



Brief Insights

A PERSONAL INJURY NEWSLETTER—APRIL 2022 • BASCHKEEGAN.COM

April is National Distracted Driver Awareness Month



Distracted driving puts everyone at risk and is one of the leading causes of personal injury collisions in the Hudson Valley. According to the National Highway Traffic Safety Administration (NHTSA), “Distracted driving is any activity that diverts attention from driving, including talking or texting on your phone, eating and drinking, talking to people in your vehicle, fiddling with the stereo, entertainment, or navigation system — anything that takes your attention away from the task of safe driving. Texting is the most alarming distraction. Sending or reading a text takes your eyes off the road for 4 seconds. At 55 mph, that’s like driving the length of an entire football field with your eyes closed.” (For reference, 55 mph at 5 seconds is about 400 feet.)

Distractions can be:

- **External** — Looking at other drivers, scenery, or other collisions.
- **Internal** — Distractions taking place within the vehicle such as children, animals, or other passengers.
- **Personal** — Eating, applying makeup, using cell phones, navigation or electronic devices.

The National Safety Council (NSC) estimates show that our roads are the most dangerous they’ve been in years; on a typical day, eight people are killed and hundreds more are injured in distraction-affected crashes. The NSC also believes that distracted driving crashes are under-reported, meaning that the problem is probably more prevalent than the statistics show.

With a personal injury case against a distracted driver, there are clear records that can be subpoenaed from a cell phone. We can gather their call records and find out if the phone was sending text messages or if there was an ongoing call at the time of the accident. We can also review their social media posts and photos for timestamps. It is also possible that an eyewitness, dash camera or traffic surveillance camera was able to pick up on the driver being distracted at the time of the crash.

If you have been hit by a distracted driver, Basch & Keegan urges you to gather evidence after the collision if it is safe and possible. Crash scene pictures can be valuable for your case. Things to look for in a crash scene are tire marks and damages, open food containers, a magazine, or an opened cell phone in the passenger seat of the other driver’s car.

Another helpful tool in your personal injury case against a distractive driver is vehicle data. Certain makes and models have onboard computers that keep track of the driver’s activity. It is possible that there is a computer record of the driver adjusting controls in the seconds before the crash.

Although car crashes can happen in the blink of an eye, surviving and sustaining yourself after a car collision is not an easy process due to the many long-term consequences that follow. Serving the Hudson Valley and Capital Region, our local lawyers at Basch & Keegan LLP are compassionate, trustworthy, knowledgeable, and dedicated to helping you not only pick up the pieces but gain true justice for yourself and your loved ones.

Partner John A. DeGasperis acquires 50,000 Followers on TikTok!

Starting two years ago, John A. DeGasperis started making social media videos about the practice of law and other legal topics. John’s goal initially was to educate people about how the COVID-19 pandemic had impacted the criminal and civil justice systems. Since that time, John has made hundreds of videos discussing the legal and societal issues surrounding personal injury law. His videos are both educational and lighthearted. John’s videos have been a wild success on social media, acquiring more than 50,000 followers on TikTok. He is having a lot of fun, and he thanks all his many followers for their support.



Follow John at “[jdegasperis_esq](#)”

Derek J. Spada Settles Tractor Trailer Collision Case in Greene County

Basch & Keegan settled a case this month for a woman who was stopped for a red light and rear-ended twice by a tractor trailer. The driver of the truck claimed that he did not see our client. When the light turned green, the truck driver immediately accelerated and rear-ended our client, pushing her vehicle into the middle of the intersection. The truck driver thought the sound of the impact was at tire blowing out on his truck. He planned to drive through the intersection and pull over to check his tire. The truck driver then accelerated and crashed into our client's car again.

Shortly after the collision, the truck driver admitted, "I never saw you. I never saw you. I'm so sorry. Are you ok? I never saw you."

As a result of these two impacts, our client sustained injuries to her neck and back. She was evaluated at a local Urgent Care due to persistent pain after the crash and was referred to an orthopedic surgeon and her primary care physician. An MRI of her neck was ordered, and it was positive for a severely herniated disc. She was referred to a neurosurgeon who performed an anterior microdiscectomy on her neck. There were post-operative complications, and she developed a ptosis to the right upper eyelid, which resulted in her eye remaining partially closed. This required two additional surgeries to her eyelid to correct the condition.

Derek proved that the truck driver and trucking company were 100% at fault for this collision, and obtained a \$575,000 settlement for our client, which was more than she expected. Derek handled this tractor trailer case with fortitude and obtained a result that will change our client's life by reimbursing her for lost wages, medical bills, and her pain and suffering.



Basch & Keegan Attends Judge Peters Portrait Unveiling at Ulster County Courthouse

In March, Basch & Keegan was honored to be a part of the portrait reveal ceremony for The Honorable Karen Peters. Judge Peters is a trailblazer in New York's legal community, with a judicial career spanning 35 years. A framed photo of Judge Peters will be permanently hung in the Ceremonial Courtroom at the Ulster County Courthouse.

