



WINTER 2024

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## INTRODUCTION

Personal injury cases can be incredibly complex and emotionally taxing. When individuals suffer harm due to the negligence or wrongdoing of another party, it can have devastating consequences on their lives. To seek justice and compensation, it is essential to find experienced and skilled attorneys who can effectively navigate the legal system on their behalf. I advocate with total commitment for the rights of personal injury victims utilizing my deep understanding of the laws and regulations that govern these types of cases.

- We handle the following types of personal injury cases: motor vehicle accidents, slip/trip and fall accidents, nursing home neglect/abuse and animal attacks.
- We can meet with you at our offices or at your home. Free parking at our offices.
- We employ experienced investigators to fully investigate your case, obtain important witness statements, perform background checks, take photographs, etc.
- We work closely with your treating physicians to completely understand your injuries and obtain important medical reports and records.
- We negotiate the best settlement possible to compensate you for your injuries, and other losses.
- We don't receive payment unless we recover money damages for you.

As always, Brach Eichler Personal Injury Attorneys are available to provide guidance and/or assist with your personal injury legal matters. If you have any questions or would like additional information regarding any of the articles contained in this 2023 Year in Review Newsletter, please do not hesitate to contact us. Thank you for your continued support. Be well, be safe.

Sincerely,

Edward Capozzi

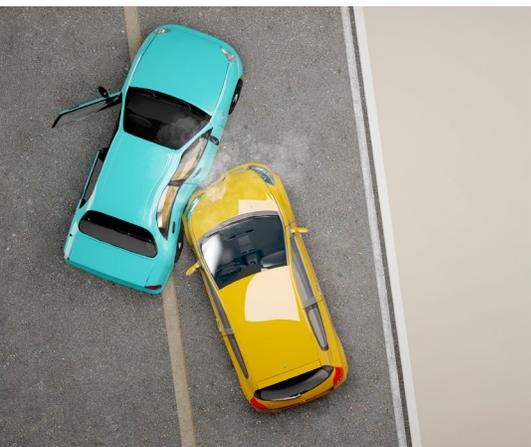
**IN 2023,  
OVER \$41  
MILLION  
RECOVERED!**



## **2023 YEAR IN REVIEW**

### **VERDICTS & SETTLEMENTS**

1. **\$8.5 Million** for an injured construction worker
2. **\$7.25 Million** for an injured client
3. **\$5.8 Million** settlement win for an injured client
4. **\$5.35 Million** settlement for woman struck by truck in Middlesex County
5. **\$3.6 Million** settlement yielded in fuel tanker vs. car accident
6. **\$2.96 Million** for a man killed at work
7. **\$2.25 Million** settlement on behalf of auto accident victim
8. **\$2.02 Million** verdict in Hudson Co. uninsured motorist case
9. **\$1.375 Million** settlement for a slip and fall on ice in Morris County
10. **\$1.195 Million** settlement for auto accident in Bergen County
11. **\$1 Million** for auto accident
12. **\$976,000** for a woman injured in an motor vehicle accident
13. **\$975,000** for auto accident garbage truck
14. Brach Eichler Injury Lawyers recover **\$950,000** for North Jersey family traveling to LBI
15. **\$915,000** settlement in transit bus crash
16. **\$905,000** settlement for cervical herniations in Middlesex County
17. **\$850,000** for woman injured in a motor vehicle accident
18. Bergen auto case nets **\$750,000**
19. **\$750,000** settlement for Essex County car accident victim
20. **\$750,000** for a man injured in an motor vehicle accident
21. **\$735,000** settlement for motor vehicle accident settlement in Lyndhurst, NJ
22. **\$650,000** settlement for trucking accident victim



## WHAT TO DO IF YOU FALL OR ARE INJURED AT A STORE

1. Make sure you can move;
2. Identify what caused you to fall;
3. Immediately photograph what caused you to fall;
4. If outside, call the police to report the incident or, if inside, immediately report to a store employee and request an ambulance;
5. Ask employee to fill out an incident report;
6. Ask if they have cameras that recorded the incident and request to see the footage;
7. Record the footage with your phone or, if they refuse to let you see it, specifically request that they preserve the video footage for your future use;
8. Go the hospital and get checked out;
9. Call Brach Eichler Injury Lawyers



