



LAW OFFICE OF KENNETH E. BERGER, LLC

AUGUST 2015 NEWSLETTER

SAFETY FIRST JUSTICE ALWAYS



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"Counterbalance"

BY KENNETH BERGER

I admire people who find daily balance between work, family, recreation, and spiritual growth. Owning a law firm and litigating cases is not always conducive to balance. In fact, it makes daily balance a near impossibility. Many of you have jobs or other responsibilities that hinder balance as well.

So what can we do about it? Should we care? The answer to both questions is "Yes." For as much as I enjoy practicing law, I also care about my health, value my relationship with G*d, love to travel, am close with family, and flat-out like to have a good time.

Though we may struggle to strike a constant balance, we can find "counterbalance." The idea –

which I picked up from "The One Thing" by Gary Keller – is that while a few straight weeks of long, long hours at the office might be unavoidable, we need to leave work behind as soon as we get past that trial/project/rush. If I have not seen my family, gone out with friends, hit the gym, or spent as much time in prayer as I would like during a work rush, I need not feel guilty. Rather I can counterbalance it by devoting significant energy to the areas that have been overlooked or under-attended.

For example, I've put in a lot of evenings and weekends this summer. How am I counterbalancing? By going to Israel for 10 days. If you struggle to find balance, give yourself a break, and give counterbalance a shot.

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.

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Orangeburg Assisted Living Facility Places Convicted Felon In Charge of Senior's Care

BY KENNETH BERGER

In December 2012, "Ms. Doe" died alone in the bathroom of an Orangeburg, SC assisted living facility. She bled to death after pulling a dialysis catheter out of an artery in her leg. Ms. Doe suffered from dementia, and had recently been hospitalized for a near bleed-out after doing the exact same thing with a catheter in her arm. The hospital's discharge notes highlighted the fact that Ms. Doe continued to pick at her catheter. Despite these facts, the senior care home to which Ms. Doe returned chose not to supervise her, nor provide her with a qualified, trained nurse.

I have known Ms. Doe's son for more than 10 years. He came to me in late-2012 looking for answers. My firm immediately began researching the facility and the caregiver; we requested all records, contacted witnesses from the coroner's office, and I personally met with the pathologist who performed the autopsy, as well as Ms. Doe's dialysis doctor. We also hired a private investigator to learn more about the woman who was supposedly caring for Ms. Doe on the night of her death. It turns out the woman was not a certified nurse, but rather a convicted felon.

When the assisted living facility chose to hire this unqualified felon, it set in motion a series of events that culminated in a fatality. Though we could not reverse time, we were able to provide Ms. Doe's son with closure and a significant settlement. Our good friends, Gary Poliakoff and Ray Mullman out of Spartanburg, SC, served as co-counsel, and were instrumental in forcing the defendants to settle.



REXY'S RECIPES: BUFFALO CHICKEN DIP

via allrecipes.com

Ingredients:

- 2 (8 OZ) PACKAGES OF CREAM CHEESE SOFTENED
- 3/4 CUP HOT SAUCE, I.E. FRANK'S RED HOT
- 1 CUP RANCH DRESSING (OR BLEU CHEESE DRESSING)
- 2 LARGE BONELESS COOKED CHICKEN BREASTS SHREDDED (CANNED OR FRESH)
- 1 1/2 CUP SHREDDED CHEESE



Directions:

1. PREHEAT OVEN TO 350 DEGREES.
2. MIX ALL OF THE INGREDIENTS TOGETHER IN A BOWL THOROUGHLY. SET ASIDE SOME OF THE CHEESE TO PLACE ON TOP.
3. TRANSFER THE MIXTURE TO A 8"X11" PAN. SPRINKLE THE REMAINING CHEESE ON TOP.
4. BAKE FOR 20-25 MINUTES UNTIL THE CHEESE IS MELTED AND THE MIXTURE BEGINS TO BUBBLE.
5. BEST SERVED WARM WITH CRACKERS, CHIPS, OR VEGETABLES.

BUFFALO CHICKEN DIP IS the perfect snack FOR BACK TO SCHOOL PARTIES AND TAILGATING! Tag us IN A PHOTO ON FACEBOOK OR TWITTER WITH #RexysRecipes FOR A free KB T-shirt and koozie!

Prep Time:	Cook Time:	Servings:
5 MINS	25 MINS	20 PEOPLE

THE BEST AMONG US: DAVE MAXFIELD



Diligent, distinguished and persistent are only a few words that describe South Carolina consumer protection attorney, Dave Maxfield. Since earning his degree from the University of South Carolina School of Law in 1994, he has represented hundreds of individual consumers in cases against big banks, debt collectors, credit report agencies and insurance companies.

Maxfield is involved in several professional legal organizations and is three-time Chairman of the Consumer Law section for the South Carolina Bar and the Editor of the Richland County Bar Newsletter. He also devotes his time to educating others in the field, as well as the general public, about consumer dilemmas and technology use.

