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Personal Injury  
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# Legal Matters®

## Distracted truck-driving cases on the rise, studies show

Most people are broadly aware that distracted driving is a dangerous practice that can result in deadly accidents. They also realize that any distracted driving accident is one too many. But many people would also likely be shocked by just how prevalent such accidents are.

According to a 2020 report from the National Highway Transportation Safety Administration, 7 percent of all fatal crashes in the previous year (the year before the pandemic), were distraction-related, totaling more than 3,000 deaths nationally. That represented a 10 percent increase over 2018. Meanwhile, another study shows that nearly a third of crashes involving teenagers are caused by driver distraction, many involving texting while driving.

These accidents can be particularly catastrophic when they involve truck drivers who are distracted on the road, since the size of their vehicles can increase the impact and thus the injuries to all involved.

Take, for example, a recent South Carolina case in which a 20-year-old commercial truck driver struck another vehicle on a rural highway. Dashcam footage from a vehicle traveling in the opposite direction showed that the truck driver, who was traveling approximately 10 miles per hour over the speed limit when the collision occurred, never applied his brakes and was visibly distracted by what was confirmed to be a lengthy back-and-forth text conversation on his cellphone.

The truck driver denied fault and tried to avoid responsibility by claiming the truck had faulty brakes, but telematics data from the truck and his phone confirmed otherwise. The driver he struck suffered catastrophic injuries and took the truck driver to court. Rather than risking trial, the truck driver's insurer ultimately offered to settle



for an amount that should pay for the victim's pain, suffering and ongoing care.

A case from Indiana had similar circumstances and a similar result. In that case, a truck driver operating his rig rear-ended another motorist — a 22-year-old former National Guard serviceman — who was stopped at a red light. The victim suffered severe orthopedic problems, memory loss, and other debilitating health issues.

The truck driver had been traveling at a speed of 65 miles per hour when he plowed into the other car, and he was sending text messages from his cellphone at the time.

The case went to a jury, which found both the trucker and his employer responsible for the plaintiff's harm. The jury ordered them

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## Vacationer recovers for injuries in fall at beach rental



Many people who go on vacation flock to rental houses near the beach, the mountains or other desirable locations. They tend to be less expensive than a hotel or resort stay, they offer more privacy, and they can often accommodate bigger parties.

But the downside is that you're often relying on a regular homeowner to ensure the place is in good repair. Unlike with most hotels, that's not their primary line of business, and, as a result, they may be more likely to overlook or ignore conditions that pose a safety risk to guests. If that happens, a guest (or even a guest of a guest) may be able to hold the property owner responsible for the injuries suffered.

This recently happened in South Carolina. A family rented a beach house on Folly Beach near Charleston. During the stay, one of the guests was descending the stairs from the house to a raised walkway when he fell forward and into a section of safety railing.

But instead of breaking the man's fall, an entire section of the walkway's railing and most of the pickets broke free from the rail posts. As a result, the guest fell another 10 feet below the walkway, suffering a broken back that required spinal fusion surgery.

The family sought to hold the couple who owned the home responsible. The family's expert was able to point to numerous maintenance deficiencies and building code violations, most notably corroded nails that left the elevated walkway rail in a deteriorated, dangerous condition.

The case ultimately settled out of court, with the homeowners agreeing to pay a substantial amount of damages rather than risking an even bigger award at trial.

While every case is different, and recovery depends on the unique circumstances of your own case, if you or a family member has suffered an injury while staying in a vacation rental and you believe it's because the owner was not properly caring for the premises, call an attorney today to discuss what rights you may have.

### 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!

## Man's unusually thin skull bones don't reduce his financial recovery

The "eggshell skull" doctrine is an arcane concept from the common law that "you take your victim as you find him."

In plain English, this means that if you injure somebody either on purpose or because you weren't as careful as you should have been — and due to the fact that they're frailer and more vulnerable than anyone could have anticipated, their injuries are also more serious than anyone could have anticipated — you are responsible for the entire extent of their harm and must pay accordingly.

It's called the "eggshell skull" doctrine because the example professors like to use is a person whose skull is very thin and easily cracks due to a health condition. Many law school grads chuckle at the concept of an actual "eggshell skull," but a recent North Carolina case shows that it's real.

In that case, 35-year-old Gideon Richardson was traveling on Interstate 40 when a ladder fell from the top of a work van traveling in front of him.

Richardson swerved to avoid the ladder and struck a concrete barrier.

Immediately after the accident, Richardson was groggy but otherwise felt fine, and damage to his vehicle was minimal. But later that night, he devel-

oped blindness in his right eye, and his condition got worse over time.

