

page 2 — Español
Demandan a compañía de
cruceiros por negligencia médica

El Motrin para niños relacionado
con una rara pero terrible
enfermedad

Dueño de estadio puede ser
responsable de una pelea en el
baño de los hombres

Padres pueden ser responsables
por los mensajes de los hijos en
Facebook

page 3
Motorist can sue for overgrown
trees that blocked view

page 4
Emergency vehicles still have to
be driven carefully

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Who's liable for an injury at an Airbnb?

Airbnb and similar house-sharing services can be a great way for homeowners to earn extra cash and for travelers to enjoy the “comforts of home” while paying less than they would for a hotel. But what happens if someone is injured at an Airbnb-type rental?

Hotel guests generally know that a hotel has a legal duty to keep them safe. When guests slip on poorly maintained stairs, take a fall because a railing has come loose, or are hit on the head by a falling shelf, they can generally sue the hotel – and can assume that the hotel can afford to compensate them for their injury.

But it's not as clear with Airbnb – and the “sharing economy” model is so new that many of the legal issues are still being worked out.

Unfortunately, the fact is that injuries may be much more likely to occur at an Airbnb rental than at a hotel. Unlike a hotel, an Airbnb “host” doesn't typically have a full-time maintenance and housekeeping crew, employ lifeguards and night security staff, undergo regular electrical and fire safety inspections, routinely monitor childproofing issues, and so on.

So what happens if someone is hurt?

You might assume that the person could sue Airbnb itself. But the problem is that Airbnb's “Terms of Service” – which guests have



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to agree to when they sign up – say that you can't sue Airbnb for an injury. (Most every other home-sharing business has a similar contract.) In theory, it might be possible for a guest to get around this provision, but it could be very difficult.

So more likely, the guest would sue the host for compensation.

In most states, the guest would be considered a “business invitee” of the host. That means that the host must exercise a very great degree of care to keep the guest safe. In other words, an Airbnb host

continued on page 3



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Demandan a compañía de cruceros por negligencia médica

De acuerdo al tribunal de apelaciones de Atlanta, una compañía de cruceros podría ser responsabilizada si un pasajero recibe atención médica inadecuada.



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La demanda fue presentada por la familia de Pasquale Vaglio, un anciano que se pegó en la cabeza en un buque de Royal Caribbean anclado en Bermuda. La familia alegó que el personal médico del buque se negó a dar tratamiento hasta que se pudiera obtener la información de la tarjeta de crédito y que fueron tan negligentes cuando por fin administraron

el tratamiento que Pasquale falleció a pesar de que hubiese sido fácil salvarle la vida.

En 1988 otro tribunal federal de apelaciones había determinado que una compañía de cruceros no era legalmente responsable por las acciones del médico o enfermera del crucero. Naturalmente, un pasajero todavía podía demandar como individuo al proveedor médico, pero el médico o enfermera podía estar establecido en otro país y podía ser difícil de encontrar, o no tener bienes o una póliza suficientes para pagar una indemnización completa.

En el caso de Pasquale, sin embargo, el tribunal sostuvo que la antigua decisión tenía que cambiar porque las compañías de cruceros habían evolucionado tremendamente desde el 1988.

Para aquél entonces muchos de los buques no contaban con personal o instalaciones médicas a bordo. Hoy día, sin embargo, los cruceros son más bien ciudades flotantes y las compañías como Royal Caribbean a menudo cuentan con servicios médicos modernos. El tribunal afirmó que sería incorrecto dejar que las compañías hicieran alarde de esto y luego no asumir la responsabilidad cuando pasa algo malo.

El Motrin para niños relacionado con una rara pero terrible enfermedad

El Motrin para niños ha sido relacionado con una rara pero grave enfermedad llamada necrosis epidérmica tóxica o TEN (por sus siglas en inglés), una condición potencialmente mortal.

En un caso, una niña de tres años de edad, Brianna Maya, desarrolló un sarpullido en el pecho un día después de que la madre le dio Motrin para niños. El médico le había instruido alternar Motrin, cuyo ingrediente activo es el ibuprofeno, con Tylenol, que utiliza el acetaminofén.

Los síntomas de Brianna empeoraron. El sarpullido se convirtió en ampollas graves por todo el cuerpo y tuvo que ser trasladada al hospital donde fue diagnosticada con TEN y estuvo hospitalizada por un mes. Brianna actualmente está ciega, tiene los pulmones cicatrizados y nunca será capaz de tener relaciones sexuales o tener hijos.

La madre de Brianna demandó al fabricante de Motrin y un jurado de Filadelfia determinó que la empresa no

había cumplido con advertir a los usuarios acerca de los riesgos de TEN.

Aparentemente la etiqueta del Motrin con receta contenía una advertencia acerca del TEN, pero que la advertencia no fue incluida en la versión de venta sin receta.

Dueño de estadio puede ser responsable de una pelea en el baño de los hombres

Un juez determinó recientemente que un hombre que fuera lastimado por otro fanático de hockey en una pelea de borrachos dentro de un baño en un partido de los Boston Bruins podía demandar al dueño del estadio y la compañía de seguridad.

John Foley aparentemente estaba tratando de apaciguar una discusión entre un amigo suyo y otro hombre cuando el fanático se acercó gritando y profiriendo maldiciones y lastimó a Foley.

