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# Texas Law Alert

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## Motorcycle Crashes Can Be Deadly



The vision of driving down a country road with the wind in your hair

atop a large motorcycle is an attractive one for many people, and the number of motorcycles on America's highways is growing. Although motorcycles share the road with cars and trucks, collisions involving a motorcycle are different and often more serious than automobile accidents.

### Collision Prone

Motorcycles (on average) are involved in more collisions than other vehicles. In addition to all of the usual things that cause accidents (speeding, bad weather, driving under the influence), motorcyclists face certain other hazards. Motorcycles are smaller than cars and trucks and they are sometimes harder to see. In over half of the cases studied, the drivers of cars involved in a collision with a motorcycle said that they did not see the motorcyclist coming. The smaller size of a motorcycle also makes it more vulnerable to road hazards. And, because motorcycles are more

maneuverable than cars, they are sometimes put into unsafe positions.

Motorcyclists are also much more likely to be injured or killed in an accident than someone riding in a car or truck. According to the National Transportation Safety Board, a motorcycle rider is 26 times more likely to die in

a collision than someone in a car. Motorcycle riders also are far more likely to suffer serious injuries in a collision.

### Head Injuries

A common kind of serious injury associated with motorcycle

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## Cycle Collision Do's & Don'ts

- Call the police and an ambulance, if necessary.
- Get the name, address, and insurance information of the parties involved and any witnesses.
- Write down the make, model, year, and license number of the vehicles involved.
- Take pictures of the damage to your motorcycle before it is repaired.
- Do not make any statement about the accident to anyone but the police.
- Do not apologize or admit fault.
- Do not argue with the other driver.
- Call our office to discuss your case

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# What Are Legal Damages

At the end of the day, most lawsuits are about one thing: damages. This is because persons who have not suffered damages are unlikely to sue. Courts cannot undo the past, but they can award injured persons money in an attempt to "make up" for a loss. There are three kinds of damages: nominal, compensatory, and punitive (also known as exemplary damages).

*Nominal damages* are awarded when a person has been damaged but the damage does not translate into dollars and cents. Nominal damages are often symbolic awards (for example, \$1), and such damages amount to a court saying that you have been legally damaged, but this legal damage did not cause any real-world loss.

The kind of damages most commonly sought are *compensatory damages*. As the name indicates, compensatory damages are intended to compensate an injured party for a loss. Compensatory damages are awarded for losses in specific dollar amounts (such as doctor's bills, the cost of replacing a defective product, or lost wages) as well as for losses that are less certain (such as mental anguish, pain and suffering, or lost future profits). Compensatory damages try to put the injured party back in the place he or she would have occupied but for the injury.

Finally, there are *punitive damages*. Punitive damag-

es are sums awarded above and beyond the compensatory damages. They are designed to punish a wrongdoer and to send a message to others that this type of behavior will not be tolerated. When you hear about a case where one side has won tens of millions of dollars, it is usually a case with a large punitive damages award.

## Thanks for the Referrals

*Despite the 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.*

## Statute of Limitations

We have all heard that "haste makes waste," but this may not be true when you have been injured. Whether your injury was caused by a car accident, a slip and fall, or a products liability claim, you should contact our firm as soon as possible. One reason for this is that your injury starts the ticking of a legal clock, known as the "statute of limitations."

A statute of limitations is nothing more than a legal rule that limits how long you may wait before bringing a claim against another person. If you do not make your claim before the statute of limitations passes, the law may prevent you from ever doing so.

Statutes of limitations are followed strictly by Texas courts. If you are even a single day late, your claim may be dismissed—"close enough" does

not help with the statute of limitations. In a recent Texas case, an injured woman had her claim kicked out of court, simply because she brought her claim a few days after the statute of limitations had expired.

So how long is the statute of limitations for an injury claim? In Texas, the general answer is two years from the date you were injured. However, the time may be more or less than that, depending on the facts of the case and the way in which you were injured. To avoid any problems, call us as soon as possible after an accident or injury so that we can evaluate your case. We'll make sure that the statute of limitations' clock doesn't run out on you.

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# To Err is Human: Prescription Errors



Medical errors occur when a doctor or a nurse makes a mistake in treating a patient. Some medical errors are "hands-on" mistakes, such as a botched surgery. However, those are not the only kinds of mistakes made while treating patients. With the increase in the amount of drugs available to treat every conceivable illness, a problem that is becoming more common is prescription errors.

Errors in a patient's prescription, vaguely referred to as "adverse drug events," are more common than you might think. Studies have shown that doctors, on average, make 4 mistakes for every 1,000 prescriptions written. Although 250 to 1 odds might sound like a longshot, those odds mean that many of us will be victims of prescription errors at some time during our lives.

