



2006

# GKH LAW NEWS

The Edge on Today's Top Legal News

## *Planning With Retirement Assets*

For many of us, our retirement fund is our largest single asset. It could be an IRA, a 401 (k), 403(b), or other qualified plan. Retirement assets require careful consideration because unique rules apply to them.

Retirement assets are favored assets in some ways, and disfavored in others. Retirement assets are favored in that they are exempt from your creditors in bankruptcy, at least up to the amount that is needed to fund your retirement. On the other hand, retirement assets are disfavored in that they generally have income tax liability built-in. When saving for retirement, you put away money before taxes, deferring that income taxation. However, this built-in tax liability makes planning for retirement assets more complicated than other assets.

Retirement assets require careful planning in order to achieve your goals. There are several methods to achieve your goals. First, if you expect you will owe estate tax, you may consider taking your IRA and converting it to a ROTH IRA, if you qualify to do so. By doing this you pay the tax owed on the IRA while allowing the IRA to grow tax free. More importantly, there is no longer estate tax payable on the money you used to pay the income tax.

Another strategy is to do a "rollover" of the plan assets to your spouse upon your death. This allows you to stretch the payout in order to defer payment of taxes for as long as possible, while qualifying for a marital estate tax deduction. Then, at your spouse's death, the assets can be left to your children and drawn out over their life expectancies. You may also want to consider leaving these assets to your children in trust in order to protect the assets from your children's creditors or future ex-spouses.

Another strategy used for those who are charitably inclined is to remove money from the retirement plan in order to give it to charity or to a charitable remainder trust. Basically, you use the charitable deduction to offset the income tax generated by the withdrawal from the retirement plan.

Planning for retirement assets is a complicated matter, so be sure to contact only a qualified estate planning attorney to help you navigate the retirement asset minefield.

*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.*

### Attention Estate Planning Clients: Help Us Spread the Word!

We wanted to take this opportunity to thank you for referring your friends and family to us and appreciate the confidence that you have shown in our firm. We enjoy providing them with the type of service you experienced here. If you believe that you are better off having addressed the importance of estate planning in your life, please help your family and friends find us. We can provide them information on how they can take steps to plan their estates. You can call us at 1-866-455-2993 to request us to send information to your friends or family or register online for this free information at [www.gklawyers.net](http://www.gklawyers.net).

### Thank You Premier Co-op!

We also wanted to take this opportunity to thank Premier Cooperative for inviting us to educate their family and friends on the importance of Estate Planning. We speak locally to many public and private groups including church groups, professional affiliations, club meetings and luncheons.

If you have a group that you would like us to speak to, please call us at 1-866-455-2993 to discuss the details.

### Featured this month...

- \*Planning With Retirement Assets
- \*Attention Estate Planning Clients!
  - \*Premiere Co-op
  - \*Spotlight on Bill!
- \*Is What You Know About Injury Claims Accurate?
- \*GKH Birthdays



Kudos to  
William F. Greenhalgh!

Bill was recently elected as  
President of the Sauk County Bar  
Association!

**Congratulations Bill!**

### Happy 4th of July!

From the staff at Greenhalgh  
Krueger & Hernandez SC

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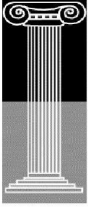
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**IS WHAT YOU KNOW ABOUT INJURY CLAIMS ACCURATE? (PART ONE)**

**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 interiors and exteriors are changing, police officers are changing jobs and moving on, etc. You can be assured that the insurance company, which 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

**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.*

**PERSONAL INJURY KITS AVAILABLE!**

The Kit Includes:

- What to do after an accident
- Booklet to keep with you to record information the moment an accident occurs
- Information on insurance companies and your personal claim
- Misconceptions of personal injury claims

Call us today toll free at 1-866-455-2993 to request your kit!



**Happy Birthday**

**Dera Johnsen!**

**July 16**