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# Legal Matters®

## How you can hold airlines accountable for your injuries

**A**ir travel is generally the safest means of transportation given how rare plane crashes are. But that doesn't mean passengers can't still get hurt in other ways, either on board or in the terminal. Injuries abound from turbulence, rolling food carts, heavy objects tumbling from overhead bins, burns from spilled beverages and trips and falls navigating narrow aisles. So what happens if you're hurt during a flight or while boarding or deplaning? Can you hold the airline accountable?

If you are traveling exclusively within the United States, the same basic rules apply as with any other accident that causes injury. This means that if your accident is caused by an airline employee, like a pilot, a flight attendant or a member of the ground crew, and you can prove the employee wasn't as careful as someone in their situation should have been, you may be able to recover from the airline.

Take for example a recent case against Alaska Airlines. In that case, a 75-year-old woman flying from Hawaii to Spokane, Wash., fell down an escalator while making a connection in Portland, Oregon. Because of her age, the woman's family requested a gate-to-gate wheelchair escort. Airline agents met her at her gate in Portland and escorted her across a sky bridge, but left her to proceed the rest of the way on her own. She became confused, wheeled herself toward an escalator and tumbled down 21 steps. Complications from her injuries resulted in a septic infection, an amputation and ultimately her death. When her



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family sought to hold Alaska Airlines accountable, the airline initially tried to blame them for letting her travel alone in the first place. But federal law guarantees the right of passengers with disabilities to travel by air and requires airlines to provide assistance. Ultimately, after a three-year legal battle, the airline paid the family a significant settlement.

A somewhat similar case is currently pending against American Airlines, which allegedly forced a disabled amputee to crawl from

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## ‘Enterprise liability’ may allow recovery in ‘dram shop’ cases

Under ‘dram shop’ laws in many states, a business that sells alcohol to a customer they should have realized was intoxicated can be held responsible if that person then causes harm to someone else.



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The problem is, the victim typically can go after a corporation itself but not its owners, and corporate owners often shield themselves by keeping limited assets in the corporation, thwarting the ability of victims to recover.

This happened in a recent Pennsylvania case. But while that particular victim couldn’t collect all she deserved, the court made clear that under the right circumstances, the “corporate veil” shielding corporate owners’ assets from recovery for harm their corporation caused can be pierced.

In that case, a woman was permanently injured when a drunk driver struck her car. The perpetrator had little insurance and the restaurant that served him had no insurance at all. The restaurant did, however, lease its liquor license from a company called “340 Associates” that was owned by two brothers, and under Pennsylvania law the owner of a liquor license is responsible for harm caused by anyone using that license. But 340 Associates had no assets beyond the license itself, which was worth less than the victim’s seven-figure damages. Meanwhile,

the restaurant operated in a space rented from a different company, McCool Properties, which just so happened to be owned by the same two brothers and their father.

The injured party sought to hold the more robustly capitalized McCool Properties accountable under an “enterprise liability” theory. In other words, the victim argued that because 340 Associates and McCool Properties were owned by the same individuals and engaging in interconnected operations, and therefore were “substantially the same company,” she should be able to reach McCool’s considerable assets.

The Pennsylvania Supreme Court ruled against the victim, but only because 340 Associates was owned by the two brothers alone while McCool Properties was owned by the brothers and their father. As a result, the court said, they didn’t have identical ownership so enterprise liability didn’t apply. But what’s significant is that the court recognized enterprise liability as a viable theory. This means that future victims suffering harm caused by undercapitalized and underinsured entities may indeed be able to reach the assets of substantially more capitalized and insured owners and connected companies. Meanwhile, courts in other states might only require substantially common ownership and not completely identical ownership for enterprise liability to apply.

The bottom line is that you shouldn’t assume that a responsible party with insufficient assets is an automatic bar to being made whole. Talk to a good trial attorney who can investigate the situation and pursue every possible avenue of recovery.

### We welcome your referrals.

We value all of our clients. While we are a busy firm, we welcome your referrals. We promise to provide first-class service to anyone that you refer to our firm. If you have already referred clients to our firm, thank you!

## ‘Pressure cookers’ cause safety concerns

Pressure cookers like the InstaPot, the Ninja pressure cooker/air fryer combo, the Crock-Pot multi-cooker and similar appliances have become popular in recent years. But the convenience of pressure cookers must be counterbalanced with the risks. That’s because users of certain brands have suffered serious injuries — including severe burns, scarring, eye injuries and bone fractures — caused by design defects that allow the lid to come flying off or hot contents to come flying out while the unit is operating.

