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ATTORNEYS AT LAW

An Association

Your Injury and Accident Attorneys

Wishing you a happy
and prosperous
new year!

WINTER
2013

Create an emergency kit for your car

Most of us have an emergency kit at home, but how about the car? Everyone is lulled into a false sense of security with their cell phones. But what happens if your car breaks down or it skids off the road where you get no service? What if emergency assistance can't reach you for an extended period of time in the case of severe weather?

AAA recommends the following items for a winter-weather emergency car kit:

- Flashlight with extra batteries
- Flares or reflective triangles
- Jumper cables
- Cell phone with extra batteries
- General first-aid kit
- Rags or paper towels
- Gallon jug of water
- Nonperishable food items
- Blanket and extra set of clothes
- Winter formula window washer solvent
- Non-clumping kitty litter
- Ice scraper, snow brush, and snow shovel
- Tire chains
- Extra car fuses

MINOR ACCIDENTS CAN LEAD TO LONG-TERM INJURIES

*You just had a fender bender. You are shaken, but get out of the car to make sure the person who ran the stop sign is OK and check for damage. Nothing obvious, but you exchange insurance information with the driver anyway—just in case there is damage that isn't visually evident. Over the next week, you realize that it's **your** body, not the car's, that took a hit. A stiff neck and sore back get worse instead of better, and after several doctor visits, you're handed a diagnosis of whiplash and a herniated disk, which will require months of treatment.*

This is a good example of why it is important to exchange insurance information in a seemingly minor accident. Since the other driver is at fault, their insurance should pay for lost wages and medical bills. But more and more, insurance companies are questioning claims in minor collisions. They figure if the car's not damaged, you shouldn't be, either.

In 2007, CNN conducted an 18-month investigation into the nation's two largest auto insurers and found that the agencies offer little to victims of fender benders. In fact, CNN said there was a strategy to routinely deny claims, delay settlement, and defend against claims in court. The general idea was to make the process difficult, time consuming, and expensive, and to use the lack of damage to the vehicle as evidence in court to help the jury conclude that the claim may be fraudulent.

If you or a loved one has been seriously injured in a minor-impact auto accident, call our office right away to get the compensation you deserve.

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OFFICE HOURS

Monday, Tuesday,
Wednesday, Thursday
8:00 a.m.-5:00 p.m.

Friday

8:00 a.m.-4:00 p.m.

- On-the-job injuries
- Workers' compensation
- Auto accidents
- Product liability
- Nursing-home neglect
- Wrongful death
- Serious injuries
- Out-of-state accidents
- Trucking accidents
- Motorcycle accidents
- Free consultation

EXPERIENCE • REPUTATION • RESULTS



Phone-related distraction responsible for almost a quarter of crashes

The National Safety Council (NSC) has confirmed what most of us know—cell phones and driving don't mix. In a recent report, the organization cited cell phone use as a factor in 24 percent of auto accidents in 2010.

While hands-free devices and options allow hands to stay on the wheel, it doesn't stop drivers from distraction. Here are some tips from the NSC to help shift the cultural acceptance of using the phone while driving:

- Change your cell phone voicemail greeting to: "I'm either away from my phone or currently driving. Please leave a message."
- Tell people who call you while they are driving that you value their safety and will talk when they can do so safely.
- Speak up when in the car with someone who uses a cell phone while driving.
- Let people who transport your children know that they should not use their cell phones while driving and that if driving without using a cell phone is not possible, you will arrange for alternate transportation.

WARNING: **Generic drugmakers not liable for inaccurate labels**

The Supreme Court ruled in 2011 that consumers cannot sue generic drug makers for damages caused by inadequate warning labels. So when Debbie Schork's hand was amputated as a result of an anti-nausea drug that caused gangrene (a known risk when injecting the drug), her case was tossed out of court. The same injury and treatment was endured by Diana Levine, though she was able to sue drugmaker Wyeth—and won a \$6.8 million verdict. The cases are practically identical but for one thing: Schork was given a generic version of Phenergan, the brand-name drug that Levine received.

