

Raising the Bar Media Sample Legal Blogs

Common Causes of Large Truck Accidents

Mardi Gras. Bourbon Street. New Orleans jazz. In Louisiana, we let the good times roll. We also roll the dice when we share the roads with tractor trailer trucks. According to the National Highway Traffic Safety Administration (NHTSA), each year there are over 3,500 large truck accidents in Louisiana, causing serious injury and frequent fatalities. Half of these accidents are collisions with other vehicles, followed by rollovers and collisions with fixed objects. Let's take a look at some of the common causes of Louisiana truck accidents.

Prescription and over-the-counter drug use

Surprisingly, prescription and over-the-counter drug use is one of the biggest causes of tractor trailer accidents. Truck drivers dealing with colds and allergies do not have the luxury of staying home in bed when they have a truck load of perishables to deliver. Cough medicines, antihistamines, and other prescription drugs create drowsiness and slow reaction times. For a driver who may already be fatigued, the medication can be fatal.

Driver fatigue

Driver fatigue is another big Louisiana truck accident cause. Truck drivers have pressures to make deliveries on time and their pay is often based on how many miles they drive. Therefore, it is common for drivers to spend many hours behind the wheel without rest. And when they do get to rest, it is often in the cabs of their trucks. Sure, some of the tractors are spacious, but can they really be as comfortable as a bed? Watch out for sleepy drivers between two and six in the morning and in the mid-afternoon, when driver fatigue is the greatest.

Poor driving behavior

Looming deadlines, driver fatigue and pay incentives push truck drivers into poor driving behaviors. We all see the speeding, weaving in and out of lanes, tailgating and aggressive maneuvers. Usually, we are all able to get out of the way of the truck driver who is having a bad day, but some are not so fortunate.

Equipment failure

Often truck accidents in Louisiana are caused by equipment failure. Tires blow out or brakes fail and you have an 80,000-pound vehicle barreling down the road with impaired ability to stop. Truckers are required to do safety checks of their vehicles, but even checking the vehicle might not identify equipment that is on the brink of failure. Trucking equipment maintenance programs are vital for keeping the big rigs rolling smoothly.

Contact us

If you are injured in a trucking accident caused by any of the above examples, contact the Cardone Law Firm. We can represent you in your Louisiana truck accident case.

Celebrity Divorces in New York

It turns out that money is no guarantee of happiness. Despite wealth and luxury, celebrity marriages are just as likely to end in divorce as the marriages of ordinary people. Here in New York, our politicians, athletes, and entertainers lead the way.

Rudolph Giuliani: setting the standard for drama

Former Mayor Rudolph Giuliani has been married three times and divorced twice. His first marriage, to his second cousin Regina Peruggi, lasted seven years before they agreed to a trial separation. Giuliani met and began dating his future second wife almost two years before finalizing his 1983 divorce from Peruggi, 15 years after they married. In 1984, Giuliani married Donna Hannover, the woman he had been dating for two years. The marriage produced two children.

Giuliani met his future third wife, Judith Nathan, at an Upper East Side cigar club in 1999 while still married to Hannover. His relationship with Nathan intensified as his marriage to Hannover cooled, and in a roundly-criticized move, Giuliani held a May 2000 press conference to announce his separation from Hannover without first informing Hannover of his plan. When the acrimonious divorce ended in July 2002, Giuliani paid Hannover a \$6.8 million dollar settlement and granted her custody of their children. He and Nathan were married the next year.

David Letterman: divorced early, remarried late

Late-night host David Letterman was married for eight years, from 1969 to 1977, before divorcing his first wife. He met his current wife in 1986. They dated for years, and had a son together in 2003. At two years of age, their son became the victim of a planned kidnap and ransom conspiracy. In 2009, after dating for 23 years, Letterman finally married his long-time girlfriend, Regina Lasko. The couple remains married despite Letterman's public admission of an extramarital affair.

Alex Rodriguez: playing the field

Highest-paid Yankee Alex Rodriguez was divorced after a six-year marriage in September 2008. The marriage produced two daughters, but was marred by a series of extramarital affairs, including alleged dalliances with Madonna, famed exotic dancer Joslyn Noel Morse, and infamous New York madam Kristin Davis—i.e., the madam who supplied former Governor Eliot Spitzer with prostitutes. Post-divorce, Rodriguez dated actress Kate Hudson in 2009, and has been carrying on a romantic relationship with Cameron Diaz since 2010.

