

Happy 4th of July!

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When to Contact an Attorney

Estate Planning IQ Quiz

IS WHAT YOU KNOW ABOUT INJURY CLAIMS ACCURATE? (PART ONE)

Misconception No. 1 – I have no claim if the responsible party has no insurance.

WRONG - In Wisconsin and in most states, if you have automobile insurance, you have coverage that pays in situations where the other party does not have insurance. However, in those situations, your own insurance company steps into the shoes of the responsible party and will treat you as though you are any other claimant, not a policyholder. Uninsured motorist coverage may even apply in hit and run situations or other situations in which there has been an injury but the identity of the responsible party is unknown.

Misconception No. 2 – I am limited to recovering only the amount of the responsible party's insurance limits.

WRONG - Your own insurance policy may, in addition to uninsured motorist coverage, have what is called "underinsured motorist coverage". In these situations, depending upon the amount of the respective policies, you may have additional coverage for the injuries from your own insurance company. Again, in those situations, your own insurance company will treat you as though you are any other claimant.

Misconception No. 3 – My injuries are serious and the responsible party's insurance limits are low so the insurance company will automatically pay policy limits.

WRONG – The insurance adjuster's job is to get you to sign a release that will release the responsible party and his or her insurance company for the lowest amount of money possible. Insurance companies make millions and millions of dollars and they do not make that much money by paying policy limits simply because responsibility is clear and damages are high.

Misconception No. 4 – There is nothing to lose if I try to handle the claim myself. If I do not think I am being treated fairly or if the insurance company does not offer enough money I can always hire an attorney.

WRONG – While you are waiting and seeing what the insurance company will do witnesses are moving, forgetting what they saw or heard, or worse, dying, accident scenes are changing due to road construction and improvements, building interior and exteriors are changing, police officers are changing jobs and moving on, etc. You can be assured that the insurance company, who has at their disposal, insurance adjusters, investigators, etc., is working on your claim on a daily basis to help prove their defense. Although they may be communicating with you and may be perfectly friendly and cooperative, behind the scenes, they are doing their job which is to keep your damages as low as possible and to make their defense of your claim as strong as possible.

Misconception No. 5 – The responsible party's insurance company will pay my medical expenses in cases where the accident was clearly caused by their insured.

WRONG – Even with medical insurance you may not have all of your medical bills paid in full or, you may not have medical insurance which means you may have a substantial amount of unpaid medical expenses. Regardless, the other insurance company, except in very rare and extreme circumstances, will not pay any of your uninsured or unpaid medical expenses until you sign a legal document promising that you are accepting payment in exchange for releasing the responsible party from any further liability or payment. This means that, although your medical bills may get paid, you will not be able to get any additional compensation for all of the pain, suffering and agony you and your family have gone through due to no fault of your own.

Misconception No. 6 – The settlement check I receive from the insurance company will be in addition to their payment of all medical expenses and my lost wages at the time of settlement.

WRONG – Except in very rare circumstances, your settlement check will be all the money that you are going to receive. You will have to pay the medical bills from the settlement. From the settlement money, any company that has paid medical expenses for treatment of the injuries received in the accident, will have what is called a "right of subrogation". This means that they may have a right to come after you to get their medical expenses paid from the settlement check that you receive. This could be at the time of settlement or it could come months or more after all of the settlement money has been spent.

Misconception No. 7 – If my child, my loved one or I are injured we are only entitled to receive payment of our medical expenses.

WRONG – If you, a loved one or your child are injured as a result of the negligence of another you are, regardless of whose insurance company or companies are paying the damages, entitled to compensation for all of your out of pocket expenses, including uninsured medical expenses, prescriptions, chiropractic care, care inside and out of your house because you are unable to do so, the reasonable value of services that are provided by others, lost wages, loss of use of vacation or sick leave time as well as payments for future losses such as your inability to work as you did before the accident. In addition, they are obligated to pay for the pain and suffering and any permanent injuries that they caused. Finally, under certain circumstances they are also obligated to pay for the loss of the relationship between loved ones caused by a motor vehicle accident.