By law, a generic drug is required to carry the same warning as its branded counterpart—even if the label isn't accurate. As in the instance above, Wyeth failed to warn of the known risk of gangrene if the drug was injected and was held liable for that oversight; the maker of the generic drug, in accordance with the Supreme Court ruling, isn't accountable for the lack of warning because it had no control over label contents.

To complicate matters, consumers don't choose medicine they receive during emergency care, and most states permit pharmacists to dispense a generic in place of a brand name. Most people are completely unaware that they give up legal protection when they use generic drug substitutions.



The dog (bite!) days of winter

Animal experts and lawyers alike have noticed that the winter and holiday seasons bring an increase in dog bites. Several factors play a part in cold-weather cranky canines. For most of the country, winter is cold and daylight is short. For dogs, this usually means quicker walks and less exercise. Mix that pent-up energy with more houseguests, less attention, and owners who are stressed out, and it's not hard to see why some dogs are more temperamental than usual.

Pet owners need to take extra responsibility during this time of year to make sure that their pooch's physical and emotional needs are being met. Pets should get plenty of exercise and attention. When company is expected, owners should consider putting pets in another room or in a crate with some favorite toys, or, at the least, one owner should be in charge of supervising the dog when guests—particularly children—are present.



Have you or a loved one sustained injuries from a dog bite? Contact our office to help recover losses from medical damages.

Working while applying for **SOCIAL SECURITY BENEFITS**

The scenario is common. Work has become nearly impossible. A doctor advises you to stop working or at least limit your activity and hours. But bills still need to be paid and you'd like to help make ends meet by working as much as you can, even if it's in a limited capacity or a different role. What should you do?

There are a lot of contrasting opinions and advice. Technically, you can work and still be eligible for disability benefits as long as the work isn't judged to be substantial gainful activity, which is earning more than \$1,010 per month. Work expenses related to disability (counseling services, special transport, ambulatory devices, prescription co-pays, job coach) can be deducted from monthly earnings.

Some advise those in the application or appeals process to work fewer than 20 hours a week and earn less than \$600 per month. Physicians and attorneys, however, most often suggest to simply limit employment to what is within an individual's physical and mental limits. If you are working, and having trouble maintaining hours and performing tasks, discuss it with your physician, who may be able to adjust treatment or redefine the limits of what is physically or mentally appropriate. This also ensures that new treatments and changed limitations become part of your medical record and will be taken into consideration when your claim is reviewed.

GOING BACK TO WORK

After at least 12 months of not working, or not working with substantial gain, someone in the application and appeals process can attempt to return to work on a substantial basis. If the attempt results in a fail (that is, the job lasts less than six months due to the disability), regardless of the income earned, the individual can still receive disability benefits if their claim is approved. Some lawyers have noted that a failed attempt at work can actually strengthen a case.

If a person does make a successful return to work after 12 or more months, he or she may still qualify for a closed period of disability, meaning that they can receive benefits for the period of time for which they were unable to work, or work substantially, due to disability.



Can you afford a lawyer to help with your claim?

It can take over a year and a half to see any kind of financial benefits from the time you apply to the time you get accepted into Social Security disability benefits programs. This is a long, frustrating wait for most people. It's easy to dismiss hiring a lawyer who specializes in Social Security disability cases when funds are low, but the reality is that a lawyer knows the process inside and out and can make sure that applicants get all the benefits they deserve, all the back payment they are entitled to, and will ensure that all necessary paperwork and records are submitted correctly.

But how are you supposed to pay for a lawyer when you cannot work? Social Security has a special contingency fee program for disability cases so that claimants have access to representation. Currently, it is a one-time fee of 25 percent of the back pay awarded, not to exceed \$6,000. If you don't win, you owe no fees; however, claimants are responsible for related charges, such as copy, postage, and medical-records retrieval. Since the fee is based on a percentage of back pay, it's most beneficial to employ the council of a lawyer at the beginning of the application process instead of during appeals.

