
To Personal Injury Attorneys, the Rise in E-Scooter Injuries Comes As No Surprise

Katherine Proctor

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If you're looking for a reason not to hop on one of the electric scooters claiming more and more of California's streets and sidewalks, it might help to speak with Santa Monica personal injury attorney Catherine Lerer.

I called Lerer shortly after learning of a [study](#), published by *JAMA Surgery* on Jan. 8, showing dramatic spikes in injuries attributed to riding e-scooters. Minutes into our call, Lerer -- of McGee, Lerer & Associates -- emailed me a link, which she preceded with the word "Warning." The link led to a gallery of gruesome photos of her clients' various e-scooter injuries: stitches, bruises, joints bent the wrong way.

Lerer, along with attorneys from Costell & Cornelius Law Corporation, is representing a putative class of riders [suing](#) major e-scooter companies including Bird and Lime in Los Angeles County Superior Court for products liability, negligence, and public nuisance, among other causes of action.

The complaint alleges that Bird and Lime scooters have no "adequate safety features" and notes that helmets are not offered for rent along with the scooters. It also alleges that Bird and Lime knew, know, or should have known that riders don't follow current or future guidelines "provided by Bird or Lime with regard to where the Scooters should be left; where, how and at what maximum speeds they should be ridden; and/or with regard to riding the Scooters while wearing a safety helmet."

The *JAMA Surgery* study, from researchers at UCSF, found that from 2017 to 2018 the proportion of injuries among riders aged 18 to 34 increased by 185 percent. The study also found that 32 percent of cases in 2018 involved head injuries -- more than double the rate of head injuries experienced by bicyclists.

The researchers performed their analysis on five years of data from the National Electronic Injury Surveillance System, which provides national estimates of injuries that present to hospital emergency departments across the United States.

A Lime spokesperson said that rider safety is the company's top priority, and that the company regularly runs educational events for riders on safety and is working with multiple local governments to make infrastructure safer for e-scooters. (Spokespeople for Bird did not respond to a request for comment.)

The Lime spokesperson added that the *JAMA Surgery* study doesn't include data on national trends in scooter usage that would provide context for the statistics on injuries.

Dr. Benjamin Breyer, a UCSF urologist and co-author of the study, said in an email that although the increase in injuries "wasn't surprising" given the increase in e-scooter usage, what's most worrisome is the proportion of riders presenting with head injuries, which "is concerning regardless of the number of riders."

Injury commonalities

Kyle Smith, an associate attorney at Oakland's Bay Area Bicycle Law, handles that firm's e-scooter cases. He said that the most common situations that lead to scooter injuries tend to match those of the bicycle-related cases he also takes on.

"Dooring is probably our most common one," Smith said. "The others are what we call left hooks and right hooks, which is where someone is struck in an intersection by a car making a left turn coming from the opposite direction. The psychosocial research shows that people don't see what they're not looking for."

Lerer said that most e-scooters present a fundamental design flaw: the rider has a high center of gravity, which is almost on the same axis of rotation as the scooter's handlebars.

"If the rider hits an obstacle, they're likely to flip over the handlebars," she said.

Of the cases she's handled, Lerer said "the most common accidents are the brakes failing, the throttle sticking, the scooter dying mid-ride." She described a common scenario in which a rider, trying to stop a wobbling scooter, puts their foot down to try to stop it, and the impact breaks both their tibia and their fibula.

"We call that the Tib-Fib Special," she said.

Lerer said she also handles a number of pedestrian cases, where people trip over parked scooters or get hit by them while walking. "Most of the times pedestrians have called me, it's a hit and run," she said.

As for the head injuries, Lerer said, "it's so preventable if people are wearing helmets."

"They should put a helmet on the scooter," she said, adding, "A helmet with a liner." Lime has said that it will [distribute](#) 250,000 free helmets as part of a rider education and safety campaign; Bird [offers](#) free helmets (but not shipping) to "all active riders."

Smith pointed out that one safety feature that does set e-scooters apart from similar transportation methods "is that they have essentially always-on lights." "So they are pretty visible in that respect," he said.

An avid cyclist himself, Smith added that the United States' infrastructure, compared to other countries, is particularly inhospitable to bikes and scooters that are trying to share the road. In Japan, for example, "there's way more of a culture of cars being aware, their bikeways are separate. They make every effort to mitigate collisions."

"Here, the street is just like the Thunderdome," Smith said. "Bikes! Cars! Good luck!"

Litigation difficulties

Despite her own substantial e-scooter case load, Lerer said, many personal injury attorneys she's spoken with are reluctant to take similar cases because most scooter companies' user agreements contain arbitration provisions -- even her own clients who are riders, she said, will likely end up in arbitration. (The pedestrians she represents, on the other hand, didn't sign a user agreement and thus aren't subject to arbitration provisions.)

There's also the issue, Lerer said, that once someone is injured while riding an e-scooter, that particular scooter is very difficult to track down.

"An injured rider doesn't usually call me from the scene," Lerer said. "Most of them call me months later. By then the scooter's long gone, and probably in a landfill." (The Lime spokesperson said the company's newest scooters' average lifespan is 18 to 24 months.)

Lerer said that although she believes e-scooters' design issues are the most pressing problem, companies could be doing more to make sure riders are better equipped to be good citizens of the road.

"They don't properly train or educate riders," Lerer said. "People have the misconception that they're easy to ride -- 'I can just get on and balance and figure it out.' It's very deceptive."

Smith said that scooter riders also tend to be more casual commuters than cyclists, which can present difficulties when building a case.

"You have some people who may commute four or five miles on it, but usually it feels more like it's the last mile," Smith said. "I think the scooters are in large part designed to be an impulse decision."

For that reason, he said, "I get a lot more calls from people on scooters where I have to give them the bad news that they're probably at fault."

"If you're riding your own bike, you're familiar with the equipment and with the rules of the road," Smith said. "With scooters, it's a little more amateur hour."

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