Legal Matters®

Consumer Safety
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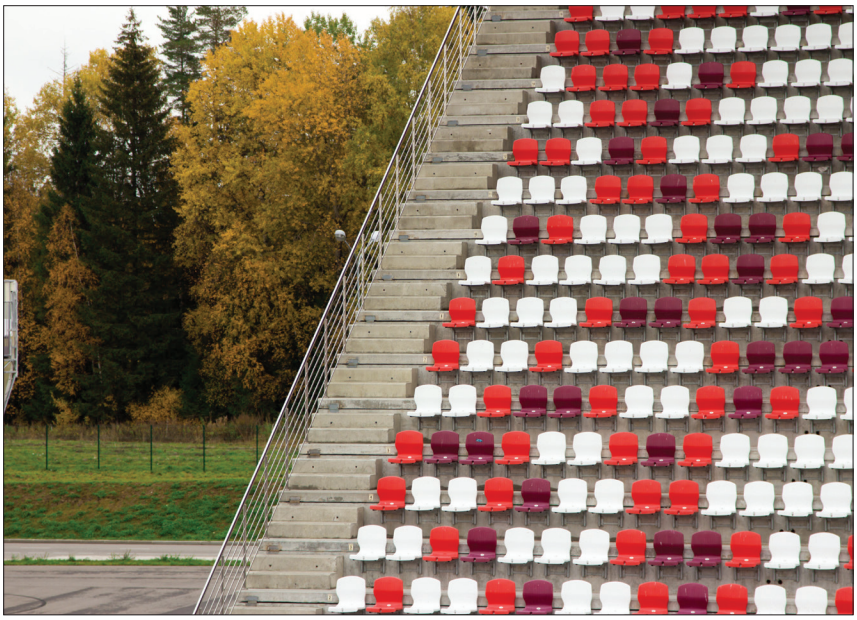
Faulty steps can lead to liability

Subpar teams aren't the only problem plaguing Barclays Center, home of the NBA's Brooklyn Nets and the NHL's New York Islanders. Steep steps are an issue too — one that's already cost arena operators money.

The 19,000-seat Brooklyn, New York venue, which opened in 2012, features rows of densely packed seats set at a very steep 36-degree incline in the upper levels. This is good for the teams, because it allows them to pack in lots of fans, and it's good for most spectators, because while they may be in the "nosebleed" seats, they're right over the hardwood or the ice, giving them great views of the action.



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But it hasn't been good for the spectators who have been injured by people stumbling in the narrow rows or on the steep steps and landing on them. When you consider the amount of drinking that can take place at an NBA or NHL game, falling fans can become a frequent problem.

Injuries have ensued. In one case, a fan fell on a woman, forcefully propelling her face into the railing in front of her. Multiple lawsuits have been filed against the arena, and at least one has settled out of court.

The problem isn't limited to Brooklyn. The new arena in Sacramento, California, where the NBA's Kings struggle to remain relevant, has similar issues. The same is true for newer baseball stadiums, like St. Louis's Busch Stadium, where a combination of

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Doctor and hospital held responsible for patient's opioid addiction

Addiction to illegal opioids like heroin and prescription pain-relief opioids that include oxycodone, OxyContin and Vicodin has created a dire health crisis in America over the past couple of decades. According to government studies, more than 90 Americans die from opioid overdoses each day. Meanwhile, the misuse of prescription opioids costs the nation nearly $80 billion a year due to healthcare and treatment costs, loss of productivity and the involvement of the criminal justice system. Additionally, between a quarter to a third of all patients prescribed opioids for chronic pain end up misusing the drugs.

But as a recent case indicates, when doctors overprescribe opioids and patients become addicted, courts may hold medical practices responsible.

In that particular case, Brian Koon of St. Louis went to his primary care doctor for back pain. The doctor wrote Koon a prescription for 30 pills of Vicodin and a refill.

When Koon kept asking for more refills, the doctor provided them, and even increased the dosage without talking to either Koon or his wife. By 2012 Koon was a full-blown addict, taking 40 pills a day between his Vicodin prescription and prescriptions for OxyContin and oxycodone. His addiction ruined his marriage and landed him in rehab.

Koon took the doctor and Saint Louis University, which ran the practice, to court, claiming the doctor had committed medical malpractice.

The jury was clearly moved by evidence that SLU lacked clear prescribing guidelines for opioids and treated them like any other drug, and by expert testimony that the prescribed doses were "colossal and reckless," and handed down a whopping $17 million verdict.

Part of this was to compensate Koon for the harm he suffered and part of it was "punitive damages" meant to punish the defendants and send a warning to other providers.

The doctor and SLU appealed, arguing that references to the national opioid epidemic during the trial wrongly swayed the jury and that the punitive damages award was unreasonable.

But the Missouri Court of Appeals upheld the award.

Verdicts of this size are extremely rare and malpractice cases are challenging to win, but if you or a family member have fallen victim to opioid addiction and you believe a doctor's prescribing practices have something to do with it, call an attorney to discuss your options.

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Fall from operating table considered 'negligence'

The vast majority of doctors and nurses are dedicated professionals who try to provide the best, safest care they can. However, sometimes preventable things happen that result in patients getting hurt. If it's because the provider wasn't careful enough in treating them, it's considered a "medical malpractice" case. But not all injuries arising in the medical context are malpractice cases. Sometimes, if the injury has very simple, easy-to-understand and easy-to-prove causes, it will be considered simple "negligence."