Don't let the cost of legal representation deter you from hiring a lawyer who can help secure disability benefits. Call our office today for a free consultation.

Referrals

Thanks to all of you who have recommended our firm to your relatives, friends, and neighbors. We appreciate your vote of confidence and pledge to care for these "VIPs" as well as we care for you.

To view the articles in this newsletter
and more, subscribe to our blog:
www.knoxvillepersonalinjuryblog.com



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Seek medical attention to avoid injury associated with secondary TBI

Whether you fall down, get hit with a falling object or projectile, or are in a car accident, chances are that your head—and brain—will sustain some kind of injury. Traumatic brain injury occurs much like a vehicular crash: the vehicle (your body) stops short due to an impact of some kind, but the passenger (your brain) keeps going and strikes the skull.

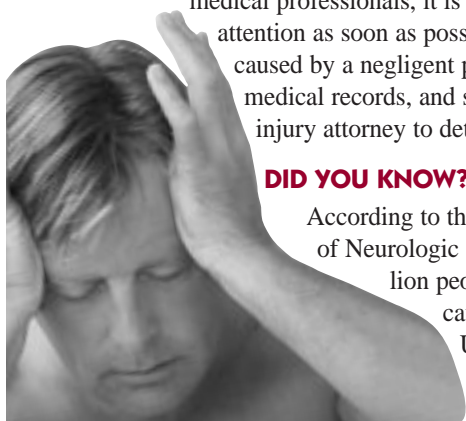
Secondary brain damage happens when the brain reacts to processes that are put into motion after the impact—for example, when the brain slowly bleeds or swells. In these cases, the injured party may appear fine or only have minor pain, but within 12 to 24 hours, the swelling can limit blood flow to the brain, resulting in coma, brain damage, or death. Brain injuries can also affect the metabolic function of the body and cause an imbalance of nutrients, blood sugar, and electrolytes.

If you or a loved one sustains such an injury, it's a good idea to seek medical attention, even if it doesn't hurt or initial pain and disorientation seem to be fading. Pain itself is not always the best indicator of whether one should see a doctor.

Since secondary TBI can only be detected and prevented by medical professionals, it is important to seek attention as soon as possible. If an injury was caused by a negligent party, keep thorough medical records, and speak with a personal injury attorney to determine your legal rights.

DID YOU KNOW?

According to the American Association of Neurologic Surgeons, about 5.3 million people live with a disability caused by TBI in the United States alone.



RECENT SETTLEMENTS AND JUDGMENTS

- Workers' compensation settlement in the amount of **\$132,500** for a man who suffered a back injury while lifting doors at his job. *Knox County, Tennessee*
- Settlement of **\$100,000** for the widow of an energy worker who was diagnosed with bladder and kidney cancer due to exposure to chemicals at the workplace. *Anderson County, Tennessee*
- Workers' compensation settlement of **\$148,000** for a medical employee who suffered an injury when a patient grabbed and twisted his neck. *Anderson County, Tennessee*
- Settlement of **\$142,000** for an energy worker with bilateral knee replacements, hearing loss, and lung disease. *Anderson County, Tennessee*
- Workers' compensation settlement of **\$149,000** for a government employee who suffered a head injury while climbing a ladder. *Anderson County, Tennessee*
- Workers' compensation settlement of **\$85,000** for an employee who injured his shoulder on the job doing plumbing work. *Anderson County, Tennessee*
- Workers' compensation settlement of **\$118,000** for an employee who suffered electric shock on the job that caused burns to his head, resulting in headaches and memory loss. *Anderson County, Tennessee*
- Settlement of **\$75,000** in a motor vehicle accident wherein the plaintiff suffered shoulder and neck injuries in the state of Kentucky.
- Settlement of **\$75,000** in a motor vehicle accident wherein the plaintiff injured her neck, back, and shoulder when the defendant pulled out in front of the plaintiff. *Anderson County, Tennessee*
- Settlement of **\$149,000** for an energy worker who suffered from radiation exposure. *Anderson County, Tennessee*