

Lawsuits save lives by holding wrongdoers accountable

Lawsuits resolve disputes between two sides of a conflict. They decide who is responsible and if the person found to be responsible owes money for damages or other compensation to the person who was injured.

But some lawsuits do more than settle claims between parties. They can also lead to major safety improvements that benefit many people. The Center for Justice & Democracy at New York Law School recently released *Lifesavers 2021: CJ&D's Guide to Lawsuits that Protect Us All*.

The study, published in January 2021, shows how lawsuits serve an important purpose by causing manufacturers, employers, polluters, hospitals, law enforcement and other entities to stop dangerous or negligent behavior. Recent cases brought against COVID-19 super-spreader establishments have led to safer workplaces. Other cases have resulted in the redesign or recall of a product, a change in hospital procedures, the protection of sexually-abused children or a cleaner environment.

Contrary to common belief, most jury verdicts are for modest amounts of monetary damages. But even though large jury awards are rare, they play an important role in keeping everyone safer. They send a warning that conduct that puts people in danger of being seriously injured or killed will not be tolerated.



© iStock Photo/boygovideo

Many auto safety problems became public because that information was uncovered in litigation. General Motors knew for a decade that millions of its cars had faulty ignition switches, resulting in power loss that caused the steering, brakes and air bags to fail.

It took a lawsuit by parents whose daughter was killed to prove the existence of this deadly defect. Faced with proof that it knew about the defect and hid it from the public, GM recalled millions of cars and paid close to a billion dollars in criminal fines for the safety failure that seriously injured or killed hundreds of people.

Other lawsuits forced trucking companies to improve their safety

requirements for drivers. A truck driver on his cellphone and traveling too fast crashed into another vehicle, severely injuring the driver.

A lawsuit revealed that the truck driver had been on his cellphone for seven hours during his driving shift. As a result, the trucking company agreed to ban drivers from using cellphones while on the road.

In another instance, a tractor-trailer rear-ended a car, killing two people. The tractor-trailer was on cruise control at 65 mph on an icy road just before impact. The trucking company allowed drivers to use cruise control on icy roads to save money on truck fuel, in violation of federal safety regulations.

After a jury awarded the families of the deceased men \$18.5 million, the trucking company changed its policy, training drivers that they can no longer use cruise control in bad weather.

Accountability helps to keep you safe. If a citizen's right to hold even the biggest corporations responsible for their wrongs is taken away, there is no incentive to act safely.

Other factors that may affect your car insurance rate

Most people know that past wrecks and speeding tickets, the number of miles you drive and the type of car you own affect how much you pay for car insurance. Insurers also base rates on information about you that has nothing to do with your driving record, such as your age and gender, your credit history and whether you own or rent your home.

Consumer Reports uncovered two other factors unrelated to your driving record that some insurers are using to justify charging you more — your education level and your job category. Its research found that people without a college degree and those who worked in service-industry or blue-collar jobs were charged more than college graduates and people who had a professional-sounding job title.

Insurers argue that your education level and occupation give them information about the financial risk of

insuring you. That may be true on average, but it's impossible to verify because insurers keep their premium rating formulas a secret. Even if it's true on average, it doesn't relate to your driving habits or claims record. It also doubly discriminates against those with less education.

People without a high school or college diploma are more likely to work in a blue-collar job or in a service-industry position. When premiums are based on your education and your job category, you are penalized twice.

A lower-income job may mean you sometimes struggle to pay your



© iStock Photo/krisanapong detraphiphat

bills on time. That means a lower credit score that can cost you more in premiums, even if you have a clean driving record.

Consumer Reports supports reform bills in several states that regulate or prohibit the use of education, occupation or other similar personal information to set rates. It argues that insurers should rely on information about how you drive. The more your driving record affects your rates, the more incentive you have to drive safely.

Planning for natural disasters during COVID-19

Hurricanes, floods and other natural disasters don't pause for a pandemic. Precautions that protect you and your family from the risk of COVID-19 should be a part of your natural disaster emergency plans. The Centers for Disease Control and Prevention offers safety planning advice from public health and emergency response professionals, including these key points to protect you and your loved ones from COVID-19 risks.

Allow more time to collect the emergency food, water and medical supplies you need to have on hand. Home delivery is the safest choice, but if in-person shopping is necessary, take steps such as wearing a mask and proper distancing to protect yourself and others.

Fill prescriptions by mail if possible, or use drive-through windows or curbside pickup where available.

Include hand sanitizer with at least 60 percent alcohol, soap, disinfectant wipes and two masks per person in your "go kit" if you have to evacuate.

Plan ahead. Be sure you know where to find your emergency evacuation shelter. Locations may have changed because of the pandemic.



