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SPRING 2007

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## Five Critical IRA And Pension Tips To Avoid Trouble Later, Follow These Tips NOW!

Many people periodically update their wills or other estate plans, but don't remember to update who will receive distributions from their retirement plans (such as IRAs and 401(K)s) upon their deaths. Every year, you should review your entire estate plan, and the review should include retirement-plan "beneficiary designations" to make sure they aren't outdated. The following are some tips for naming a retirement-plan beneficiary:

### 1. It is important to name a beneficiary.

Do not assume that your retirement plan will be distributed according to your will. If you don't name a beneficiary, the distribution of benefits may be controlled by state or federal law, or according to your particular retirement plan. Some plans automatically distribute money to a spouse or children. While others may leave it to the retirement-plan-holder's estate, this could have negative tax consequences. The only way to control where the money goes is to name a beneficiary.

**2. You may want to designate a trust as your beneficiary.** If your estate is more than the current estate tax exclusion (\$2 million for 2007 and 2008) and a large portion of it consists of retirement plans, it may make sense to direct that the plans be payable to a trust rather than to the surviving spouse. The trust must be properly

drafted to avoid tax consequences, **so consult with an attorney** before doing this. If you want your money to go into a trust for your children, be sure to designate the trust as the beneficiary. If you name your children, the money will go directly to them.

**3. If you have major life changes, be sure to keep your retirement plan updated.** If you get married or have children, you may want to change your beneficiary. Also, if your spouse was your beneficiary and you get divorced, your former spouse will still be the beneficiary—divorce does not automatically remove an ex-spouse as beneficiary. If you wish to remove a former spouse from the plan, you will have to fill out a new beneficiary designation form.

**4. Even if you don't have big changes, you should review your beneficiary designation periodically.** Your beneficiary may not be who you remembered it to be, or it may be outdated. For example, if you named a charity as beneficiary, you will want to make sure the charity still exists. A Change of Beneficiary form can often be downloaded from the Web site of the firm holding the plan assets.

**5. If you have any questions, feel free to call (733-8866) or e-mail Attorney Don Mustico ([dmustico@ziffllaw.com](mailto:dmustico@ziffllaw.com)).**

## Will Changes To The Workers' Compensation System Help Or Hurt New York's Injured Workers?

For years, politicians have blamed New York's expensive, complicated workers' compensation system for the flight of businesses and workers from our state, and their inability to attract new businesses and jobs. After more than a decade of complaining, our state is finally doing something to fix the problem. Just recently, the New York State Assembly and Senate voted unanimously to approve a bill that, when signed by the governor, will result in sweeping changes to New York's workers' compensation system. Under current estimates, the bill will result in an immediate

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# Will Changes To The Workers' Compensation System Help Or Hurt New York's Injured Workers?

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reduction of 10–15 percent in workers' compensation premiums paid by employers.

Employers aren't the only ones who will benefit from this bill, however. The maximum weekly benefit for injured employees will rise from \$400 (unchanged in the last 15 years) to \$500 in year one, \$550 in year two, \$600 in year three, and to two-thirds of New York's average weekly wage every year thereafter. That average weekly wage was last reported at \$998 in 2005. The minimum weekly benefit would rise from \$40 to \$100. The bill also provides for more assistance to help injured workers get back to work, and speeds up court cases to get injured workers their benefits more quickly. The bill is also designed to prevent the current practice by insurance carriers of denying approval for routine medical procedures, which often results in longer periods of disability for the injured employees.

These increased benefits do come at a cost. The length of

time that a permanently injured worker can collect benefits for a partial disability will be capped at between four and ten years, depending upon the seriousness of the disability. This means that a worker could be cut off from benefits even though he or she is unable to return to work because of an on-the-job injury.

The state hopes to recoup the cost of increased benefits by setting a fee schedule for doctors providing medical care to injured workers, by increasing the penalties and sanctions on businesses and employees who try to cheat the system, and by doubling the size of its antifraud unit to catch the cheaters.

Will these changes to the workers' compensation system yield the promised results? Only time will allow us to answer that question. But whether these changes work or not, our legislature deserves a hand for finally attempting to fix New York's failed workers' compensation system.

## Staff Spotlight— Our Receptionist, SUPER Nora!

If you have visited or called our office, you most likely spoke with our receptionist, **Nora Givens**. Nora is one of those rare persons who is eternally smiling, no matter how crazy things are going. We keep her around just to make up for all the grumpy lawyers! Seriously, we feel very lucky to have someone so chipper and friendly answering our phones and greeting our clients. For anyone who has ever spent any time answering phones at a busy office, you know how difficult it can be juggling many calls at once, but Nora pulls it off with apparent ease.

Nora McGee Givens grew up in Elmira, graduating from EFA. She has been married to Tony Givens for 21 years. Nora and Tony have four children and two grandchildren. Yes, that's right, Nora is a grandmother! Given the fact that she looks younger and dresses ten times better than the rest of us, we have a hard time believing she really is a grandmother, but we've seen the kids, so we know it's true!



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# Answers To YOUR Questions...

**QUESTION:** My mechanic has had my car for six weeks now and keeps giving me false dates as to when it will be done. I would like to know what I can do to get my car back. I have paid him \$375 so far.

