



LAW OFFICE OF KENNETH E. BERGER, LLC

FEBRUARY 2015 NEWSLETTER

SAFETY FIRST JUSTICE ALWAYS



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Measuring Success

BY KENNETH BERGER

Rick Friedman is one of the country's most respected, and influential attorneys. A while back, Rick spoke to his daughter's law school class about practicing law and measuring success (find the video online and watch it as soon as you get done reading this newsletter...especially if you are not a lawyer).

Rick emphasizes that success cannot be measured by wins and losses, but rather by the values that drive one's practice and one's life. For example, he mentions that as far as we know, Atticus Finch is 0-1, yet Atticus' character from "To Kill a Mockingbird" has become the ideal that many lawyers chase their entire career.

This point resonated with me because I watched Rick's video a few hours after settling a hard fought case that is detailed on page 2. Whether we would have won or lost on the verdict form had less significance personally than the growth I experienced as a lawyer and a person from working on the case. No matter the financial outcome, I had already succeeded. How will you measure success in 2015? Which values will guide you? For all of Rick's professional achievements, it is his compassion, integrity, and commitment – not his bank account – for which he will be remembered. How would you like to be remembered?

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.

Insurance Company Fights TBI Case Until Week Before Trial

“John” is struck from behind on Interstate 20 in Columbia, SC. The at-fault driver crashes into the back of John’s pickup truck doing 75-80 mph. When John arrives at Palmetto Richland, he has a 3 cm laceration on the back of head. He is disoriented. John’s CT scan is normal, however. Palmetto Richland diagnoses John with a mild traumatic brain injury and discharges him the next day.

John lives in Aiken County. He sees a local neurologist several weeks after the wreck. The local neurologist diagnoses John with post-concussive symptoms and releases him.

Fast forward 6 months: I meet John’s family, who he tells me “just doesn’t seem the same, has a tough time remembering stuff, and gets angry over the littlest things.” I encourage them to have a neuropsychological evaluation performed to determine the effects of John’s brain injury on his personality, mood, and cognitive ability.

The tests confirm what the family has witnessed. John is having difficulty with attention and mood swings due to axonal shearing in the frontal lobe. In other words, the crash rattled his brain, stretching and tearing some of the electrical wires at the front of John’s brain.

We then seek out a second opinion from a neurologist who concludes that John has sustained a mild TBI with long-term effects. This specialist believes that John would greatly benefit from medication, counseling, and follow up care.

Despite these facts, the insurance company for the at-fault driver fights us tooth-and-nail for two years. It is not until a few days before trial is set to begin that they finally acquiesce and pay John a fair amount for his injury.

John’s story is not uncommon. Not only are TBIs caused by car accidents in Columbia and across the state, these injuries frequently go undiagnosed, untreated, and undervalued without the help of medical and legal professionals. Even mild brain injuries (i.e. concussions) can have a major impact on a person’s life.



REXY’S RECIPES: RED VELVET CAKE BALLS

via bakerella.com

Ingredients:

- 1 BOX RED VELVET CAKE MIX
(COOK AS DIRECTED ON BOX FOR 13 X 9 CAKE)
- 1 CAN (16 OZ) CREAM CHEESE FROSTING
- 1 PACKAGE CHOCOLATE BARK
(REGULAR OR WHITE CHOCOLATE)
- WAX PAPER



Directions:

1. AFTER CAKE IS COOKED AND COOLED COMPLETELY, CRUMBLE IT INTO A LARGE BOWL.
2. MIX THOROUGHLY WITH CAN OF CREAM CHEESE FROSTING.
3. ROLL MIXTURE INTO QUARTER SIZE BALLS AND LAY ON COOKIE SHEET.
4. CHILL FOR SEVERAL HOURS.
5. MELT CHOCOLATE IN MICROWAVE PER DIRECTIONS ON PACKAGE.
6. ROLL BALLS IN CHOCOLATE AND LAY ON WAX PAPER UNTIL FIRM.

Prep Time: Cook Time: Servings:
20 MINS 30 MINS 45-50

THE BEST AMONG US: LAWYERLISA, LLC



If you have any real estate or estate planning needs, we encourage you to visit one of the two offices for LawyerLisa, LLC in Columbia, SC. Lisa and her experienced associates work to meet the unique needs of its clients and focus on simplifying life’s complications. LawyerLisa, LLC has established a loyal client base but always keeps its doors open for those in need of their services.