The impact of the wreck apparently caused the frontal lobe of his brain to rest on his optic nerve, which resulted in the blindness. That was apparently made possible because of Richardson's thinner than normal skull bones.

As a result of the injuries, Richardson could no longer work. He also suffered memory loss, depression and post-traumatic stress disorder.

When Richardson took the company that owned the van to court, the company pointed to Richardson's normal-looking appearance and the relatively low impact of the crash to suggest that its employee's negligence wasn't the real cause of his harm.

But the jury disagreed and handed down a large damages award mostly for pain, suffering and impact on his quality of life.

You may not literally have an eggshell skull yourself, but if you've been hurt from someone else's carelessness and your injuries are worse than you would expect under the circumstances, talk to an attorney. Because depending on the situation, you may be entitled to more compensation than you thought.

# Common mistakes workers make after getting hurt on the job

People get hurt on the job every day, particularly in industrial and manual labor situations in which a small slip-up by your employer, a co-worker or even you could result in serious injury.

Unfortunately, many of us don't know what to do when we've been hurt at work, and there are common mistakes people make that may compromise their claim.

A big one is not reporting the injury in a timely manner. Most states require you to report an injury to your employer within a certain number of days. How many days depends on where you are. For example, if you're in Iowa, you have 90 days. California and Florida give you 30 days. Colorado gives you only 10 days. So if you don't report it quickly, you could lose your right to recover. Talk to an attorney to find out how long you have in your state.

Another common mistake is not going to the doctor to document your injury. People avoid the doctor for a variety of reasons. But if you don't notify your doctor, your employer's workers' compensation insurer may claim you weren't seriously injured or even injured at all.

Also a mistake: not taking photos of the accident scene. After the accident occurs, the employer may take measures to make it safer. If you don't have



photos of what it looked like when you were hurt, you have no evidence of what it looked like.

Similarly, it's important to have witnesses substantiate what happened. People cycle in and out of jobsites all the time, and by the time you get to a hearing, you may not be able to locate them. So get their contact information right away.

Finally, perhaps the biggest mistake of all is not getting a lawyer who can help make sure you are taking all the right steps from the start and look out for your interests along the way.

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## *Distracted truck-driving cases on the rise, studies show*

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to pay a very substantial award, much of it for the injured motorist's harm, but an additional chunk represented "punitive" damages meant to serve as a deterrent to other truckers not to text while driving.

Then there was a case from Florida stemming from a commercial semi-truck collision that resulted in a teenager's death.

In that case, a distracted semi driver traveling 70 miles per hour slammed into the back of the teenager's vehicle while the teen was stopped in traffic due to another distracted semi-truck driver who had rolled his truck on the road ahead.

The case went to trial, and it took a jury all of four hours to issue one of the biggest verdicts on record, the vast majority of which represented punitive damages. While such damages are extremely rare,

they are sometimes awarded in cases involving particularly egregious behavior.

Though not every case will result in a huge damages award or even a finding of fault on the truck driver's part, if you or a loved one has been seriously injured by a truck driver who you suspect was distracted, it is important to call a lawyer who is experienced in automobile accident cases. If the facts and circumstances call for it, you may be able to hold them or their employer accountable.





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## UM/UIM coverage: What is it and why do you need it?



We all expect that if we are hurt in a car crash that isn't our fault, the at-fault driver's insurance will pick up the tab for our doctor's bills.

But what if that other driver doesn't have enough insurance to cover your losses? Even worse,

what if they have no insurance at all?

That's where UM/UIM coverage can step in to help you. UM/UIM coverage (which stands for underinsured or uninsured motorist coverage) is additional insurance that you can purchase for your own policy that is there to take care of your medical expenses when you get hit by someone without sufficient coverage.

The difference can be stark. For example, if your policy carries \$300,000 in UM/UIM coverage — and your losses are higher due to surgery, a lengthy hospital stay, and time out of work — and the other driver's policy covers only \$30,000 worth of harm,

your own insurer would cover the \$270,000 gap.

Had you purchased more UM/UIM coverage, say \$500,000 worth, it might be enough to cover all your losses. And the difference between \$30,000 or \$40,000 in coverage and \$500,000, or even \$1 million, may be as little as \$10 or \$10 a month on your insurance bill.

You may, however, have UM/UIM coverage without even realizing it. That's because it's required in 14 states (though they vary in how much is required), and it's available in all other states. So it's a good idea to take a look at your auto policy and see how much you have, if any. And if you don't have UM/UIM coverage, or you have a minimal amount, you should talk to your insurance agent about increasing your coverage as soon as possible.

After all, an accident can happen anytime, and once it does, it's too late to buy more coverage to pay for those losses.