

QUATRINI RAFFERTY GALLOWAY

ATTORNEYS AT LAW

LEGAL UPDATE

A publication provided for the friends and clients of QRG

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BEWARE — ALL REGISTERED VEHICLES MUST BE INSURED —

By Joyce Novotny-Prettiman, Esq. & Richard H. Galloway, Esq.

When the snow flies and after you tuck your convertible into storage, you drop the car insurance on that vehicle for the winter. Or maybe you have a Mustang that you are refurbishing and, while it is up on blocks, carrying car insurance seems silly. What if you have an unfortunate fender bender that totals that old '86 Oldsmobile and you immediately cancel the car insurance on that undriveable heap before the salvage papers are completed? Beware - if you own a vehicle that is currently registered in Pennsylvania but is not insured, you may be without coverage if involved in a motor vehicle accident.

You may be asking, "How can the registration of an uninsured vehicle have anything to do with other insurance coverage?" Because of recent developments in the law, the brief answer is that the status of the registration of any vehicle you own impacts all your other automobile insurance coverage if you are involved in a motor vehicle accident. The surprising twist is that you can be denied coverage even if you are injured while driving or riding in a vehicle that is fully insured.

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PENNSYLVANIA INHERITANCE TAX —

By David S. DeRose, Esq.

Frequently, in our practice, we are confronted with many misconceptions concerning Pennsylvania inheritance tax. The Pennsylvania inheritance tax is a tax on property at the time of someone's death, and is imposed upon the transfer of that property. One common misconception is that spouses have to pay inheritance tax on property that they obtain from their deceased mate. That was true only until 1994—it has now been abolished.

As I summarized in a previous newsletter article [*"When's the Reading of the Will?"*, LEGAL UPDATE Winter 2004], Pennsylvania inheritance tax is assessed on virtually all property owned by the decedent¹ himself or with others at the time of death. For instance, if a widow dies owning real estate in her own name, a checking account, a certificate of deposit, an automobile, some stocks and/or bonds, all of those items are taxable, as they would transfer to her beneficiaries, let us presume, her children. The value of these assets must be ascertained as of the date of death. With real estate, the value is often arrived at by having an appraisal performed. With bank accounts and the like, date of death values are obtained from the financial institution. Further, the internet can be very helpful to value stocks and/or vehicles.

¹ Decedent is the legal term for a person who has died.

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The LEGAL UPDATE is prepared by the staff of QRG for its friends and clients. The UPDATE sets forth general principles and should not be acted upon without specific advice.

From the value of these resources, we are permitted to deduct certain expenses to arrive at a net valuation for the estate. These expenses typically include the cost of the funeral, the debts of the decedent (including mortgage loans, credit cards, home equity loans, etc.), bills and expenses incurred as the result of a last illness, all fees that are paid to the Register of Wills Office, legal fees for processing the estate, and miscellaneous expenses and fees. Once the net value has been calculated, the Pennsylvania inheritance tax, as it pertains to children, is 4.5% of that net value. If property would be passing to a brother or sister, the tax rate would be 12%. Property passing to other individuals would be taxed in Pennsylvania at a rate of 15%.²

Many people do not realize that there are certain types of assets that are exempt from inheritance tax. As an example, life insurance proceeds which are paid directly to a beneficiary or are paid to the estate of the decedent are exempt. Further, an IRA account held in the decedent's name, if the decedent had not reached the age of 59 ½, is also exempt.

Sometimes, jointly held property is ignored for tax purposes at the time of death. For example, where a decedent owns a bank account which is titled in the decedent's name and let us say two of his children's names, the decedent's one-third interest would be taxed at a rate of 4.5%. However, if that account was

established using only the decedent's funds, and the decedent dies within one year, then the whole value of the account is taxed, not just a portion of it.

In Pennsylvania, the inheritance tax must be paid within 9 months of the time of the decedent's death. If it is not paid within that period of time, the Pennsylvania Department of Revenue may assess penalties and interest. If payment is made within 90 days of the date of death, the department discounts the amount by 5%.

