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Legal Matters®

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Premises owners can be deemed responsible for spider, bug bites

Most of us don't like creepy crawly creatures like spiders and bugs. And in some cases, their bites can be quite harmful. But did you know that if you're in a hotel, a restaurant or another similar establishment and you suffer a harmful bug or spider bite, the establishment can be held accountable under certain circumstances?

This isn't to say that you can bring a claim against a premises owner or operator in all circumstances. As in all premises liability cases — cases in which someone is seeking compensation from a property owner for injuries suffered on the property — you need to show they were negligent. In other words, you need to show they didn't do what a reasonable property owner in their situation would have done to keep visitors safe from foreseeable harm.

In bug- and spider-bite cases, this means you'd have to show the operator of the establishment or owner of the property knew or should have known of harmful pests on the premises and neglected their duty to take care of the situation. You can't do that in every instance, but you certainly can in some.

Take a recent (and disturbing) case from California. Michele Coyle was enjoying an al fresco meal with a friend on the patio of a historic

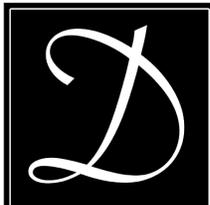


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inn. She took off her sweater, placed it over a low wall next to her table, put it back on and felt a sharp pain in her shoulder, which began to spasm immediately.

The next morning much of her body was numb. As it turned out, Coyle had been bitten by a black widow spider, which crawled into her sweater when she placed it down. She was hospitalized for six days and

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School held accountable for bullying victim's suicide

Many of us still think of school bullying as the tough kid on the playground trying to take your lunch money. But bullying encompasses a lot more than that. Officially it's defined as any kind of unwanted, aggressive and usually repeated behavior among schoolchildren involving a power imbalance, either physical or social.

This can involve physical or verbal attacks, threats, spreading rumors or purposely excluding someone from a group. It happens in person and online (cyberbullying) and it can result in serious physical and emotional harm. In fact, in some instances, bullying victims have taken their own lives.

Schools are expected to take strong measures to stop bullying when it occurs and to prevent it from happening in the first place. In many states, if they fail to do so they can be held responsible for harm the victim suffers.

This happened recently in a tragic case from Missouri. Ethan Young was a 14-year-old who wore his hair long, didn't participate in sports and spent most of

his time with female friends. He experienced repeated bullying and harassment at the hands of other boys beginning in sixth grade and continuing into ninth.

A month into his freshman year, Ethan committed suicide. His father took the school district to court, alleging that school officials ignored warning signs that Ethan was at risk, including lagging grades and attempts to run away from his school bus stop to avoid going to school. Had the school taken steps to address the situation, Ethan might still be here today, the father argued.

Rather than risking a larger jury verdict, the district settled the case out of court for a six-figure sum. This followed two other bullying settlements in the same town under similar sets of facts.

These cases are unusually tragic, but schools potentially can be held responsible for avoidable lower levels of harm too. If your child has suffered the harmful effects of bullying and you feel the school should have done more, a lawyer in your town can discuss your options.

Teaching hospitals may be responsible for residents' malpractice



Many of the nation's leading hospitals are "teaching hospitals" affiliated with medical schools. The hospitals provide training to medical students getting their first hands-on experience and also to residents — newly minted doctors receiving training in their new specialty.

But what happens when a resident commits an act of malpractice that ends up harming a patient? Who's responsible? The resident,

who's assigned to the hospital by his or her training program, or the hospital?

A recent case out of Connecticut indicates that in some circumstances, it could be the hospital.

That case involved a woman who had a hernia surgery performed at a nearby hospital. Without her knowledge, the chief of the surgical residency program assigned a fourth-year resident to perform the

operation under the general surgeon's supervision.

Two days later, the patient showed signs of serious infection. As it turned out, the resident had accidentally perforated the patient's colon during the procedure.

The patient sought to hold both the hospital and the resident responsible. A jury found in her favor, but the hospital appealed, arguing that the resident was not its employee or agent and therefore the hospital couldn't be held responsible for the resident's error. The state appeals court agreed.

But the patient appealed to the Connecticut Supreme Court, which found that the hospital could, indeed, be held at fault for the resident's negligence. Specifically, the court found that the hospital benefited significantly from its use of residents — highly trained, low-cost doctors to help nurses and provide round-the-clock patient care — and that the hospital exercised enough control over the residents' work for them to be considered as working for the hospital.

The law may differ from state to state, so talk to a lawyer near you.

Premises owners can be deemed responsible for spider, bug bites

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still doesn't have full use of her left hand or leg.

