

LIFE, LIBERTY, AND THE LAW



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PERSONAL INJURY ATTORNEYS

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Could We Finally Be Turning The Corner?

By Robert Hemphill and Kim Cullen

Maybe we are being overly optimistic, but we are starting to get the feeling that perhaps the worst effects of the pandemic are finally behind us. All of our parents have finally received vaccines, and so have Bob and Julie and Grace Cullen (because she is a nursing student and working daily in Shands Hospital in Gainesville.) The Hemphill girls have been back in school - live and in-person - for about six weeks and haven't had any health issues, and neither has Weeze at Boone High School - as more and more students have been returning to school. (Knock on wood...)

Weeze and Kim are optimistic that they will actually get to see Grace and Jack graduate later this Spring in Gainesville. They are still disappointed that Burns' Master's Degree ceremony was cancelled by the University of Florida back in the Fall due to COVID concerns.

Youth sports have also opened back up, so Lindsay and Allison Hemphill are both playing soccer this Spring, and also doing tennis and gymnastics,

respectively. It is nice to have them returning back to some level of normalcy.

Bob and Kim are both looking forward to opportunities to get back into the community and do some good. We both really miss opportunities to sponsor and participate in road races, art festivals, and

school-related events.

We also look forward to the courthouse fully re-opening and allowing for the scheduling of trials. Although not very many cases actually go to trial, having trials scheduled really does help keep cases moving.

Here at the firm, we are pleased and grateful that we continue to

receive referrals from so many of you — our readers and friends. As most of you already know, referrals are the lifeblood of any law firm - but particularly specialized boutiques like ours. We cannot express to you enough how much we appreciate the confidence you show in us with all of your referrals.





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Did You Know? Florida Ranks #1 in Boating Accidents

By: Kim Sprouse and Kim Cullen

The United States Coast Guard ranks Florida as the leading state in the nation for boat accidents. According to the Coast Guard's 2019 Recreational Boating Statistics Report, there were 679 boat accidents in Florida. Of those accidents, 55 were fatal resulting in 62 total deaths.

Much like automobiles, boat operators have a duty to operate their boats in a reasonably safe manner. If a boat operator fails to operate his or her boat in a reasonable manner it can lead to accidents, resulting in damages, injuries or death.

According to the Coast Guard, the number one cause of boating accidents in the state of Florida is alcohol.

Operating a vessel under the influence of alcohol or drugs is obviously illegal. If a boat owner or operator injures or kills someone while under the influence, they may not only be financially responsible for the damage they have caused, but may also face jail time.

Other examples of negligent acts or omissions that can lead to Florida boating accidents include:

- Speeding
- Not paying attention while driving
- Inexperienced operators
- Not providing the proper safety equipment
- Sharp turns or turning into a wave
- Taking a vessel out onto the water in poor weather conditions

Sadly, many boating deaths result from not using basic safety equipment. For example, many boating-

related deaths are the result of drowning after an initial impact or accident. Simply wearing a lifejacket might not save someone from an injury related to a collision, but it can certainly keep someone from dying afterwards.

Fortunately, there are a great number of boating safety courses offered around Florida for anyone expecting to spend any significant time on the water as the weather gets warmer. The U.S. Coast Guard Auxiliary offers them frequently, as well as several different private organizations (for a small fee.) Many of these courses are even available online and on-demand.

The investigation of boating accidents is very

similar to that of a motor vehicle crash. Law enforcement (both local and state - depending upon the severity of the incident) will typically conduct the investigation, decide upon fault and whether anyone will be charged with a crime, and will issue official reports. However, much like car



accidents, a report is not the final word on fault.

If you or anyone you know has been injured in a boating accident, or you are the loved one of a person killed in a boating accident, you should contact an attorney to discuss whether you have a viable claim. Similar to car accidents, failure to involve an attorney early in the process can result in the accidental destruction of valuable evidence. Similarly, failure to speak with witnesses soon after an accident can result in losing them or deterioration of their memories.

If you have questions regarding a boating accident, please call us. We love to answer questions and initial strategy sessions are always at no cost.

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What Cost Freedom? Talking Motorcycle Helmets...

By: Kim Sprouse and Kim Cullen

Most of our readers who are avid motorcyclists know that helmets are not legally required to be worn by any rider who is 21 years of age or older in Florida. As many of our older readers will remember, helmets used to be required in Florida. However, after many years of riders arguing that they should have the “freedom” to choose whether to wear a helmet or not, the Florida Legislature finally relented and made them optional.

As an experienced personal injury law firm, we have seen more than our fair share of motorcycle accidents, and the injuries that usually come with them. Given what we’ve seen, we continue to believe that wearing a helmet is a key safety practice when it comes to motorcycles.

Any motorcyclist who is involved in an accident, was not wearing a helmet, and who suffered a head, face, or neck injury should anticipate the at-fault driver or insurance company raising the “helmet defense”. The helmet defense works similarly to the “seat belt” defense in a car crash case.

Under the helmet defense, the at-fault party will argue that it is not responsible for compensating the motorcyclist for any injuries that would have been alleviated had the rider been wearing a helmet.

Any blame that a jury assigns to the motorcyclist - for unsafe riding and/or for not wearing a helmet — directly decreases the at-fault driver’s exposure to damages. For example if the rider’s injuries have a gross value of \$100,000.00, but the jury finds that the motorcyclist was 70% to blame for his own injuries by not wearing a helmet, the biker’s claim will only be worth \$30,000.00.

Motorcycle accident claims are always challenging to win. The failure to wear a helmet sometimes adds to that. If you have questions about a Florida motorcycle accident, call us. We love to answer questions, and we always answer them free-of-charge.



Florida Senate Wants to Replace PIP Insurance

By: Bob Hemphill

The Florida Senate wants to repeal Florida’s Personal Injury Protection (PIP) insurance law and to replace it with a mandatory bodily injury insurance scheme. Senate Bill 54 (SB 54) would do away with PIP and instead make every vehicle owner in Florida carry Bodily Injury Liability coverage. Coverage limits would differ depending upon the insured’s status - students and low income drivers would have lower limits.

The insurance industry has fought these kinds of changes for a long time. PIP has been enormously profitable for insurance companies, and has been the law in Florida for almost 50 years. However, PIP has long been confusing and awkward for consumers.

As a trade-off for elimination of PIP, the insurance companies want Florida’s bad faith law to be significantly diminished. Bad faith law is what allows for insurance companies to be punished financially if they treat their policyholders poorly and do not fairly and reasonably resolve claims. Elimination or deterioration of bad faith laws would be absolutely devastating for Florida consumers. Most folks would be better off with unattractive PIP than to have bad faith law disappear.

SB 54 goes to the Rules Committee and then the Senate floor. You can track the progress of SB 54 here - <https://www.flsenate.gov/Session/Bill/2021/54>.



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In this issue...

- 📍 How long until COVID is in our rear mirrors? 1*

- 📍 Why Is Florida Ranked #1 in Boating Accidents 2*

- 📍 Not Wearing a Motorcycle Helmet Could Cost You 3*

- 📍 Find out how Florida car insurance might change.....4*



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Feeling Isolated By COVID? Get Social With Us!

By: Kim Sprouse

Did you know that this newsletter is only one of the ways that we keep our friends and neighbors informed about our firm and things that are going on locally and in the legal world? We regularly post news articles, current events, legal tips, and legal news on all of our social media accounts and on our firm website. We strive to keep you informed about the personal injury and legal community. You can follow us on the following platforms to stay in-the-know.

Cullen & Hemphill website - <https://www.cullen-hemphill.com/>

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