

A LEGAL PRIMER FOR CYCLISTS



Presented by:



KRAMON & GRAHAM PA
ATTORNEYS AT LAW



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David J. Shuster

Ride to the Tide



BEING A
LAWYER

— IS EASY, IT'S LIKE —
RIDING A BIKE

EXCEPT THE BIKE IS ON FIRE
YOU'RE ON FIRE
EVERYTHING IS ON FIRE
AND YOU'RE IN HELL

Three Goals

Positive from tragedies

Interactive and conversational

Concrete steps to better protect yourself

Maryland by the Numbers

Past 5 years:

- 3,800 car-bike crashes
- 3,100 riders injured
- 30 riders killed



Cyclist vulnerability and the motorist-cyclist relationship

A woman wearing a yellow and black cycling helmet and a red and black long-sleeved shirt is smiling and waving her right hand. She is holding a large white sign with black text. The background is a blurred city street at night with colorful bokeh lights.

DEAR D.C. DRIVERS,
THANK YOU
FOR SHARING!
Love,
CYCLISTS

Hostility

- Free Rider Theory:
Tom Stafford, *The Psychology of Why Cyclists Enrage Car Drivers*, BBC (Feb. 12, 2013)
<http://www.bbc.com/future/story/20130212-why-you-really-hate-cyclists>;
- Other explanations for the hostility

Public Response

- Are **we** (“we” as in our local and state governmental bodies) doing enough to protect cyclists??
- Are existing traffic laws sufficient?
- Should we be considering new or different traffic laws or infrastructure designs that might better protect cyclists?

Roland Avenue Design

“Planned cycle track roils Roland Park”

-Headline, *Baltimore Sun*, November 6, 2015



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Cyclists' obligation to obey traffic laws

Criminal Liability

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Criminal Liability (cont'd)

State of Maryland v. Motorist

Civil Liability

Cyclist
[or cyclist's estate and
surviving family members]
v.
Motorist

Civil Liability (cont'd)

"I would rather have
my good health
than a great lawsuit. . .
any day."

Important Principles of Civil Liability

To prevail, a plaintiff must prove:

- Duty to exercise reasonable care
- Negligently failed to exercise that duty
- Causation
- Damages

Important Principles of Civil Liability

- Burden of proof: preponderance of the evidence
- Defenses: contributory negligence / assumption of risk
- Respondeat Superior / Negligent Hiring or Supervision
- Survival claim v. wrongful death claim

Measure of Damages

- Economic damages (“compensatory”)
 - Medical bills (past and future)
 - Property damage
 - Lost wages (past and future)
 - Life care (past and future)
- Non-Economic damages: pain and suffering (Maryland’s cap)

Maryland's Cap

Accident Date (on or After)	"Single Cap" on ALL claims	Cap on Wrongful Death Claims with 2 or more Beneficiaries (150% of Single Cap)	Combined Cap for Wrongful Death <i>and</i> Survival Action (150% + single cap)
10/1/2013	\$785,000	\$1,177,500	\$1,962,500
10/1/2014	\$800,000	\$1,200,000	\$2,000,000
10/1/2015	\$815,000	\$1,222,500	\$2,037,500
10/1/2016	\$830,000	\$1,245,000	\$2,075,000

Collectability

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Being Prepared

Information you should obtain

- ☐ Names
- ☐ Addresses
- ☐ driver's license number
- ☐ vehicle registration
- ☐ insurance information
- ☐ witness contact information

Being Prepared (cont'd)

PHOTOS

- ☐ scene
- ☐ damage to your bike
- ☐ damage to the car
- ☐ bodily injuries if you are able to do so.

Being Prepared (cont'd)

COMMUNICATING WITH POLICE

- ☐ Cooperate
- ☐ Collision Information Report
- ☐ if a Police Report was issued, request a copy (usually available after 10 days)
- ☐ ask whether (and if not, why not) the driver will be ticketed

Being Prepared (cont'd)

COMMUNICATING WITH MOTORIST

- ☐ Try to be respectful
- ☐ What you say may be used by the driver in an attempt to blame you for the crash
- ☐ Pay attention to what the motorist says

Being Prepared (cont'd)

COMMUNICATING WITH INSURANCE COMPANY

- ☐ If crash is serious, consult with an attorney before communicating with the driver's insurance company.
- ☐ what you say may be used in an attempt to establish that the crash was your fault or that your injuries are not serious.
- ☐ Many times calls are recorded.
- ☐ OK to tell the insurance rep that you want to postpone any substantive discussion until after you confer with legal counsel.

Being Prepared (cont'd)

PRESERVE EVIDENCE

- ☐ If you anticipate a serious claim, do not repair your bike
- ☐ Keep your damaged gear and helmet
- ☐ Do not launder the affected clothing

Being Prepared (cont'd)

- How your riding partners can help
- What to do if you are harassed while riding?

KNOCK IT OFF, PLEASE



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Q & A

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