



## THANK YOU FOR YOUR REFERRALS!



We appreciate referrals from our friends, clients, and colleagues – they are the lifeblood of our business. We limit our practice to helping people in accident cases, personal injury and employment matters, and you can be assured that we will treat your referrals exactly as we would want to be treated if we had a problem: with respect, empathy, sound guidance and strong advocacy. While we cannot help everyone, we do our best to dole out sound advice to those who take the step to contact a lawyer.

## What We're Watching

Maybe we're relics, but Giovanna and I really love going to and watching movies. Don't get me wrong, I enjoy a binge watch as much as the next person (most recently, *Billions*), but good movies on a big screen still have the ability to capture you in a way that television never will.

Two recent films absolutely worth the watch:

*Three Billboards Outside Ebbing, Missouri*. This is dark. And it's tough, but it's also funny, and sad, and very moving. Frances McDormand, Woody Harrelson and Sam Rockwell (three powerhouse actors) make this Fargoesque film well worth the price of admission.

*Black Panther*. A superhero film that really isn't, and one that makes you think. This is more of a film about race, and tribalism, and colonialism, and the power of both rage and empathy. Plus, Miles loved the action, of which there was plenty.

*"As you get older, the questions come down to two or three. How long? And what do I do with the time I've got left? What I like to do is try to make a difference with the work I do."*

- David Bowie



If you have questions, or would like to be removed from this list, just send an email to [newsletter@doraziopeterson.com](mailto:newsletter@doraziopeterson.com), or call the office.



## OUR TAKE

### Enjoying the Outdoors

I'm writing this while sitting in the middle seat on a plane – Miles asleep on my shoulder (he got the window seat). We're traveling with the family for a winter getaway to Costa Rica.

Since I was young, I've always loved to travel and we're doing our best to foster a love of travel in our kids. Whether it's a weekend road trip to a mountain for a hike, or a longer flight to a foreign country, I love seeing the wonder in the eyes of my kids when they see new places and new things. I'm fairly confident that it won't last forever (teenagers...), so I'm trying to take advantage while I can.

People often assume that interesting travel is expensive and, of course, it can be. But some of the most memorable trips that we've taken with our kids weren't expensive at all. Hiking Cascade mountain (one of the 46 "High Peaks" outside of Lake Placid, NY), for example, cost us a tank of gas and a long Saturday (with

PB&J's and homemade trail mix). Miles still talks about it (forgetting that I nearly had to carry him the last half mile).

Same thing for a hike up the Pinnacle trail at the Lake George Land Conservancy, which amazed us all with its vistas of Lake George.

If hiking isn't your thing what about snowshoeing – literally walking around the woods in the snow? Or maybe a lake? When I was a kid, my parents would often pack the car with a fishing pole, some worms, and a cooler. We'd pick up some sandwiches along the way and drive to a lake for some fishing and some lunch. Not a natural fisherman, I tended to enjoy the sandwiches more than the fishing, but we were outside and together.

Our kids (and, frankly, us as well), tend to go stir crazy with too much indoor time. The added bonus to these inexpensive trips – the fresh air does wonders for clearing your head or helping you think.



MARCH 2018  
NEWSLETTER



D'Orazio  
PETERSON  
ATTORNEYS

### IN THIS ARTICLE:

Page 1:  
Our Take

Page 2:  
Who is at fault for an accident involving an Uber/Lyft?

Page 3:  
Watch out with that phone.





## WHO IS AT FAULT FOR AN ACCIDENT INVOLVING AN UBER/LYFT?

In late 2017, ride sharing services Uber and Lyft finally arrived in the Capital Region of New York (Albany, Schenectady, Saratoga, Troy and surrounding areas).

The arrival of these services marked a significant change for residents of the cities and towns in the Capital Region. Now, through your smartphone, you are able to hail a ride in a matter of minutes, pay for that ride, learn about your driver and leave that driver a review following the ride.

The arrival of ride sharing services should, of course, reduce both the number of drunk driving related accidents as well as the number of arrests for driving under the influence of alcohol or drugs. Generally speaking, reducing the number of drivers on the road should also reduce the number of accidents generally – statistics would support this.

