of neglect. Although any one of these signs alone might have an innocent explanation, the more of them that you see, the more likely it is that the child is a victim of abuse or neglect.

How can you tell for sure when a child is being abused or ne-

glected? The good news is that you do not have to know for certain. If you see signs of abuse or neglect, or have some reason to suspect that it is occurring, report the matter to the authorities. They will investigate and determine the truth. Remember: You are protecting a child, and it's the law.

## The Law

Texas law requires anyone who suspects the abuse or neglect of a child to report it to local law enforcement authorities or to the Department of Family and Protective Services (DFPS). Additionally, certain professionals (such as teachers, doctors, and day-care workers) are required to report the suspected abuse or neglect within 48 hours of seeing evidence of either.

However, if you suspect abuse or neglect, don't wait. DFPS has a 24-hour reporting line, 800-252-5400, but if the problem seems serious or if the child might be in immediate danger, call 911. People making reports in good faith and without malice are protected from liability for making the report, even if it turns out that their suspicions are wrong.

## Signs of Abuse

What are the signs of abuse and neglect? Frequent injuries, burns, or bruises in a pattern, the wearing of winter clothes in summer to hide injuries, excessive aggressiveness or passivity by the victim, fear of being alone with the abuser, and sexual promiscuity or knowledge beyond what is appropriate for the child's age are all evidence of abuse, either physical or sexual. Malnourishment, lack of proper

## Faulty Brake = Large Judgment

Maintenance on a vehicle can be expensive. As U-Haul recently found out, lack of maintenance on a vehicle can be even more expensive.

A suit was brought by a renter of a U-Haul truck who was severely injured when the parking brake did not hold and the truck rolled over him. The man's pelvis and spine were crushed, his bladder was ruptured, and he suffered a number of other injuries. Treating him required numerous surgeries, and he is partially paralyzed and bedridden. The cost of treating him for the rest of his life has been estimated to be \$25 million.

The renter sued U-Haul for negligence, and the evidence showed that U-Haul failed to properly maintain the brakes and transmissions of many of the trucks in its fleet. The renter presented evidence showing that almost a third of the trucks that U-Haul rents had brakes that did not work properly, and that the truck which had rolled over the renter was 18 years old and had been banned from being rented in Canada because of poor maintenance. Rather than fixing the problems, U-Haul chose to ship the truck to the United States for use as a rental.

Although U-Haul argued that it could not reasonably be expected to know that the parking brake was faulty and that the accident was the renter's fault, the jury did not agree. It awarded the renter over \$84 million in damages, including \$63 million in punitive damages, although the law required that this amount be reduced to a judgment of \$46 million.

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# Getting Compensated for Your Injury

So, despite your best efforts to be careful, you have been involved in a collision and you have been injured and suffered property damage. What steps can you take to get the compensation you deserve?

Often, the first step is to speak with a lawyer and evaluate your claim. This involves considering the facts and circumstances surrounding your injury and determining who is likely at fault.

If you are the victim of someone else's negligence, you may be entitled to compensation. However, evaluating a claim involves many other considerations. Is the other person insured? Was he or she at work at the time you were injured? Was he or she drunk or otherwise impaired? How badly are you hurt? Do you have some insurance that will cover your injuries or lost wages? All of these considerations can affect both the practicality of making a claim and the likely outcome.

In addition to evaluating the claim, you should take steps to preserve the evidence. Sometimes this is easy. Medical bills and repair bills are evidence of your losses, so save them. Lost wages are also not difficult to prove. Other evidence is harder to preserve because, if you do not take steps to preserve the evidence, it can easily disappear.

For example, take as many pictures of the scene as you can and take pictures of any damage or injuries to you, your car, or your property. Get the names of witnesses and obtain any reports filed by the police. All of these things can help you to prove your claim.

If necessary, a lawyer can help you make your claim. Sometimes,

this just involves communicating with the other driver's insurance company, which can lead to settlement of your claim. If settlement discussions are unsuccessful, a lawsuit may be necessary. A lawyer will help you prepare your suit for court in order to prove your case.

While being injured is not very pleasant, unfortunately, it sometimes happens. If you believe that someone else is responsible for your injuries, contact our firm. We will act quickly to preserve your rights.

## Thanks for the Referrals

*Despite this modern age of marketing and advertising, the best source of our new business is word-of-mouth. We are grateful that many of our clients and friends feel confident in recommending our firm.*

*Unfortunately, when people need a good lawyer, they often do not know where to turn. If you or someone you know has been injured and needs legal help, call us.*

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## Slip-and-Fall Cases

### Destined to Increase in the Future?

According to a recent report, the number of slip-and-fall injuries that occur each year at businesses and commercial properties is expected to rise significantly in the near future because the population of aging baby boomers will lead to an increase in the number of seniors. Seniors are statistically the most likely to fall, and when they do, they tend to require more medical care and more time to recover from their injuries.

Contrary to this report, some suggest that the number of slip-and-fall cases is likely to grow not because of America's aging population but because commercial property owners and managers are taking money-saving shortcuts that

result in more property defects and more falls.

Whatever the cause, the report has a number of suggestions for reducing the chances of falling, most of which are just good common sense. Among its suggestions for reducing the number of slip-and-fall injuries at places of business:

- Use high-traction flooring materials and low-slip cleaning products;
- Limit the difference in height between mats and floors to one-half inch or less;
- Regularly inspect floors and floor coverings for wear, spills, and other dangers; and
- Train employees how to deal with spills.

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## Car Accidents

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clearing the intersection before you are not towing one of those difficult-to-see low trailers. Use hand signals, such as a wave, to communicate your intentions to other drivers. When in doubt, wait to enter the intersection until you are sure that you can do so safely.

## Parking Lots

Parking lots can also be dangerous. In a parking lot, treat the lines painted on the pavement the same way that you would treat the lines painted on a road and obey them. Don't cut across rows and keep your head on a swivel to look out for the person who is not following this rule. Travel up and down the rows only in the direction marked and treat the end of a row as if it is an intersection on the road. Be especially careful when you back out

of a parking spot. Be sure to "clear the rear" before you back up in order to avoid hitting pedestrians (especially small children, who often run ahead of their parents).

## Blind Spots

Remember blind spots, yours *and* theirs. Many collisions that occur in a lane of traffic happen when a driver tries to change lanes or tries to merge without checking his or her blind spot. Always check your blind spot before changing lanes and do not drive in another driver's blind spot because the other driver might not be so careful. Take special care around trucks, which have a very large blind spot. The sign on the back of many trucks, saying "if you can't see my mirrors I can't see you," is correct, so be sure you can see their mirrors. Even if you have the right of way, nobody wants to get into a collision with an 18-wheeler.

## Taking Care in Neighborhoods

Finally, take special care when driving in residential neighborhoods. The speed limit may be 35 miles per hour, but that does not mean that you have to go that fast, especially if you think it is not safe to do so. A neighborhood has children and pets, both of whom may dart into traffic without looking, so you have to look out for them. This is especially true where cars are parallel-parked by the side of the road. A child can be hidden behind a car, and it may be too late to stop if you don't keep a sharp lookout.

Because so much of driving safely depends on what the other driver is doing, there is no certain way to guarantee that you will never be in a collision. However, by exercising proper care and using good sense, you can greatly reduce your chances of being hurt in an avoidable accident.

*Actual resolution of legal issues depends upon many factors, including variations of facts and Texas law. This newsletter is not intended to provide legal advice on specific subjects, but rather to provide insight into legal developments and issues. The reader should always consult with legal counsel before taking action on matters covered by this newsletter.*