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The Louisville Accident Lawyer Journal

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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

Why a Newsletter?

You are receiving this newsletter because you are an existing or past client of our firm, or have contacted us about representation. For this reason, this newsletter is not an "advertisement" under Ky. Supreme Court Rule 3.130-7.02(1)(h). It is our way of staying in touch with people who have had a relationship with our firm. We care about the people we have helped and want you to know your relationship is valuable to us, even after your case is over. We hope you find it entertaining and informative, and would love to hear from you if you enjoy it!
Our best,
Brad Harville
Dana Skaggs

Happy 2021 !!!

Are you looking forward to things returning to normal? I don't know of anyone who isn't. The pandemic has affected our lives in so many ways.

Without a doubt, the pandemic has taught us some valuable lessons. There is a long list of things we used to take for granted for which we have gained a new appreciation, like dining in restaurants, going to the movies, flying, and so many other things - without having to wear a mask or fear of infection!

One thing I have actually *liked* about the pandemic is the fact that court proceedings have been conducted remotely since the courts reopened last June, either via Zoom or by conference call. Believe me, going to Court for routine proceedings, like scheduling a trial date or a hearing date, has always seemed like a big waste of time to me. I would have to jump in my car, drive a half hour downtown, sit through a docket of maybe 30-40 cases until my case is called, just to see the clerk with my calendar in hand to schedule a date, and then drive back to the office. Since we began doing this remotely, I can just sit at my desk and work on something else until my case is called, and then I'm done! It saves at least an hour out of my day!

Not every lawyer feels the same way about this that I do. Certainly defense lawyers, who get paid by the hour, aren't crazy about it,



and I get that because I still defend a few cases, too.

There are also lawyers who seem to enjoy the formality of putting on a suit and tie and walking into the courtroom where they can meet and greet other lawyers and stand before the judge. I think they miss the decorum and fraternity of it all. One lawyer recently e-mailed me that he thought conducting court proceedings remotely was "like Thrift Store Law...everything is cheap and gross." That's not me. I like putting on my shirt and tie and a blazer just long enough to get through the Zoom hearing and then changing back into my nice comfortable Polo shirt. I don't get any ego boost from sitting with a bunch of lawyers in a courtroom who like to see and be seen. However, I fully anticipate that the days of remote hearings will soon be over, once we've all been vaccinated. Don't get me wrong, it will be a huge blessing overall once things get back to normal. Besides the people most affected - those who became gravely ill, or worse, have passed away - the people I feel the most sympathy for are our young people who haven't

been in a classroom for almost a year, especially those who have missed out on milestone events in their lives like graduations, sports and dances, and all of those other social experiences growing up that can never be repeated.

While the schools have made a heroic effort with NTI (non-traditional instruction), there is no substitute for being in the classroom every day. The unfortunate fact is, when our young people return to the classroom, they will be months behind where they would have been academically as well as socially, and the disadvantaged students tend to be the worst affected because they need the most structure.

Case in point: My oldest son, Doug, is the orchestra conductor at Thomas Jefferson Middle School in JCPS. His mission is to introduce his students to higher culture through music, and it's a known fact that kids who participate in music programs tend to do better academically. Talk about a job that's impossible to do remotely, how about conducting an orchestra? The fact is that when those kids return to school, they won't be as far along musically as they would have been.

It's going to be really hard for our young people to catch up once the schools reopen, and that can't happen soon enough. Our teachers and our students need and deserve our support now more than ever.

• BDH

THE PANDEMIC'S EFFECT ON TRAFFIC FATALITIES

On January 1, the NY Times posted a very interesting article by reporter Christina Goldbaum entitled [“Why Empty Streets Meant an Especially Deadly Year for Traffic Deaths.”](#) You would think that with fewer vehicles on the road during the pandemic, there would be fewer traffic accidents. That much is true, but, counterintuitively, the number of traffic fatalities is up. According to this article, in New York City, “deaths of drivers, passengers and motorcyclists rose sharply in 2020, to 120, from 68 in 2019 — an increase of 76 percent and the highest level in over a decade, according to city data.”

And it's not just New York City: “Across the country, fatality rates for traffic crashes increased for the first time in years, according to the National Highway Traffic Safety Administration (NHTSA), a federal agency. Between April and June, the fatality rate rose to around 30 percent higher than the first three months of the year, federal researchers found.”

Well, we already knew that 2020 was a year like no other, and this trend is no exception. So what are the reasons behind these surprising statistics?

The Times article states that, according to the NHTSA, “[o]lder people, who tend to be more cautious drivers, stayed home. Without their usual diversions, younger drivers — who are more prone to risk-taking — hit the road. And increased alcohol and drug use to cope with pandemic-related stress factored into many crashes, the federal agency said.”

The Times article also notes that “[p]eople sped recklessly down vacant highways. Riders who had not been on a motorcycle in years — or ever — took to roadways. In big cities, late-night drag racing became more popular as other entertainment vanished.”

Consistent with this trend, speeding tickets were up, too. According to the Times article, “tickets for speeding over 100 miles per hour surged 87 percent in California during the first month of a statewide lockdown. New York City's automated cameras issued nearly twice as many speeding tickets daily, and rush-hour traffic speeds in Brooklyn and Queens shot up more than 80 percent. State troopers in Georgia cited 140 drivers for speeds over 100 mph in a two-week period in April.”