Facing divorce? Get star legal treatment

The New York City divorce attorneys at Goldweber Epstein LLP offer compassionate and knowledgeable legal guidance for New Yorkers facing divorce. We are experienced with mediation and negotiation as well as courtroom trials. We invite you to contact us today at 212.355.4149 or online to arrange a consultation with one of our highly skilled divorce attorneys.

Top Five Reasons to Review Your Estate Plan

As your life changes, your estate plan should change, too. Following are the top five reasons to pull your estate plan from the file cabinet and review it with a highly-qualified Oklahoma City estate planning attorney.

1. Your employment circumstances changed

When you drafted your estate plan a dozen years ago, you worked as a manager at a mid-sized regional business. You had health insurance, a company-sponsored life insurance policy, and good prospects. Now things have changed: maybe you left and started your own successful small business, maybe you got caught in the recent recession and are earning less in a different job, or you just decided to retire early.

Whatever the case, it is time to review your estate plan. Who provides how much life insurance, the effectiveness of your health insurance policy, and when you expect to retire all play important roles in any comprehensive estate plan.

2. Your family has grown

Maybe your old estate plan took your children into account, but not their children or grandchildren, or maybe you did not bother with an estate plan, figuring your estate would end up split evenly among your children. Now you have grandchildren, maybe a couple of great-grandchildren, a niece who has fallen on very hard times, and a dog you want someone to care for if you are unable to do so. You should reevaluate your estate plan with the help of Oklahoma City estate planning attorneys to ensure that everyone you want to include is included.

3. You got divorced or remarried

Just as estate plans require updating when your family grows, you should review your estate plan when your family changes. Divorce and remarriage both usually signify changes to the people you want to benefit from your assets. Your estate plan should be kept current to reflect those changes.

4. You want to sell your home or buy new property

Real estate and land holdings constitute an important part of most estate plans. If you plan to move, or have recently moved, you should update your estate plan to reflect your current property interests. Your estate plan can also specify what should happen if there is a mortgage outstanding when the estate is distributed, whether the property is to be subdivided among your heirs or sold and the proceeds distributed, and whether the property should be dedicated to a charitable or religious purpose.

5. Your spouse needs nursing home care and you want to protect your assets for your heirs

Nursing homes can be frightfully expensive. Without proper planning, a few years in a nursing home can drain your life savings, leaving little or nothing for your children and grandchildren. Attorneys skilled in estate planning and elder law can help ensure that your loved one gets high-quality nursing care without bankrupting you. If you ever reach this difficult situation, it is time to review your estate plan and consider irrevocable living trusts and other methods of intergenerational asset transfer.

Work with an experienced, compassionate estate planning attorney

Donna J. Jackson, Attorney at Law, has over two decades of experience assisting Oklahoma families with all of their estate planning and elder care needs. If you need an estate planning attorney in Oklahoma City or the surrounding area, call Donna J. Jackson at (405) 463-2265 or contact her today to arrange a free initial consultation.

The Dangers of Using a Cell Phone While Driving

Texas laws prohibit hand-held cell phone use by bus drivers, drivers under the age of 18, and any driver in a school crossing zone. Recent laws also make it illegal to text while driving in Austin.

These are primary offenses, and the police can stop you if they see you using a phone illegally. They do this because they hope to prevent Austin car accidents. But how dangerous is it to use a cell phone while driving?

Longer reaction times

The journal, Human Factors, shared the results of a University of Utah study headed by David Strayer, reporting that drivers using cell phones showed dramatically increased reaction times. They were slower to react to all of the following:

- Brake lights
- Returning to the flow of traffic
- The distance between cars

Cell phone use compared to drunk driving: a surprising conclusion

Strayer also performed a study of drunk drivers and cell phone users that was printed by Human Factors. In it, 40 participants followed a pace car that braked randomly in a simulation. The four conditions tested were:

- Without distractions
- With a handheld phone
- With a hands-free phone
- With a 0.08 Blood Alcohol Content (BAC)

Scientists concluded that driving while talking on a cell phone was just as likely to cause an automobile accident in Austin as driving drunk. Every simulation showed that drivers on cell phones, both hand-held and hands-free, are more likely to crash. In fact, cell phone users during the simulation crashed into the pace car, while drunk drivers did not crash at all.