A recent client who took all the steps mentioned was able to secure a \$300,000 settlement with the help of Brach Eichler Injury Attorney, Kristofer Petrie, Esq. This client had slipped and fell inside a grocery store on water that had dripped onto the floor from a flower display. Although hurt in the fall, her quick thinking in photographing the incident scene, reporting the water to the employees, and immediately filing an incident report was powerful evidence of the store's negligence. When an incident report is filed, the store typically preserves the video footage of the fall down which we can use to our advantage when a lawsuit is filed.

Through use of the client's photographs taken of the water and the incident scene at the store, Brach Eichler was able to show how the store operated its flower display in a negligent manner that created the dangerous slippery condition on its premises. After confronting the store's managers with the photographs and video evidence of their negligent, the store settled the case with Brach Eichler for a huge win for our client!



## THE UNSEEN RISK: HOW SOCIAL MEDIA CAN SABOTAGE YOUR PERSONAL INJURY CASE

BY JEREMY HYLTON

In the realm of personal injury law, social media has emerged as a silent adversary. As an experienced personal injury attorney, we have seen a growing number of cases impacted by clients' online activities. This article is dedicated to understanding and mitigating the risks that social media poses to personal injury claims.

### Social Media as Evidence in Personal Injury Cases

The legal system increasingly views social media content as a viable form of evidence in personal injury cases. In scenarios where plaintiffs claim injury or disability, a simple photo or post can contradict these claims, thus influencing the outcome. The Journal of Personal Injury Law has documented instances where plaintiffs' social media posts have significantly weakened their cases.

### Social Media Mistakes to Avoid in Personal Injury Cases

The most common pitfall in personal injury cases is posting content that suggests a plaintiff is more physically capable than they claim. For instance, photos depicting physical activities, travel, or even certain social gatherings can be interpreted as inconsistent with claims of serious injury or disability. Legal journals, such as the American Journal of Trial Advocacy, often highlight the repercussions of such social media missteps.

### Real-World Consequences in Personal Injury Claims

Social media can drastically alter the course of a personal injury lawsuit. For example, in one case, a plaintiff claiming severe back injury was undermined by a Facebook photo of them hiking. Another case saw a reduction in settlement amounts due to a plaintiff's posts about gym workouts. These examples, sourced from legal databases like Westlaw, underscore the tangible impact of social media in personal injury litigation.

### Best Practices for Social Media Use During Personal Injury Cases

The safest approach is to limit social media use while your case is pending. If you must post, ensure that nothing contradicts your injury claims. Adjust privacy settings and ask friends not to tag you in posts or photos. Before sharing anything, consult with your attorney to avoid unintended legal consequences. The National Law Review offers comprehensive guidelines on navigating social media during personal injury cases.

### Conclusion:

In personal injury law, social media stands as a potential threat to the success of your case. Being aware of the impact of your online presence and exercising caution can make a significant difference in the outcome of your lawsuit.

### References:

- Relevant case studies from the Journal of Personal Injury Law.
- American Journal of Trial Advocacy: Articles on social media in personal injury cases.
- Social media guidelines from the National Law Review.
- Case examples from legal databases such as Westlaw and LexisNexis.

# PITFALLS OF RECREATIONAL ACTIVITIES – SIGNER BEWARE

BY COREY DIETZ

When you gear up for an adventure in skiing, mountain biking, or a visit to a trampoline park, you're often met with a waiver. These documents are more than just a routine step; they're a crucial legal agreement that can significantly affect your rights. Here's a closer look at what you're signing up for.

## 1. The Essence of Waivers

A waiver, in essence, is a contract where you voluntarily give up your right to sue for damages resulting from misconduct or negligence during the activity. In many recreational settings, signing a waiver is a prerequisite for participation. If you choose not to sign, you may be denied access.

