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Legal Matters®

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Should you rent a vacation home?

Vacation rentals, whether near the ski slopes or on the beach, can be a great way to create memories with family and friends. It's never been easier to find the perfect place at an affordable price thanks to websites like Airbnb and VRBO. As with everything else, though, there are potential legal issues you want to be aware of going in.

For example, what happens if you get hurt while renting? Chances are you're not going to get an opportunity to inspect the property beforehand, and there could be hidden hazards, such as poorly mounted shelves, loose floorboards, steps that aren't up to code, and a whole host of other potential traps. You're certainly not going to be able to tell from pictures on a website. If, for example, a shelf fell on you as you slept or you tripped on an unlit stairway, who'd be at fault?

If you were staying at a hotel, the hotel owner would be responsible. When you have a short-term lease on a house, apartment or condo, it's not as simple. It may be the property owner. If you're renting a place for the weekend from a long-term tenant, it may be the landlord. If you've rented through Airbnb, you may have a claim against the company.

In most cases, the property owner will be responsible. But even then, you have to be able to prove the owner was "negligent." In other words, you need to show the owner either was or should have been aware of the defect and failed to take reasonable steps to fix it.

What if you decide to host a small party at your rental and one of your guests gets hurt? If it's because of one of the hazards mentioned



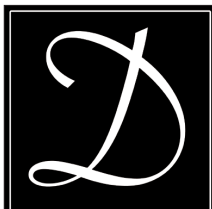
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above, the owner probably is still responsible. On the other hand, if *you* caused the injury by failing to wipe up something that spilled on the floor, you potentially can be held accountable.

Of course, it's not always that simple. For example, the Virginia Supreme Court recently ruled that the owner of a beach house wasn't responsible for injuries suffered by an 82-year-old renter who tripped over a raised lip dividing a carpeted floor from a tiled one.

The court found that the owner, who'd apparently been told about

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Things to consider before renting a vacation home

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the lip before, shouldn't be held to the same standard as an "innkeeper" and that a landlord-tenant standard applied. Under that standard, a landlord has no obligation to maintain safe conditions for premises under a tenant's "exclusive control," which the court found the renters had at the time.

Even if you're hurt and can hold the owner accountable, there's still the tricky issue of collecting damages. In Airbnb rentals, the company provides the owner up to \$1 million in coverage per incident, though it won't cover damaged or stolen valuables, harm to pets or intentional acts. If you attend a party at someone's beach rental and a drunken, out-of-control guest decides to take a swing at you, your injury probably won't be covered

Further, if a tenant in an apartment building rents out a unit on Airbnb and the renter gets hurt, coverage of the injury may be in question, particularly if the landlord hasn't authorized the tenant to rent out the place.

On the other hand, if you're not staying at an Airbnb or VRBO rental, then the owner's homeowner's insurance policy might cover the injury. However, that's only if the owner's insurance covers injuries stemming from the commercial use of the property, and many policies don't. If the policy excludes coverage for homeowners running businesses from their homes, the insurer likely will deny coverage.

Most likely, the rental you decide on will be fine and you'll have a great time. You'll still want to find out ahead of time what kind of insurance the property owner has. If you do get hurt during your stay, you'll want to document everything and call a personal injury lawyer right away to find out what rights you have.

Bar held responsible for shooting

Alcohol always creates the potential for tempers to flare, which can make drinking establishments dangerous places. You might not realize that under certain circumstances, you can seek to hold the bar itself accountable for injuries that result from altercations on the premises or outside.

This happened recently in Detroit, where a man named John Sykes was hanging out at Blackberry Bar & Grill. Though the bar wasn't particularly crowded, an unknown man apparently bumped into Sykes several times. After the second or third incident, Sykes says he confronted the man and asked why

he kept bumping into him. The man then pulled up his shirt to display a gun.

According to Sykes, bar staff was informed that the man had a gun, but no action was taken

and the man remained inside the establishment. Once the man left, Sykes says he waited 40 more minutes before departing the bar. Once he stepped outside, he says he saw the man talking to a bouncer. As Sykes took two more steps outside, the man shot him several times from behind.

When Sykes sought to hold the bar and its owner accountable, a trial judge tossed out the case, saying the bar had no obligation to keep him safe at that point because of the time that had passed since the man displayed the gun. According to the court, the time lapse showed that the altercation inside didn't create an "imminent" risk of harm that the bar had to address right away.

But the Michigan Court of Appeals reversed, ruling that a potentially aggressive individual carrying a gun in a bar is not a threat that ends when the individual covers up the gun. Accordingly, there was a risk of imminent harm the moment the man showed off the gun. At that point, the bar had a duty to protect the plaintiff from such harm and should have called the police, the court said.

Now, Sykes has a chance to bring his case to a jury. The law may differ from state to state, so talk to an attorney where you live.

