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Legal Matters®

If you have a personal injury case, use Facebook with care

Recently, a private school in Miami called the Gulliver Preparatory School decided not to renew the contract of its 69-year-old headmaster, Patrick Snay. Patrick sued the school for age discrimination.

The school settled the case by agreeing to pay Patrick \$80,000. As part of the deal, Patrick signed a “confidentiality agreement.” This was a written contract saying that Patrick wouldn’t tell anyone the details of the settlement other than his wife and his lawyers.

Not long afterward, however, Patrick’s college-age daughter Dana wrote on Facebook that “Ma and Pa Snay won the case against Gulliver,” and bragged, “Gulliver is now officially paying for my vacation to Europe this summer.”

The post went out to more than 1,000 of Dana’s Facebook friends, including a number of Gulliver students and graduates.

The message eventually made its way back to school officials. The school claimed that Dana’s post was evidence that Patrick had

violated the confidentiality agreement, and it refused to pay the \$80,000.

The result? A Florida appeals court ruled that since Patrick had told his daughter about the

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settlement, he had violated the contract, and the school could keep all the money.

The case is an illustration of just one of the many ways that Facebook, Twitter, and other social media can cause problems for people who bring lawsuits.

Insurance companies now routinely monitor the social media accounts of people who bring injury claims, looking for information that they can use in court. Often, even per-



fectly innocent posts or comments online can be twisted or manipulated by an insurance company in ways that can make obtaining fair compensation more difficult.

Take the case of Bill McMillen, a racecar driver in Pennsylvania who was hurt when another driver rear-ended him during a 2007

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Millions of child car seats recalled for safety problems

Graco Children's Products, one of the nation's biggest car seat manufacturers, recently issued an emergency recall of 3.8 million of its seats.

Starting in 2012, many parents told the federal government about incidents where they had trouble removing a child from a car seat, and had to cut the straps in order to get the child out safely. One parent claimed it took her 45 minutes to safely remove her child from a seat.

Graco initially claimed that the problem wasn't its fault, and that the buckles had simply become gummed up with food and drink. Graco also said the problem didn't make the car seats any less effective in a crash.

But federal regulators concluded that the problem

could make it very difficult for parents to remove a child quickly in the event of a fire or an accident. In one case, a two-year-old apparently died in a car fire while buckled into one of the seats at issue.

Recently, federal safety officials threatened the company with legal action if it doesn't recall an additional 1.8 million seats with similar buckles.

Regulators are also investigating other seat makers to determine if their products are unsafe for the same reason.

If you own a Graco car seat, you'll probably want to contact the company to find out if yours is one of the seats affected by the recall.

In general, when buying a car seat, it's important to make sure it fits your child properly, fits your vehicle correctly, and is properly installed. In many towns, a car-seat check can be performed at the local police or fire station.

If you have a personal injury case, use Facebook with care

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stock-car race. Opposing lawyers looked up McMillen's public Facebook page and discovered that he'd taken a fishing trip and traveled to the Daytona 500 after the collision occurred. They used this information to insinuate that he wasn't as badly injured as he had claimed. Plus, based on the information, they persuaded a judge to order McMillen to provide access to the private areas of his page as well.

Another problem is that many injured people, when they're having a hard time and are in significant pain, try to put on a brave face and project an image of strength in order to keep relatives and friends from worrying about them.

They might post something on Facebook such as, "I was in an accident, but don't worry about me; I'm doing fine." Their intent is to keep a stiff upper lip and reassure their family and acquaintances, but an insurance company can use an innocent comment such as this to claim that they're exaggerating an injury.

How can you protect yourself? The best advice may be to simply dismantle your social media accounts while you have an injury claim pending. But of course, many people find this very hard to do.

If you do maintain a social media presence, generally the best advice is to avoid discussing your

accident, injuries, or treatment in any way at all.

You should also take down old pictures or status updates that could be misinterpreted. For instance, defense lawyers frequently try to claim that a person's injuries pre-date their accident. If someone hurt their knee or their back in a car crash, and defense lawyers come across old posts in which they mention back or joint pain, the lawyers will try to use those posts to call the person's new injuries into question.

You should also keep close tabs on what your friends are posting about you. Facebook allows friends to "tag" you when they post a picture with you in it, so everybody knows it's you in the photo. Make sure to set your security features so that no photo can be "tagged" without your prior approval. And by all means, ask friends to take down any comments mentioning your name that could be misinterpreted so as to put your case at risk.