But what happens when a ride sharing vehicle is involved in an accident? What recourse do the passengers have?

The founders of Uber and Lyft were smart. They created businesses around vehicles without actually having to physically own any vehicles. Their “service” is the software, which connects drivers of vehicles with those seeking a ride. Because of this, Uber and Lyft have also likely insulated themselves from liability when a driver is involved in an accident. To a degree.

Lyft and Uber vehicles are owned by the drivers, not the company. Generally, in New

York the owner of a vehicle is liable for an accident where the driver failed to act with reasonable care in the operation of the car.

A classic example of this would be where an Uber driver runs a red light and the car is t-boned, causing injury to a passenger. In this scenario, the driver would likely be liable to the passenger for damages, just as if that passenger were injured riding in the car of a friend. The insurance company for the owner of the vehicle (either the driver or someone else) would also likely be on the hook for these damages, whether the case was settled prior to a lawsuit or after one.

Where Uber and Lyft could find themselves in trouble, potentially, is where they allow an individual to operate as a driver without performing a proper background check.

You may recall that Uber has had problems with this in the past – and was accused of performing insufficient background checks on its drivers. It’s uncertain how much these checks have improved, but these are concerns that are not going away.

### *The bottom line*

Ultimately, if you are injured as a passenger in a vehicle you should be protected by the insurance covering the vehicle, as well as any other vehicles that may be responsible for the accident. In cases of accidents involving multiple passengers, however, this can get sticky.

*continued on page 3*

For this reason, it is critical that if you are involved in accident in ride sharing vehicle (or any vehicle, for that matter) you consider speaking with an attorney. While it may seem harmless to wait, you could be doing yourself a disservice.

## WATCH OUT WITH THAT PHONE.

Giovanna A. D’Orazio

*continued from page 2*

### *Planning to Record your Employer? Some Things to Think About.*

In the age of the do-everything smartphone, it has become increasingly common that potential new clients come to us with recordings and videos related to their employment issue. But for every recording that’s helpful, there’s a recording that’s quite the opposite. So, if you’re having a problem at work, should you record your employer?

First and foremost, any recording is made at your own risk. Many employers now have anti-recording policies in their handbooks. Meaning that, if you get caught, you may get fired for violating that policy. Additionally, depending on where you live, this could be illegal. New York is a one-party consent state, meaning that you are (at least from a criminal law perspective) allowed to record conversations you are a party to. In California, however, both participants in the conversation must agree.

The “pro” of recording a complaint to your employer is, of course, documenting something that might otherwise be he said/she said. When it comes to documenting inappropriate conduct (as opposed to a complaint), your recording (or photo, or video) could end up being the only proof of the incident or the inappropriate comments. Aside from the risk of violating a potential employment policy, typically photographing something like vandalism, pornography in the workplace (yes, we have seen this) or a

If you have questions call us today. We’re happy to help.

Also, don’t forget our *Ignore the Phone* campaign against distracted driving. If you’d like a free sticker just send us an email, or visit [www.ignorethephone.com](http://www.ignorethephone.com).

racial slur written on the wall would be a good thing.

The “cons” come when your own conduct in the recording will have a negative impact on you or a potential case. For example, you record an altercation, but your behavior also is inappropriate or violent. Another example is saying too much, particularly in the context of making a complaint. Sometimes, in an effort to be conciliatory, the employee actually exonerates the employer in the conversation. (Think, “I know you’re doing everything you can to deal with this issue.” Well, if later you allege that your employer’s investigation was insufficient, this may come back to bite you.). This doesn’t necessarily mean the recording won’t be helpful, or you won’t have an opportunity to explain, but it’s something to keep in mind.

Once in a lawsuit context, both sides will request disclosure of any recordings relevant to the case. So, if you are planning to record your employer with the idea that you are protecting yourself in the event of future litigation, remember that everything you say will be listened to (with a very critical ear) and, at least at first, taken at face value.

Ultimately, this is something that is going to be at the employee’s discretion. Documenting evidence is worth your while and less likely to come back to bite you. Recording a long conversation could be a different story and should be done prudently and with the idea that someone will be listening to you some day.