If a cell phone had anything to do with your accident injury, speak to an Austin auto accident attorney familiar with such cases.

The effect of cell phones on Austin car accidents

The Harvard Center for Risk Analysis (HCRA) estimated that, every year, up to 8,000 deaths in the U.S. are the result of cell phone distraction. Of the total yearly estimate for fatalities, cell phone use contributed to possibly 20 percent of accident deaths each year.

Get help for an automobile accident in Austin involving a cell phone

Drivers who use their cell phones recklessly cause accidents. Since they have a choice, you must hold them liable for their negligence. Contact the Law Offices of Steven A. Gibbins and [discuss Austin car accidents](#) resulting from negligent cell phone usage.

Effects of Traumatic Brain Injury (TBI)

Not all effects of TBI are immediate. In fact, many TBIs go unnoticed at first due to lack of symptoms in the victim. For this reason, any doctor or brain injury attorney in California will recommend that a full examination be administered to anyone who suffers a trauma that could potentially cause brain injury.

Physical symptoms of TBI

While the physical and cognitive effects of a TBI tend to become apparent in its early aftermath, emotional effects may be immediate or develop over time. Physical symptoms of TBI are often indicators that a brain injury occurred to the brain stem, which controls limbic function.

Common physical effects of TBI include the following:

- Headaches
- Movement disorders such as tremors
- Seizures
- Difficulty walking
- Sexual dysfunction
- Lethargy
- Nausea
- Coma

Displaying cognitive symptoms of TBI may also reveal brain injury, more likely to the frontal lobe or to one of the temporal lobes, all of which are involved in basic cognitive function. Following an impact trauma to the head or neck, an individual who experiences alterations in the reasoning or judgment process, memory problems, or even loss of mathematical ability may be exhibiting signs of traumatic brain injury.

Emotional symptoms of TBI

Emotional symptoms are commonly associated with brain injuries, and experiencing any of the following effects could indicate a TBI to any of the lobes:

- Uncharacteristic mood swings
- Poor impulse control
- Easily agitated or increased irritability
- Low frustration threshold
- Self-centeredness
- Depression
- Unusual elation/hyperactivity
- Disorientation
- Psychotic symptoms (hallucinations and/or delusions)

Severe TBI and states of consciousness

The most serious (and generally the most obvious) cases of brain injury affect the consciousness of the victim. In addition, they affect the brain as a whole rather than being localized to one particular lobe.

A severe TBI is likely to lead to one of the following six abnormal states of consciousness:

- **Stupor:** Victim can only be aroused briefly and only by a strong physical stimulus
- **Coma:** Unconscious, unresponsive, unaware, cannot be aroused
- **Persistent vegetative state:** Unconscious and unaware of surroundings, but with sleep-wake cycles, and sometimes periods of alertness
- **Minimally conscious state:** Reduced level of arousal, but capable of actively processing information
- **Locked-in syndrome:** Full awareness and alertness, but inability to move or communicate
- **Brain death:** Absence of any measurable brain function. Brain death is irreversible.

Contact us

For more information on TBI, or to schedule a consultation with an experienced attorney, contact the brain injury law firm in California of Robert G. Schock at (888) 688-4791.

Common Life Insurance Policy Scams to Watch Out For

While most insurance agents and companies are reputable, a few unscrupulous, unethical brokers are out there. You may also encounter shady agents within honest, upstanding insurance companies, as well as honest agents working for insurance companies that are going broke due to risky business practices.

Prospective buyers must not only find the right insurance product, they need to establish a trusting relationship with the insurer and agent. With life insurance, this is a long-term, often life-long commitment. You need to know for sure that your insurer will pay your death benefit to your designated beneficiaries when you are gone.

Understanding the complexity of life insurance vehicles

Not all life insurance is the same. Variable life insurance policies are risky because they combine investment in securities with the life insurance. With pressures to increase sales in a tough economy, some agents push people into buying life insurance products that are not a good fit for their financial needs. Or they actually lie to buyers or minimize the inherent risks involved.

Uninformed, gullible buyers may trust that advice and buy a policy they do not fully understand. The following are common life insurance policy scams to watch out for:

- **Pocketing:** The agent pockets premium money instead of turning it into the insurance company, leaving the buyer out the money and insurance.
- **Twisting:** The agent persuades the policyholder to exchange an existing policy for a new one to receive the highest commission rates, typically paid during that first year.
- **Sliding:** The agent slips more expensive coverage into a low-commission life insurance policy to benefit personally.
- **Churning:** Selling an additional policy to a person who already has a life insurance policy and using the cash value in the first to pay for the second. But when that cash value is depleted, the policyholder is left paying out of pocket for two policies or the coverage lapses.

