

# Legal Connections

A Newsletter Published by Davis Law Group, P.S.

Christopher M. Davis  
Attorney at Law

NOVEMBER 2007

VOLUME 1, ISSUE 3

## ***Don't Ride With A Drunk Driver***

***You may be responsible for your own injuries or death***

With the holidays approaching soon, I expect there will be many more opportunities for people to drive after consuming alcohol. Of course, most people know that a drunk driver who causes injury or death can be sued for this unlawful conduct. But, did you know that a passenger who knowingly rides with an intoxicated person can be held responsible for the passenger's own injuries or death arising from a drunk driving accident?

Yes, it's true. A case

decided last October by the Washington Court of Appeals affirmed a jury's decision to hold a passenger 35% responsible for her own injuries after she accepted a ride from a driver she knew to have consumed alcohol earlier in the evening.

In the case of *Hickly v. Bare*, 135 Wn. App. 676 (October 2006), the driver admitted to consuming at least 6 beers earlier that evening. The passenger (Hickly) admitted to consuming 3 drinks before the accident

but testified at trial that she was not intoxicated when she got into the vehicle. Another passenger (the drunk driver's brother) testified that the driver appeared too intoxicated to drive, but he decided to get into the vehicle anyways. All 3 occupants had been at a tavern earlier in the evening where they consumed alcohol. The testimony established that all three were at the tavern for more than four (4) hours.

Shortly before they left the

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## ***Do's & Don'ts: Talking With An Adjustor***

If you have been in a car accident you will be interviewed by both an adjuster from your own insurance company and by an adjuster from the other party's insurance company. Both adjusters are trying to minimize the amount of

money that their company will pay. Follow this tip sheet to make sure you do not jeopardize your personal injury claim during these phone interviews.

### **DO'S**

▶ Write down the name,

address, and phone number of the insurance adjuster and insurance company.

▶ Provide your full name, address and telephone number.

▶ Take notes and of the conversation.

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**My insurance company is demanding that I sign a medical authorization and then submit to a medical examination by a doctor it chooses. What should I do?** This happens a lot. Here's the answer: Politely tell the adjuster that you first want to learn about your rights and talk to an experienced attorney. Then request my book, ***The Ten Biggest Mistakes That Can Wreck Your Washington Accident Case***. Order online at [www.WashingtonAccidentBook.com](http://www.WashingtonAccidentBook.com) It's FREE!



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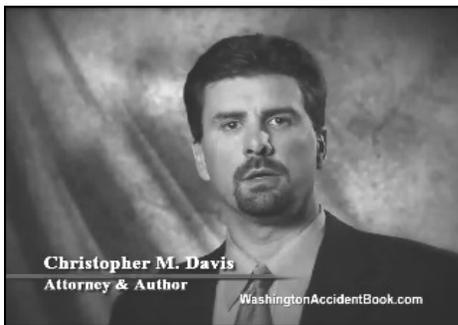
**Davis Law Group, P.S.**  
2101 Fourth Avenue  
Suite 630  
Seattle WA 98121  
206-727-4000 Phone

[www.InjuryTrialLawyer.com](http://www.InjuryTrialLawyer.com)

## ***Television Launch Of “Ten Biggest” Book***

As many friends and clients already know, I have recently published a new book entitled, “**The Ten Biggest Mistakes That Can Wreck Your Washington Accident Case.**”

But to help launch the book, we recently began a television campaign. The TV commercial is part of our public service mission to help accident victims. We are



*Christopher M. Davis  
on King 5 Television*

person injured in an accident was taken advantage of by the insurance company.

Many times the accident victim makes one or more serious mistakes before seeking legal counsel that can often damage the claim down the road. The worst cases are when the person tries to settle his or her own claim and then makes several mistakes that often “cost” them thousands of dollars in lost settlement proceeds.

I also wrote the book to provide accident victims with accurate information about the claims and legal process. For instance, the book addresses common myths associated with accident claims. The book also offers an inside

look at claims adjustor negotiation tactics.

To request a **FREE** copy of  
 the book go to:  
[www.WashingtonAccidentBook.com](http://www.WashingtonAccidentBook.com)

The book addresses various aspects of the insurance claims and civil litigation processes that are common in personal injury cases.

The TV spots are currently appearing on KING 5, KONG 6/16, and Northwest Cable News. Depending on feedback, the commercial may run on more channels. If you have any feedback on the spots please send it to [info@injurytriallawyer.com](mailto:info@injurytriallawyer.com) I would love to get your comments (good and bad!). ■

## ***Do’s & Don’ts: Talking With An Adjustor***

▶ Ask the adjuster if they are aware of any witnesses.

▶ Ask how much insurance is available on the other driver’s policy.

▶ Be very general when you describe your injuries. Tell the adjuster you will provide a complete, detailed, medical description of your injuries after you and your doctors have done a full assessment. Before the conversation it would be a good idea to read the following reports which are available for FREE on our website: ***TOUGH QUESTIONS: Questions The Insurance Adjustors Don’t***

***Want You To Ask; and COMMON INSURANCE INDUSTRY ARGUMENTS: Excuses used by insurance companies to avoid paying a fair and reasonable settlement.***

### **DON’TS**

▶ Do not agree to an audio tape recording of the conversation.

▶ Insurance adjustors will engage you in an informal conversation in an effort to relax you and get as many details about the accident as possible. Do not discuss anything but the basic facts of the accident: a) where the accident occurred; b) Date and time of the accident; c) type

of accident – motor vehicle, slip and fall.