This article merely scratches the surface concerning the proper filing and payment of Pennsylvania inheritance tax. We are here to assist you at that time and hope that you will consult with us so as to insure a timely tax filing and tax payment that has not only considered the appropriate valuation of the assets but has taken advantage of all of the expenses and deductions that the Department permits. If you desire more information on this topic, please call our office to set up a time to discuss your concerns.

² In LEGAL UPDATE Winter 2004, the article "When's the Reading of the Will?", incorrectly set forth the Pennsylvania inheritance tax rates. The correct tax rates are those stated in this article. We apologize for this error.

NEW DUI LAW IS IN EFFECT

By Brian Patrick Bronson, Esq.

In February, key changes to Pennsylvania's DUI law went quietly into effect. The most publicized change in the new law was the lowering of the legal limit for blood alcohol level from .10% to .08%. A 200 pound male could exceed the new .08% limit by consuming four drinks in one hour. A female weighing 120 pounds now exceeds the limit by drinking 2½ drinks in one hour. The lowering of the minimum blood alcohol limit is not expected to result in an increase in convictions. The Westmoreland County District Attorney's office has reported that the clear majority of first time DUI convictions exceeds a blood alcohol of .16%!

The new DUI law also significantly changed the penalties imposed on offenders. There are now three classifications of offenders, based on their blood alcohol level: .08% to .09%, .10 to .15%, and .16% and above, with the penalties increasing as the blood alcohol level increases.

At the lowest level, .08% to .09%, there is no mandatory jail sentence or license suspension for a first offender. At .16% and above, the law requires a minimum 72 hour imprisonment (it could be longer) and a 12 month license suspension. By the time a person has a third offense, even .08% mandates 10 days in jail and a 12 month license suspension, and in the event of a third offense at .16%, the punishment is one year in jail, \$2,500 fine, 18 month license suspension, and a one year ignition interlock (a breathalyzer machine on your ignition) following the 18 month license suspension.

Most of these changes are designed to "up the ante" for DUI offenders, making the punishment more severe for multiple and highly intoxicated operators.

The new DUI law can be confusing. If you have any questions about it, please call Brian at (724) 552-2755.

QRG PERSONAL NOTES ———

By Jacqueline M. Fajt

Anthony and Kristi Bompiani welcomed their first child, **Domenic Anthony Bompiani**, on March 26. He weighed 6 lbs., 11 oz., was 19.5 inches long and 100% healthy.

While still celebrating the birth of their son, they received word on April 7 that Anthony successfully passed the Pennsylvania Bar Exam. Anthony is a 2003 graduate of Duquesne University School of Law and has been with the firm since 2001 working in the capacity of law clerk. His wife, Kristi, is currently enjoying some time off with Domenic, but she will return to her job as the Golf Pro at Cherry Creek Golf Course in Youngwood this summer.

Amanda Kennison, the daughter of legal secretary **Robin Kennison**, attended a National Youth Leadership forum on Defense Intelligence and Diplomacy in Washington, D.C. The forum was held this past February and was attended by 400 students from around the nation. Amanda is a junior at Connellsville High School and plans to major in political science and minor in Spanish and business when she attends college.

Jim Horchak has been elected Chair of the Young Lawyers Committee for the Westmoreland Bar Association and will serve in that capacity for one year. He will be responsible for the educational programs, social events, and serve as a liaison to the Board of the Bar Association.

Rob Cirelli, the son of file clerk **Betsy Nicksich**, attended Brain Drain at the IUP campus. The event involved 29 schools and encompassed several subjects. Rob's team received second place in the *Feeding Frenzy* and third in the *Geodysey* events. Rob is a senior at Greensburg Salem High School. Betsy's younger son, **Matthew Cirelli**, recently received the United States Achievement Academy International Foreign Language Award. Ms. Helga Mears, his German teacher, nominated him for the award. Matthew is a sophomore at Greensburg Salem High School.

Attorney **Vince Quatrini** recently taught over 1000 attorneys about the changes in the Pennsylvania Workers' Compensation Act. The seminars were held in Philadelphia, Harrisburg, and Pittsburgh. Vince and the other members of his statewide committee spent over a year redesigning the Pennsylvania Workers' Compensation manual in conjunction with the seminars. Vince has been a member of the group since 1992 and has already started to work on the 2006 edition of the book.

WHAT'S THE VERDICT?



