



July is Bursting with Information!

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KH LAW NEWS

Bringing You Our Best

July 2010

What Goes Up Must Come Down

As the 4th of July comes and passes, most of us will observe or personally use fireworks of all sorts and sizes. These extraordinary and beautiful works of art have long been used to celebrate our country's Day of Independence. However, when using fireworks we must remember that they can be very dangerous, and may cause serious injuries (they are made of gun powder after all). Children and teenagers are at the most risk for receiving firework related injuries, usually due to lack of adult supervision. The most common injuries can result in blindness, and 3rd degree burns to the hands, head, or legs. Injuries from firework accidents can be very expensive. According to the National Safe Kids Campaign, initial costs for admission to burn care centers can cost over \$20,000, while long term costs can be well over six figures.

At Krueger & Hernandez SC we want to make sure that everyone has a fun, yet safe holiday. Here are a few tips to keep your loved ones safe during firework displays. First, never allow children or teenagers to ignite or be near the ignition of fireworks. Second, closely supervise children playing with sparklers (sparklers burn at over 1,000 degrees) and firecrackers; these two are the culprits for the most injuries caused by fireworks. Third, light all fireworks in large outdoor areas and keep all spectators at a safe distance from the ignition site. If a firework does not ignite, or is a "dud", do *not* pick it up. Finally, carefully read and follow the directions on the firework packaging; after these steps are taken, enjoy!

In the unfortunate event that you or a loved one should be injured by a firework, you may be able to collect damages for accidents resulting from improper use by others, product malfunction, or for simply being an innocent bystander. If one should be injured by a firework, he or she may be able to receive compensation for current and future medical expenses, lost wages from work, other out-of-pocket expenses, and may be entitled to collect damages for pain and suffering.

Firework injuries, from both legal and illegal fireworks, often lead to insurance claims and lawsuits based on negligence, where someone fails to exercise the level of care that a reasonable person would have exercised in the same circumstance. These claims may result when an adult allows a child to light a firework, or allows the child to pick up an unexploded firework. These "failure to supervise" situations often leave the adult in-charge liable for the injury. So be careful who your children are with, and who is in-charge on the 4th of July. In addition, firework claims can also arise when the fireworks were improperly manufactured. For example, when a fuse burns too fast and detonates prematurely, or contains more gun powder than usual, these situations may leave the manufacturer, distributor, and the vendor of the firework liable.



If you or a family member have been injured by a firework of any kind due to negligence of others or product malfunction, please contact Attorney Mark L. Krueger, whose extensive experience in the personal injury and product liability field is essential in these situations. The Krueger & Hernandez team will make your experience as pleasant as possible, and will get results. For a free consultation please call us at (866) 455-2993. We wish you all a wonderful and safe 4th of July.

Welcome New KH Team Members!

We'd like to welcome our new employees of the Baraboo Office. Attorney Matt Kaiser has joined the firm and handles a variety of legal issues including Divorce, Personal Injury, Workers Comp and Litigation. In the front of the office we have two new faces! Tricia Jennings and Christan Mellum will be assisting our attorneys and clients. Welcome! We're glad to have you as part of the team!

Free Estate Planning Seminars in Madison!

Will, POA, Living Trust; what do you need? Find out the answer to this question and more, at this month's **free** seminar! Held in the Madison area this month on the 27th at the Sheraton, and on the 28th and 29th in Middleton. To register today, call (608) 824-9540 or log on to

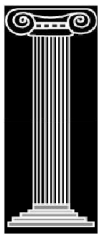
www.KH-LAW.net

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Mark Krueger and Michelle Hernandez with Bonnie and Jamie Naquin at last month's Sundara Inn & Spa Annual Golf & Spa Classic to benefit Breast Cancer



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JULY BIRTHDAYS!

Matt S. Kaiser - 7/14

Dera L. Johnsen-Tracy - 7/16

Wishing you both the best! Happy Birthday!



**From All of Us at Krueger & Hernandez SC
Happy 4th of July!**

Mark L. Krueger & Michelle T.L. Hernandez

Dera L. Johnsen-Tracy Matthew S. Kaiser

Tricia Jennings Christan Mellum Stacie Ray

Kayleigh Robinson Renee Nehring

Eileen Shank Shelley Craker Kara Malston

Celebrate Safely!!!



When Harry Met Sally: A Lesson in Preventing Family Discord

The American Declaration of Independence begins "We hold these truths to be self-evident, that all men are created equal . . ." While this may hold true for people and their rights, all Trusts are definitely *not* created equal.

Seemingly small differences in wording can make a big difference in reality. For example, one Trust may have a "No Contest" clause while another Trust might not. A No Contest clause provides that if someone unsuccessfully contests the validity of the Trust, negative consequences ensue. Typically, the clause will provide that the unsuccessful contestant is disinherited or treated as though he or she died before the person who created the Trust. Such a clause can effectively convince people that it is not worth challenging your Trust.

Let's look at what happened when Harry met Sally. They hit it off immediately and soon decided to marry – it was a second marriage for both of them. They each had children from their prior marriages, Sally had an 11-year-old son, Billy, and Harry had two daughters, Susan 13 years old and Michelle 15 years old. When they married, Sally entered the relationship with several million dollars and Harry entered it with more modest means. When Sally prepared her estate plan, a Living Trust, she wanted to share her wealth equally among all three children and left them equal parts of her estate. After a loving, caring relationship that lasted many decades, Harry passed away. When Sally passed away several years later, Billy now in his 50s, contested her Trust. He did not want to share his mother's wealth with his step-sisters. Billy's contest ended up costing Sally's estate hundreds of thousands of dollars in attorney fees, court costs and legal expert fees. When the dust finally settled, all the children ended up sharing a much-reduced pie – a very unfortunate result. Worse, the emotional scars from the litigation never healed and the children have no relationship as the result of Billy's actions.

Unfortunately, Sally could have avoided the battle that tore her and Harry's family apart. If she had included a No Contest clause in her Trust, Billy probably would not have contested his mother's estate plan and risk his share of her millions.

Consider using a No Contest clause, especially in the following situations:

- Substantial wealth
- Remarriage, especially later in life
- Unequal distribution among your children
- Unusual distributions

While No Contest clauses are not valid in every state, they can be a great way to reduce the risk that your wishes will be challenged. In Wisconsin, the enforceability of the no contest clause will ultimately depend on the Judge's discretion as to whether or not the challenge is reasonable. Be sure to seek the advice of an attorney who focuses his or her practice in estate planning when preparing your estate plan. Only a knowledgeable, experienced estate planning attorney can advise you on the best estate plan for your situation.

Attorneys Michelle T.L. Hernandez and Dera L. Johnsen-Tracy are members of the American Academy of Estate Planning Attorneys and have extensive legal experience in the area of estate planning. To schedule your free consultation today, simply call (800) 431-9776.



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