



DAVID J. GLATTHORN CIVIL TRIAL LAWYER

AGGRESSIVE, ETHICAL REPRESENTATION FOR OVER 30 YEARS

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The Thrill of the Haunt

For many people, Halloween is the season for spooky fun, and haunted house attractions are ready to accommodate them. Most of the time these ventures provide the thrills patrons crave without incident ... but not always. In some cases, however, liability issues can get dicey.

By its very nature, a haunted house is intended to be scary, with dim or disorienting lighting, blind corners, and “creatures” and objects jumping out at patrons. Patrons know what to expect and assume the risk that entails, a legal theory known as the “assumption of risk.” Haunted house owners/operators are generally not responsible for a patron’s reaction to being frightened — for instance, fainting, falling backwards, or tripping over their own two feet while scrambling away. Efforts to recover compensation for injuries often prove fruitless.



However, owners/operators must still make a reasonable effort to maintain safe premises for guests and can be held liable for injuries when failing to do so. That starts with adherence to state and local safety and fire-code regulations, and acquisition of proper permits.

Common injuries sustained at haunted houses include slip, trip, and fall injuries. A raised electric cord extended across a hallway or a wet spot on the floor can prove hazardous. Props that are not firmly attached to walls and ceilings sometimes fall on guests, causing serious injuries. Animatronics occasionally go haywire, too.

Fog and smoke machines produce carbon monoxide (CO). If ventilation is poor, CO can accumulate and poison guests. Too many patrons in one location can spark unnecessary chaos, and an actor who grabs and injures a guest can render the owner/operator liable.

If you or a loved one is injured at a haunted house attraction, please contact our office to explore your options. •



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There Is No “Litigation Crisis.”

For decades, a favorite talking point of the U.S. Chamber of Commerce and corporate America is that the nation faces some type of “litigation crisis.” Court statistics debunk the claims of tort reformers.

Data from the National Center for State Courts (NCSC) shows civil caseloads in state courts dropped by 16% from 2009 to 2018 with tort cases making up about 4% of civil cases in 2018, or about 1.5% of **all** non-traffic cases. The NCSC data also notes automobile cases account for 62% of all tort cases.

Who is filing the lawsuits? According to the Pew Charitable Trusts, most civil cases are brought by businesses against people who owe them money. When it comes to medical malpractice, the National Practitioner Databank shows the number of medical malpractice payments made on behalf of physicians has **decreased** 13% over the last ten (10) years (2010 – 2019). There are just 11,306 such payments in 2019.

The right to a trial by jury was so worshipped by the Founding Fathers that they made it a basic right enshrined in the Bill of Rights. Don’t let “tort reformers” chip away at that right! •



Vlad the Impaler Was an ‘Inspiration’



In 1442, the ruler of Wallachia, now part of modern-day Romania, sought the help of an enemy to fend off a neighboring rival. Vlad II, a knight pledged to defend Christianity in Eastern Europe from the Muslim-led Ottoman Empire, embarked on a diplomatic mission into Ottoman territory with his two young sons, Vlad III and Radu — a take-your-sons-to-work day.

Vlad II gained the military support he sought ... at a price. Wallachia would pay an annual tribute, and Vlad II’s sons were forced to stay behind to ensure their dad would avoid any chicanery.

After their father was brutally killed in 1447, Vlad III and Radu were released from their captivity, with Vlad returning to Wallachia. Imprisonment and his father’s death lit a slow-burning fuse.

Historical accounts of Vlad were sparse from 1448 through 1456, but after he regained family control of Wallachia in 1456, he invited supporters of the deposed ruler to a banquet. There, he had hundreds of them stabbed, and their still-twitching bodies were impaled on wooden spikes. Vlad allegedly dined on bread dipped in the victims’ blood.

By 1462, Vlad was at war with the Ottomans. Outnumbered, his troops employed guerrilla tactics and in one battle rounded up 20,000 Ottoman prisoners. They, too, were impaled on wooden spikes in a forest descended upon by crows, which feasted on the bodies. Not exactly a Hallmark moment. Posthumously, Vlad was dubbed “Vlad the Impaler.”