© iStock Photo/Prostock-Studio

If you stay with friends or family outside your household during a disaster evacuation, discuss the precautions everyone should take to protect against the spread of COVID-19 and other contagious respiratory diseases.

Everyday precautions protect against the spread of cold and flu germs, as well as COVID-19. Cover coughs or sneezes; avoid touching your eyes, nose or mouth with unwashed hands; and keep a safe distance from anyone with cold, flu or COVID-19 symptoms.

After the disaster, continue with these same health and safety precautions when you return home and begin cleanup.

More information on natural disasters, severe weather and COVID can be found at www.cdc.gov/disasters/index.html.

Are you healthy enough to age in place?

Many seniors prefer to remain in the familiar comfort of their own home as long as possible. Others may fear moving to a retirement facility due to the risks of COVID-19 exposure.

Here are some health requirements for independent living:

Sharp thinking skills

Forgetting things from time to time is normal. But if you're having trouble managing medications, paying bills, selecting what to wear for the day, shopping for groceries, remembering to turn off the stove or faucet, completing paperwork or making decisions, it may be time to consider a move.

If episodes of forgetfulness, confusion or indecisiveness have gotten worse over the past year or two, consult your doctor. You may have mild cognitive impairment, but that doesn't mean you can't live at home. You may need to use lists, schedules and reminders to stay on track.

Strength

To live independently, you must be able to lift groceries, take out garbage, carry laundry, handle pots and pans for cooking, and get out of bed or off the toilet without assistance. To increase strength, try working with a physical therapist or trainer on a strength-training program.

Flexibility

Dressing, brushing your teeth, bathing and reaching up to a cabinet or out to a door requires flexibility. If these activities are becoming harder for you to do, a gentle stretching program may help to release muscle tightness.

Very tight muscles may benefit from working with a physical therapist or trainer.

Balance

You need good balance to get out of bed, stand from sitting in a chair, walk across a room, shower or stand



© iStock Photo/jacoblund

To increase strength, try working with a physical therapist or trainer.

to prepare a meal. Poor balance increases the risk of a fall.

If you notice you are stumbling more often or if you have to hold on to furniture to walk through your house, talk to your doctor. The cause could be age related, but it could also result from an inner ear problem, low blood pressure or neurological disease. Treating these conditions may improve your balance.

Endurance

Are you easily winded when climbing stairs, walking short distances or doing household chores? This could be a sign of a heart or lung issue that needs treating. But it could also mean that you're just out of shape.

If a medical condition is ruled out, ask your doctor if starting an aerobic exercise program could be right for you.

Social connection

Social isolation is bad for your health. Online video calls are a good way to stay in touch if you don't have family and friends nearby.

When it's safe for you to get out, consider joining a club or organization with interests similar to yours or volunteering your time for a good cause.

Gradual changes in mental and physical abilities may not be noticeable, making it more difficult for you to accurately assess whether living independently is best for you. You may want to go over this list with your doctor or a trusted family member to get an outside opinion on whether aging in place is a safe option.

You can find more information on safely aging in place at www.health.harvard.edu.



VINCENT P. SCALLAN
LAW

1515 POYDRAS ST, STE 1825
NEW ORLEANS, LA 70112

OFFICE (504) 272-0444
FAX (504) 588-2114

VPSCALLANLAW.COM

VINCENT@VPSCALLANLAW.COM

YOU & THE LAW

Look for a health app that protects sensitive information

Health apps on your smartphone or smartwatch can help you track your health conditions, count calories, manage medications or predict ovulation. To do this, they often ask for sensitive personal information, such as your health history and medications you take.

Some apps may use this information to target you with ads or they may sell your data to other companies. Unlike your doctor, these apps may not be covered by health privacy laws, such as the Health Insurance Portability and Accountability Act.

Recently the Federal Trade Commission settled a complaint with makers of a fertility-tracking app, Flo, after it was discovered

that it shared users' health information with third parties, such as Facebook and Google, that provided marketing services to Flo, even though Flo promised users that it would protect their privacy.

When choosing a health app, the FTC recommends that you:

- **Compare health apps.** Is the app's privacy notice written in simple terms that explain clearly what information it



© iStock Photo/Prykhodov

collects from you and how it will be used?

- **Take control of your information.** Do app settings let you control the information the app can collect and share?
- **Keep your app updated.** Updates may include important privacy and security fixes.
- **Know the risks.** Determine whether you're comfortable with others having access to the health information you provide to the app if the app doesn't keep its privacy promises.

Report your concerns to the FTC at www.ftccomplaintassistant.gov if you believe a health app isn't protecting your information as promised.