## 2. Legal Boundaries and Enforceability

Waivers are legally binding but not absolute. For instance, in Colorado, waivers can protect service providers from simple negligence but not from intentional, knowing, or reckless misconduct. The enforceability of a waiver depends on several factors, including the clarity of its language and whether it specifies the inherent risks involved in the activity.



## 3. Special Considerations for Minors

When it comes to minors, the legal landscape becomes more complex. In some states, like Colorado, parents can waive their children's right to sue for negligence. However, this is contingent on the waiver being voluntarily and informedly signed by the parent, with a clear understanding of the risks involved.

# THESE DOCUMENTS ARE MORE THAN JUST A ROUTINE STEP; THEY'RE A CRUCIAL LEGAL AGREEMENT THAT CAN SIGNIFICANTLY AFFECT YOUR RIGHTS.

## 4. Ambiguities and Unfair Practices

The clarity and fairness of the waiver's language are crucial. Unclear or ambiguous waivers, or those that don't adequately list the activity's inherent risks, may not be enforceable. In Michigan, for example, waivers that are part of a "take it or leave it" offer are often upheld, especially if the services offered are non-essential and could be obtained elsewhere.

## 5. Legal Recourse Post-Injury

Even after signing a waiver, you may have legal recourse in certain situations. This typically involves proving extreme negligence or reckless behavior on the provider's part. The waiver's clarity and your voluntary consent to its terms can also influence your ability to challenge it.

## 6. State-Specific Laws

Liability waiver laws vary by state, making it imperative to understand the legal landscape of the specific state where the activity is taking place. This is especially important if you're engaging in activities across different states.

## Conclusion

Understanding the intricacies of waivers you sign before engaging in recreational activities is crucial. It's not just about signing away rights; it's about being fully informed of what those rights entail and the potential legal implications. Always read thoroughly, ask questions if in doubt, and seek legal counsel if needed.

# NAVIGATING THE NEW LANDSCAPE OF JURY TRIALS POST-COVID: A PERSONAL INJURY LAWYER'S INSIGHT

BY EDWARD CAPOZZI

As the world gradually emerges from the grips of the COVID-19 pandemic, the legal landscape, particularly jury trials in personal injury cases, has experienced significant transformations. As a personal injury lawyer, I've witnessed firsthand how the pandemic has reshaped the courtroom experience, influencing not only the logistics of trials but also the perspectives and attitudes of jurors.

## Changes in Jury Pool and Decision Making

The pandemic has led to changes in the potential jury pool, affecting decision making, attitudes, and perceptions. The increase in psychological conditions like post-traumatic stress disorder and depressive disorder among the public can affect how jurors process information and make decisions. Conditions such as mortality salience, a psychological state triggered by death-related anxiety, can lead to ideological polarization and affect how jurors perceive facts and parties in a case.

## Virtual Trials and Remote Proceedings

Some jurisdictions have implemented virtual jury trials, and remote proceedings may continue post-pandemic. Courts have adapted to these changes by developing guidelines and handbooks for conducting virtual trials. For example, the U.S. District Court for the Western District of Washington developed a handbook to guide attorneys through using the ZoomGov platform for virtual trials.

## Impact on Personal Injury Claims

The pandemic has affected personal injury cases in various ways. Court shutdowns led to delays in resolving cases. Financial stress has prompted many victims to settle cases quickly, sometimes accepting lower settlement offers. Insurance companies, anticipating profit declines, may aggressively minimize claim values, potentially leading to more cases going to trial or proceeding further through litigation.

## Challenges in Collecting Compensation

Collecting compensation from defendants can be more challenging during the pandemic. Economic pressures on businesses, especially those not insured, may hinder their ability to pay settlements. In cases where the defendant files for bankruptcy, victims may face significant delays in collecting settlements or judgment awards, and in some cases, they may not receive the full amount.

## Medical Treatment and Documentation

For personal injury victims, receiving medical treatment and documentation is crucial for validating their claims. The pandemic has made it challenging for victims to visit healthcare facilities due to virus contraction concerns and the saturation of healthcare facilities with COVID-19 patients. This situation may necessitate delays in filing or settling cases until victims complete their treatment and reach maximum medical improvement.

