

page 2

Here's a common issue when a doctor is negligent

Filters for blood clots are causing problems

City sued for car crash

page 3

Business may have to clean up spill within three minutes

page 4

Keyless ignitions tied to carbon monoxide deaths

Consumer Safety
winter 2016

Legal Matters®

Your auto insurance policy might cover a lot more things than you'd expect

Most of the time, auto insurance is fairly straightforward. You're typically covered for damage to your own car, and for damage you might do to other cars or property. You're covered for injuries to yourself or others in an accident, for car theft, and possibly for roadside assistance or a rental car if your own car breaks down.

But auto insurance can cover a lot of other things that you might not expect. That's why it's always good to talk to a lawyer whenever there's an injury or accident – only a lawyer on your side can determine the full extent to which you might be compensated.

For example...

► Charles Walega tied a 1,500-pound gun safe to the hitch of his pickup truck with a rope, so he could move it in order to sell it. As his wife was driving the truck, dragging the safe along the driveway, it flipped over and injured Charles' leg.

The couple's insurance company – State Farm – claimed that the accident wasn't covered because the truck wasn't being driven on a public road and because it was being used as a "tool" rather than as a means of transportation.



©thinkstockphotos.com

But the Michigan Court of Appeals sided with the Walegas. The court said it didn't matter that the truck was on a private driveway, and it didn't matter that it was being used to drag a safe, because people use pickup trucks to drag or pull things all the time. Dragging a safe is more unusual than hauling a boat, but it's the same idea.

► Richard Sloane was a highway construction worker who was

continued on page 3

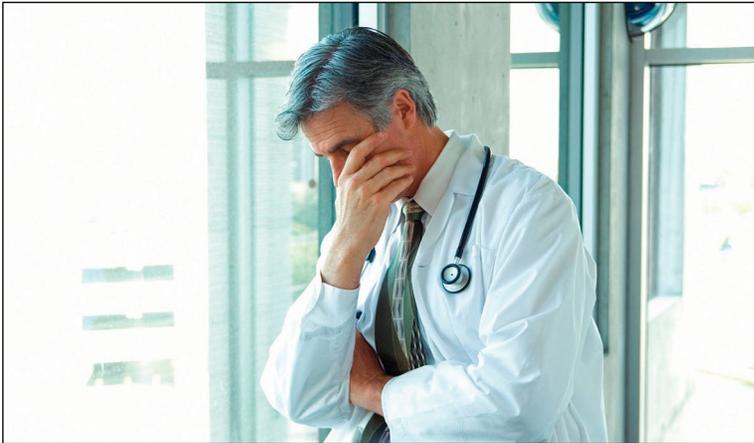

PARKER & FREY pllc
LAW FIRM

600 West Cumberland Street
Dunn, NC 28334
(910) 892-9175
www.nccompspecialist.com

Here's a common issue when a doctor is negligent

Doctors may have the best of intentions, but sometimes a doctor will make a mistake or be careless, and harm results.

In many states, there are strict time limits for filing a lawsuit against a doctor. That means a patient must file a



©thinkstockphotos.com

claim within a short time after the doctor's actions, or lose any right to be compensated for the injury.

But here's a problem: Sometimes, when a doctor does something wrong, the patient wants the same doctor to continue treating him or her, in hopes of making everything better. The thought is that the doctor knows the patient and the problem better than anyone else, and has more of an incentive than anyone else to fix the situation.

This puts the patient in a bind – no one wants to be

treated by a doctor at the same time that they're suing the doctor, in order to beat the time limit and ensure a right to compensation if the problem can't be fixed.

So some courts have made an exception to the time limits in cases like these.

For instance, a boy named William Parr was born with a lump in his leg that was diagnosed as a tumor when he was eight years old. Doctors at Massachusetts General Hospital performed a procedure to remove it. But a complication occurred during the procedure that resulted in a burn, which caused significant pain, refused to heal and became infected. The medical team tried for some time to fix the problem, but eventually the boy's leg had to be amputated.

The Massachusetts time limit is three years. In this case, the family sued within three years of the amputation, but more than three years after the original procedure that caused the problem.

That was okay, the Massachusetts Appeals Court decided. The three-year period didn't start to run as long as the same medical team continued to provide treatment.

That's good news for the family, but you should be aware that time limits for medical negligence cases are often very tricky. If you even suspect that you may be the victim of a medical mistake, it's best to consult a lawyer right away, because waiting even a little too long can result in completely forfeiting your right to be compensated.

Filters for blood clots are causing health problems

IVC filters are small spider-like nets that are implanted into a patient's bloodstream in order to prevent blood clots from entering the heart or lungs.

But a recent NBC News investigation revealed that as many as 27 deaths have been associated with the product, known commercially as the "Recovery Filter." Apparently the filters have been failing in a variety of ways, including metal shards breaking off, entering the bloodstream, and ultimately migrating to the lungs or heart.

The product's manufacturer, CR Bard, allegedly knew of the damage the filter was causing but failed to take steps to make it safer or take it off the market. Bard has been accused of turning instead to a PR firm to publicly downplay the product's risks.

Thousands of people across the country have IVC filters implanted in them. If you or someone you know has such a filter, you might want to consult with your doctor about the risks of injury.

City could be sued for car crash

Cristyn Cordova was driving on busy Colorado Boulevard in Los Angeles when another car veered into her lane. Cristyn was forced off the road into the median, where she struck a large magnolia tree. She and three of her passengers died.

Cristyn's family sued the other driver, but they also sued the city, claiming that putting a large tree close by in the median of a busy highway was dangerous and partially caused the four deaths.

