

# Law Office of Kenneth E. Berger, LLC

## OCTOBER 2014 NEWSLETTER

Personal Injury

Auto Accidents

Wrongful Death



Traumatic Brain Injury

Injuries to Children

Workers' Compensation



### Our Most Basic Right

by Kenneth Berger

To me, there is no right greater than freedom of religion, no right more critical to leadership than freedom of speech, and no right more reflective of our ideals than the freedom to vote.

Yet each of these treasured rights depends on something more fundamental: our right to safety. Each of us, from the time we are born, has the right to freedom from needless dangers and unnecessary harm. No one – from drunk drivers to unqualified medical personnel to profit-hungry mass manufacturers – has the right to harm us. This concept is the foundation of our criminal justice system, and to a degree, our civil system.

What are often called “accidents” are many times one person’s conscious decision to violate another’s right to safety. Be it a rear-end collision caused by texting, a nursing home fatality caused by inadequate training, or a daycare injury caused by an uncaring teacher, I do not come across many “accidents” in this profession. Rather, I see the consequences that are created when people and companies choose to break the safety rules, knowing all the while the harm their choices can cause.

Your right to safety – and that of your neighbor – must be upheld. Just as you may demand the right to freely speak or practice your religion, so too can you demand that drivers, hospitals, daycares, and manufacturers operating in our community follow the rules that keep us from harm.

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- 2 REXY’S RECIPES: DOUBLE LAYER PUMPKIN CHEESECAKE
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- 3 GET INJURED IN SCHOOL BUS ACCIDENTS BEFORE DRIVERS START PUTTING SAFETY FIRST?
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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.

## 1 Motorcycle Accident, 5 Insurance Policies, and Justice for the Victim

In June 2014, a Lexington, SC driver broke multiple traffic laws before striking Mr. X's motorcycle. The wreck resulted in severe injury to Mr. X, who ultimately spent 6 days in the hospital. Facing an avalanche of medical bills and insurance questions, his family contacted my law firm. We immediately went to work in search of evidence, insurance coverage and ultimately, justice.

In the end, we were able to identify 5 separate insurance policies that applied: 1 liability policy from the at-fault driver; 1 underinsured policy on Mr. X's motorcycle; and 3 at-home underinsured policies. In South Carolina, the law allows us to "stack" underinsured policies so long as certain requirements are met. In this case, we stacked 4 such policies.

Mr. X received these insurance funds within 4 months

of his motorcycle accident, in part due to the fact that we diligently collected evidence, and also because we let the various insurance companies know they only had 30 days from the time they received our demand packages to pay out their policy limits if they wanted to avoid a "bad faith" lawsuit.

When we first met Mr. X, he was in a world of hurt and financial uncertainty. I am happy to say that only a few months later, he is on the road to a full physical recovery, and received enough money to provide financial stability for the foreseeable future.

If any part of this story sounds familiar to you, or if you simply have questions about an injury case in South Carolina, do not wait on an insurance company for justice. Call me today at 803-790-2800.



PREP: 30 MINS  
COOK TIME: 40 MINS  
SERVINGS: 8

### Double Layer Pumpkin Cheesecake via [allrecipes.com](http://allrecipes.com)



*This cake combines the best of two treats, cheesecake and pumpkin pie, for the ultimate party dessert!*

#### INGREDIENTS

- 2 (8 OUNCE) PACKAGES CREAM CHEESE, SOFTENED
- 1/2 CUP WHITE SUGAR
- 1/2 TEASPOON VANILLA EXTRACT
- 2 EGGS
- 1 (9 INCH) PREPARED GRAHAM CRACKER CRUST
- 1/2 CUP PUMPKIN PUREE
- 1/2 TEASPOON GROUND CINNAMON
- 1 PINCH GROUND CLOVES
- 1 PINCH GROUND NUTMEG
- 1/2 CUP FROZEN WHIPPED TOPPING, THAWED

#### DIRECTIONS

- (1) PREHEAT OVEN TO 325 DEGREES F
- (2) IN A LARGE BOWL, COMBINE CREAM CHEESE, SUGAR AND VANILLA. BEAT UNTIL SMOOTH. BLEND IN EGGS ONE AT A TIME. REMOVE 1 CUP OF BATTER AND SPREAD INTO BOTTOM OF CRUST; SET ASIDE.
- (3) ADD PUMPKIN, CINNAMON, CLOVES AND NUTMEG TO THE REMAINING BATTER AND STIR GENTLY UNTIL WELL BLENDED. CAREFULLY SPREAD OVER THE BATTER IN THE CRUST.
- (4) BAKE IN PREHEATED OVEN FOR 35 TO 40 MINUTES, OR UNTIL CENTER IS ALMOST SET. ALLOW TO COOL, THEN REFRIGERATE FOR 3 HOURS OR OVERNIGHT. COVER WITH WHIPPED TOPPING BEFORE SERVING.

