

To Text or Not to Text?

Texting and phone laws vary from state to state. For example, in North Carolina and Ohio, there is no ban on cell phone use, but texting is prohibited. West Virginia also bans texting and is a hands free state. However, all states have strict laws on drivers under age 18. Regardless of law, driver distraction is a serious problem that can result in severe injury or death. No one wants to own an irreversible tragedy just to return a text. Chances are it can wait.

Talking on a cell phone while driving is a closer call. It's not always negligent, all though it is against the law in some states. However, doing other things on the phone, such as dialing, looking

through one's address book, and reading old texts, may very well be negligent, if not illegal. When you are taking a road trip, you need to know the laws of the state.

Texting While Driving

Texting while driving can be considered negligent because, very simply, it is impossible to focus on the road while you are looking at your phone to text. Further, in order to text, you have to use at least one hand, so have one hand – and perhaps no hands – on the steering wheel.

Why worry?

Let's look at some government statistics, courtesy of the National Highway Traffic Safety Administration:

- Drivers who use hand-held devices are

4 times more likely to get into crashes serious enough to injure themselves

- Text messaging creates a crash risk 23-times worse than driving while not distracted
- Sending or receiving a text takes a driver's eyes from the road for an average of 4.6 seconds. That is the equivalent of driving the length of an entire football field at 55 MPH while blind

Talking on a Cell While Driving

First, you must remember that some states ban all cell phone use while driving unless the driver is using a hands free device. However, more government research reports say that hands free device use is not substantially safer than hand-held use and that driving while using a cell phone reduces the amount of brain activity associated with driving by 37%.

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Letter From Jan



Happy New Year! If eating healthy was among your resolutions, team player Beth Pack provides a healthy Pea Pancake recipe you must try!

We hope another one of your resolutions is remaining safe behind the wheel. Days are shorter and inclement weather can lead to slick roads. The first article offers some reminders and statistics that will keep drivers safe no matter what your specific laws allow. Look away and it can take less than 5 seconds to have an accident.

The other article helps define forms of negligence. We talk about distracted driving in this issue of Personal Injury News

You Can Use. In the past, we have addressed nursing home negligence, dog bites and many other accidents that leave you vulnerable. But there is also the area of strict liability – holding designers and manufacturers strictly liable for injuries from defective products.

It's important for consumers to have an advocate when dealing with corporate America and larger defense firms. Our team is always here to give you a voice and make it heard. If you have questions, we have answers. Please call us toll-free at 877.526.3457.

Sincerely,
Jan Dils

Jan Dils brings her expertise to issues that affect you and millions of other Americans every day. While her knowledge spans the critical areas pertaining to Personal Injury, Veterans' benefits, Social Security disability benefits and related appeals and claims, her practice remains focused on people, making sure you get the right answers and results.

Community Corner

On November 17th, Team Jan Dils participated in the **Annual Pittsburgh Veterans Stand Down**. The Stand Down took place at Stage AE next to Heinz Field in Downtown Pittsburgh. Hundreds of Veterans in need attended this event. We spoke to several Veterans about their VA Disability Options. It was good to be able to inform our Vets and be surrounded by so many heroes that deserve nothing but the best support.



BRAIN GAME

A wuzzle is a saying/phrase that is made up of a display of words, in an interesting way. The object is to try to figure out the well-known saying, person, place, or thing that each wuzzle is meant to represent.

BUS INESS BUS INESS BUS INESS BUS INESS	tiLEVARTme
the people	ATHALON ATHALON ATHALON
O F F O F F	HAHANDND

Answers: 1. Open for Business 2. Travel Back in Time 3. We the People 4. Trathalon 5. Off Sides 6. Hand in Hand



Understanding Negligence in a Personal Injury Case

In most personal injury cases, the person who has suffered an injury relies on the legal concept of "negligence" to establish another person's fault for the underlying accident. So, what is negligence? It may be best explained through an illustration of some of the key elements that go into any negligence claim: duty of care, and the "breach" of that duty.