How life and health insurance attorneys can help

There are also rip-offs associated with health insurance, especially since the passage of the landmark Patient Protection and Affordable Care Act (PPACA). Many of the bogus offers look official and use industry standard language to confuse buyers.

If you are the victim of an insurance scam, a qualified life insurance attorney can sue to recover your financial losses. Skilled healthcare and HMO litigation attorneys can level the playing field, allowing people to fight large health insurance organizations as individuals or part of a class action suit.

Contact us today

If you or a loved one needs to discuss a legal matter with a health insurance attorney, do not hesitate to call Parry, Deering, Futscher & Sparks, PSC in Kentucky at (859) 291-9000 or contact us online for representation in individual and class action litigation.

New York City Divorce Statistics

Surprising some—and perhaps disappointing others who delight in painting New York as a modern-day Sodom or Gomorrah—the divorce rate in New York City falls well below the national average of almost 50 percent. In fact, just 10 percent of Manhattan residents reported being divorced in 2008.

What about New York state? It had a divorce rate of just 8.4 percent in 2008. Only two states—New Jersey and North Dakota—have lower divorce rates.

Explaining the lower divorce rate in New York City

Social scientists have yet to come up with a definitive explanation of why the divorce rate in New York is lower than so many of its neighbors, but speculations include:

- People in New York City tend to stay single longer and to be older when they marry, leading to fewer rushed or ill-considered youthful marriages.
- The statistics reflect the number of residents who say they are divorced, regardless of when and where they divorced. New York City could just be too expensive for many of the recently-divorced to afford.
- Until recently, New York remained the only state in the nation without no-fault divorce, meaning that many married couples either had to agree to lie about the grounds for their divorce or go through a long separation before legally divorcing.
- Rent stabilization and the difficulty of finding desirable, affordable apartments may encourage people to draw out struggling relationships.

In the end, though, none of these explanations are truly satisfactory. High stress levels—as measured by long commutes and high unemployment—tend to correlate with higher rates of divorce. It is remarkable that New York City, with one of the longest average daily commutes in the country as well as its share of post-2008 unemployment, does not have a higher divorce rate than it does.

Comparing New York City to its upstate neighbors

In 2008, the 24,965 divorces in New York City constituted about 47 percent of total divorces in New York State, a number just slightly higher than the 44 percent of the total population of the state that lives in New York City. Even though the divorce rate in New York City is just slightly higher than that of the rest of New York, the reasons for divorce tend to differ significantly.

For example, according to statistics from the New York Department of Health, just 6 percent of New York City divorces cite cruelty as the grounds for divorce, as opposed to 31 percent of divorces in the rest of the state. New York City residents also tend to divorce earlier in their marriage: 57 percent of New York City divorces occurred in the first nine years of marriage, whereas only 43 percent of marriages ending in divorce in the rest of the state ended in the first nine years.

By way of contrast, numbers from the New York Department of Health show that just 14 percent of divorces in New York City occurred after 20 or more years of marriage, but 24 percent of divorces in the rest of the state occurred after 20 or more years of marriage.

Facing divorce? Protect your property and your mental health

The New York City divorce attorneys at Goldweber Epstein LLP offer compassionate and knowledgeable legal guidance for New Yorkers facing divorce. We are experienced with mediation and negotiation as well as courtroom trials. We invite you to contact us today at 212.355.4149 or online to arrange a consultation with one of our highly skilled divorce attorneys.

Stay Legal, Stay Profitable

For businesses large and small, these are trying times. With employment down and uncertainty about the future up, business owners must take extra precautions to protect the viability and profitability of their businesses. In this climate, the last thing businesses need is an avoidable lawsuit, audit, or fine.

To avoid unnecessary legal difficulties, businesses should regularly consult with a San Jose or Los Angeles business attorney for assistance to resolve any ambiguities in consumer or business contracts, permitting, licensing, and registration requirements, or taxation issues.