If after reading this article you need to meet with an attorney who is experienced with personal injury claims, make sure to call our offices at 1 (866) 455-2993 to schedule an appointment today!

Disclaimer

The information provided in this newsletter is not intended to serve as specific legal advice. Viewing this information does not constitute an attorney-client relationship.

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IS IT SMART TO LEAVE EVERYTHING TO YOUR SPOUSE?

You and your spouse live your lives as one. You've been together for years. It seems the simple solution is to just leave everything to each other upon your deaths. Unfortunately, in this situation, the simplest solution may not be the best.

First, if you leave everything to your spouse, he or she may pay estate taxes at their death. If together you have more than \$675,000, or expect to have that much by the time you both die, that could be a problem, depending upon the year you die.

If you leave assets to your spouse, their creditors can attach the assets. Further, if the spouse remarries, the assets could end up going to their new spouse if they end up getting divorced down the road. Few of us want to imagine our life savings ending up going to our spouse's future ex-spouse!

While these divorce, creditor, and tax issues are problematic, you do not want to impoverish your spouse either. Ideally, your spouse should have control over the assets to use them for his or her benefit. But, in this instance, you can have your cake and eat it, too! You can leave your assets in trust for your spouse.

The assets can be left in a "Family Trust" which is for the benefit of both your spouse and your descendants. This is designed to make use of the amount you can pass free from estate tax. The amount over that amount can be left in a "Marital Trust" which pays income only to the surviving spouse during their lifetime annually.

With both the Family Trust and the Marital Trust, you have great flexibility in achieving your goals. If you want your spouse to have maximum control, he or she can be the trustee and make investment and distribution decisions. However, if you are concerned that your spouse may not have the desire or ability to manage the finances, someone else or even a bank trust department can be asked to serve as trustee.

Further, your spouse can be given the power to decide where the assets go after his or her subsequent death. For example, you might say that upon your spouse's death the assets go equally to your two children unless your spouse decides otherwise. At your death, perhaps the kids are young and it may not have been clear who would have the greater needs. Your spouse is fortunate to live long after your death and watches your daughter grow up to be a successful entrepreneur worth millions of dollars. Your spouse also watched your son enter into a helping profession and admired his work with children with disabilities. He was inspired to do that because he has a disabled child of his own. After discussions with both your children, your spouse may decide that, while the love that you share for your children is equal, their needs are not and perhaps your son should get more financial assets.

Trusts are a flexible tool to help achieve your goals. An attorney who focuses their practice on estate planning can help you design a plan that achieves your goals.

William F. Greenhalgh and Michelle T.L. Hernandez are members of the American Academy of Estate Planning Attorneys. For more information or a free consultation, call 1(866) 455-2993.



A doctor and a lawyer in two cars collided on a country road. The lawyer, seeing that the doctor was a little shaken up, helped him from the car and offered him a drink from his hip flask.

The doctor accepted and handed the flask back to the lawyer, who closed it and put it away.

"Aren't you going to have a drink yourself?" asked the doctor.

"Sure, right after the police leave." replied the lawyer.

Special Presentation Given by Attorney Greg Fumelle

Attorney Greg Fumelle gave a presentation on June 16, 2005, to a meeting of the National Association of Credit Managers-Chicago Midwest at Hilton Head, South Carolina. The focus of his talk was seller's rights upon discovery of buyer's insolvency under the Uniform Commercial Code and the Bankruptcy Reform Act. Attorney Fumelle authored an article on the Bankruptcy Reform Act which appeared in the June, 2005 issue of GKLaw News.

Commercial transactions are oftentimes complex and fraught with peril and competent legal counsel can make the difference between success and failure. Please feel free to contact Attorney Fumelle at (800) 431-9776. He can help you.



ESTATE PLANNING SURVIVAL KITS AVAILABLE!

Have you been looking to create your estate plan this year?

Do you need information about estate planning and how it is a critical factor in protecting what is valuable to you?

Request your copy today of our Estate Planning Survival Kit by calling our office toll free at: **1 (866) 455-2993**

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