

DAVID J. GLATTHORN

CIVIL TRIAL LAWYER

AGGRESSIVE, ETHICAL REPRESENTATION FOR OVER 30 YEARS

WRONG-WAY ACCIDENTS: infrequent but lethal

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303 deaths linked to cars recalled by General Motors

According to the National Transportation Safety Board (NTSB), over 350 highway deaths each year are attributable to wrong-way driving incidents, with the vast majority of them due to head-on collisions at high speeds. One percent of conventional auto accidents involve fatalities; the figure skyrockets to 22 percent for wrong-way collisions.

A 2012 report issued by the NTSB stated that over half of wrong-way incidents involved alcohol-impaired drivers, with over 60 percent of them having blood-alcohol readings of .15 or higher—nearly double the legal limit in most states. Fifteen percent of wrong-way collisions are initiated by drivers age 70 or above. Confusion and impaired vision are aggravating factors in these accidents.

Many wrong-way accidents begin with a driver mistakenly entering a highway from an exit ramp; others originate

with people who realize they have missed their exit, so they make a U-turn and head the wrong way back to the exit. Nearly 80 percent of wrong-way accidents occur between 6 p.m. and 6 a.m.

Research has shown that road configurations sometimes play a role in driver confusion. Entrance and exit ramps that are side by side sometimes compound disorientation. Exit ramps on the left-hand side of a highway seem to exacerbate these situations as well.



The NTSB is recommending that states drop the hammer on first-time DUI offenders by requiring ignition-interlock devices on their cars. Some states are enlarging warning signs and placing them closer to eye level, which is yielding positive results.

If you have been the victim of a wrong-way accident, contact an experienced auto accident attorney to protect your rights. ■

breaking contact WITH THE ROAD

When a vehicle hydroplanes, water lifts the tires off the surface of the pavement, temporarily nullifying the driver's ability to steer and brake. Not surprisingly, this turn of events may result in tragedy, with a driver losing control and veering into other traffic or off the road—especially at highway speeds.

Sometimes, hydroplaning occurs as a result of Mother Nature suddenly unleashing her fury, as in a cloudburst that overwhelms even the best drainage systems, with water accumulating on the roadway. Occasionally, drivers travel too fast for conditions or have tires with poor tread.

Other times, however, alternate factors are involved in incidents of hydroplaning:

- Lack of maintenance may lead to storm drains getting clogged by debris, silt, or snow.
- Substandard construction may include the road surface being comprised of a weak asphalt mix that results in grooves or ruts in the road for water to gather rather than run off to the side of the road. If roadways aren't crowned correctly, water may pool in the middle of the road rather than run off to the sides.
- Poorly placed storm drains or an inadequate amount of storm drains along curbed roadways, or along roadways that are flanked by elevated ground levels, enable water to accumulate.

In addition to hydroplaning, excess water that is flung from one vehicle to another's windshield can hinder vision and lead to dire consequences.

If you've been the victim of a hydroplaning accident in which road/drainage negligence may be a factor, contact an auto accident attorney to protect your rights. ■

a victory FOR FLORIDA PATIENTS

As we were going to print, the Florida Supreme Court came down with a long awaited decision, striking down arbitrary limits on how much survivors of the victims of medical malpractice that results in death can recover.

In 2003, the Florida Legislature passed a law that, among other things, arbitrarily set a limit of one million dollars as the maximum amount that the survivors of a patient who dies as a result of medical negligence could recover for "non economic losses".

One of the bedrock principles of American law is that all natural persons enjoy equal protection under the law. While laws can be enacted that treat certain classes of people differently, there must be a rational basis for any such difference in treatment and it cannot be arbitrary.

In a lengthy opinion, the Supreme Court decided that the dollar limits in the law violated Equal Protection Clause of the Florida Constitution under the Rational Basis Test. As the Supreme Court pointed out this Statute imposed devastating costs on "those who are most grievously injured, those who sustain the greatest damage and loss".

The Court held that the supposed basis for the statute that limited the amount of recovery was not valid. Those pushing the passage of the law in 2003 claimed that there was "medical malpractice crisis" in the State of Florida. The Court refused to "rubber stamp" the asserted justification for the cap. The legislature claimed that physicians were leaving Florida and medical malpractice insurance rates were resulting physicians leaving Florida. The Florida Supreme Court pointed out that authoritative government reports indicated that the number of physicians in both metropolitan and non metropolitan areas had actually increased during the time when the legislature claimed physicians were leaving Florida. The Court also cited the well known relationship between premiums and the amount insurance companies make on their investment of those premiums. Stated another way, insurance companies take premiums and invest them in the stock market and other investments. If the stock market falls or investment income goes down for other reasons, premiums go up. The amount of a jury verdict has little or no correlation with premiums set by insurance companies. This is demonstrated by the fact that in states WITH, premiums paid by physicians in high risk specialties increased more than in states WITHOUT.