Finally, never accept friend requests from people you don't know well and trust. These could actually be from insurance companies trying to spy on you.

If you have any questions, consult with your attorney to make sure you're not using social media in a way that could compromise your right to be fully compensated for the harm you've suffered.

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Is a driver who rear-ends someone always at fault?

There's a common perception that if you hit another vehicle from behind, you're always at fault and you can't recover for your injury. However, that's not necessarily the case.

For instance, Christopher Grouix, a 22-year-old carpenter's apprentice in Michigan, was on his way to work early one morning when he hit a logging truck from behind. Christopher died from his injuries, and his family sued the driver and the company that owned the truck, claiming that the truck was operating without the proper lights.

The logging company argued that Christopher was at fault, saying that because he'd been at a concert until 1 a.m. the night before, his drowsiness must have caused the crash. But a jury found that

the logging company was at fault and awarded a substantial verdict.

Other drivers may be able to demonstrate that an accident was at least partially the fault of the vehicle in front of them. For example, perhaps the front driver suddenly slammed on the brakes for no reason while traveling in a high-speed area. Or maybe the driver stopped suddenly at a green light.

In these instances, an injured driver might be found partially at fault for the accident, but might still be able to be compensated for a portion of his or her injuries – the portion attributable to the other driver's carelessness.

So never just assume that you can't receive compensation for an injury. Always ask a lawyer first.



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Condo association held responsible for bike accident

You may be aware that cities and towns can often be held responsible for dangerous road conditions that put drivers and pedestrians at risk.

But did you know that when an accident occurs in a condominium complex or a subdivision, the condominium or homeowner's association might also be held accountable?

This happened recently in Florida. Andrew Curtis, a nine-year-old boy who lived in a condominium development, was riding his bike through the complex with his father. A car driven by another resident struck the boy, killing him.

Although the driver had apparently been careless, Andrew's parents sought to hold the condominium association and its management company respon-

sible too. They claimed that the association and the company had ignored traffic codes and hadn't properly installed stop signs or trimmed hedges to allow drivers an adequate view.

A jury agreed, holding the management company and the association 90 percent at fault for the boy's death, and the driver 10 percent responsible.

Though the jury's award can never bring the boy back, the ability to hold the association and the company responsible helped to ensure fair compensation for the family under the circumstances.



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E-cigarette battery explodes, causing injury to smoker

Jennifer Ries and her husband were driving to the Los Angeles airport on their way to a volunteer trip to South America. Jennifer, in the passenger seat, was recharging her electronic cigarette battery when she detected an odd smell. She says she saw liquid dripping from the battery, and when she tried to unscrew it, flames shot out and the battery exploded. She says her cotton dress caught on fire, causing second-degree burns over her lower body.

Now she and her husband are suing the manu-

facturer, accusing it of marketing a dangerous product.

E-cigarettes, like regular cigarettes, are regulated by the U.S. Food and Drug Administration. But while e-cigarettes are much safer than regular cigarettes in terms of causing lung cancer, it's not clear that the FDA is up to speed yet on regulating the *electronic* components of e-cigarettes. And these components, if they're not made fully safe by the manufacturer, could have the potential to cause very serious injuries.



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Testosterone treatments may pose serious health risks

Testosterone deficiency is a common medical condition that results in loss of muscle mass and physical strength, diminished sex drive, and a low energy level. To treat this problem, millions of men receive testosterone therapy to increase their levels of the hormone.

This therapy can come in many forms, including gels, patches, injections, implants and pills.

The popularity of testosterone treatments has skyrocketed recently. Use of the products increased fivefold between 2000 and 2011, and they now generate more than \$2 billion in sales each year.

However, a recent study in the *Journal of the American Medical Association* suggests that testosterone therapy may increase the risk of heart attacks and strokes.

The study found that cardiovascular problems were six percent higher in men who took testos-

terone therapy drugs, and that of about 1,200 patients studied over a year-and-a-half period, 67 died, 23 suffered heart attacks and 33 had strokes.

Meanwhile, it has been reported that certain delivery methods, such as gels, increase the risk of women and children being accidentally exposed. In such cases, children could suffer side effects such as early puberty, changes to sex organs, aggressive behavior, advanced bone age, and altered distribution of body hair.

A number of critics claim that producers of testosterone treatments haven't adequately warned about the dangers, and have used aggressive marketing to sell the treatments to men who don't really have a medical need for them.

If you or someone you know is receiving a testosterone treatment, it's important to consult a physician about these issues.