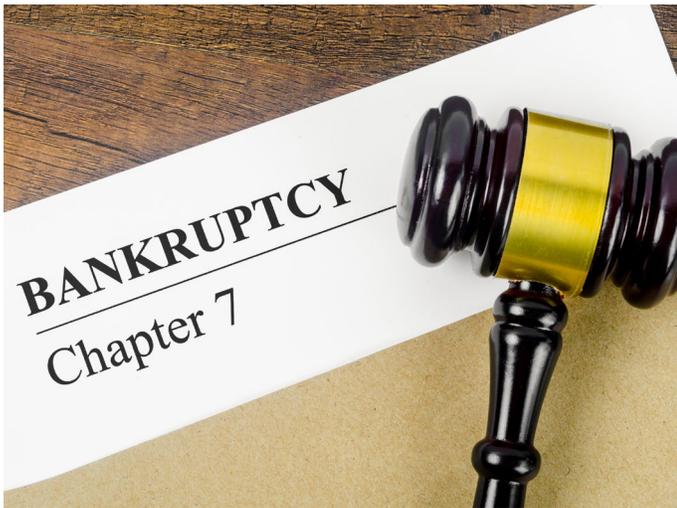
## Conclusion

The post-COVID era presents both challenges and opportunities for the legal community. In personal injury law, understanding and adapting to these changes is crucial for effective advocacy. As we navigate this new landscape, our commitment to our clients and the pursuit of justice remains steadfast.

the negligence of the trucking company as well as its operator clearly created a question that only a jury could decide and reversed the trial judge.

It was only after this appeal that the insurance company for the trucking company finally agreed to pay the family for the negligence of the company. After almost six years of bitter fighting the family of the victim at last had the answers that they initially sought and most importantly, got the justice they deserved despite the many obstacles that were put in front of them.

As a firm who is not afraid to take on the tough cases that are often rejected by others, this case stands out. We were honored to spend numerous hours investigating this collision, fighting the insurance company and bringing justice to a family that was long overdue.



## THE INTERSECTION OF BANKRUPTCY AND PERSONAL INJURY CASES: A COMPREHENSIVE GUIDE FOR PLAINTIFFS AND DEFENDANTS

BY DANIEL LEONE

Bankruptcy proceedings can significantly impact personal injury cases, whether it's the plaintiff or the defendant who files for bankruptcy. Here's a detailed exploration of how these interactions occur:

### When the Plaintiff Files for Bankruptcy

- 1. Principles Affecting the Case:** The main principles that come into play are assets, disposable income, the automatic stay, and the discharge of debt. Assets and disposable income are crucial if the injured plaintiff files for bankruptcy.
- 2. Bankruptcy Estate and Assets:** Upon filing for bankruptcy, a "bankruptcy estate" is created, which includes all legal or equitable interests of the debtor in property at the time of the case commencement. This means personal injury or workers' compensation claims become part of the bankruptcy estate.
- 3. Automatic Stay and Litigation:** The automatic stay is an injunction preventing creditors from seizing the estate's property. This includes halting actions like proceeding with service, discovery, litigation, trial, enforcement of judgments, and perfection of liens against a debtor who has filed for bankruptcy.

- 4. Disclosure of Injury Claims:** In bankruptcy filings, the timing of the injury claim's origination is crucial. For Chapter 7 bankruptcy, claims that arose before filing must be disclosed as assets, while those arising after don't need to be disclosed. In Chapter 13, all claims, regardless of their timing, must be disclosed.
- 5. Proceeding with Injury Claims:** Attorneys can proceed with injury claims during bankruptcy, but they need to file a motion for approval as special counsel. Moreover, attorney fees can be paid if a motion for approval of settlement and fee application is filed.
- 6. Settlement Proceeds:** The client can keep a portion of the settlement as personal injury claims have an exemption from liquidation. However, in Chapter 13 cases, even this exemption might be considered disposable income and subject to being paid into the case. It is important that the client discuss the available exemptions with their bankruptcy attorney.

