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# Legal Matters<sup>®</sup>

## Dangerous intersections can give rise to public liability

Car accidents can occur for a variety of reasons, such as careless or reckless driving, operating a vehicle under the influence of drugs or alcohol, texting while driving or even weather conditions. But sometimes roadways are simply not well-designed. This could mean traffic circles where multiple roads converge in a confusing manner, overly narrow lanes or hazards that make it difficult to see oncoming traffic at particular times.

Above all, it can mean treacherous intersections, which can cause accidents at any time. If you or a family member has been hurt in an automobile accident and you believe a dangerous intersection was the cause, it is important to have an attorney investigate further, because in some cases you may be able to hold a city, town or state responsible for the harm.

For example, consider Dale Locklear, a North Carolina woman who was riding her motorcycle with a group of bikers in Myrtle Beach, S.C., and wasn't warned in sufficient time that the lane she was traveling in was actually a right-turn only lane that came to an abrupt end with a raised curb. Locklear struck the curb and was sent flying over her handlebars. She lost both her legs as a result. Locklear



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subsequently took the South Carolina transportation department to court, arguing that better signage or paint markings to warn of the hazard could have prevented the accident. After agreeing to pay a sizable settlement, the state made changes to the crash site to better warn drivers of the lane ending.

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# Dangerous intersections can give rise to public liability

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Sometimes a dangerous intersection can pose a hazard to pedestrians too. In 2017, two boys were struck by an SUV while walking in a crosswalk in suburban San Jose. Both boys were seriously hurt and the older of the two, who was 13 at the time of the accident, will require

lifetime care as a result of his head injuries. Neither the boys nor the driver saw each other.

Their families sought to hold the city responsible, arguing that red-mesh fencing around landscaping in the road median blocked the parties' view of one another. They also contended that poor lighting in the area, which local residents had previously complained about, hampered visibility further. Additionally, the families contended that the city's temporary removal of speed bumps to make way for a 4th of July parade resulted in the SUV neither stopping nor slowing down. Instead of going to trial, the city agreed to pay most of a large settlement, with the driver paying a small portion.

Another recent case involved a treacherous intersection in Portland, Ore. A bus collided with a cyclist in an intersection that local officials described as

one of the "most complex" in the city. The intersection lay just south of light rail tracks and freight train tracks in a spot where a dedicated bus lane and a multi-use bike and pedestrian path converged at a traffic signal. The cyclist, Hugh Gorman, was wearing a helmet and reflective safety vest and facing eastbound on the sidewalk, where he planned to make a slight right. When the bike traffic signal turned green, he proceeded into the intersection. But the bus had a green light at the same time and collided with Gorman, fracturing his right hip and necessitating multiple surgeries.

Gorman's lawsuit alleged that the city transit authority failed to properly train bus drivers on how to

**If you have been hurt in an automobile accident and believe a dangerous intersection was the cause, it is important to have an attorney investigate further.**

navigate an intersection that the city itself had made unreasonably dangerous. The transit authority and the city agreed to cover Gorman's damages and to make the intersection safer with better traffic signals, dotted lines and signs to direct bikers and buses.

These are just three examples, and the results of your own case will depend on the particular facts as well as the law in the state where you live. Contact a local attorney to learn more.

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## Weight-loss drug linked to cancer

Belviq, a popular drug manufactured by Eisai, Inc., has helped millions of patients lose weight. It's typically used for patients with weight-related medical issues that keep them from losing weight through traditional means, like diet and exercise.

However, the federal Food and Drug Administration recently issued a recall of the drug, requesting that makers of Belviq and a related product, Belviq XR, withdraw the drugs from U.S. shelves amid findings that they may cause lung, pancreatic and colon cancer.

The cancer link is uncertain, according to the FDA, but it issued the recall as a precautionary measure after a five-year study showed that a higher

percentage of patients who took Belviq received cancer diagnoses than those who took a placebo.

Amid this recall, other weight-loss drugs are still available to take, including Qsymia, Contrave, Saxenda and Xenical. Obviously the best way to lose weight is through a healthy diet and exercise, but experts say weight-loss drugs can be useful too, particularly for obese people with high blood pressure and diabetes.

If you have taken Belviq, talk to a doctor about risks you may have encountered and about available alternative options. Meanwhile, if you're a Belviq user who has received a cancer diagnosis, it would be a good idea to talk to an attorney about any legal remedies you may have.

