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The Louisville Accident Lawyer Journal

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OVER 30 YEARS EXPERIENCE

We gladly accept
and appreciate
your referrals

- We are counselors, not just attorneys
- We meet with our clients personally - not caseworkers
- We want you to understand how the legal system works as it applies to your case
- We will keep you informed and guide you every step of the way

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Pros and Cons of The Litigation Process

Just as no two people are the same, no two personal injury cases are the same. However, most cases go through a similar process before getting resolved.

In a typical car accident case, there is the initial investigation phase, in which the primary task is to obtain the police report, and resolve all property damage issues. Meanwhile, the primary concern of the injured person should be to seek all reasonable medical treatment.

The treatment phase can take weeks, months or even years, depending on the severity of the injuries. Once treatment is completed, the lawyer's role is to obtain copies of all of the medical records and expenses, a process that can take several weeks. This information is then presented to the liability insurer, which evaluates it for settlement and normally extends an initial offer.

To an experienced eye, this initial offer will reveal whether the liability



insurer is willing to negotiate a fair and reasonable settlement. It helps to have some insurance background so you know the thought process of the adjuster. The decision that must be made is whether a reasonable settlement appears negotiable, or whether our client would be better off by filing a lawsuit.

The decision to file a lawsuit is a big step. Most people are intimidated by the thought of "going to court" by filing a lawsuit. The insurance companies know that, and they leverage that reluctance in their favor.

There are pros and cons to filing a lawsuit. The biggest "pro" is that you can find out information in a lawsuit that you can't get otherwise, such as the other driver's cell phone records. Since more and more accidents are caused by distracted driving, these records can be important.

Another "pro" of filing suit is that the court will require mediation, which will force the liability insurer to offer its top dollar.

However, the discovery process cuts both ways. The biggest "con" is that the injured person's life, and medical history, becomes an open book. He or she must also give a deposition, and some defense lawyers can be discourteous. Filing a lawsuit can also get expensive, particularly if experts become involved. If the case cannot be settled, then the case goes to trial and a jury decides the amount recovered.

The decision to file suit comes down to the "upside" versus the "downside," If we believe our clients will recover substantially more by filing a lawsuit, then that is what we tell them they should do. If we believe it is "iffy" whether they will fare better, then we tell them we should negotiate the best settlement possible and forego the litigation process. We don't advise our clients to "go to court" unless it's worth it. - BDH

Why a Newsletter?

We hope you will find this newsletter to be entertaining and informative. We thought it would be a great way to stay in touch with people who have had a relationship with our firm. We care about the people we have helped and we want you to know that our relationship with you is very valuable to us, even if your case is over.

The reason you are receiving this newsletter is because you are an existing or past client of our firm, or you have contacted us about prospective representation. For this reason, this newsletter is not considered to be an "advertisement" under Kentucky Supreme Court Rule 3.130-7.02 (1)(h). (But this doesn't mean you can't give it to someone you

know!)

We hope to share a little more about who we are and what we do, and not just in our law practice. We would love to hear from you if you like our newsletter!

Our best to all of you!

Brad Harville Dana Skaggs

BRADLEY D. HARVILLE LAW OFFICES PLLC

20 Questions about Kentucky No-Fault

The key to understanding how the legal and medical system works in personal injury cases resulting from motor vehicle accidents in Kentucky.

Current Trends - Workers' Compensation

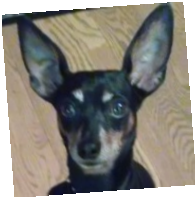
Kentucky Workers' Compensation law never seems to change, but every now and then our courts will throw a curve ball.

One such case came out last year, [Quad/Graphics, Inc. v. Holguin](#), a case which has a lot of employers worried. In an unpublished opinion, the Kentucky Supreme Court said that an employer who provides light duty work consisting of odd jobs that an employee would not normally do can still be liable for temporary total disability ("TTD") benefits and is not entitled to credit for wages paid.

"TTD" benefits are for injured workers who have not reached maximum medical improvement and are not able to physically perform their customary work. Thus, the net effect of the Quad/Graphics decision was that the employer was liable for TTD benefits in addition to what it paid its injured employee in wages. The Court noted that the employer was not entitled to a credit for those wages, because the statute only allows for credit for unemployment benefits or benefits from a disability plan funded solely by the employer.