▶ You do not need to provide details about your work, such as income, schedule or details of what you do at your job.

▶ Do not agree to anything.

▶ DO NOT SIGN ANYTHING.

▶ Don’t answer family questions. You are under no obligation to give any information about your family.

▶ You are not obligated at this point to identify witnesses.

▶ You are not obligated to give the adjuster the name of your doctor. ■

## ***Driving With A Drunk 'cont***

bar, Hickly spoke with the driver about whether he was able to drive. According to Hickly, the driver appeared fine to drive. She testified that he "walked fine, was able to handle his keys and functions of the vehicle, and did not slur his speech." The driver's brother however, disagreed with Hickly's observations of the driver. He testified that his brother was too drunk to drive.

Shortly after Hickly got into the car, the driver lost control of the vehicle and nearly hit a telephone pole. He went off the roadway where the car flipped at least 3 or 4 times. A passerby who stopped to render aid testified that the driver appeared intoxicated. Hickly filed suit against the driver and alleged that she suffered permanent neck and back injuries due to the accident.

The driver admitted that he was intoxicated and that he caused the accident. But he also claimed that Hickly had also

negligently caused or contributed to her own injuries by agreeing to ride with a driver that was intoxicated. Thus, the only issue before the jury was apportionment of fault and damages.

At trial the jury was instructed by the judge that Hickly could be held negligent for causing her own injuries if they found that she rode in a vehicle operated by a person known to be intoxicated. Apparently the jury agreed with the drunk driver's attorney because they held Hickly 35% responsible for her injuries when she accepted a ride from a person she knew, or should have known was intoxicated. Hickly's damages were then reduced by 35% to account for her own negligence.

The appeals court also said that if the jury had found that Hickly was intoxicated when she was injured, then her intoxication might have operated as a COMPLETE DEFENSE precluding

recovery of damages altogether. But only if (1) Hickly's intoxication proximately caused her own injuries; and (2) Hickly was more than 50 percent comparatively at fault in causing her injuries. Hickly was fortunate in this case because the jury did not believe that she was intoxicated even though she had consumed alcohol earlier in the evening.

The lesson from this case should be clear. Even if you don't consume alcohol, if you knowingly get into a vehicle with a person whom you knew, or should have known, was intoxicated you could be held responsible for causing your own injuries if there is an accident. You can bet the insurance company will defend such a case vigorously by arguing this new case. Don't ever knowingly accept a ride from someone who may have had too much to drink. ■

"EVEN IF YOU  
DON'T CONSUME  
ALCOHOL, IF YOU  
KNOWINGLY GET  
INTO A VEHICLE  
WITH A PERSON  
WHOM YOU KNEW,  
OR SHOULD HAVE  
KNOWN, WAS  
INTOXICATED YOU  
COULD BE HELD  
RESPONSIBLE FOR  
CAUSING YOUR  
OWN INJURIES IF  
THERE IS AN  
ACCIDENT."

## ***New Client Relations Manager***

Davis Law Group would like to welcome Mischelle Weedman-Davis to our staff (yes, this is my wife!).

I am so pleased and blessed that Mischelle would leave her 15 year career in high tech management at companies such

as Microsoft, Vulcan, and Qpass to become our new client relations manager.

Her role is to help educate clients about the legal process that they have entered.

She is in charge of all aspects of client relations, including

production of our new monthly newsletter, website, client reports, and case review articles. Another part of her role is to assist with trial technology & exhibits, focus groups, and jury selection should your case go to trial. Welcome, Mischelle! ■



*Mischelle  
Weedman-Davis,  
DLG's new Client  
Relations Manager*

**WHAT DO YOU THINK?** We are looking for people to appear in an upcoming television commercial promoting the book "*The Ten Biggest Mistakes That Can Wreck Your Washington Accident Case*". If you have read the book we would like to know if you found it useful. Please write a book review and send it to [info@injurytriallawyer.com](mailto:info@injurytriallawyer.com). If your review is chosen you may be asked to appear in one of our commercials.



DAVIS LAW GROUP, P.S.

**Davis Law Group, P.S., Inc.**  
2101 Fourth Avenue  
Suite 630  
Seattle WA 98121  
206-727-4000 Phone

[www.InjuryTrialLawyer.com](http://www.InjuryTrialLawyer.com)



## ***Drive Safely This Holiday Season***



*Jackson Davis says, "Drive safely this holiday season!"*

The Thanksgiving and Christmas/New Year's holiday periods are among the busiest long-distance travel periods of the year. During the 6-day Thanksgiving travel period, the number of long-distance trips (to and from a -destination 50 miles or more away) increases by 54 percent, and during the Christmas/New Year's Holiday period the number rises by 23 percent. And although heavy media attention focuses on crowded airports most long-distance holiday travel, about 91 percent, is by personal vehicle, such as by car. ■

**Source:** *Us Department of Transportation, Bureau of Transportation Statistics*

## ***Don't Miss Your Medical/Chiropractic/PT Appointments***

If you have been injured in an accident it is important that you **do not** miss your scheduled medical, chiropractic, or physical therapy appointments—even during the busy holiday season. Your treatment plan is designed to help you return to your normal functioning and activity levels. You certainly do not want to make your injuries worse by failing to adhere to the recommended treatment.

As you know, **insurance companies will use every excuse they can find to deny, delay, and defend against your personal injury claim.** Don't make their job easier by skipping your appointments. Not only are these appointments an important part of the healing process, but failing to attend all of your appointments may create the false impression that your injuries were not serious and that you weren't making your best effort to get well. ■