Know the rules of the game

Businesses often get into legal trouble by failing to adhere strictly to their own foundational documents. If your incorporation papers state that your board of directors will meet on a quarterly basis, or that your partnership will calculate losses and distribute profits twice annually, you should follow those rules to the letter. Failure to do so creates vulnerability to lawsuits from unhappy shareholders, or from a partner or member who feels overlooked or shortchanged.

Play by the rules

Contracts create their own law: as long as the contract does not somehow contravene city, state, or federal law, the contracts you sign govern your relations with businesses, clients, and consumers. If, for any reason, you feel your business will not be able to uphold its side of a contract, you should consult with a San Jose or Los Angeles business lawyer immediately. He or she will clarify the consequences of a breach of contract, whether a breach makes you vulnerable to a lawsuit, and how to best communicate with the other parties to the contract.

In fact, you may be able to avoid any difficulties created by breach of contract by having a qualified business attorney draft and review the contract before you commit to it. Skilled business lawyers can draft contracts so that they take foreseeable difficulties and contingencies into account, keeping you out of trouble and protecting your business' good name.

Pick the right team: skilled Los Angeles business lawyers

At Bradley & Gmelich, our experienced business attorneys can help your California business stay ahead of the game. We can answer any questions and resolve any doubts you may have about the exact meaning of a contract, regulation, permitting requirement, or incorporation document. With decades of experience representing businesses of all sizes, our San Jose and Los Angeles business attorneys can help you nip problems in the bud, before they become expensive, time-consuming drains on you and your business. Contact Bradley & Gmelich today to discuss how we can help your business stay afloat in the rough waters of the current economy.

Benefits Available For Social Security and Disability

Social Security provides a vast array of benefit programs and payments that offer a much-needed safety net to many. The most familiar program is probably the Social Security retirement program, which allows retired workers to receive benefits based on their average earnings provided they have worked for a long enough time and earned enough credits over the course of their work history.

Besides Social Security retirement benefits, the Social Security department also pays disability benefits. There are two programs that parties can seek disability payments through:

- **Social Security Disability Insurance:** The Social Security disability insurance program (SSDI) pays benefits to workers who find at some point they are unable to work due to a physical or mental disability. In certain cases, family members of the worker can also qualify provided the worker worked long enough and paid Social Security taxes. An adult child also may qualify for benefits based on the earnings of a parent provided the adult child has a disability that began before age 22. In some situations, your divorced spouse may be eligible to receive Social Security disability benefits provided the spouse was married to you for at least 10 years, is not currently married, and is at least 62 years old.
- **The Supplemental Security Income program:** Supplemental Social Security Income (SSI) pays benefits the following parties who have limited income and resources:
 - Disabled adults
 - Children
 - People 65 and older without disabilities

Other benefits available

There are many benefits available for the support of the disabled and those with low incomes. They include Medicaid and Medicare. Children who get SSI usually qualify for Medicaid, a health care program that provides much needed medical coverage. Medicare is a health care program for people who reach the age of 65. Medicare also is provided to parties who have been getting Social Security Disability benefits for two or more years.

Skilled Texas disability lawyers can help

The web of laws surrounding SSI and SSDI is complex and not easily navigated. With an experienced Texas social security disability attorney guiding you, and fighting for you when necessary, you have a much better chance of receiving benefits than if you go it alone. Texas social security disability lawyers understand all elements of the disability claims process. Contact the Abbott Law Office today.

Defamation in Divorce Proceedings

Divorce is often a contentious process. Ex-spouses have so many issues to resolve – from how to divide assets to determining child custody and support – that it is only natural for at least one issue to result in disagreement. Although arguments and accusations are typical of many divorces, it is important that spouses be careful not to take it too far.

While divorcing spouses should raise certain issues in court, such as a spouse's failure to pay support, making a harmfully false accusation is considered a tort, or wrongful act, for which you can be held liable. Under the law, a person can be charged with [defamation in New York](#) when he or she makes a statement that is:

- False and not just insulting
- “Published,” meaning heard or seen, by someone other than the person the statement concerned
- Harmful to the reputation of the victim
- Negligently or intentionally made

A false statement may be spoken, broadcast, written, pictured, or otherwise communicated. When defamation is written, it is called libel and when it is spoken, it is called slander. If the speaker can prove the statement is true, or that it is only an opinion and not a statement purporting to be truth, then it is not defamation.