SB 151 was proposed during the 2016 legislative session to undo this decision and provide for an offset against TTD liability for wages from any sort of light duty work, but this bill died in committee. Therefore, the door is still open for an injured worker to argue that certain light duty work is not the sort of work that an employee would normally do, such that the employee is still entitled to TTD in addition to any wages paid. In other words, light duty work can't be just makeshift odd jobs in order to avoid liability for payment of TTD.

Advice Column - Kentucky State Parks



Casey's Kentucky Trivia Question:
Casey loves chicken! In what town is Colonel Sanders' original restaurant?

- A. Shelbyville
- B. Corbin
- C. Winchester
- D. Harlan

Be the first person to answer correctly by sending an e-mail to bdh@harvillelaw.com and we'll mail you a \$5 Starbucks gift card!

If you are parents raising active children up to around middle school age, Dana and I have been there. For summertime vacation fun on a budget, you can't beat Kentucky's State Resort Parks. Our budget-strapped state could do a better job of taking care of these facilities, but they are great places to visit! And kids aren't picky about staying in a lodge or cottage. I've been to all of them! My favorite 3, in reverse order:

3. [Pine Mountain](#). Awesome hiking (don't miss Chained Rock), great kiddie/swimming pool, and one of the top golf courses in the state, [Wasioto Winds](#). Over 3 hours from Louisville, the lodge stays heavily booked.

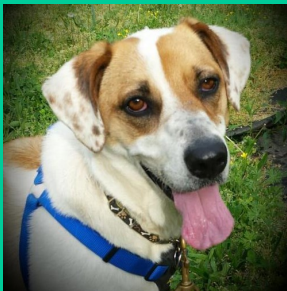
2. [Kentucky Dam Village](#). About 3 hours from Louisville, Kentucky Dam is one of those "must-see" places in Kentucky. Fishing and swimming in Kentucky Lake, a golf course across the street from the lodge, and a great

little putt-putt course nearby, [Maggie's Jungle Golf](#), with a petting zoo the kiddos will love!

1. [Cumberland Falls](#). In my opinion, the most beautiful park of them all. Not just the falls, but also spectacular hiking below the falls along Cumberland River, especially the Rock House. I've also visited during a full moon and seen the famous "moonbow." Just under 3 hours away from Louisville.

All of these parks have some pet-friendly accommodations, too!

Favorite Pet of the Month



Star
(Your Last Name Here)

Star is a beautiful 2 year old pointer mix currently available for adoption through Barktown Rescue (www.barktownrescue.org). Star is affectionate and playful - great with kids, but not so great with cats! If you are looking for a loving companion who is housebroken and out of the puppy stage, please consider this beauty.

Other rescue dogs and cats are listed on the rescue's website.

Are you a pet lover? We are!

Dana Skaggs serves on the Board of Directors of [Barktown Rescue](#). Brad and his family love pets, too!

If you want to tell us about your pet(s), send an e-mail to bdh@harvillelaw.com with a photo and we'll try to put this in a future issue!

Homeowners' Insurance

If you own your own home and have a mortgage, then no doubt your mortgage lender requires you to carry homeowners' insurance. This is to protect the lender's investment in your home from perils such as fire, windstorms, hail, lightning, theft or vandalism. However, floods and earthquakes may not be covered unless you purchase additional protection.

In addition to protection against damage to the home, your homeowners' insurance also provides liability protection up to the amount of the liability limit of the policy. This coverage protects you or other family members living in the home from liability claims, the most common of which are personal injury claims due to dog bites and slip-and-fall accidents. If such a claim were made



against you, your homeowners insurer should investigate the claim and attempt to get it resolved. If a lawsuit were filed, then your homeowners' insurer would be responsible for hiring a lawyer and defending the suit.

Most homeowners' policies also provide a smaller limit for "med pay" coverage, usually \$5,000 to \$10,000, to pay for medical bills if someone is injured for an occurrence that is covered under the policy.

The flip side of this is that if you have suffered a significant injury from being bitten by someone else's dog, or from an incident in someone else's home for which they were negligent in some way, then you may very well have a valid personal injury claim against the homeowner that would be covered under their homeowners' insurance if such a policy exists. We have successfully handled many such cases on both sides.