This is an important distinction, because in many states an injured patient has more time to bring a negligence case than a malpractice case since malpractice claims often have a shorter "statute of limitations" period. In other words, the patient has less time to file a malpractice complaint.

That was critical in a recent case involving a Florida woman named Lois Vance, who was visiting her urologist to get a catheter removed. When the doctor came into the examination room, he told her to climb onto the examination table and pulled out a stool to help her up.

After removing the catheter, the doctor left the room without pulling out the stool again. The patient tried to get down on her own, fell and suffered injuries.

By the time the patient took the doctor to court, the statute of limitations had passed for a malpractice case, so she claimed it was a "premises liability" case, which falls under the statute of limitations for negligence.

A trial judge dismissed her claim, saying it was a malpractice case and she didn't act soon enough.

But the Florida Court of Appeal reversed, holding that because the case didn't involve issues that would require an expert witness to explain complicated medical or scientific concepts, it wasn't malpractice and her claim could go forward.

The patient got lucky in this case. Another court could have just as easily decided it was a malpractice case and upheld the dismissal. Because of situations like this, doctors and hospitals will try to characterize any case arising in a medical setting as a malpractice case if doing so can get it thrown out on statute of limitations grounds. So, if you've been hurt while receiving medical care, talk to a lawyer as soon as you can so deadlines don't cost you your case.

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steep steps and railings that are shockingly low has resulted in serious injuries to fans.

While all these venues are technically up to code, these types of injuries are still arguably foreseeable to stadium designers and operators, which means there's a chance you can hold owners accountable for injuries you suffer either in a fall or if someone falls on you.

The problem of treacherous steps goes beyond the sports world. They're a common source of injury in other areas of life, particularly in people's homes, and property owners can be held responsible for dangerous steps and stairways that are left unremedied.

For example, in a recent Connecticut case Carlos Silva, a 51-year-old window dresser originally from Peru, suffered severe head injuries after falling down an apartment building stairwell that lacked a handrail. Silva spent six weeks in the hospital and was no longer able to work as a result of cognitive and behavior problems stemming from his injuries.

Silva took the owners of the apartment building to court, and even though he was apparently intoxicated at the time of the incident, a jury found the owners to be primarily at fault and awarded him a substantial sum of money.

Similarly, Aminata Kromah, a 36-year-old Liberian immigrant living in New York City, shattered her legs and ankle in 2013 when she fell down a set of crumbling steps in a Bronx apartment building that was nearly a century old. At trial, the building superintendent and property owners admitted they knew there was a pattern of steps cracking but waited until a particular step cracked off before replacing it. Kromah also presented evidence that five of the 11 steps had been replaced within six months of the accident and that for only $600 the owners could have replaced all the steps, preventing her accident from occurring.

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The jury returned a huge verdict for Kromah, although that's small consolation, given that she's suffered through multiple surgeries, can never work again and still faces years of physical therapy.

Cases like this show that if you're a business owner, landlord or even a private homeowner, you should make sure all stairways on your own property are in safe, working order and take any necessary measures to fix them if they're not. Additionally, if you've suffered an injury that you feel was caused by dangerous stairs, either in a sports arena, a business or a home, you should contact an attorney where you live as soon as you can to discuss what rights and recourse you might have.

Parents can recover for 'loss of consortium' after death of adult children

"Loss of consortium" damages are compensation someone can receive when a loved one is harmed because of someone else's actions. Historically, courts have most often awarded consortium damages for the injury or death of a spouse in order to compensate the other spouse for the loss of marital companionship. But many states also allow parents to recover consortium damages for harm to a child and allow children to recover for harm to a parent.

But can parents recover for the loss of an adult child? A recent court decision indicates that the answer may be "Yes," at least in Rhode Island.

In that case, parents who lost adult children in a house fire sued a smoke alarm manufacturer under a 2010 state law that extended consortium claims to parents of adult children.

The manufacturer argued that the law wasn't meant to apply retroactively (the children were apparently already adults when the law was passed). But a Rhode Island Superior Court judge disagreed, ruling that the lawsuit could go forward.

The law, of course, may differ from state to state. Talk to a lawyer to find out the law where you live.

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Airline passenger can seek emotional distress damages for needle prick

A passenger could try to hold an airline accountable for emotional distress she suffered after getting pricked by a hypodermic needle while reaching into a seatback pocket, a federal court of appeals recently decided.

The woman was traveling on Eftihad Airways from Abu Dhabi, Saudi Arabia to Chicago. She spent much of the 14-hour flight with the tray table in her lap because the knob holding it in place had fallen off. At some point, she reached into the seatback pocket to retrieve the knob, which she had placed in the pocket when she took it off the floor, and was unexpectedly jabbed by a hypodermic needle that someone left behind.

The prick drew blood, but the airline offered no medical attention beyond an antiseptic wipe, a Band-Aid and the advice to see a doctor when she got home. Her family physician later prescribed medication for possible hepatitis, tetanus and HIV exposure.

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Several rounds of tests came up negative, but the passenger said she had suffered severe mental anguish from the incident and sued Eftihad. A federal judge threw out her claim, ruling that under the Montreal Convention (an international treaty that governs injuries on international flights), she was only entitled to damages that stemmed directly from a bodily injury on the flight and that her emotional harm wasn't caused by the actual physical wound.

But the 6th Circuit reversed the lower court on appeal, deciding that under the Montreal Convention emotional distress damages are available as long as they can be traced back to the accident. This is different than how other courts have ruled in the past, and courts in other parts of the country might rule differently. But if you're suffering psychological trauma from an accident that happened on a flight, consult with a lawyer to discuss your options.