Defamation issues can come up in many different ways during a divorce. Some examples include:

- Your ex-spouse posts false statements about you on Facebook
- Your ex badmouths you to your coworkers, boss, or clients
- Your ex falsely tells all your neighbors you are abusive or a cheater

In each case, if your ex damages your reputation through false remarks, these may be grounds to sue for defamation in court. However, these statements have to be more than just insulting—they must be untrue. A knowledgeable New York [family attorney in Westchester and Putnam counties](#) can help you understand how to protect your valuable reputation even during a difficult divorce.

Vehicle Maintenance as a Factor in Car Crashes

In some cases, the careless or negligent act that causes an auto accident occurs long before the at-fault driver sits down behind the wheel. The right to own and operate a motor vehicle on Florida's public roadways carries with it numerous obligations. In addition to an obligation to behave reasonably while operating a vehicle, the privilege of driving carries with it the obligation to maintain the vehicle in a reasonably safe condition. When an unsafe vehicle suddenly fails on the road, it is all too often another driver or passenger who pays the price.

An increasing number of states have dropped their former requirements that private vehicles obtain an [annual inspection](#) for safety and roadworthiness. Florida joined them in 2000 and since that time no longer requires inspection of Florida-registered private passenger vehicles. However, this does not mean that Florida is a free-for-all when it comes to vehicle safety. Drivers can still be cited for failing to maintain their vehicles to state standards and poor maintenance can still be a basis for civil liability following an accident:

- Improperly inflated, bald or otherwise excessively worn tires
- Worn out or malfunctioning brakes
- Nonfunctioning lights and indicators
- Missing mirrors
- Nonfunctioning or ineffective windshield wipers
- Malfunctioning safety devices

When a person takes to the streets in an unsafe and poorly maintained car, it is more than his or her own life that is at risk. His or her passengers as well as the occupants of other vehicles and pedestrians are also in jeopardy. If it appears that the unsafe condition of an involved vehicle brought about a serious accident, the driver or owner of that vehicle may be liable for the resulting harm. An experienced [motor vehicle accident lawyer](#) in Florida can examine all the facts and help victims receive fair compensation for their damages.

Healthcare Mistakes Still Causing Infections

Despite ongoing efforts to reduce the rate of healthcare-associated infections (HAIs), too many people in the United States suffer preventable infectious injury each year.

According to the [Centers for Disease Control and Prevention \(CDC\)](#), about one out of 25 patients treated in American hospitals suffer a preventable infection during a hospital stay. HAIs occur across the nation. In Indiana, a [2012 report](#) on HAIs noted the following statistics:

- Indiana hospitals reported 41 percent fewer central line associated bloodstream infections (CLABSI) than estimated, based on national aggregate figures.
- Healthcare facilities reported 12 percent more catheter associated urinary tract infections (CAUTI) than forecast.
- In 2012, Indiana hospitals reported 39 percent fewer surgical site infections (SSI) related to abdominal hysterectomies.

At present, the CDC cites figures that include:

- There were more than 700,000 HAIs reported in 2011.
- Each day, more than 200 people in the United States die of a HAI. About 75,000 people died of HAIs in 2011.
- Common HAIs include pneumonia, SSIs, gastro-intestinal infections, urinary, and bloodstream infections.

Making good decisions about medical caregivers is only part of the personal battle against HAIs. When you have an outpatient procedure or an in-hospital stay, understand the procedure, what it entails, and how you can best prepare yourself for a successful recovery.

Talk to your doctor about [how to avoid HAIs](#) in the facility, know the signs of infection, and ask nurses and technicians who touch you to wash their hands first.

No one expects injury when seeking healthcare in Indiana or elsewhere. If injured through a medical mistake or if you contract a HAI, speak with a skilled [medical malpractice](#) attorney in Merrillville.

Considering Capital Gains during Estate Planning

When most people talk about “tax issues” during estate planning, they are usually referring to the federal estate tax. However, because that tax only applies to estates of more than \$5.34 million, it is not an issue for the vast majority of people. In other states, they may also be referring to state-imposed inheritance or transfer taxes. These types of taxes do not exist in Florida but there is a third type of tax issue that Floridians should consider during estate planning: capital gains, specifically the capital gains their beneficiaries may have to pay.

Capital gains apply to the appreciation in value of assets. Every capital asset has a cost basis, typically the value of the asset at the time of acquisition. When the owner later sells the asset, he or she must often pay [capital gains tax](#) on the difference between the cost basis and sale proceeds. If an asset has appreciated significantly, the tax liability can be substantial.