For more information regarding consumer protection law and how Dave Maxfield and his team can be of service to you, call (803) 509-6800 or visit consumerlawsc.com today.

MEET OUR TEAM:

ALIVIA TROXELL

After living in Columbia, South Carolina for four years, I consider it to be “home,” although Anderson, South Carolina is my “hometown.” In May 2015, I earned a bachelor’s degree in mass communications from the University of South Carolina, where I majored in public relations and minored in women and gender studies. Before becoming marketing coordinator, I served as the firm’s marketing and public relations intern. After lots of learning, hard work and fun, I happily accepted an extended membership to the Law Office of Kenneth Berger family.

I love working alongside our incredible team to help families affected by life changing injuries. It is truly a blessing to feel great about what you do and the organization you are a part of. In addition to my job, I am passionate about health and exercise, womens’ rights, traveling and service, especially with Girls on the Run of Columbia and Zeta Tau Alpha.



How Important is the Accident Report When Determining Fault in a South Carolina Truck Accident?

BY KENNETH BERGER

18 wheelers travel up and down South Carolina’s interstates 24 hours a day, 365 days a year. When they get in collisions with passenger vehicles, the harm is often significant, if not catastrophic. To hold the truck driver or his company liable, you must first prove the crash was their fault. The accident report may seem important, but in a civil case it is inadmissible. Instead, we rely on witness accounts and scientific data to establish who bears responsibility for the collision.

Why You Can Pursue a Civil Case Even If the Cops Placed You At Fault

The general rule is that at trial, people may only testify as to what they personally witnessed. The most common exception – especially in tractor trailer cases – is that expert witnesses can provide opinions even if they did not see the collision. So what does this mean when it comes to the responding officer’s findings? It means these findings rarely see the light of day at a civil trial. The cop may testify as to what he observed once he arrived at the scene, or what he heard the drivers say (hearsay exception), but he cannot give his opinion on who caused the crash.

In cases involving life-threatening injury or death, a special branch of the South Carolina Highway Patrol known as MAIT (Multi-Disciplinary Accident Investigation Team) might be

called. One problem with MAIT investigations, however, is that the first – and sometimes only – person they speak with is often the truck driver. With their job and their livelihood on the line, the truck driver is liable to say anything to escape being found at fault. The other driver may be on the way to the hospital, unable to defend themselves or provide law enforcement with the truth.

Another problem with MAIT investigations is that unless the crash resulted in a fatality, their work could be limited to “on scene” documentation. In other words, they do not engage in detailed, scientific analysis of how the accident actually occurred.

How We Prove the 18 Wheeler Driver is Responsible For the Crash

Most trucking accidents require us to hire at least one expert witness. The first of these experts is generally a “collision reconstructionist.” Our reconstructionist will do exactly what the title implies – he will “reconstruct” the crash using engineering principles. Based on factors such as weight, speed, skid marks, and angular force, our expert will help determine how it all happened. South Carolina law also allows us to download data from the tractor trailer’s “black box” to further analyze why they collided with you.

Additionally, we may hire a safety/regulatory expert to help identify

how and why a company failed to properly train and supervise its driver. Under state and federal law, the company is responsible for its acts as well as those of its employee. We will investigate whether the company complied with safety regulations that are in place to keep innocent people from harm, or whether it was negligent in its hiring, retention, and monitoring of the driver.

What You Can Do To Uphold Your Right To Safety & Justice

Our first concern for clients is always their health. Along that same line, please focus on your immediate medical needs before worrying over insurance and legal issues. However, as soon as you are physically able to seek help, I encourage you to at least contact a lawyer. Trucking accidents are time sensitive, as companies might move the vehicle – and the black box – far away. Similarly, the sooner we can investigate the crash site, the more evidence we may be able to obtain.

Do not be discouraged if the police officer or MAIT team put you at fault when you know that simply is not true. While proving liability is critical to your case, it is not determined by what highway patrol concludes. Rather, liability is based on facts. Those facts are discovered by way of thorough, scientific investigation, often including collision reconstruction.

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CELEBRATING SOUTH CAROLINA'S
GREATEST SEASON
COLLEGE FOOTBALL
AND ITS GREATEST RIVALRY
USC v. CLEMSON
WITH 2 KIDS JERSEY GIVEAWAYS!

SAVE THE DATES:

AUGUST 31- SEPTEMBER 6

HOW TO WIN:

1. Like our Facebook page:
 - www.facebook.com/BergerLawSC
2. Post a picture on Facebook with a piece of paper saying #KBJerseyGiveaway and tag us in it:
 - @ Law Office of Kenneth E. Berger, LLC
3. Indicate in the post which team you root for:
 - USC Gamecocks or Clemson Tigers
4. Check Facebook September 9 for the winning families of our #KBJerseyGiveaway!

QUESTIONS?

Call (803) 790-2800 or email alivia@bergerlawsc.com.

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