### When the Defendant Files for Bankruptcy

- 1. Chapter 7 Bankruptcy:** Generally, a Chapter 7 bankruptcy discharges a defendant's legal obligations to pay any judgment based on negligence. However, personal injury judgments arising from willful or intentional harm, or DUI-related incidents, are protected from being discharged in bankruptcy.
- 2. Insurance Company Obligations:** Bankruptcy does not prevent a plaintiff from seeking judgment against a bankrupt defendant, specifically to pursue payment from their insurance company. The insurance company remains obligated to pay compensation for covered injuries and damages.
- 3. Procedures for Plaintiffs:** When a defendant in an injury case files for bankruptcy, plaintiffs should file a proof of claim, a motion for relief from the automatic stay, and check if an adversary proceeding is necessary. The automatic stay prevents proceeding with claims against the defendant without court permission, but can be lifted for good cause. However, if the defendant is self-insured, it is likely that a request to lift an automatic stay will be denied. With that being said, discovery can still proceed with any non-debtor defendant.

# FILING A PROOF OF CLAIM IS ESSENTIAL FOR PRESERVING YOUR CLAIM AND GETTING PAID IF THERE'S MONEY AVAILABLE.

**4. Proof of Claim and Discharge of Liability:** Filing a proof of claim is essential for preserving your claim and getting paid if there's money available. The injury client's claim, if listed on the bankruptcy petition, will be discharged at the end of the case, unless it's shown to be nondischargeable.

**5. Adversary Proceeding:** If the claim is based on fraud, DUI, or willful and malicious injury, an adversary complaint can argue that the debt is nondischargeable, allowing recovery against the debtor/defendant personally, beyond the amount of available insurance.

**6. Affect of Automatic Stay on Statute of Limitations:** In New Jersey, the statute of limitations for personal injury cases is two years. If the automatic stay expires before the statute of limitation expires, then a complaint must be filed before the two-year statute of limitations expires. If the automatic stay expires after the statute of limitations expires, then the client has thirty days from the order of discharge to file a complaint.

In summary, bankruptcy filings by either party in a personal injury case introduce complex legal considerations, affecting assets, claims, and the ability to proceed with litigation. It's essential for attorneys to navigate these intricacies carefully to ensure the best possible outcome for their clients.

## NEW YORK LABOR LAWS: A LIFELINE FOR CONSTRUCTION WORKERS

BY ALEX CAPOZZI

Construction work, known for its inherent risks, demands robust legal protections. New York's labor laws rise to this challenge, offering a comprehensive safety net for construction workers, especially in the face of accidents. Let's delve into the key benefits of these laws, backed by concrete sources.



### 1. Elevated Safety Standards for Height-Related Risks

New York State Labor Law 240, often referred to as the "Scaffold Law," is a cornerstone of worker safety. It specifically targets the dangers associated with elevated heights, a leading cause of fatalities in construction. The law mandates strict safety precautions for scaffolds and other height-related equipment, ensuring their strength, stability, and security against falling objects.

### 2. Strict Liability in Scaffold Safety Violations

A unique aspect of Labor Law 240 is its approach to liability. Workers injured due to scaffold safety violations have the right to file a strict liability claim, bypassing the need to prove negligence. This provision significantly eases the path for workers to obtain compensation for injuries, lost wages, and other damages.

### 3. Comprehensive Workers' Compensation

**Benefits** Injured workers are entitled to workers' compensation, which covers medical treatments and a portion of lost wages, calculated based on the worker's average weekly wage and degree of disability. This benefit is a fundamental right for workers facing injuries on the job.

### 4. Full Compensation for Damages

While workers' compensation is invaluable, it may not cover all damages. In such scenarios, New York Labor Laws §§ 240 and 241 empower workers to seek additional compensation for economic and non-economic damages caused by third-party negligence. This includes compensation for pain and suffering, emotional distress, and unreimbursed medical expenses.

### 5. Legal Recourse in Cases of Wrongful Death

Tragically, some accidents lead to fatalities. In these instances, workers' compensation provides limited financial support to the family of the deceased. However, if the death resulted from labor law violations, a wrongful death action can be initiated, offering further financial relief and justice for the grieving family.