The reason this is important in the estate planning context is because the way in which property is acquired can affect the cost basis attached to it:

- When a person receives property as a gift, they take it subject to the donor's tax basis. For instance, if your grandmother purchased a house for \$10,000 in 1946, signs that house over to you for no consideration and you sell it for \$100,000 soon thereafter, you may have to pay capital gains tax on the \$90,000 increase in value.
- When a person receives property by inheritance, the tax basis is “stepped up” to the date of the previous owner's death. Therefore, if you inherited your grandmother's house instead of receiving it as a gift, your tax basis would no longer be the \$10,000 she paid for it but the near \$100,000 it was worth on the date of her death.

This is one of the frequently overlooked downsides to gifting. While gifting may still be a useful estate planning technique under some circumstances, it is wise to consider all the variables with the help of an experienced [Florida estate attorney](#).

Ruling Tells Interrogators to Back Off

Police interrogation scenes have long been a staple of TV crime drama: Cameras look over the shoulders of detectives through the dark side of a two-way mirror into a bare room, where we see interrogators, alternately agitated and amiable, using time-worn techniques to pull a reluctant confession out of a detainee. No one would deny that the scene makes for engaging entertainment. Unfortunately, in real life such scenes often amount to violation of civil rights guaranteed by the Constitution.

A recent [ruling](#) by a New York appeals court is being hailed as a step in the right direction for defining when police interrogation has gone too far. Although there have been many well-publicized stories of police using physical abuse in interrogations, in this case the abuse was purely psychological.

The case involved a man who was accused — and later convicted — of having killed his infant son. To pry a confession out of him, police reportedly:

- Threatened to arrest his wife if he did not confess
- Falsely told him he would not be charged with a crime if he admitted abusing the child
- Stated, after 10 hours of interrogation, that the survival of the boy—who was already brain-dead—depended on his reporting anything he might have done to cause the brain injury.

The man responded by recalling that he had forcefully thrown the baby down onto his bed several days earlier. And that confession became the strongest evidence used against him at trial, where he was sentenced to 25 years to life in prison.

The appeals court ruled unanimously that the actions of the police amounted to a violation of the Fifth Amendment protection against self-incrimination—the so-called right to remain silent. Any caring parent, they said, would have responded to such suggestions by offering any information he could possibly come up with. Five years after the conviction, the court ordered a new trial, this time omitting the confession from the evidence.

The moral of the story: If you are arrested, remember that you are under no obligation at all to talk to the police. Ever. And get yourself a good [criminal defense attorney](#) in New York right away.

Drug Treatment Courts Hailed as Successful

Drug and alcohol treatment courts clearly depart from the traditional judicial model. Nevertheless, their effectiveness in preventing recidivism and promoting true rehabilitation has been noted in nearly every jurisdiction where they are used. In Berks County, the Drug/Mental Health Treatment Court program began operation in 2005 to target a population of non-violent probation and parole offenders with a history of substance abuse.

[Drug Treatment Court](#) is a nonadversarial process that runs at least 18 months and includes close judicial supervision and frequent drug abstinence testing. During this period, the offender goes through four distinct phases:

- Establishes a stable lifestyle by abstaining from drugs, securing living arrangements and gainful employment and creating a plan to deal with obligations like fines, restitution and child support.
- Demonstrates compliance with case management and payment plans, maintains gainful employment and exhibits appropriate use of time.
- Continues compliance and maintenance of gainful employment and the completion of a Phase 3 project that illustrates the negative impact of the participant's old life as well as his or her vision for the future.
- Maintains compliance and a healthy lifestyle and participates in mentoring new Treatment Court participants.

During all phases, participants must make regular court appearances, undergo biweekly drug testing, attend approved 12-step programs and submit to regular contact with their Adult Probation Officers, with penalties imposed for noncompliance. This constant supervision is designed to provide a strong support system and catch relapse early.

Participation in this program may promote meaningful change and allow successful graduates to avoid harsher criminal penalties. Alumni have, by and large, expressed their gratitude for the second chance and have been less likely to relapse or end up in court again. An experienced [Berks County criminal defense attorney](#) knows the details of the program and how it can help qualified defendants turn their lives around.