Although the case before the Florida Supreme Court was decided strictly on the basis of a wrongful death of patient, the same reasoning could be applied to actions involving patients that are injured as a result of acts of medical negligence. I would respectfully submit that as there is no "cap" on the amount of damage that either a healthcare provider can cause through negligence (or a drunk driver for that matter) there should not be any arbitrary limits on legitimate recoveries by victims of any type of negligence. ■

inpatient, observation status, and medicare

Is your hospitalized loved one who's on Medicare an inpatient or "observation status" (aka outpatient)? The distinction can have far-reaching ramifications.

Generally speaking, inpatient versus observation status is determined by the severity of the injury/illness and the complexity of treatment required for it—not the length of the hospital stay (e.g., Medicare might consider someone an outpatient even if they've been in the hospital for two weeks). But Medicare determinations are sometimes arbitrary, and Medicare can make it awfully rough on hospitals that don't toe the line on the government's boatload of regulations. It's all about the money (reimbursement).

Inpatients have their hospital expenses completely covered under Medicare Part A once a one-time deductible is met. Those who are outpatients fall under Medicare



Part B and must pay part of the doctors' fees, and copayments for lab work, scans, medications, and so forth.

Inpatients who undergo rehabilitation at a skilled nursing facility will have their expenses paid for by Part A if they were inpatients at the hospital for at least three days. Those who are outpatients are afforded no such benefit and incur the full expense, which can be financially devastating. Observation status can eventually be switched to inpatient status, but the time spent on observation status does not count toward the three-day inpatient length necessary for Part A to cover rehab expenses.

Knowledge is power; don't get blindsided. Be vigilant in asking questions, and keep in mind that Medicare decisions can be appealed. An experienced healthcare attorney can help you protect your rights. ■

303 deaths

LINKED TO CARS RECALLED BY GENERAL MOTORS

Shocking evidence is being released that 303 persons lost their lives when airbags failed to deploy in compact cars manufactured by General Motors. The company has issued a recall for 1.6 million compact cars with ignition switch difficulties.

What is most shocking is that the recall of these vehicles was not made until February 2014 despite the fact that GM first started learning of the problems with the ignition switch in 2001 and issued service bulletins to dealers with suggested remedies in 2005.

It seems as if the models most targeted by this recall are compact vehicles such as Cobalt and Ions. If you own either one of these type of vehicles, you should have already been notified of the recall and take actions to protect yourself and loved ones. ■

April 2014 Important Dates

April 1 – April Fools' Day	April 13 – Palm Sunday	April 14 – Passover begins at sundown	April 23 – Administrative Professionals Day
April 15 – Income taxes due	April 18 – Good Friday	April 20 – Easter	April 22 – Earth Day

David J. Glatthorn, PA

506A Datura Street

West Palm Beach, FL 33401

561-659-1999

www.DavidGlatthorn.com

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This publication is intended to educate the general public about personal injury, medical malpractice, and other issues. It is for information purposes only and is not intended to be legal advice. Prior to acting on any information contained here, you should seek and retain competent counsel. The information in this newsletter may be freely copied and distributed as long as the newsletter is copied in its entirety.

let your car do the talkin'

New technology is being tested that has the potential to be a game changer in terms of auto safety. The technology involves a radio signal that transmits a vehicle's position, speed, heading, and other pertinent information. The car's computer also receives that same information from other vehicles on the roadways with similar capabilities. The driver is alerted to an impending collision through an audible warning, flashing message, a vibrating driver's seat, or brakes that are automatically activated as needed.



The technology has a 300-yard range and could alert you to situations such as an unseen, speeding driver around the corner who was about to run an approaching red light, or tip you off that someone, three cars ahead of you on the highway, has suddenly slowed down.

Communities might eventually install traffic lights and various fixtures along roadways fitted with this technology to warn drivers of road hazards, traffic congestion, and the like. Smartphones could conceivably be integrated into the mix, widening the scope of beneficiaries to include bicyclists, motorcyclists, and pedestrians.

The National Highway Traffic Safety Administration estimates that 80 percent of traffic accidents that occur, apart from drunk driving and mechanical failure, could be prevented. Making the transition to this technology won't happen overnight. Certain technical aspects and security and privacy issues must be worked out as well before the technology is ready for the masses.

The Intelligent Transportation Society of America believes this technology will add \$100–\$200 to the price of a car—worth the price if it lives up to the hype. ■