Most recently, an Illinois woman filed suit arguing that her Aldi “Ambiano 6 in 1 Programmable Pressure Cooker” was defectively designed

because it enabled her to remove the lid while contents were under pressure from steam and heat. According to her lawsuit, Aldi’s advertising boasted of safety features meant to prevent this.

Similar suits have been filed against Instant Pot, Crock-Pot, Ninja and other brands asserting unreasonably dangerous designs and defective safety features.

If you have been injured by a pressure cooker, air fryer or similar product that you believe was faulty, don’t assume you can’t do anything about it. An attorney who handles injuries from defective products can counsel you on the rights you may have.

# Cyclist recovers from city for accident caused by meth addict

If you or a loved one is hurt by a careless, reckless or even drunk driver, and that person lacks assets to cover your medical expenses, pain and suffering, be sure to talk to a good attorney, because that driver may not be the only responsible party.

Take a recent California case. In 2014, Juan Carolos Vinolo was riding at the head of a group of cyclists on Fiesta Island in San Diego when a drug addict operating her car while high on methamphetamine collided with him on a blind turn. Vinolo was left permanently paralyzed from the chest down. The driver who struck him was sentenced to 19 years in prison.

The woman who hit Vinolo couldn't begin to be able to pay for his catastrophic injuries. Vinolo contended, however, that the city bore at least part of the responsibility for his injuries, pointing out that the foliage on the one-way Fiesta Island road as well



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as earthen works on the road could block a driver's line of sight.

A jury agreed that the city bore at least a quarter of the fault. Ultimately, the city took responsibility and agreed to a substantial settlement with Vinolo and his wife that provided satisfactory compensation for Vinolo's injuries and the emotional harm they both suffered.

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## *How you can hold airlines accountable for your injuries*

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her seat to the restroom because her plane wasn't equipped with an aisle wheelchair. The airline apparently used one to get her to her seat, but employees removed it prior to takeoff. Having to crawl to the bathroom on her own allegedly caused the passenger both humiliation and physical injury. She passed away from other causes after filing her case, but a federal court recently ruled that her widower could seek compensation in her place.

Both these cases involved domestic flights. But if you're traveling internationally, your case is governed by the Montreal Convention, an international treaty where an air carrier can be held accountable for an "accident" that caused death or "bodily injury" on board the aircraft or while embarking or disembarking. Unfortunately, the Montreal Convention can be pretty strict about what's considered an "accident" or



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"bodily injury" that you can recover for.

Take, for example, a recent case against Delta Airlines. A

female passenger on a flight from Mexico to the U.S. claimed that airline employees did nothing to address unwanted physical contact from the passenger sitting next to her. Despite her allegations that he brushed the back of his hand against her breast and, at one point, slapped her arm during an emphatic conversation, a federal judge ruled that this did not constitute a "bodily injury." Under standard American injury law, however, she may have had a triable case.

On the other hand, a recent case brought against Delta by a man who was allegedly tripped in the aisle by an inattentive flight attendant on a flight from Paris to Washington, D.C., and suffered permanent injuries as a result, appears as though it will proceed, as could a claim brought by a woman who allegedly suffered second-degree burns when a flight attendant on a Tokyo-to-Detroit flight spilled coffee on her.

Determining fault for accidents in the airport is less clear-cut. The family suing Alaska Airlines may indeed prevail against the airline if they can prove that its failure to provide a gate-to-gate escort caused the tragic fall. In other contexts, a restaurant or the owner of a newsstand may be the responsible party.

But whether your injury is on a domestic flight, international flight or in an airport, it's critical to speak to an attorney to find out what rights you may have.

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## Body shop accountable for delivery person's injury



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Obtaining adequate recovery can be a challenge for people who are hurt on the job. That's because they're often limited to worker's compensation, which covers medical costs and, to a certain extent, lost wages, but usually doesn't cover the pain and suffering associated with serious injury.

But if you've been hurt at work, you should still talk to a lawyer who handles personal injury claims, because you may be entitled to recovery beyond worker's compensation, particularly

if someone other than your employer was responsible.

For example, a South Carolina woman in her 60s who was working as a delivery driver was making a delivery to a body shop when she fell on a grease-like substance apparently spilled by a customer and covered with a paper towel by shop employees.

The driver sustained tears to ligaments connecting her spinal discs to her vertebrae and had to undergo painful physical therapy, injections to her back and surgery to remove discs and fuse her spine. She also could not return to work.

In addition to worker's comp, the driver sought to hold the body shop accountable for her injuries. The shop argued in response that she should have seen and avoided the hazard.

But the shop apparently was concerned about the risk of taking the case to trial and agreed to a substantial settlement that will meet the woman's needs better than worker's compensation alone.