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ATTORNEYS AT LAW



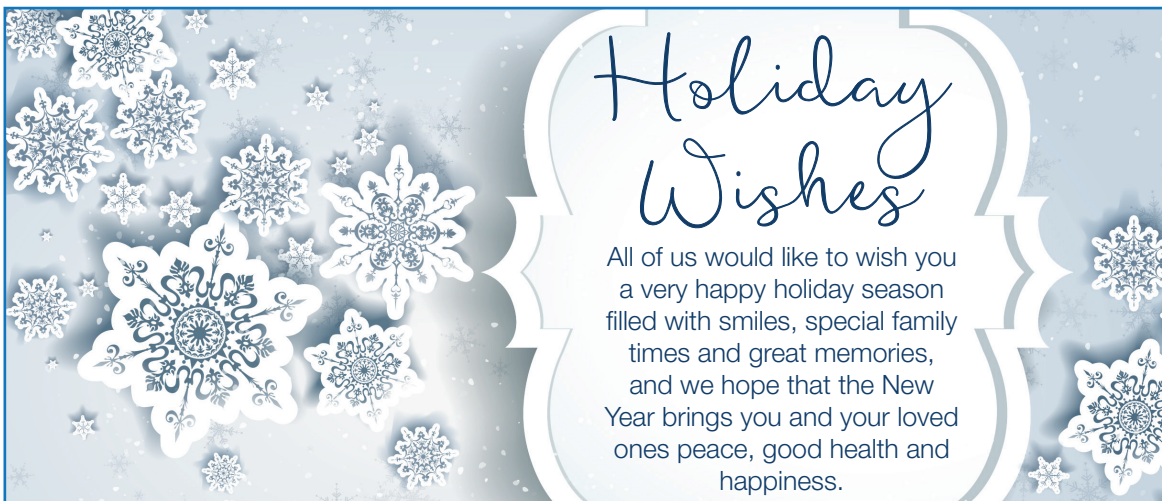
## A NEWSLETTER FOR FRIENDS AND FAMILY

**Winter 2016**

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**Serious Lawyers  
for Serious  
Injuries**



### Holiday Wishes

All of us would like to wish you a very happy holiday season filled with smiles, special family times and great memories, and we hope that the New Year brings you and your loved ones peace, good health and happiness.

## Various Forms of Truck Driver Error


When a truck driver is at fault for a roadway accident, there are many factors that can contribute, including the weather, road conditions, load shifts, and mechanical failure. However, topping the list—by a wide margin—is driver error.

Impaired driving plays a major role in driver error. Impaired driving may be caused by illegal, prescription, or over-the-counter drugs; alcohol; or sleep deprivation. Impaired driving leads to poor judgment, unnecessary risk-taking, slow reaction times, ignorance of impending danger, and falling asleep at the wheel.

Other instances of truck driver error include speeding or otherwise traveling too fast for conditions. Combine that with a sizable load and you have much longer braking times—and more accidents. In addition, taking a curve too fast and/or not taking a truck's load into consideration may lead to rollovers.

Truck drivers are trained to be alert to vehicles entering the “no-zone.” A no-zone (blind spot) is the area in which a passenger car disappears from the truck driver's view. A truck driver is guilty of driver error when he/she is unaware that a vehicle has entered this zone, or fails to take the proper precautions when they do notice.

Driver error can also occur before the truck driver has hit the road. Some drivers depower the front brakes to minimize wear and tear on them. Instead they rely on the trailer brakes and downshifting to slow or stop the truck. This practice increases the risk of accidents and jackknifing.

If you are involved in an accident with a truck, immediately contact StolzenbergCortelli, LLP to protect your rights. 



### A REFERRAL FROM YOU IS OUR HIGHEST COMPLIMENT

**A referral from our valued clients, friends, family and fellow attorneys is the highest compliment we can receive. If you know of someone who can benefit from our services at StolzenbergCortelli, LLP, please let us know. Call Us Today.**



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## Recent Notable StolzenbergCortelli LLP Settlements and Accomplishments

### **Defendant Corporation Settles for \$2.46 million After Worker Falls from a Truck**

In this case, our client injured his back when he fell from a truck at a warehouse. Our client was instructed to remove some newspapers from the back of an idling truck. After he did this, and was exiting the truck, the truck pulled away, and our client fell from the truck. He suffered a serious injury to his back, which included two surgeries. We sued the owner of the truck. The owner made a number of arguments, including that the worker was to blame for being in the wrong place at the wrong time. The defendant also argued that, even if he did fall, it was only a few feet and that it was unlikely that his back injury was from this accident. In litigating the case, we were able to prove that the truck was responsible for the accident because the driver had a duty to inspect the truck before pulling away and that any such inspection would include ensuring that no workers were still on the truck at the time of departure. Because of the nature of the settlement, the parties agreed to keep their identities private. The case settled on the eve of trial at a private mediation.