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Company forced to pay for crash caused by employee

If you're hurt in a car crash caused by another driver and that driver appears not to be someone who can pay out of pocket for the harm, it's a good idea to talk to a personal injury attorney instead of assuming the case won't be worth much, as a recent case in South Carolina shows.

In that case, a 45-year-old woman was driving her son home from school on a rainy day and was about to turn into their driveway when a vehicle going the other way hydroplaned, crossed the median and smashed head-on into their car.

The mother and son both suffered serious head injuries that apparently will necessitate care for the rest of their lives.

It's likely that the driver's insurance wouldn't be enough to pay for their care, and he likely couldn't have covered it on his own. However, basic investigation by the victims' attorney uncovered that the driver's employer, a landscaping company, was paying for the driver's auto loan directly from its bank account and deducting payments from the driver's paycheck. The driver said he and his boss co-owned the vehicle and that if he were terminated before the loan was paid off, he'd have to give the vehicle back to his boss.

Investigation also showed that less than a week af-

ter the employer hired the worker, he was arrested for possession of marijuana and cocaine that was found inside the vehicle. In addition, the employer apparently hired him despite a background check revealing his criminal history.

This paved the way for the family to bring a case of "negligent entrustment" against the employer. In other words, they claimed that a reasonably careful employer wouldn't have let such a person use its vehicle.

The employer first argued the vehicle belonged to the employee and that, although it guaranteed his loan payments, it had no ownership or control of the vehicle. However, the employer clearly didn't believe this would fly, as it settled the case for a sizable amount before trial.



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Waiver doesn't bar woman's case against trampoline park

In this day and age, you can expect to have to sign a contract before doing a lot of unremarkable activities, such as working out at a gym, running in a road race, or letting your kids play in a bounce house. A lot of these contracts contain "liability waivers."

When you sign one of these waivers, you're acknowledging that you won't hold the operator or sponsor responsible if you or someone in your family gets hurt. However, if you or a loved one does get injured and you think the operator's carelessness caused the harm, call a lawyer, because these waivers are far from bulletproof.

Take a recent case out of North Carolina. An 18-year-old woman was visiting a trampoline park in Charlotte and suffered a serious injury to her left ankle, requiring surgery. She claimed the injury was caused by a trampoline that was "hard as concrete" when she landed.

The woman filed suit, but the park operator pointed to a contract she signed before using the facility. The agreement stated that she was not only waiving her right to sue, but she'd also have to pay any attorneys' fees the facility incurred defending a lawsuit. The park also counter-sued, claiming she violated the contract by filing suit in the first place.

But a judge threw out the countersuit and assessed sanctions (essentially a fine for wasting the court's time) against the facility. The judge also said the woman's lawsuit could move forward, finding that in light of the woman's young age and the circumstances under which she signed, the waiver might be void.

The trampoline park then decided to settle the case out of court, rather than risking a jury verdict. Cases, of course, will have different outcomes depending on the state you're in and the facts involved, so speak to a lawyer where you live.

We welcome your referrals.

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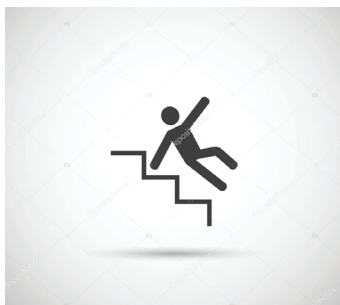
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Slip-and-fall victim recovers despite pre-existing condition



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When one of us gets hurt as a result of someone else's carelessness, we expect to be compensated for the harm, whether it's for our medical expenses, our time out of work or our pain. But it's very common for the responsible party (or the insurance company that might foot the bill) to say that a physical injury was from a "pre-existing condition," and thus there's nothing for them to pay for.

A recent Florida case, though, shows us that in the right set of circumstances, an injured party can recover despite having a pre-existing condition. The condition can sometimes even help your case if you can show that the other party's negligence made your condition worse. That's why it's important to talk a lawyer after you get hurt, instead of taking an insurance company's "no" for an answer.

In the Florida case, a woman had suffered back pain for several years before falling down a poorly

maintained set of stairs in an apartment complex. After the fall, she had to visit the emergency room and required expensive long-term care from a chiropractor as well as costly pain-management medication.

The woman's own insurance company initially refused to cover any of her costs, claiming that her back injury was due to a pre-existing condition. The apartment complex made a minimal offer that didn't come close to covering the woman's expenses.

Ultimately, the woman had to take the apartment complex to court, where a jury decided the complex was at fault for her injuries even though she'd had a bad back before the incident.

Results vary depending on the facts and circumstances of your individual case. Still, if you suffer an injury that worsens your medical condition, call a lawyer to see what options you have.