Stupid-Easy Recipe of the Month

June means kids and grandkids are out of school. It's a busy time of year with family activities, weekend outings, and yard work. Here's a one pot crowd pleaser that the whole family will enjoy! The best part? One pot = easy clean up!

One Pot Pasta Alfredo

In an 11 inch sauté pan, add:

- 8oz. Uncooked fettuccine or bow

tie pasta (regular or multigrain)

- 1 1/2 cups cooked chicken, cut in strips or cubed (or sub with shrimp)
- 1 tbsp. of minced garlic
- 1 cup shredded Parmesan cheese
- 1 cup cream or half and half
- 2 1/2 cups of chicken broth
- 1/2 cup fresh sliced mushrooms

Cover and Bring these ingredients to a boil over medium high heat for 12-15 minutes, stirring frequently as the pasta cooks. Remove from heat and add 1/2

cup of crumbled turkey bacon, some fresh chopped parsley, and salt and pepper to taste. Serve alone, or with a salad.



**One pot =
Easy Clean
up!**

Summer Solstice Facts

Memorial Day is the unofficial beginning of summer, but scientifically summer begins on or around June 21, the Summer Solstice. This is the longest day of the year in the Northern Hemisphere because it is the day that the earth's northern axis tilts the most toward the sun. Meanwhile, in the Southern Hemisphere, it is the Winter Solstice because the earth's southern axis tilts the furthest away from the

sun. The days get longer the further north you go, whereas the days get shorter the further south you go. Inside the Arctic Circle there is 24 hours of daylight, and inside the Antarctic Circle, there is 24 hours of darkness. The opposite is true on December 21, the Winter Solstice in the Northern Hemisphere (our shortest day of the year) and the Summer Solstice in the Southern

Hemisphere (their longest day). Our longest days of the year are right now, leading up to and following June 21. Do something fun! Stay late at the swimming pool. Go play a late round of golf. Walk your dog in the cooler evening hours. Eat outside at someplace like Captain's Quarters on the Ohio River and take in the view. Enjoy your summer!





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We want to help you secure the best possible outcome out of a difficult situation that you wish had never happened. If you have been injured, our goal is to obtain maximum recovery in the shortest amount of time it takes to get your case resolved.



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visit us at harvillelaw.com

Summertime Safety Tips

I've looked at a number of websites to pass along some summer safety tips to you and your families. Here's what I've come up with:

- **Don't leave your children or pets in hot cars.** This one deserves to go to the top of the list because the results can be so tragic. The assumption is that people leave their children or pets deliberately, but people can become so preoccupied that this can happen without them thinking about it. It goes without saying that you should never leave your child in the car, and if you must leave your pet in the car for a short amount of time make sure you find a shady spot to park, lower the windows enough to provide ventilation and don't leave them alone for more than a few minutes before you check on them.
- **Swimming pool safety.** Another activity that presents a great deal of risk to small children. Never let them swim without adult supervision and appropriate flotation devices. Also, make sure they use plenty of



sunscreen with high SPF ratings to avoid sunburn. Same goes for you. Lotion covers better than spray.

- **Mosquito and Tick bites.** The Zika virus is in the news a lot these days. About all you can do is wear long clothing in mosquito-infested areas and spray yourself with some good insect repellent. You can also try yard foggers to repel mosquitos and there are also commercial services that will spray your yard at a higher price for longer protection. Long clothing is also the best

protection in tall grass to protect against ticks. If you do get a tick bite, use tweezers to remove the tick as close to the skin as possible.

- **Poison Ivy.** I have had so many cases of Poison Ivy it's not funny. If you are not allergic to Poison Ivy (like my wife) you are fortunate, but don't test it. Learn to recognize the plant and avoid it at all costs. Wear long clothing if you have to get around it. If you do get it, Zamboni is perhaps the best treatment in terms of shortening the duration of the symptoms, but a 1 oz. tube costs at least \$30 or more.
- **Stay hydrated.** The hotter the weather, the more important it is to drink plenty of water. Playing in the hot summer sun means lots of fluid losses, so avoid strenuous activity during peak sun hours (10 am- 6 pm). Look for shade and take lots of breaks. Have a great summer and be safe!