**Ceiling Falls on Worker – Case Settles for \$500,000** – In this case, plaintiff was a laborer for a demolition company. The company was hired to demolish the interior of a three-story building in lower Manhattan. The company failed to provide adequate training, instruction and supervision. In short, the company had no plan to safely complete the work. Instead, one of plaintiff's co-workers told plaintiff to use a crow bar to remove a ceiling. As he did this, the ceiling tumbled down, partially landing on his knee, necessitating two separate arthroscopic surgeries. In suing, we argued that New York's Industrial Code requires the employer to develop a plan for safely demolishing buildings. Such a plan, if put together, would have shown that the proper way to remove the ceiling was either by using a scaffold or by removing the ceiling from above so that the worker would not risk having debris fall on him or her. At mediation, prior to conducting depositions of the defendants, the case settled for \$500,000. 



## Unauthorized Credit Card Charges—Don't Panic


Unauthorized use of your credit card or credit card information can put a knot in the pit of your stomach. But don't despair. Federal laws and prompt notification will often limit your liability.

In most instances, if you notify your credit card issuer within 30 days of a lost or stolen credit card (or stolen credit-card information), you will not be liable for unauthorized charges made after that point. Any unauthorized charges made prior to your timely notification will frequently result in your liability topping out at \$50. Some credit card companies will be generous and cancel the \$50 charge. If your number (not the card) is stolen, your liability is zero.

If your debit card or debit card information is used without authorization, the timelines and liability differ a bit from credit cards. The Electronic Fund Transfer Act sets forth the rules for consumer liability:

- If you report within two business days that your debit card was lost or stolen, your liability will be \$50 or less.
- If you don't report it within two business days but do report it within 60 days after your bank statement is issued, your liability ceiling is \$500.
- If you fail to notify your bank within 60 days after your bank statement is issued, you may be on the hook for the entirety of the charges.

Occasionally, there may be extenuating circumstances that can extend the notice deadlines.

To protect yourself, check your bank and credit card accounts weekly to spot unauthorized activity. And never divulge personal information over the phone or via email or text message. 



### Important Dates

**December 7**

Pearl Harbor  
Remembrance Day

**December 21**

Winter Solstice

**December 24 –**

**January 1**

Hanukkah

**December 25**

Christmas

**December 26 –**

**January 1**

Kwanzaa

**December 31**

New Year's Eve

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# The Elements of a Lawsuit – What to Expect

## (PART THREE OF A THREE PART SERIES)

In the first two additions of this series, we discussed what happens during the first few months after a car accident – from going to an emergency room, to dealing with the insurance company to retaining a lawyer. In the second part, we discussed what happens when the lawsuit is actually started. We talked about the filing of a lawsuit, appearing for depositions, exchanging records with the opposing parties and how the plaintiff is examined by the defendant's doctors. Now, we will discuss when the pre-trial litigation is over and the trial starts.

The trial is probably the most stressful part of the litigation process. First, generally, a trial will occur within about two years after the lawsuit is filed depending on the venue of the case. The trial will most likely get scheduled six months in advance – after the lawyers tell the judge that all of the discovery has been completed. Depending on the Court, the initial trial date may be a flexible one or it may be a "final" date, meaning no adjournments. Leading up to the trial, the lawyers are busy subpoenaing records to the Court and coordinating the appearances of the medical and other experts.

It should be remembered that in personal injury trials, the plaintiff will need to produce all of the doctors that treated him or her for injuries stemming from the accident. And, these doctors do not testify for free. They must take time out of their busy schedules to testify for you and they expect to be – and rightly so – compensated for their time. It is not unheard of for these doctors to charge thousands of dollars for their time. And they get paid win or lose.