## The Best Among Us: Roger C. Peace Rehabilitation Center

Roger C. Peace Rehabilitation Center is the only program of its kind in South Carolina and maintains specialty accreditation by the Commission for Accreditation of Rehabilitation Facilities as a brain injury outpatient program. Their program will serve more than 200 patients this year, and their patients and families consistently provide excellent feedback about the care they receive.

With more than 30 years of experience in inpatient and outpatient specialty care, Roger C. Peace Rehabilitation Hospital is one of the most respected rehabilitation centers in the Southeast and a leader in caring for people with brain injury. They accept referrals for the outpatient program from physiatrists, neurologists, neurosurgeons and psychiatrists. For direct referrals, call the Business Office at 864-455-8788.

## Firm Snapshot: Elizapalooza

On August 23, 2014 our good friend & exceptional lawyer, Hugh McAngus, Jr. invited us to participate in Elizapalooza at Saluda Shoals Park in Columbia. From first glance, sweet 4-year-old Eliza looked to be a fun loving girl who loves to sing, run, and MOST of all, *cuddle*. One would never know that she was diagnosed with a rare terminal genetic disease called Sanfilippo Syndrome - Type A.

Eliza and other children with this disease are missing an essential enzyme for normal cellular function. Over time, a toxic material builds up in their brain and body leading to severe disability and death before they even reach their teens.

But there is hope! Researchers at Nationwide Children's Hospital have discovered a breakthrough gene therapy treatment that can stop this disease. She and many others like her are counting on donations to make this treatment happen. The saving Eliza movement has already raised more than 1.1 million. Their goal is 1.8 million.

To read more about Eliza & to make a donation, visit [www.facebook.com/ElizaOStory](http://www.facebook.com/ElizaOStory). Checks can be sent to: Cure Sanfilippo Foundation, PO Box 6901, Columbia, SC 29260



## How Many of South Carolina's Children Will Get Injured in School Bus Accidents Before Drivers Start Putting Safety First?

On South Carolina roadways, child safety should be at the top of everyone's priority list - especially our school bus drivers. There is nothing worse than receiving news that an innocent child has been severely injured or killed, it's particularly disturbing to hear when schools supposedly dedicated to caring for our children don't uphold their promise to hire safe bus drivers and safely transport our children. If the well being of young people is truly a priority in South Carolina, then why are school bus "accidents" continuing to happen?

### Recent Cases Close to Home

According to the National Highway Traffic Safety Administration, school buses are the safest mode of transportation for getting children back and forth to school. Nevertheless, thousands of children find themselves in emergency rooms each year from school bus related incidents. In the past two weeks alone, there have been four reports of such incidents in South Carolina. One of these incidents occurred in Columbia when a utility truck collided with a Richland School District One bus. The male bus driver and five young passengers were transported to the hospital with serious injuries as a result of the

collision. Six days later in Darlington County, a female bus driver fell asleep at the wheel and ran into an abandoned mobile home. Four of the 32 students aboard the bus were sent to the hospital with injuries. The Darlington driver was charged with disregarding a stop sign and has been suspended from pay while the case undergoes further investigation.

### Safety First

Regardless of who is at fault, school bus "accidents" should never happen. From bus drivers, to school administrators, to parents, to general members of the public, everyone knows that no child should ever be endangered by an adult - this includes needless dangers on our roadways. No risk is worth it when it comes to someone's life, especially a child's.

Parents, take a few moments to review general bus safety guidelines with your children and ensure your child's school is following them. Likewise, should you need any help obtaining this information, feel free to call us.

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October 2014

### Looking Ahead

The last quarter of the year has been our best each of the last three years, and we anticipate that trend will continue. Between a week-long trial involving a disputed brain injury, a number of mediations, and speaking engagements in October and November, the coming months are sure to be exciting.

We also want to know what is happening with all of you. Our marketing intern, Alivia Troxell, is initiating several campaigns designed to find out more about what we can do for you and the organizations you care about. So keep an eye out for our emails and social media posts, then let us know how we can be of service.

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 DISTRIBUTED AS LONG AS THE NEWSLETTER IS COPIED IN ITS ENTIRETY.

*Safety First, Justice Always*

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