One sunny afternoon at the lake, Jimmy decided to cool off by taking a quick ride on his new personal water craft or jet-ski. He was having fun zipping around the lake near the marina. It was a great summer day and Jimmy soon realized that the water was becoming crowded with many boats. Ben, in a nearby boat, had never seen a jet-ski up close, so he decided to get a little closer to Jimmy to check out his boat. Ben became so interested in the jet-ski that he looped back around several times to get a better look. Jimmy was not an experienced rider and he began to get nervous because the waves from Ben's boat were making the water very choppy. Ben circled around again, getting so close he could read the registration number on Jimmy's jet-ski. Jimmy had to keep jumping the waves from Ben's boat to avoid tipping over. As he was doing so, a law enforcement officer approached the marina, and Jimmy was stopped by the police. Meanwhile, Ben slowly motored away, thinking to himself that they shouldn't allow those dangerous jet-skis on the lake.

Did either boater do anything wrong?

Answer on Page 6

WORKERS' COMPENSATION ALERT: IMPORTANT NOTICE TO FUTURE RETIREES

By Peter J. Gough, Esq.

If you have sustained a work injury and plan to retire, you may be giving up your rights to workers' compensation benefits, pension benefits, or even a workers' compensation settlement without knowing it! Your decision to retire may trigger an attempt by your company to stop your workers' compensation. Regardless of whether you are still disabled, your employer can try to stop your benefits by proving that you have voluntarily retired and completely withdrawn yourself from work. The Pennsylvania Supreme Court has permitted this. Some retirees have lost workers' compensation benefits by simply telling their employer that they were "not going to work again."

Another section of the law allows your employer to take a dollar-for-dollar reduction in workers' compensation benefits from a pension or severance package you receive.

Protect yourself from a costly mistake! Before you even mention retirement to your employer, learn the facts. We at QRG are here to help you and can advise you of your rightful retirement and workers' compensation benefits. If you have questions about your particular situation, please feel free to call our office.

SSI AND SSD—WHAT'S THE DIFFERENCE?

A. Tereasa Rerko, Esq.

Quite often I am asked what the difference is between Social Security Disability (SSD) and Supplemental Security Income (SSI). Here is a quick overview of these two programs.

SSD is a monthly income benefit for individuals who are disabled. An individual must meet the strict rules set up by the Social Security Administration (SSA) in order to be considered "disabled". Only if an individual meets these rules, will they then receive a monthly payment from the SSA. The amount received depends upon their personal earnings history (the income that an individual earned throughout their working life, and up until they ceased working). Based upon that income history, the SSA calculates how much each individual will receive if they meet the disability requirements.

SSI is also a monthly income benefit for individuals who are disabled according to the same "disabled" rules as a person who is approved for SSD. What is *different* about SSI benefits is the monthly amount an

individual receives. Since SSI is a needs-based benefit, you must have a financial need to receive the money, in addition to being disabled. SSI benefits may be payable to individuals who have not worked, have worked for a short period of time and/or for a low amount of income, or to a person who worked for an extensive period of time, earning a large income, but has not worked for *about* 5 years. The SSA considers all of an individual's household income, and uses guidelines to decide if that individual has a "financial need" to receive the money. Every SSI recipient in Pennsylvania receives the same amount each month. This monthly amount changes every year, in December, when the SSA makes its annual cost of living adjustments.

Please remember that both SSD and SSI are programs that pay monthly benefits for a disabled individual if they meet the requirements and guidelines set forth by the SSA. If you think you may be entitled to SSD or SSI benefits, contact our office for an appointment.

QRG RECEIVES PROMISE OF LIGHT AWARD

By Jacqueline M. Fajt

QRG was honored at the annual Blackburn Center's *Giving Thanks* event on April 22, 2004 at Seton Hill University. The firm received the Blackburn Center's *Promise of Light* Award. The award was created to honor an organization or individual upholding the Blackburn Center's vision of communities free from violence and oppression, and is given in recognition of the promise of light and hope that the recipients bring to those in search of a door that will be open.