## Private fireworks displays exciting but risky

Many cities and towns put on wonderful fireworks displays on the 4th of July. Yet many people hosting parties and barbecues prefer to have private, amateur fireworks displays for their guests. While these private displays can be a lot of fun, they also carry a lot of risk, as a recent Missouri case illustrates.

In that case, an Iowa woman, Stephanie Orschein, was at her brother-in-law's house in Missouri where he was hosting a family 4th of July celebration. The party was to feature a fireworks display, and the organizers arranged chairs for spectators. Orschein, who had never seen a personal fireworks display before, was sitting in one of the chairs when she was struck in the abdomen by a rocket that had launched nearby, causing third-degree burns to her midsection, hands and legs. Although nobody could confirm who set off the rocket in question, and while it was unclear whether the display took place on the

brother-in-law's property or the lot next door, Orschein filed suit against her brother-in-law, asserting that he failed to properly supervise the event. The defendant agreed to settle rather than risking a jury trial.

The harm in this case could have been even worse. So if you are thinking of putting on a private fireworks display at one of your parties, you should leave it to the professionals. Similarly, if you are invited to attend such a party, be mindful of the risks. And if you or somebody close to you has been hurt at a private fireworks display, contact an attorney to find out what rights you might have.



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## Empty trailers can create road hazards

A pair of recent settlements illustrates the danger vehicles stopped on the side of the road — particularly trailers — can pose for motorists. These cases also show that if you or someone you care about has been hurt in an accident caused by such hazards, an attorney can determine which entities might be responsible.

In the first case, Alfred Jackson was on Interstate 20 in Lexington County, S.C., traveling home from a Thanksgiving dinner, when the passenger van he and his family were riding in crashed into an empty flat-bed car-hauler trailer. Jackson, who was riding in the passenger seat, died at the scene from his injuries.

At the time of the crash, the trailer, which was equipped for one car, was parked on the side of the road. But a good portion of it had been left in the roadway, and its operator, Jerome McWilliams, had failed to place warning placards in the road. The truck's owner, Michael Brown, had paid McWilliams \$250 to drive the trailer, and Brown's federal motor carrier placard was displayed in the truck. McWilliams's insurer ultimately acknowledged fault and paid the full policy limits, supplemented by Jackson's own uninsured motorist coverage, which entitled

him and his family to a certain amount of benefits beyond the limits of the at-fault party. Meanwhile, the family continues to pursue a case against Brown in state court for providing the vehicle to McWilliams.

In the other case, a married couple was in their SUV during the evening hours on a two-lane highway in Forsyth County, N.C. After cresting a hill, their vehicle slammed into an empty logging truck trailer blocking both lanes of traffic. The husband suffered vertebral fractures, a brain injury and damage to his esophagus, tongue and vocal cords that left him unable to eat solid foods. His wife, who suffered a fractured sternum and ribs, now must care for her husband full time.

The truck driver was cited by police for improperly backing the trailer across the highway at night without safety markings or spotters to warn oncoming traffic. Although the truck driver argued that the husband should have seen the truck, the victims countered that it was dark, the roadway was unlit and the husband was obeying the speed limit. Ultimately the parties settled, with the driver agreeing to compensate the couple for their harm.

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## Moisture on hospital floor may not be ‘open and obvious’ danger



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A hospital could be held accountable for moisture on the floor that allegedly caused a visitor to slip and hurt himself, a Michigan appeals court recently decided.

The injured party, Thomas Belmont, had gone to a hospital in Warren, Mich., to visit his wife, who was a patient there.

As he arrived at his wife’s room,

a housekeeper was leaving with a mop in her hand. Belmont’s stepson told him to be careful because the floor around the bed had just been mopped.

Shortly afterward, Belmont and his stepson left the room together. As they were leaving, Belmont slipped and fell near the door, tearing his right rotator cuff.

According to Belmont, while he was on the ground he noticed the side of his arm was wet and the floor appeared shiny, as though it was wet too. He also said he was sure that area of the floor was dry when he first walked in.

Convinced the housekeeper’s mop caused the wetness, he sought to hold the hospital at fault. A lower court judge tossed out the case, calling the alleged hazard an “open and obvious” condition that Belmont should have noticed upon casual inspection.

But the Court of Appeals reversed, finding that the issue of whether any wetness on the floor was open and obvious was a question for a jury to decide for itself. Specifically, said the court, the fact that Belmont got wet and saw a housekeeper exit the room with a mop was not enough to conclude that he should have seen the moisture. Now the plaintiff will have the opportunity to take his case to trial.