Foley presentó la demanda y alegó que si el personal de seguridad del estadio hubiese sido suficiente y estado debidamente capacitado, hubiese podido intervenir a tiempo para evitar las lesiones. El dueño del estadio argumentó que esto no era cierto y que resultaba imposible garantizar la seguridad de todo el mundo en el estadio.

El juez señaló que el deporte de hockey era violento e históricamente atraía fanáticos borrachos por lo que el dueño del estadio debió anticipar que ocurriría este tipo de incidente. El juez indicó que tocará a un jurado decidir si bajo las circunstancias las medidas de seguridad del estadio habían sido adecuadas.

Padres pueden ser responsables por los mensajes de los hijos en Facebook

De acuerdo a una decisión reciente de la Corte de Apelaciones de Georgia, los padres pueden ser responsabilizados en los tribunales por daños y perjuicios por las mensajes que publican sus hijos en Facebook.

Dustin Ahearn, un estudiante de séptimo grado creó una página falsa en Facebook para una compañera de clases, Alexandria Boston. En la página se utilizó un programa llamado "cara gorda" para hacer que la muchacha se viera obesa, e incluyó mensajes que sugerían que usaba drogas, era racista y promiscua y tenía problemas de salud mental.

Los padres de Alexandria se quejaron a la escuela, quienes suspendieron a Dustin por dos días e informaron a los padres. Los padres de Dustin lo castigaron pero no hicieron que cancelara la página la cual se mantuvo en línea durante casi un año hasta que los padres de Alexandria los demandaron.

El tribunal afirmó que los padres de Dustin no podían ser responsabilizados por el hecho de que Dustin en primer lugar creara la página porque lo había hecho sin su conocimiento. Sin embargo, el tribunal afirmó que una vez supieron de la página podían tener la obligación legal de supervisar el uso del Internet por parte de Dustin, incluso hacer que cancelara la página.

Who's liable if someone is injured at an Airbnb?

continued from page 1

would likely be held to a similar legal standard of care as a hotel, department store, or other business.

Many hosts assume that if anything happens, they'll be covered by their homeowner's insurance. But they might be surprised to discover that that's not true. Most homeowner's insurance policies exclude coverage for "business activities" operated out of a home. And presumably, renting your home for a profit is a business activity.

Some homeowner's policies allow you to rent your home once a year, or for a limited number of days per year. But even then, the insurance company might require you to notify it of the rental in advance, or to purchase a separate endorsement.

A host's personal umbrella policy might not cover a business activity either.

If an Airbnb host is a tenant rather than a homeowner, it gets even more complicated. Some tenants have renter's insurance, but renter's insurance generally doesn't cover business activities. An injured guest might be able to sue the landlord, but a landlord might get off the hook if he or she didn't know the tenant was renting the property on Airbnb, or if such rentals were prohibited in the lease. Also, many landlords' insurance policies

exclude coverage for short-term, home-sharing-type sublets.

Recently, Airbnb announced that it would provide hosts with up to \$1 million in liability protection if they get sued by a guest. That's a welcome development, but some other home-sharing companies have not followed suit.



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If you use Airbnb or a similar service when you travel, you might want to confirm that the host is covered by insurance. And if you're injured, you'll want to speak to a lawyer right away about what options you might have for being compensated. If you're a host, you'll want to think carefully about your insurance coverage. A lawyer may be able to help you understand your policies and what additional protections you may need.

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Motorist can sue for overgrown trees that blocked view

Joan Gochenour was riding in a car driven by a friend when it crossed a railroad track and was struck by a train. Joan was seriously injured.

She later sued the railroad company. According to Joan, the company had a legal duty to keep trees, bushes and other vegetation near the crossing trimmed in such a way that motorists would have a clear view of whether there was an oncoming train – which the company failed to do in this case.

A court in Indiana allowed the lawsuit, and said a jury should decide whether the railroad had properly trimmed the vegetation within 1,500 feet of the crossing.

Overgrown trees are not just a problem at railroad crossings. There have been a number of law-

suits claiming unruly bushes and trees have caused car accidents at intersections by blocking the view of turning traffic, or have made roadways unsafe in other ways, such as by obscuring the visibility of stop signs, speed-limit signs and other warnings and roadway conditions.



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Emergency vehicles still have to be driven carefully

Many states have laws that give special privileges to drivers of emergency vehicles, such as being able to go faster than the speed limit or run stop signs and red lights.

But this doesn't mean that emergency personnel are completely off the hook if they cause an accident. That's because, even when responding to an urgent call, emergency drivers still have to exercise a reasonable amount of care. If they don't, their employer may be liable.

the red light, smashing into Jones's car and causing her serious injuries.

In court, the county argued that Robin should have stopped when the fire truck approached.

But Robin argued that even emergency drivers have an obligation when running red lights to stop momentarily and confirm that the coast is clear. In this case, the emergency driver admitted that another car had blocked his view of Robin's lane, but he had turned anyway. And while the driver had his emergency lights on, his vehicle was a Ford F-250 with lights on the sides of the vehicle, which are less visible than the light bar on top of a typical police car.

A jury weighed the facts and decided that the emergency driver was 60% at fault for the accident, which meant Robin could be compensated for 60% of her damages.

In one recent case, Robin Jones was heading through a green light at an intersection when a county fire rescue truck turned left against

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