As the trial gears up, the injured party must spend many hours at the lawyer's office preparing. They need to know their medical history and they need to be prepared to answer any questions the defense attorney may have for them. We make sure the client is sufficiently prepared.

Once the trial starts, the lawyer spends the first few days interviewing prospective jurors at the courthouse to see if they

would be the right kind of juror to hear a personal injury case. The lawyers want to make sure these jurors have no biases – in other words, can they be fair. Sometimes prospective jurors are anti-lawsuit or have been injured themselves or they may know the doctors or parties involved. All of this information needs to be flushed out during the jury selection process. Good attorneys make their money understanding, appreciating and discovering prospective jurors' hidden biases. A total of six jurors and two alternates are selected out of a pool of about 100.

After jury selection, each side is then allowed to give an opening statement. Then the plaintiff puts on his case or her case, which includes the party testifying as well as witnesses and doctors testifying on the party's behalf. Then the defendants put on their case, which usually includes their own doctor to testify.

After the closings arguments from each side, the jury will first decide liability – who is to blame for the accident. If the jury decides that the defendant is liable, the jury then decides damages – how much the injured party should be entitled to if anything. Often, the plaintiff's attorney will ask the jury for a specific amount of money, although it is entirely up to the jury as to how much to award. Once the verdict is returned, the case is over, unless the parties decide to appeal.

In short, the trial is the most time consuming, stressful and chaotic aspect of the litigation process. It is very difficult to predict how six strangers will view your case. After all, you and your attorney have spent several years dealing with your case and your injuries, and now the jurors have a few days to learn all of it and make a decision which essentially affects the rest of your life. It is probably for this reason that only about 5% of cases ever actually reach a verdict. The majority of the rest settle out of Court. 



## Holiday Cookie Recipe: John's Fudge Crinkles

We hope you enjoy this tasty holiday treat. Prep time is 5 minutes and baking time is just 10. Recipe yields 30-48 cookies.

### INGREDIENTS

- 1 (18 1/4 ounce) box devil's food cake mix (Betty Crocker Super Moist suggested)
- 1/2 cup vegetable oil
- 2 large eggs
- confectioners' sugar or granulated sugar, for rolling

### DIRECTIONS

1. Preheat oven to 350°.
2. Stir (by hand) dry cake mix, oil and eggs in a large bowl until dough forms.
3. Dust hands with confectioners' sugar and shape dough into 1" balls.
4. Roll balls in confectioners' sugar and place 2 inches apart on ungreased cookie sheets.
5. Bake for 8-10 minutes or until center is JUST SET.
6. Remove from pans after a minute or so and cool on wire racks.



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StolzenbergCortelli LLP paralegals  
Isabel DeAngelo (left) and  
Carmen Contreras (right).



Disclaimer: StolzenbergCortelli LLP represents plaintiffs in all types of personal injury claims in New York. We are serious lawyers for serious cases. Attorney advertising. Prior results do not guarantee future performance.


## Emergency Medical Situations and Medical Malpractice

Most states have laws that shield first responders (e.g., paramedics, EMTs, ambulance crews, fire-fighters, etc.) from medical malpractice lawsuits. Emergency medical situations are intense, high risk, and often require split-second decisions. If normal medical malpractice laws were in place, first responders' hands would be tied as to the type of treatments they could provide during an emergency.

Unless a first responder does something incredibly careless or negligent, a medical malpractice claim is a moot point. Even if a claim is filed, it must be leveled against the employer, not the individual first responder.

Medical providers in hospital emergency room settings come under standard medical malpractice rules: Did they act as a reasonably prudent medical practitioner would have under the same or similar circumstances? However, emergency medical situations do not allow for the calm consideration that is afforded other medical/hospital scenarios. A mistake must be severe to rise to the level of negligence. If medical malpractice is committed in the emergency room, the hospital is generally on the hook, not the ER doctor.

The Good Samaritan Rule, active in all 50 states, gives legal protection to citizens who come to the aid of an injured or ill person, as long as they act with reasonable care. Its intent is to minimize the reluctance of a person to help someone in distress. If an off-duty doctor comes to the rescue, he/she will not be judged by medical malpractice standards, but by Good Samaritan rules.

Medical malpractice cases are complex. If you believe you have been a victim of medical negligence, contact a medical malpractice attorney to protect your rights. 



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