The city responded that there was nothing wrong with the tree, and that the only person at fault was the other driver.

But the California Supreme Court said that Cristyn's family might have a point.

According to the court, a city has a legal duty to design roadways in ways that are safe, taking into account the fact that accidents happen and that innocent drivers might have to take emergency maneuvers if someone else does something dangerous.

Of course, that doesn't mean that a city can't install hard objects such as lightposts or signs, or can never plant trees near a road. But Cristyn's family should be allowed to try to prove in court that planting such large trees in a median so close to a busy highway was unreasonable under all the circumstances.

Business may have to clean up spill within three minutes

If you slip on a puddle in a store and injure yourself, you may be able to sue the store for not cleaning it up ... if the store knew (or should have known) that it was there.

So this raises the question: How quickly must a store realize that someone has spilled something, and clean up the mess?

Possibly as little as three minutes, according to the Tennessee Court of Appeals.

In this case a customer at a Hardee's restaurant

slipped and injured himself on a puddle on the floor. A review of the store's security video showed that the liquid had been there for three minutes and 11 seconds before the man fell.

Although that's not a very long time, the puddle was less than 20 feet from the service counter where employees were serving customers, and witnesses said it could easily be seen by employees behind the counter.

Hardee's argued that it was unfair to expect employees to clean up a spill in three minutes. But the court disagreed, and said a jury should decide at trial whether the Hardee's employees had acted reasonably in the situation.



We welcome your referrals.

We value all our clients. And while we're a busy firm, we welcome all referrals. If you refer someone to us, we promise to answer their questions and provide them with first-rate, attentive service. And if you've already referred someone to our firm, thank you!

Do you really know what your auto insurance covers?

continued from page 1

working with another man to lay asphalt near a shopping mall, using a front-end loader and a dump truck.

Suddenly, two different drunk drivers – both of whom had just been kicked out of the same bar – crashed into the construction vehicles. Sloane was pinned between them and injured.

The two drunk drivers didn't have enough insurance to compensate Sloane's family, so the family sought coverage under the auto insurance policies on the two construction vehicles.

Once again, the insurance company argued that the accident wasn't covered – this time because Sloane wasn't driving, using, or getting out of the vehicles at the time of the accident.

But the Virginia Supreme Court sided with the family, and said Sloane was generally "using" the vehicles as part of his construction work when he was injured.

► Eleanor Borriello hired a company to transport her via a wheelchair van to an adult day-care center. The van employees parked on the street, strapped Eleanor in her wheelchair, and began bringing her outside. One of the employees slipped on Eleanor's front porch, and Eleanor fell down the porch stairs.

Travelers, which insured the van, said the accident wasn't covered under the automobile policy

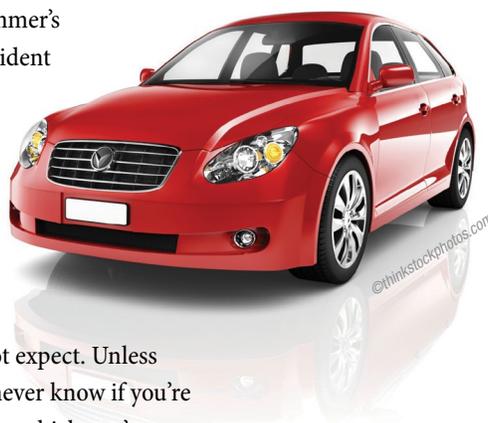
because it had nothing to do with the van itself.

But the highest court in Massachusetts disagreed. The Travelers policy said that it covered accidents involving "loading and unloading" a vehicle. In this case, the workers were carrying Eleanor downstairs as part of their attempt to "load" her into the van.

► Marcia Rhodes was driving on a two-lane road which had been reduced to one lane while a tree trimmer worked in the area. The tree trimmer had parked his pickup truck in one lane and was grinding a stump near the roadway. A police officer directed Marcia to stop and wait for oncoming traffic, at which point a truck driver behind her, who wasn't paying attention, crashed into her.

Marcia sued the truck driver, but she was also able to collect from the tree trimmer's auto policy. The reason: The accident arose out of the trimmer's use of the pickup truck when he parked it in such a way as to block traffic.

There are countless other cases like these in which an auto insurance policy covered an injury in a way you might not expect. Unless you consult an attorney, you'll never know if you're receiving all the compensation to which you're entitled.



600 West Cumberland Street
Dunn, NC 28334
(910) 892-9175
www.nccompspecialist.com

Keyless ignitions tied to carbon monoxide deaths

Keyless ignitions can be great for people who have their hands full and don't want to take their keys out of their pocket. But it's possible that such

ignition systems could pose a deadly threat of carbon monoxide poisoning.

The problem occurs because many such cars won't shut off automatically if the driver doesn't press the start/stop button at the end of a trip. Accord-

ing to a lawsuit filed in federal court in California, at least 13 people have died of carbon monoxide

poisoning after failing to manually shut off their engines, and there have been many more "close calls" that could have been fatal.

According to the lawsuit, Ford, Nissan, Toyota, Honda, GM, BMW, Mercedes-Benz and others were aware of these risks or should have been, but sold keyless fobs without any safeguard or warning. The manufacturers also allegedly could have installed an inexpensive "auto-off" feature that would shut down the engine when it was left unattended.

Some manufacturers have been installing the auto-off feature in later model cars, but the lawsuit claims the earlier models should have been recalled so it could be installed in them as well.

If you have such a vehicle, you might want to take it to a dealer to see if an auto-off feature can be installed at the manufacturer's expense.



©thinkstockphotos.com