LawyerLisa, LLC shares a similar interest with our firm in serving the community and is also extensively involved in various aspects of South Carolina life. For more information about its employees or practice, go to lawyerlisa.com.

MEET OUR TEAM: CHELSEA ROBERTSON

I moved to Columbia, South Carolina in the fall of 2014 from Chesterfield, Virginia. I am a graduate of Virginia Commonwealth University with a bachelor's degree in criminal justice and forensic crime scene investigation, as well as a minor in sociology. Working in the legal field has and always will be a passion of mine. Prior to working as a legal assistant, I was a paralegal for a criminal law firm and participated in numerous trials.

I'm blessed to work at the Law Office of Kenneth E. Berger, LLC amongst a team that is thoughtful, disarming and tremendously hard working. Aside from helping individuals get the justice they deserve, I enjoy watching sports, traveling and cooking.



Punitive Damages Can Be Obtained For Bodily Injury (and Property Damage) Under South Carolina Law

BY KENNETH BERGER

What most people call “car accidents” may be more accurately described as “the consequence of one driver violating our safety rules and causing harm to another person.” For instance, no one “accidentally” drives drunk, looks down to send a text message, or speeds through a busy school zone. These are all choices a driver makes - choices that endanger families across South Carolina. When these reckless choices cause a wreck, the victim may seek punitive damages not only for bodily injuries they suffer, but also for property damage.

For example, let's say you are sitting at a red light, and a drunk driver crashes into you from behind. Your injuries could range from temporary whiplash to permanent back damage. Either way, you have the right to seek punitive damages against the drunk driver due to their reckless act. Likewise, South Carolina auto accident law allows you to pursue punitive damages for the costs associated with fixing or replacing your vehicle.

Why is this distinction important? Simply put, the at-fault driver might not have enough insurance coverage under their bodily injury policy to fully compensate you for your harm. Let's say the drunk or distracted driver who caused your accident has only a minimum

limits policy of \$25,000.00 for bodily injury and \$25,000.00 for property damage, yet your medical bills alone are \$30,000.00. In this scenario, the at-fault driver's insurance company is going to tell you that they will pay the bodily injury limits of \$25,000.00. They will also offer to pay fair market value to fix or replace your car. What they are not going to volunteer is that you should probably be paid the entire property damage limits (\$25,000.00) regardless of how much it costs to fix your car. Why are they going to leave out this information? Easy, insurance companies want to save money. Why should you receive money for property damage beyond the costs of your vehicle? Because punitive damages are not intended to compensate you for losses alone, but also to punish the reckless driver for endangering our entire community.

South Carolina auto accident law is clear: victims of reckless, drunk, or distracted drivers can receive punitive damages from both the bodily injury and property damage portions of the at fault driver's insurance policy. Don't trust an insurance adjuster to share this type of critical information with you or deal with you fairly. Instead, contact me today and learn what you can do to make sure your rights are fully protected.

FEBRUARY 2015 NEWSLETTER

Excellence

REVIEW BY HOLLY G. OF COLUMBIA, SC
via Avvo

Overall rating	★ ★ ★ ★ ★	Excellent
Trustworthy	● ● ● ● ●	Excellent
Responsive	● ● ● ● ●	Excellent
Knowledgeable	● ● ● ● ●	Excellent
Kept me informed	● ● ● ● ●	Excellent

“Kenny helped my family navigate a successful path as the plaintiffs in a complex personal injury case that involved products liability and institutional failures. This was not an easy case, but Kenny showed wisdom and talent in his practice of law. I greatly appreciate his service.”

*Thank you for your kind words,
Holly. We appreciate you.*

NOTE: THIS PUBLICATION IS INTENDED TO EDUCATE THE GENERAL PUBLIC ABOUT PERSONAL INJURY, CIVIL LITIGATION AND WORKERS' COMPENSATION ISSUES. THE INFORMATION CONTAINED IN THIS PUBLICATION IS NOT LEGAL ADVICE. EVERY CASE IS DIFFERENT. THE INFORMATION IN THIS NEWSLETTER MAY BE FREELY COPIED AND REDISTRIBUTED AS LONG AS THE NEWSLETTER IS COPIED IN ITS ENTIRETY.



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