### Conclusion

New York's labor laws in the construction sector are not just a set of regulations – they are a vital framework ensuring the safety and rights of construction workers. These laws offer protection from the unique hazards of construction work and provide a crucial legal pathway for workers and their families to seek compensation and justice. Understanding and utilizing these laws can make a significant difference in the lives of those who build and shape our cities.

## BRACH EICHLER **IN THE NEWS**

Brach Eichler was included in the "[2024 Best Law Firms in New Jersey](#)" list by *Best Lawyers*.

**Edward Capozzi** submitted an Op-Ed piece entitled "[The Role of a Personal Injury Lawyer in Jersey City](#)" to Patch.com

Congratulations to **Edward P. Capozzi** who was recognized as a "[2024 Best NJ Lawyer for Families](#)" by *New Jersey Family*.

Congratulations to Brach Eichler's **Alex S. Capozzi, Corey A. Dietz, Jeremy L. Hylton** and **Daniel G. Leone** who were recognized by "[Best Lawyers Ones to Watch in America 2024 Edition](#)."

Brach Eichler Personal Injury attorneys opined in an article entitled "[Taking action without delay ensures that justice is pursued vigorously and that victims can begin the process of healing and recovery](#)."

**Edward Capozzi** was quoted in an article entitled "[Dad sues N.J. dealership after deceased son's car was destroyed in Ida flooding, lawsuit says](#)."

**Edward Capozzi** presented at the "[New Jersey Association for Justice Boardwalk Seminar](#)" in Atlantic City.



# ATTORNEY SPOTLIGHT

## ALEX CAPOZZI

“UNLIKE MANY LAW FIRMS IN THIS INDUSTRY, WE TRULY PLACE AN EMPHASIS ON CLIENT CARE AND SURPASSING OUR CLIENT’S EXPECTATIONS. WE STRIVE TO BE GREAT COMMUNICATORS WITH OUR CLIENTS AND TO DELIVER THE BEST RESULT POSSIBLE.”

### **Why did you decide to become an attorney?**

When I was ten years old, I unexpectedly met my father for the first time. At that time, he happened to be just starting law school and we would take car rides where we talked about the law the entire time. I was immediately hooked and since then, I always wanted to be a lawyer.

### **What would you be doing if you weren’t a lawyer?**

Fighter-Jet Pilot

### **Tell us about a mentor who made an impact on your career.**

My Uncle, Tom Kinney. He always preached the importance of integrity and just being a good person.

### **What is the best career advice you have received?**

Do a good job, work for the right reasons, and success will follow.

### **What are some recent good books you read?**

*Never Split the Difference* by Chris Voss and *The Fearless Cross Examiner* by Pat Malone

### **What might people be surprised to know about you?**

I’m a history nerd. I’ve always been fascinated with historical events and how they contributed to the way things are today.

### **What are your strongest assets?**

Instincts and relentlessness.

### **What do you like most about Brach Eichler Personal Injury Attorneys?**

Unlike many law firms in this industry, we truly place an emphasis on client care and surpassing our client’s expectations. We strive to be great communicators with our clients and to deliver the best result possible. During the course of a case, there are numerous things that we do which are specifically designed to put our clients in the strongest position possible to get a good result. Often times, we spend years zealously litigating a case in order to make it as strong as possible. We spend an extensive amount of time and resources to find and hire the best experts for our clients. Last, but not least, if the insurance company refuses to make a fair offer, we have no problem spending countless days and weeks preparing for a trial so we can put forth the best case possible. We do this not because they are easy, but because they are in the best interest of our clients.

### **What are you most proud of, professionally and/or personally?**

A two million dollar jury verdict that I obtained for my client. I was twenty eight years old and it was the third trial I ever had. The insurance company refused to pay my client more than \$40,000. Instead of taking the offer, we decided to take the case to trial. After a two week trial, the jury returned a verdict in excess of \$2,000,000. It is believed that at the time I was one of the youngest attorneys in history to ever receive a multi-million dollar jury verdict at trial.



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