The mission of the Blackburn Center is to reach out to people who have been assaulted or abused, to help them feel safe, and to help them heal by offering a variety of free, confidential services for adult and child victims of violence, as well as community education and professional in-service training programs. The Blackburn Center services include:

- a 24-hour hotline providing crisis counseling and referrals;
- counseling and therapy;
- support groups;
- an emergency shelter for battered women and their dependent children, and medical advocacy/accompaniment at hospital emergency rooms; and
- legal advocacy/accompaniment at protection from abuse hearings, magistrate hearings, and trials.

In 1975, a group of concerned community members pledged to work until the violence against women and children was stopped. Vince Quatrini, an Assistant District Attorney at the time, was part of that first group of concerned citizens. Over the past 30 years, QRG has volunteered its legal services to the Blackburn Center Against Domestic & Sexual Violence. In the 1980's, the firm battled the entire way to the Commonwealth Court of Pennsylvania to secure zoning approval for the emergency shelter. At the present time, Joyce Novotny-Prettiman serves as volunteer solicitor. Ann Emmerling, Blackburn's Executive Director, recently noted that, "We treasure and have come to rely on this relationship."

Past recipients of the Promise of Light Award include Valerie Carpenter and Robert Carpenter, Sr.; Commercial National Bank of PA; Corky Davis Blackburn, founding mother; Sisters of Charity of Seton Hill and Seton Hill University.

REQUIRED AUTO COVERAGE

By Joyce Novotny-Prettiman, Esq. & Richard H. Galloway, Esq.

Every day most of us use a car to get to work or school, to get chores and errands accomplished or just for fun. The Pennsylvania Motor Vehicle Financial Responsibility Law (MVFRL) controls how car insurance works in the Commonwealth. The law takes its name from the concept that we all need to be “financially responsible” for the vehicles we operate on our roadways. Here are the minimum coverages required for all vehicles:

- \$15,000 of liability coverage (which protects other motorists if harmed by a driver’s carelessness)
- \$5,000 of medical coverage (which pays your medical bills as a result of an accident)

Liability coverage protects you if you are sued by someone you injured, but probably the most important coverage from your standpoint is the medical coverage. This coverage pays for medical treatment resulting from an accident. It is a surprise to most people that their own insurance company pays their medical bills without any consideration as to which driver may be at fault for an accident. The law is set up this way so that medical bills can be paid promptly. If you own a motor vehicle, your insurance will pay for any medical bills resulting from an accident even if you are not in your vehicle when an accident occurs. If you do not own a vehicle, your medical bills will be covered by the insurer of the vehicle you occupy at the time an accident occurs.

There are other coverages available but not required, which we recommend. Wage loss protection is coverage that you purchase from your own insurance com-

pany and, similar to the medical coverage discussed above, this coverage is paid regardless of who is at fault for an accident. Many people cannot comfortably pay their monthly bills if they have to go without a paycheck for even a few weeks. Wage loss coverage protects you and your family because it pays benefits quickly when you are unable to work because of injuries arising from an auto accident. Many of our clients at QRG who have had to use this coverage are thankful that they had the coverage available to them. This is the type of coverage that gives you peace of mind and pays the bills when the unexpected happens.

You should check with your insurance agent to be sure you have wage loss coverage. If you do not have this coverage, you might be surprised at how little it costs. While an automobile accident is never a pleasant experience, if you have the coverage you need, the effects of an accident are much less likely to be devastating.

A word of caution – we believe that no one should ever buy a policy with the limited tort option; you should always have the full tort option. Also, while \$15,000 is the legal minimum for liability coverage, we believe it is far too low and you should consider raising it to \$100,000. This will have the added effect of raising your uninsured and underinsured coverages, which can be very important if you are seriously injured.

We will review your policy. It is critically important that you maintain the right coverage. Call Joyce Novotny-Prettiman, Richard Galloway, or Dennis Rafferty at (724) 837-0080.

www.qrglaw.com

By Jacqueline M. Fajt

On March 23, 2004 we launched our new website – www.qrglaw.com. We want to provide a site that enables our clients and friends to access helpful information about our firm and to help us meet your legal needs.

This is a work in progress and we will continue building our site by adding helpful features such as:

- directions to our office;
- directions to various courthouses, district justice offices, Workers’ Compensation Judges’ offices, and other hearing locations; and
- index of articles published in our newsletters.