Incidentally, Vlad’s dad was a knight in the Order of the Dragon. The Old Romanian word for “the dragon” was “Dracul” — Vlad Dracul. The suffix “ea” denoted a son — Vlad Draculea, whose life inspired 19th-century author Bram Stoker. Now you know ... the rest of the story. •



All-Terrain Vehicles Can Be a Wild Ride

All-terrain vehicles (ATVs) are recreational, versatile off-road vehicles that can assist in a wide range of tasks or simply be ridden for pleasure. But in addition to their productive and sporting aspects, there are hazards to contend with, too.

In 2016, the last year with complete ATV fatality data, 591 riders were killed in ATV accidents in this country. In 2018, over 80,000 riders made detours to hospital emergency rooms. Seventeen percent were admitted.

ATVs typically weigh 600 pounds or more; can reach speeds of 65 mph; possess a high center of gravity; lack a roll bar, safety cage, and seatbelts; and require quick decision-making and shifting of body weight to accommodate environmental conditions. They are not toys.

Sudden, unexpected shifts in landscape, reckless driving, and tip-overs can result in serious injuries. Thrown riders are vulnerable to smashing into solid objects, landing haphazardly, or winding up pinned beneath the ATV. Head and neck injuries are most prevalent, with shoulder/arm injuries a close second. Depending on the terrain, injured riders may not be easily accessible to emergency responders.

States set their own ATV guidelines and age requirements, which vary widely. Good rules of thumb include:

- Take a safety/training course.
- Always wear an approved helmet and eye protection.
- Only ride during daylight hours.
- Wear long pants; a long-sleeved shirt; riding gloves; and ankle-high (at least), closed-toe footwear.
- Don't permit kids under age 16 to ride an ATV.

Possible at-fault parties for ATV-related injuries include another ATV driver, the ATV manufacturer (or parts manufacturer), an ATV mechanic, or a property owner responsible for maintaining the area where the accident took place.

If you are injured by an ATV due to someone's negligence, contact our office to protect your rights. •

October 2020 Notable Dates

October 7 — Bald and Free Day **October 13** — International Skeptics Day

October 14 — National Dessert Day **October 16** — Dictionary Day

October 17 — Wear Something Gaudy Day **October 25** — World Pasta Day **October 27** — Black Cat Day

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Marijuana Legalization and Traffic Accidents

In 2012, Colorado and Washington state became the first states to legalize marijuana for recreational use. (The drug is still illegal under federal law.) Since then, additional states have followed suit, and many more have legalized marijuana for medicinal purposes.

Numerous studies have been conducted examining marijuana legalization's effect on auto accidents. The clear consensus is that auto accident figures have risen significantly in those states that have legalized marijuana for recreational use, compared to states that have not. The research has not been as clear for fatality rates.

Marijuana usage slows reaction time, diminishes perceptiveness, and impairs judgment. In addition, those under the influence are more inclined to take risks while behind the wheel. Research has also shown that THC (tetrahydrocannabinol) — the primary psychotropic agent in marijuana — in combination with alcohol appears more potent than either alcohol or marijuana on its own.

Currently, there are no consistent regulations or training protocols for law enforcement agents for detecting those under the influence of marijuana. For instance, there is no reliable breathalyzer-type test or blood/urine test to measure intoxication levels. Further complicating matters, THC can be detected in a marijuana user's bodily fluids for days, even weeks, after the last time they were intoxicated from smoking.

Sometimes marijuana intoxication symptoms seem obvious — glassy eyes, slurred speech, marijuana odor — but other times they're not as conspicuous. Accurate chemical testing for marijuana intoxication needs to be developed, as well as medically sound legal thresholds.

Marijuana legalization is shifting the legal landscape. If you or a family member is injured by an impaired driver, contact our office to protect your rights. •