"Duty of care" is a legal term that refers to the responsibility one person has to avoid causing harm to another. In a personal injury claim or lawsuit, the first step in proving that another person was negligent is to establish that he or she had a duty of care in the situation that gave rise to the injury. The injured person (the plaintiff) will then need to show exactly how the other party (the defendant) failed to meet that duty – in other words, how the defendant's conduct "breached" the duty of care. Once this breach is established, the last step in proving negligence is to show that the plaintiff suffered real injuries that were caused by that breach.

Is there any other basis for personal injury besides negligence?

Differing from "negligence," **strict liability** is an important and growing

area of tort law. It holds designers and manufacturers strictly liable for injuries from defective products. In these cases, the injured person does not have to establish negligence of the manufacturer. Rather, you need to show that the product was designed or manufactured in a manner that made

it unreasonably dangerous when used as intended.

Intentional wrongs can also be the basis of personal injury claims, though they are rare. If someone hits you, for example, even as a practical joke, you may be able to win a suit for battery. Or if a store detective wrongly detains you for shoplifting, you may be able to win a suit for false imprisonment. While perpetrators of some of the intentional torts – assault and battery, for example – can be held criminally liable for their actions, a tort case is a civil proceeding in court brought by an individual or entity and remains totally separate from any criminal charges brought by the government.

There is a lot of jargon in the legal business that may be more familiar to some than others. But when navigating the legal system, there is a lot to know. That's why Jan Dils, Attorneys at Law is here – to talk in terms our clients understand. You need an advocate that can lead you through the process, help you make the best decisions and fight for you every step of the way.

Defining "Tort"

A tort, in common law jurisdictions, is a civil wrong that causes someone else to suffer loss or harm resulting in legal liability for the person who commits the tortious act.

Sources: www.alllaw.com/articles/nolo/personal-injury/understanding-negligence.html
www.americanbar.org/groups/public_education/resources/law_issues_for_consumers/injury_basis.html

Pancakes? Not for Breakfast Anymore.

A savory twist on the pancake from Veterans Leads and Intake Specialist, **Beth Pack**.



INGREDIENTS:

1 cup shelled fresh peas (from about 1 pound pods) or frozen peas, thawed
1 teaspoon kosher salt plus more

3 large eggs
1 cup low-fat cottage cheese
1/4 cup all-purpose flour
2 tablespoons vegetable oil plus more for skillet
4 scallions, thinly sliced, plus more for serving
1/4 cup (1/2 stick) salted butter, melted

DIRECTIONS: If using fresh peas, cook in a small saucepan of boiling salted water until tender, about 3 minutes (if using frozen peas, do not cook). Drain. Purée eggs, cottage cheese, flour, 2 tablespoons oil, and 1 teaspoon salt in a blender until smooth. Transfer batter to a medium bowl and stir in peas and 4 scallions. (Batter should be thick but pourable; stir in water by the tablespoon if too thick). Heat a lightly oiled large nonstick skillet over medium heat. Working in batches, add batter to skillet by 1/4-cupfuls, spreading out to 3-inch-4-inch rounds with a spoon. Cook pancakes until bubbles form on top, about 3 minutes. Flip and cook until pancakes are browned on bottom and the centers are just cooked through, about 2 minutes longer. Serve drizzled with butter and topped with scallions.



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Even if cell phone use without a hands free device is legal in your state, it may still be negligent. Negligence is defined as not exercising reasonable care. There are times where talking

on the phone or using a phone in some other way while driving is simply not reasonable. Let's look at a couple of examples.

Say that you're driving at night and in the pouring rain or during a snow or ice storm. That's hard enough as it is;

driving with one hand and holding a phone to your head with the other hand just makes it even harder. A jury hearing those facts is very likely to find that driver negligent in connection with any resulting car accident.

Another example is driving in stop-and-go traffic. This type of driving requires the

driver to keep his/her eyes on the road. Let's say that you just want to look at the phone for 3 seconds to get a phone number or to check a previously received text. Within those 3 seconds, the person in front may have stopped, and you will likely rear end him or her.



Take the Pledge

Sadly, traffic crashes are the leading causes of death in American teens. If you are a concerned parent wanting to know more about what you can do to help your child make better choices, please visit the Don't Text and Drive website (donttextanddrive.org).