Unsurprisingly, the worst offenders seem to be young men. Margaret Forgione, NYC's acting transportation commissioner, is quoted as saying “[w]e saw a lot of younger people, young men in particular, seem to be seeking an outlet from the stress and the boredom of Covid and getting on motorcycles when they had no business doing so.”

And it's not just in the United States, either. In April of last year, while London, England was in its first full month of lockdown, the BBC reported that the London Metropolitan Police issued 3,282 Traffic Offence Reports (the English spelling) to drivers suspected of



exceeding the limit during that month — with one driver breaking the legal limit by 81 mph and another clocked doing 108 mph in a 40mph zone — as compared to 1,922 in April 2019.

In Kentucky, it seems the “need for speed” during the pandemic has been no different. [WDRB](#) reported back in June that some drivers pulled over for traveling more than 100 miles per hour told police that “they didn't think we could stop people because of the pandemic.” Moreover, LMPD's workforce was reduced due to a shifting in resources over the Breonna Taylor protests and other civil unrest. From 2015 to 2019, the traffic unit averaged about 23 officers, but in June of 2020, the staff had been cut back to only 10 officers. Consequently, the number of traffic citations written was down over 50% from 2019.

As for the final tally of fatalities in Kentucky during 2020, [SpectrumNews](#) reported on December 25 that over 765 died on Kentucky roads in 2020 — the most in the past five years.

Clearly, the upshot of these articles from 2020 is that just because the roads are less congested, they are not safer. In fact, they are more deadly than ever because drivers are driving faster and more recklessly than ever, with little fear of being pulled over by law enforcement.

How this plays out once things start getting back to normal remains to be seen. Now that COVID vaccinations are getting under way, more and more people will be resuming their former commutes to and from their workplaces, schools will be back in session, and rush hour in the mornings and evenings will return. My fear is that the reckless driving habits of some, engendered by the pandemic, could make things all the more scarier and dangerous once traffic congestion returns to more normal levels.

Please drive safely this year! The roads are scarier than ever! And, by all means, make sure you have purchased as much liability, UM and UIM insurance as you can afford. I hope you will never need it, but if you or your family are in a serious accident, you will need as much as you can get.

Current Trends in Personal Injury Law

Winter is here, and along with it comes the threat of encountering icy roads on a freezing morning. And that means the potential for more car accidents.

Many, if not most people, make the common assumption that if a car accident occurs, it must be somebody's fault. But that isn't always the case. "Icy roads" car accident cases are the big exception.

You see, the definition of negligence under Kentucky law is the failure to exercise ordinary care, which is the same level of care as an ordinarily prudent person would exercise under the same or similar circumstances. If a driver is exercising ordinary care, but hits a patch of

black ice and is simply unable to maintain control of his or her vehicle, then, legally speaking, there is no fault if an accident results.

This principle has been embedded in Kentucky law for decades, but was recently reaffirmed again by the Kentucky Court of Appeals (COA) in the case of *Critser v. Critser*. Mrs. Critser was driving her husband of 40 years, Mr. Critser, to a doctor's appointment when she unexpectedly hit a patch of black ice, resulting in an accident in which Mr. Critser was injured. He sued his wife, obviously to try to get their insurance company to pay a settlement.

However, Mr. Critser (who wasn't very well coached by his lawyer)

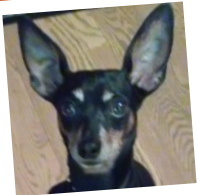
testified in his deposition that his wife was driving "pretty slow" and "carefully," doing no more than 10-12 mph in a 30 mph zone. Neither of them saw the patch of black ice before the car slid out of control. In short, Mr. Critser's testimony was that his wife had done nothing wrong, which was a judicial admission on his part that she was not at fault. As a result, the trial court deemed that the accident was unavoidable and dismissed the case, and the COA affirmed.

Thus, you shouldn't assume that anytime there's a car wreck, someone must have been at fault. An "icy roads" accident can happen even if no one is to blame.

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.



Casey's Ky. Trivia Question: What was the coldest temperature ever recorded in Kentucky?

- A. - 42° F
- B. - 37° F
- C. - 34° F
- D. - 25° F

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!

Stupid-Easy Recipe of the Month

Easy Meatballs

Ingredients:

- 1 pound ground chuck (may substitute ground turkey or 1/2 lb. ground beef & 1/2 lb. ground pork)
- 1/2 cup grated Parmesan cheese
- 1/3 cup chopped fresh parsley
- 1 large egg
- 2 cloves garlic, minced
- 1 TBS Italian seasoning
- 1 TSP crushed red pepper
- Salt and pepper to taste
- Your favorite marinara sauce

Directions: Combine all ingredients in a mixing bowl, then form 1-2" meatballs. Place meatballs in prepared pan and bake until browned and cooked through (approx. 20 minutes). Simmer meatballs in marinara sauce on stove for about 15 minutes. Serve alone, sprinkling favorite cheese on top, or with your favorite prepared pasta.



A hearty, easy winter recipe everyone will love!

Favorite Pet of the Month

Meet Pablo! Pablo is a handsome little Chihuahua who is about 7-years-old. He was rescued by a concerned citizen as he and another dog repeatedly dodged traffic on a busy highway. When no one claimed him, Barktown became his next stop. He is good with other dogs and cats, but ideally, the rescue would like to place him in a home without small kids (< 12) because he is slightly timid. Now neutered and vaccinated, Pablo is ready for his forever home!

How can you resist that face!!! Visit www.barktownrescue.org and fill out an application to adopt Pablo today!

Dana serves on the Board of Directors at 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!



Pablo



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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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