Justice Peters began her legal career in private practice (and taught gender discrimination in the law and criminal law as an Assistant Professor at the State University of New York at New Paltz). She later served as an Assistant District Attorney in Dutchess County, New York; as counsel to the New York State Division of Alcoholism and Alcohol Abuse; and as Director of the New York State Assembly's Government Operations Committee. Her judicial career began in 1983, when she became the first woman elected to Ulster County's Family Court bench. In 1992, she became the first woman elected to the New York State Supreme Court in the Third Department (and was reelected in 2006). In 1994, she was appointed to the Appellate Division, Third Department, and, in 2012, became the first woman named as Presiding Justice of the Third Department. Justice Peters retired from the bench in December 2017.

The ceremony was held at the Ulster County Courthouse on Friday March 25th, 2022. The event was organized by Partner Derek Spada, who is the President of the Ulster County Bar Association and was the Master of Ceremonies. Partner & cofounder Eli Basch made a heartwarming speech at the ceremony as he is a long-time friend and colleague of Judge Peters.

Congratulations Judge Peters from Basch & Keegan!

Snapshot of Last Month

March was a busy month at Basch & Keegan! We attended the Shamrock Run to celebrate and give away our free commemorative bandannas in honor of Tommy Keegan.

We held a fun contest on social media, asking our followers to tag us wearing their Shamrock Run bandanna on Instagram or Facebook to be entered into a raffle for a \$100 gift certificate to the Kingston-based restaurant of their choice. Many people shared great photos, ultimately the winner was Mary Anne Whitman, who picked Stella's restaurant in Uptown for her gift certificate. Congratulations!



Maureen Keegan appeared on WDSY to discuss the Shamrock Run, memories of Tommy Keegan, and International Women's Month.



PRODUCT LIABILITY LITIGATION:

CPAP Machine & Hernia Mesh Complications

It is important to realize when you are having medical complications because of a defective product. The attorneys at Basch & Keegan know how to hold companies accountable. Derek J. Spada is accepting new clients who were injured due to a Philips CPAP machine or hernia mesh complications.

CPAP Machine Recall

Philips Respironics has recalled millions of its CPAP machines, BiPAP machines, and ventilators due to a potentially fatal defect. According to Philips and the Food and Drug Administration (FDA), small pieces of foam can come loose while an affected CPAP machine is in use, exposing the user to toxic chemicals and/or a choking hazard.

If you have used any of the recalled devices and suffered a serious illness that was otherwise unexplained, then there could be a connection. You may be able to obtain a settlement from Philips by joining a class action lawsuit. Let Basch & Keegan LLP be your legal guides throughout this process. From our offices in Poughkeepsie, Kingston, and Latham, we can assist clients throughout New York and across the country.

Hernia Mesh Complications

If you've had a hernia surgically repaired, chances are good that the doctor used mesh to help strengthen and secure this area. While it almost always works as intended, hernia mesh can sometimes fail, causing complications. According to the FDA, most surgical mesh devices currently available for use are constructed from synthetic materials or animal tissue.

A hernia mesh lawsuit is a legal claim filed against surgical mesh manufacturers by people who suffered serious injuries after their mesh implants failed.

What Injuries Can Lead to a Hernia Mesh Lawsuit?

You may be able to file a claim if you've experienced one or more of the hernia mesh complications listed below and your doctor recommended revision surgery.

- **Adhesion:** Mesh implant sticks to other organs and tissue.
- **Pain:** If it lasts months or years after hernia mesh surgery, it may lead to nerve damage or chronic inflammation.
- **Bowel Obstruction:** The hernia mesh sticks to the intestines or moves around in the body, blocking the bowel.
- **Infection:** Chronic inflammation around the hernia mesh may lead to infection.
- **Mesh Failure:** Implant causes problems, such as pain and hernia recurrence, and must be removed.
- **Migration:** Hernia mesh moves from initial surgery site to other parts of the body.
- **Perforation of Organs or Tissues:** The hernia mesh punctures other body parts during migration.

- **Seromas:** Pockets of fluid buildup around the surgery site.
- **Hernia Recurrence:** The hernia may return if the mesh fails. It's a common complication of hernia surgery.
- **Revision Surgery:** One or more surgeries, depending on severity of complications, to remove faulty hernia mesh.
- **Delayed or Long-Term Complications:** Chronic pain, adhesions or hernia recurrence may occur years after original surgery.
- **Groin or Testicular Pain:** A burning sensation at the surgery site caused by pinched nerves after hernia mesh surgery.

Many complications related to hernia repair with surgical mesh that have been reported to the FDA have been associated with recalled mesh products that are no longer on the market. Pain, infection, recurrence, adhesion, obstruction, and perforation are the most common complications associated with recalled mesh. In the FDA's analysis of medical adverse event reports to the FDA, recalled mesh products were the main cause of bowel perforation and obstruction complications.

For more information on the recalled products, please visit the FDA Medical Device Recall website. Please visit the Medical & Radiation Emitting Device Database to search a specific type of surgical mesh.



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