Coyle took the inn to court seeking compensation for the harm she suffered. According to Coyle, the proprietor knew or should have known of spiders on the property — after all, she argues, there were other black widow sightings before this incident and three more afterward — and should have taken steps to eliminate them or to warn customers.

The inn tried to get the claim thrown out, arguing it didn't know there were black widows on the patio and that it had followed industry pest-control standards. A trial judge agreed with the inn and dismissed the claim.

But a California appellate court reversed, ruling that there was enough evidence of negligence to bring the case before a jury. Now Coyle will get her day in court.

A similar case arose several years ago when Delta Air Lines passenger Brandi DeLaO, who'd been sleeping on her flight from Atlanta to South Africa, woke up to a sharp pinch on her inner thigh. The flight attendant said it was probably just a mosquito bite, but the mark turned into a dark, crusty, oozing mass of dead skin the size of her hand, accompanied by fever and debilitating pain. A doctor at her destination determined she'd been bitten by a brown recluse spider, a particularly deadly breed.

She took Delta to court and the airline, realizing she had a valid enough claim, settled the case for a significant sum before trial.

Another common source of harm is bedbugs. A 2015 case from Maryland shows that hotels that don't take reasonable steps to keep the premises clear of these pests face liability as well.

In that case, Stacy Belle of North Carolina stayed at a Red Roof Inn outside of Washington, D.C. She woke up itching, with welts on her arms and hands, and found bedbugs crawling under her pillow. She took her case to court, where a jury found the hotel had neglected its duties and awarded her \$100,000 in damages.

In another Maryland case, a jury ordered that a landlord pay \$800,000 in damages to an elderly woman who suffered lesions and permanent scarring from hundreds of bedbug bites she suffered the first night in her new apartment.

Again, not every case involving pest bites will result in recovery from someone else. But if you or someone you love has suffered harmful bites, talk to a lawyer where you live to see what options you might have.



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Off-duty cop not immune from accountability for unnecessary taser use

A man who was tasered by off-duty police officers moonlighting as store security could bring an excessive force claim against the officers and the store, a federal judge recently decided.

Chris Blevins Jr. was shopping at a Cabela's sporting goods store in Virginia the day after Thanksgiving. He says he was examining merchandise and picked up a box of shotgun shells and joined his girlfriend in the checkout line. He claims he set the box of shells aside after looking on his phone to see if they might be cheaper elsewhere. Then when he left the store, two officers detained him.

Blevins denied shoplifting and allegedly jerked his arm back when an officer grabbed it. The other officer used her taser on him, causing lesions on his back, before arresting him.

The officers ultimately found no store merchandise on Blevins or in his car.

Blevins filed a federal civil-rights suit.

The officers claimed they couldn't be sued because of "qualified immunity." In other words, they were "state actors" immune from suit for harm resulting from lawful actions performed in their official capacity.

A judge agreed that they were state actors rather than private citizens, as their tasers and handcuffs were provided by the police department and making an arrest is a police action.

However, the judge refused to rule that both officers' actions were legal, finding that a jury could potentially find the taser and arrest to be excessive under the circumstances and thus an unreasonable seizure under the U.S. Constitution.

Now, the case can proceed to trial, where a jury might agree with Blevins and hold the officers and the store at fault.

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'Sudden medical emergency' doesn't clear driver of responsibility for crash

Under the common law in most states, drivers can be responsible for injuries sustained in accidents they cause due to foreseeable medical episodes. For example, someone with a recent history of epileptic seizures might be held responsible if he or she takes the risk of driving and loses control of a vehicle during an attack. Similarly, if a doctor warns a patient not to drive while taking certain medication and the person decides to do so anyway, the patient likely will be considered at fault.

What if the medical event was completely unforeseeable? What if, for example, someone with no history of heart trouble suffers a heart attack while driving? In that case, they might claim a "sudden medical emergency" as a defense and potentially avoid responsibility. But as a

case involving a Michigan man who died of injuries in a Florida accident shows us, this won't always work.

In that case, the man and his wife were stopped at an intersection in Jacksonville. A diabetic man driving another car lost consciousness momentarily. His car accelerated into a curb in the median of the intersection, went airborne and crashed into the side of the couple's vehicle. The victim died of brain injuries two hours later.

The wife sought compensation for the loss of her husband. The diabetic man argued that he'd never had an issue driving and the blackout was completely unforeseeable. He intended to advance the "sudden medical emergency" defense at trial. But because of indications that he may not have been up-to-date on his medication, his insurance company decided to settle for a substantial amount rather than risk a huge verdict at trial, especially given the evidence of the impact of the victim's death on his family and in his community.

If you're interested in learning more about how sudden medical emergencies may affect your case, contact an attorney.

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