

Safety First, Justice Always

LAW OFFICES OF KENNETH BERGER NOVEMBER 2025 NEWSLETTER

“Lots of News, Not Enough Newsletters”

Like many of you, we’ve been running hard this year. Between trial prep, legislative battles, and a toddler, the months have flown by. There’s been lots of news — just not enough newsletters.

Since January, our firm has been deeply involved in the ongoing fight at the State House against what I call insurance welfare — laws that favor billion-dollar insurers at the expense of South Carolina citizens and small businesses. These fights rarely make their way into everyday conversation, but they do impact the lives of every American. Speaking truth to power requires sacrifice, persistence, and a community of citizens who still believe human beings should come ahead of corporate greed.

On the legal side, we gained national attention with our case against Uber on behalf of a CEO who was assaulted by one of the rideshare’s drivers. The case poses a simple question: Should Uber be allowed to send countless drivers into our community without knowing whether these people are dangerous? The case and the story are about accountability — the same principle that motivated our legislative work.

In recent weeks, we also helped a family reach a wrongful death settlement that was covered in multiple legal publications. The headlines focused on finger pointing; we focused on the value of human life.

Like you, we’re all trying to find time — time to do good work, time to stay connected, time to catch our breath. This newsletter is our reminder to do just that: to pause, share, and stay in touch. We plan to do a better job of that in the months ahead and want to take this moment to wish you the happiest of Thanksgiving holidays!



Disclaimer: Any result I may achieve on behalf of one client in one matter does not necessarily indicate similar results can be obtained for other clients. In addition, some of these results were obtained in connection with other firms. I am a South Carolina injury lawyer, not a miracle worker. I evaluate every case on its own merits and only accept a limited number of new cases every year.

Firm Snapshot

Attorney Kenny Berger Named 2026 Lawyer of the Year



We are proud to announce that Attorney Kenny Berger has been named the 2026 “Lawyer of the Year” in Personal Injury Litigation – Plaintiffs for Charleston, SC by The Best Lawyers in America®. This prestigious recognition is based entirely on peer review and is awarded to only a single lawyer in each practice area and geographic region.

Kenny was also selected by his peers for inclusion in the 32nd edition of The Best Lawyers in America®, and our firm was named a 2026 “Best Law Firm” by Best Lawyers in the area of Personal Injury Litigation – Plaintiffs

We are grateful to our peers in the legal community for this honor and, more importantly, to our clients for placing their trust in us.

Listening Like a 2-Year-Old

Attorney Janek Kazmierski

Thirty years ago, Robert Fulghum wrote *All I Really Need to Know I Learned in Kindergarten*, sharing simple yet enduring life lessons: play fair, share, clean up after yourself, and apologize when you’re wrong. In my own life, through my interactions with my two-year-old daughter, I’ve learned a new lesson that particularly resonates in the field of law: the importance of active listening.

Every evening, my daughter sits on my lap, and I ask her about her day. “Did you have fun at Grandma’s? What did you eat for lunch? Did you play outside?” She listens intently, making eye contact as I speak. She nods when she understands, and when asked a new question, she scrunches her nose and squints her eyes, showing she’s focused and trying to process the information. Her answers often come with big gestures and a flurry of cute, mostly unintelligible words.

In our busy, distraction-filled lives, where phones, texts, and emails constantly demand our attention, it’s easy to get sidetracked. Social media platforms like YouTube, Facebook,

and Instagram add to the noise. But in moments of stress, when we need advice or answers, we seek someone who will truly listen. Someone who will give us their full attention.

Through my nightly conversations with my daughter, I’ve rediscovered the power of active listening. Her actions—making eye contact, confirming understanding, and offering non-verbal cues that she’s engaged—are reminders of how I should approach my own conversations.

As your lawyer, I will take a page from my daughter’s book. When we speak, I will listen. I will focus on understanding your concerns. And I will give you my full attention.



The Practice of Law

Navigating the Upcoming Changes to Dram Shop Law

South Carolina's dram shop laws have operated under a simple rule: if a bar overserved a customer, and that customer drunkenly hurt someone else, the injured person could bring a civil action against both the bar and the drunk driver. Additionally, if the bar was found 1% responsible, it could be held liable for 100% of the actual damages. The idea was to deter overservice and help keep innocent people safe.

That all changes on January 1, 2026. Under the new framework, there is essentially a 50/50 rule: when a drunk driver and a bar are both found liable, a single bar's exposure is capped at 50% of the plaintiff's actual damages. The drunk driver and any settling defendants will typically appear on the verdict form, leaving open questions about how responsibility is apportioned when multiple bars are involved.

Beyond liability, the law also revises insurance and training requirements. The familiar \$1 million liquor liability mandate remains, but a system of credits can now reduce the aggregate limit. Early closing earns a \$250,000 credit; server training completed within 60 days may reduce coverage by \$100,000; low-alcohol sales and forensic ID systems can each provide another \$100,000; and nonprofit single-event permits may see a \$500,000 reduction. Even so,

there's a hard floor: aggregate coverage can never fall below \$300,000. Relatedly, the per occurrence coverage must be at least 50% of the aggregate coverage. In practice, this is go-

ing to hurt victims and leave bars underinsured. *In other news, it will help the insurance giants already making record profits.*

Mandatory server-training provisions are a welcome addition to the law. Every server and manager at on-premises establishments must obtain an alcohol-server certificate within 60 days of hire. Training must be approved by the Department of Revenue with input from SLED. Certificates last three years and must be kept on-site for regulators. For licensees seeking insurance credits, compliance isn't optional—it's essential.

The substantive law of service also changes. Section 61-6-2220 now includes the word "knowingly," ending what many viewed as strict liability for serving liquor to an intoxicated person and bringing the rule for liquor service into alignment with the "beer/wine statute."

Finally, collegiate venues gain their own playbook: mandatory server training, internal compliance checks, forensic ID technology, and bans on sales in student sections. Non-compliance risks permit loss and serious penalties. This change to the law took effect earlier in 2025 and applies to all collegiate sporting events where alcohol is sold in-stadium.

These are sweeping reforms, and while their intent is to encourage responsible service, they will also reshape litigation strategy and coverage analysis in many dram shop cases. For those of us representing innocent victims, the goal remains the same: to uncover the truth of what happened, establish law-breaking and causation, and ensure accountability doesn't stop at the last drink poured.

WANT TO LEARN MORE?



Use this QR code to visit our complete guide to the 2026 SC Dram Shop Law Updates.

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- 1 Lots of News, Not Enough Newsletters
- 2 Attorney Kenny Berger Named 2026 Lawyer of the Year
- 3 Navigating the Upcoming Changes to Dram Shop Law

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NOVEMBER 2025 NEWSLETTER

PAGE 04

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