We invite you to visit our website and click around. As always, we look forward to your feedback. If you have suggestions or comments about our website, please contact me directly at (724) 552-2758.

Here is how it works: Pennsylvania law requires that all currently registered vehicles must be insured. The reasoning behind this requirement is to encourage everyone to purchase vehicle insurance and to punish folks who have uninsured vehicles. Sounds logical, doesn't it? While keeping uninsured vehicles off the highway is a good goal for lawmakers, many Pennsylvanians have been caught in some very unfortunate situations. The wording of the statute requires all registered vehicles to be insured and does not make an exception that allows insurance to be cancelled simply because you are no longer driving a vehicle. Rather, the insurance requirement hinges on the registration status of a vehicle.

Why do all Pennsylvanians need to be concerned about the registration-insurance connection? Well, recent cases have held that a person who is operating an insured vehicle may be denied coverage even though the vehicle involved in the accident is insured, if that driver also owns a registered but uninsured vehicle. This means that your own insurance company can refuse to pay your medical bills even when you are hurt in an insured vehicle. Furthermore, if you are found to be the owner of an uninsured but registered vehicle, the law also views you as a person who has selected the limited tort option which severely limits your right to sue if you are injured by the negligence of another driver.

The fact is that many Pennsylvanians have valid reasons for taking vehicles off the highway and canceling their insurance coverage. Unlike those who are violating the law by operating uninsured vehicles on the roadway, the folks with situations like those outlined at the beginning of this article do not drive their vehicles after canceling their car insurance. If you know this important twist of the law, you can protect yourself from falling victim to unfair circumstances by simply notifying the Pennsylvania Department of Transportation that you are canceling the registration of that vehicle and returning your license plates for the unused vehicle.

If you have a situation similar to any of the scenarios outlined above, you cannot drop insurance on a vehicle unless you first cancel that vehicle's registration and turn in the license plate associated with the registration to the Commonwealth. At QRG, we can help you with questions that arise when you are thinking about taking a vehicle off the road.

ELECTION 2004

By Jacqueline M. Fajt

I remember staying up until the early morning hours watching the 2000 Presidential election results and history unfold. In the days that followed we not only learned about "chads" and revisited our civics class lesson about the electoral college, but most importantly witnessed the power of our votes.

The upcoming election is predicted to be nearly as close as the 2000 election. In the months leading up to November, there will be debates, advertisements, town meetings, and daily news coverage about the election. All this information might cause many people to become discouraged and think their vote won't make a difference. However, we learned in the 2000 election that every vote—especially your vote—does count!

All of us at QRG encourage you to exercise your right to vote in all elections and we are organizing a voter mobilization program to register and promote voting on election day, November 2, 2004. Look for more information in our summer issue.

WHAT'S THE VERDICT?



ANSWER:

Interestingly enough, it may depend upon what part of the entire incident the officer saw. The rules of the boating commission make it illegal for a jet-ski to jump the wake (waves) of a boat when closer than 100 feet to that boat. If the officer did not see that it was Ben who kept closing the gap between the jet-ski and his boat, then he might believe Jimmy was violating the 100 foot rule rather than just trying to keep himself from going in the drink. Ben, on the other hand, slipped silently away but probably committed a violation of a rule requiring boaters to maintain 50 feet between their vessel and other vessels when underway. The jet-ski, while small, is still a boat entitled to the same protections and bound by the same rules as any other boat, including Ben's. The Pennsylvania boating laws discriminate against jet-skis by requiring their operators to pass a safe boating course before operating on Pennsylvania waters. There is no similar requirement for people operating other types of boats, such as Ben, who clearly could use such a course.