White Collar Crime in Schools

When most people think of white collar crime, they imagine corporate boardrooms and national corporations. However, white collar crime can occur in the public sector as well—even the school system. While it may be difficult to imagine what type of white collar corruption could involve school administrators and teachers, recent news in the Commonwealth shows that corruption is not limited to corporate and political offices.

In a very [high profile case](#) emerging from the Cayuga Elementary School in North Philadelphia, several teachers and a school principal were indicted on the following charges stemming from a test cheating scandal involving state-administered standardized tests:

- Racketeering
- Records tampering
- Perjury
- Forgery
- Conspiracy

The economic benefit to the accused of such conduct arises from the fact that the allocation of school support funds in Pennsylvania is often closely tied to the quality of students' performance on the PSSA and other standardized tests. According to the grand jury indictment in this case, teachers and administrators created a culture of cheating over the course of five years, including providing correct answers to students during testing and altering test booklets after the fact by changing wrong answers to right answers. The resulting increase in scores resulted in increased funding as well as promotions and other employment benefits for the participating teachers and administrators.

Even if done with the best of intentions, cheating and the falsification or altering of school records remains a crime. The fallout from this latest revelation suggests authorities are likely to investigate this type of conduct even more aggressively in other schools. Teachers, administrators or other public employees who have been implicated in this type of behavior in Pennsylvania need to contact an experienced [white collar criminal defense attorney](#) as soon as possible.

What is the America Invents Act?

The Leahy-Smith America Invents Act (AIA) was signed into law on September 16, 2011. The AIA marked some of the most extensive changes to patent laws in decades. The Act's provisions took effect gradually, with full implementation on March 16, 2013.

Arguably the most significant change brought on by the AIA is the transition from a First-to-Invent to a First-to-File patent system. Priority will now be given to the first inventor to *file* a patent application. The U.S. Patent and Trademark Office has published final rules and [guidelines](#) governing the new First-Inventor-to-File provision of the Act. A new derivation proceeding has also been created, which will determine whether a claimed invention in an earlier filed application was derived from a later one.

According to the American Intellectual Property Law Association, there are several other significant patent law [changes](#) under the AIA:

- **Best Mode Requirement:** A patent will not be invalidated because an applicant did not disclose the best mode of carrying out an invention.
- **Human Organisms:** The AIA prohibits granting patents for human organisms.
- **Inventor Grace Period:** Certain activities by an inventor, such as publishing a claimed invention, less than one year before filing a patent application will not act as a prior art to render it ineligible for a patent.
- **Post-Grant Opposition:** The Act establishes a new post-grant review proceeding in which parties can seek cancellation of patents on certain grounds within nine months after the patent was issued.
- **Business Method Patent Opposition:** There is now a post-grant proceeding to review the validity of covered business method patents. Only parties who have been sued for infringement of the patent may file for this review.
- **Third Party Submissions:** The AIA allows third parties to submit information relevant to pending patent applications, along with a justification for including such information in the examination record.

For information on whether recent changes to patent laws could affect you or your business, contact [Collard & Roe, P.C.](#), an intellectual property law firm in New York with more than 45 years of experience.

When Cows Go Bad

It is said that when dog bites man, that is not news, but when man bites dog, that is news. What about when cow collides with car? Well, it was news in New York recently, putting a new spin on animal-related personal injury claims.

According to the complaint filed in [Hastings v. Sauve](#), a motorist was injured when her car collided with a cow that had wandered off a nearby farm onto a county road in the middle of the night. The injured driver sued the operators of the farm, alleging that their negligence in failing to properly restrain the cow caused her injury.

The plaintiff's problem was that according to New York law, a cow is a domestic animal. Claims involving injuries inflicted by domestic animals require the plaintiff to prove that the animal had vicious propensities that were known to its owners — a typical tenet of dog-bite claims. Presumably, however, old Bessie had heretofore been a well-behaved bovine, showing no signs of deep-seated cow aggression – or at least, there was no evidence the plaintiff could have produced to prove the cow had a demonstrated dark side.

The Court granted the defendants' motion to dismiss the case, and the plaintiff appealed. The appellate court upheld the dismissal of the case. But in an unusual man-bites-dog move, the appellate court complained vehemently about the law in its decision. Saying it had upheld the dismissal reluctantly because it was obligated to adhere to the domestic animal rule despite the facts of this case, the court essentially asserted that when it comes to cows the domestic animal rule is, well, bull.