Many prescription errors cause no lasting harm, but some such errors lead to a serious illness or death. The injuries caused by incorrect prescriptions result in patients having to stay in the hospital for a longer period of time and also cause thousands of dollars of unnecessary medical bills, not to mention the pain and suffering inflicted on a patient.

Although the stereotype is that doctors have terrible handwriting, the most common cause of prescription errors is the doctors' failure to educate themselves about the medicines being prescribed. Common prescription errors include: (1) failing to adjust the medication dosage to reflect changes in the patient's condition; (2) prescribing a drug that the patient's medical history shows he or she is allergic to; (3) prescribing a dosage that is too large or too small; or (4) writing the name of the wrong drug down on the prescription pad

(believe it or not).

Doctors aren't the only culprits; pharmacists can also commit prescription errors by providing the patient with the wrong drug, the wrong dosage, or the wrong instructions for taking the drug, even if the doctor's prescription was correct.

If you suspect that you or

someone you know has been a victim of a prescription error, contact us. We will look into the circumstances, help you determine what your options are, and assist you in making a claim for the compensation you may be due.

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## Dialing for Disaster

Your daughter has a flat. She calls you to come help her. It's dark and you're lost somewhere not too pleasant. You call for directions. You want to wish your son a happy birthday, but he's gone camping with friends. You can't reach him because he turned off his phone so he could have a bit of peace and quiet. Well, two out of three isn't bad.

Cellular phones are perfect for emergencies and for staying in touch whenever and wherever we need to be in touch. But there is growing evidence that phones and driving don't mix. With roads more crowded than ever and drivers seemingly more aggressive by the day, any distraction can lead to an accident, and cellular phones definitely are a distraction.

Consider also that young drivers (16-18) are among the least safe drivers on our roads. The crash rate for 16-year-old drivers is five times higher than for over-25 drivers! Parents naturally want their youngsters to have cellular phones to use in case of emergencies, but using cellular phones while driving is an added danger for these inexperienced drivers—and for the rest of us who

are out on the roads with them. Americans will continue to use phones in cars, just as we play our stereos, drink our breakfast coffee, adjust our appearance, dictate into recorders, shout at the kids in the back seat, and day-dream about vacations and winning the lottery. We spend a lot of time in our cars, and we have begun to treat them as the second homes they have become. We will continue to use our phones, but a few common-sense safety rules maybe can save our lives.

- ✓ If traffic is heavy, turn off your phone.
- ✓ Pull off the road before phoning.
- ✓ Try to use a hands-free type of phone.
- ✓ Save stressful, intense calls for home or office.
- ✓ Monitor phone use by your young driver.
- ✓ If you must phone while driving, do so only when you can easily respond to traffic conditions.

The best advice about phoning and driving probably is the simplest: USE YOUR HEAD before you use your phone.

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## Motorcycle Crashes ...

*Continued from page one.*

-collisions is head injury. Because a motorcyclist is often thrown off of the bike in a collision, traumatic brain injuries are 10 times more common in motorcycle accidents than in other vehicle accidents. Studies have shown that the number one way to prevent these serious injuries is the most obvious one-WEAR A HELMET! Heavy riding boots, gloves, vests, and long pants can also protect riders if they do crash.

### Take Extra Care

Because of the added danger a motorcycle presents, motorcyclists need to take extra care when driving. They should drive safely (as should all drivers), and they should wear the appropriate protective gear. Motorcyclists need to understand the special problems that their vehicles present for other drivers, and drive

very defensively. However, motorcycle safety is a two-way street. Drivers of other vehicles need to “drive aware” and should keep a careful eye out for motorcycles. Although motorcycles are more maneuverable than other vehicles, motorcyclists have the same right to use the road that cars do, and

this right should be respected. Other vehicles should give motorcycles a wide berth - a small tap with the bumper likely will not hurt an SUV, but it can be fatal to a motorcyclist.

If everyone obeys these simple rules, they can make riding motorcycles less dangerous and more like the “open-road” ideal.

## Case by Case

### Medication Error Leads to Large Verdict

As the prior story about medication and prescription errors shows, it is very important to get a patient the right medication. But a case reminds us that it is equally important to insure that a correctly prescribed medication is administered correctly.

In one case, a wrongful death suit arose out of the death of a nursing home resident. The resident suffered from severe arthritis and was prescribed a powerful pain medicine that was given to her through a patch. However, the untrained staff of the nursing home-apparently not realizing how powerful the patches were-did not remove the old patch when applying a new one. Ultimately, the patient unwittingly overdosed on her pain medicine and died of heart failure. The resident's family argued that the failure to administer the medicine properly was not quality care, and the jury agreed, returning a verdict against the nursing home for \$1 million.

*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.*

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