You always think it will never happen to you, but you've just been in an accident. You are understandably shaken; nonetheless, it is important to stay level-headed and gather the necessary information at the scene. Here are some suggestions:

IF YOU HAVE BEEN INJURED IN AN AUTO ACCIDENT:

- Call the police and let them investigate.
- Be sure to report any injuries you sustain to a police officer or ambulance personnel at the scene.
- Do not refuse to be checked for injuries by the ambulance crew and follow through with their medical directions, including traveling to the emergency room, if necessary.
- Before leaving the scene get the names, addresses and phone numbers of all other drivers or passengers and witnesses. (All too often, clients know there was a witness who would support their position, but failed to get any information from them, making them impossible to locate later.)
- Write down a description of the other vehicles, including make, model, color, and license number, noting if the vehicle is registered out-of-state.
- Note any statements made by other drivers.
- Notify your own insurance company about the accident as soon as possible.
- If you are struck and injured by a vehicle that leaves the scene of the accident without stopping, (sometimes called a phantom vehicle), you must report the accident to the police within 30 days of the accident to comply with your insurance requirements.
- Take photographs of the scene and cars as soon as possible. (Roadways change and skid marks fade, altering forever the condition of the scene as it was at the time of the accident.)

IF YOU HAVE FALLEN OR BEEN INJURED ON SOMEONE ELSE'S PROPERTY:

- Report the incident to the property owner and have them complete a written accident report, if applicable.
- Note any statements made by the property owner.
- Gather the names, addresses, and phone numbers of any witnesses.
- Write down a short summary of the accident as soon as possible.
- Seek immediate medical attention.
- Follow through with your physician's instructions.
- Take photographs of the scene as soon as possible (sidewalks and buildings may be repaired quickly, changing forever the scene of the accident.)

IN ALL INSTANCES THE OLD SAYING, "A PICTURE IS WORTH A THOUSAND WORDS!" STILL HOLDS TRUE:

- If you are unable to take the photos, ask a friend or family member to do so.
- Take photos of all visible injuries (bruising, lacerations, casts, etc.) both immediately after the accident and as the injuries progress.

ALL OF THIS INFORMATION IS INVALUABLE AND IF YOU DO NOT OBTAIN IT AT THE TIME OF THE ACCIDENT IT MAY NEVER BE AVAILABLE AGAIN .

IF YOU FEEL YOU NEED ASSISTANCE, CALL QRG AT (724) 837-0080.

WE SUGGEST THAT YOU CUT OUT THIS FORM AND PUT IT IN THE GLOVE BOX OF YOUR VEHICLE.

MEET THE STAFF

Joyce Novotny-Prettiman, Esq. & Richard H. Galloway, Esq.

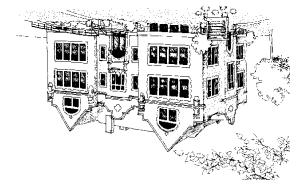
Joyce is a life-long resident of Unity Township. She graduated from Latrobe High School and started out as a legal secretary. She completed a paralegal course at St. Vincent College in 1988 and continued to work as a paralegal while she attended college at night and on Saturdays at Seton Hill College. She graduated summa cum laude from Seton Hill in 1997 and earned her J.D. from Duquesne University Law School in 2000. Joyce concentrates her practice in the areas of plaintiffs' personal injury work, general civil litigation and school law. She is active on committees which sponsor events benefitting the Leukemia & Lymphoma Society, including the Greensburg Light the Night Walk and Polo for the Cure.

She lives with her husband, Dan, in the Latrobe-Greensburg area. For fun, she likes to jet ski, boat and run. She is a NASCAR fan (go #8)! Most of all, she enjoys spending time with her family.

Dick Galloway is one of the founders of the firm and has practiced in Westmoreland County since 1968. Dick graduated from Lehigh University and from the University of Pittsburgh School of Law, where he was president of his class. He has been president of the Westmoreland Bar Association, the Western Pennsylvania Trial Lawyers Association, the Academy of Trial Lawyers of Westmoreland County, and the Inn of Court. He has served on the Board for the Pennsylvania Bar Association and as the Chair for its House of Delegates. Dick has litigated some of the more widely publicized cases in western Pennsylvania, having defended a judge accused of multiple crimes and a multi-million dollar multiple death accident case. The Westmoreland Bar Association awarded him its highest award, the President's Award for Professionalism, which has been given out only six times in the history of the Westmoreland Bar Association. He was elected by his peers to the American College of Trial Lawyers, named as one of the Best Lawyers in America, and included in Who's Who in America and Who's Who in American Law for a number of years.

Dick's leisure time is divided between sailing his sailboat in the Chesapeake Bay and spending time with his wife, kids, and grandkids.

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