**ANSWER:** These car-repair questions are always tough ones to give advice because the bottom line is that you need your car fixed, the mechanic has your car, and the only way you can usually get the car back is to pay the bill. Unfortunately, the mechanic has you in a difficult position, and legally there's not a whole lot you can do. You CAN sue the mechanic to get the car back, but that takes a ton of time and the mechanic will likely counter-sue you for the money he claims he is owed.

So, given the fact that pursuing a lawsuit rarely makes sense, you have to look at your other commonsense options:

First, my advice is to "kill them with kindness." Let's face it, most people are nice to people who are nice to them. Accordingly, be as nice as you can in approaching the mechanic and letting him know in a friendly way that it's killing you to be without your car. Doesn't always work, but it can't hurt to try the nice route first.

Second, **document everything!** Write down the date when you took your car in and the details of any conversations regarding how much the repairs would cost and how long they would take; document the dates and details of any phone conversations; write confirming notes/e-mails/letters if the mechanic tells you things are going to be done by a certain date or for a certain amount; save copies of any written estimates, etc. The idea is document, document, document! Why? Because if later you are totally unable to resolve the matter in a friendly manner and you are forced to take the mechanic to small claims court, you will have all the ammunition (lawyers call it "evidence") you need to support your position that the mechanic did wrong by you.

Third, as a last resort, you CAN take the mechanic to small claims court on your own, and you don't even need to pay a lawyer to help you. Every village, town, and city has a small claims court. You just need to find out the court information for the court from which your claim arises (most likely wherever the mechanic's business is located) and contact them for details on how to bring a small claims court action. You can get information regarding the courts at <http://nycourts.gov>. Small claims courts generally have the authority to hear claims up to \$3,000. These are the true "people's courts," and most folks can easily represent themselves so long as they remember to be prepared with all of their documentation and to be polite to both their opponents and the judges, as nothing turns off a judge faster than someone being rude.

Sorry for the lengthy response, but I hope it helps. Good luck!

*Jim Reed*

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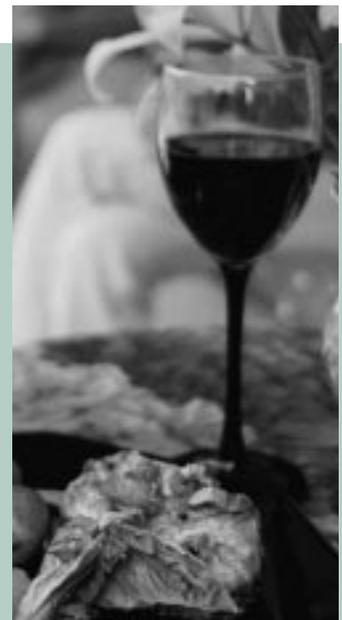


## "Wine On Ice" Raffle Winner— Tracie Felenchak

Congratulations to **Tracie Felenchak** of Horseheads, who won the Zifflaw "Wine on Ice" raffle for VIP tickets to the NASCAR weekend at the Glen in August. Tracie was the lucky winner selected from more than 800 raffle entries. The attendance at Wine on Ice

was tremendous, and we had a great time seeing so many of our friends who came out to beat back the midwinter blues!

If you haven't gone to Wine on Ice before, you should really plan on it for next year—a very fun, casual event supporting our hardworking upstate wineries.



**Arney Adam Gee  
Nora Givens at  
Wine on Ice event.**

Box 1338  
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Not Better!**

## ATTORNEY ADVERTISING

The information included in this newsletter is not intended as a substitute for consultation with an attorney. Specific conditions always require consultation with appropriate legal professionals.

## Would You Ride Your Motorcycle Naked?

For millions of people across the country, there is nothing more exhilarating than the feel of the wind in their face and the sun on their back as they cruise along a country road on their motorcycle. Most motorcyclists wouldn't dream of riding without a helmet and other protective gear. They know that when a motorcycle is involved in a collision, no matter who is at fault, a person on a motorcycle is far more likely to be seriously injured than a person in a car. But if a motorcyclist fails to obtain the right amount and kind of motorcycle insurance, he and his family could be left unprotected in the event of a crash. Time and again, we have had clients come to us believing they had purchased the right insurance, only to learn the hard way that significant portions of their injuries and damages weren't covered.

The most common misconception we hear is people thinking they don't need to purchase a lot of motorcycle coverage because their car insurance will cover them in the event of a collision. **Don't make this critical mistake!** You are NOT covered by your car insurance for an accident on your motorcycle! In fact, every motor vehicle policy contains an exclusion specifically denying coverage for injuries sustained while operating a motorcycle.

Another common misconception people have is that their motorcycle coverage will cover their medical bills

and lost wages just like their car insurance. Nothing could be further from the truth. Unlike with cars, there is no "no-fault" coverage for motorcycles. Basic motorcycle coverage is designed to cover property damage and personal injuries sustained by others in the event you are found responsible for a collision. It is not designed to protect YOU!

So how can you protect yourself? Most insurance companies that sell motorcycle insurance also sell add-ons to their policies that will help protect you in the event of a loss. Coverage such as comprehensive collision, personal injury protection (PIP), and optional basic economic loss (OBEL) can be used to repair your motorcycle, cover your medical expenses, and make up for lost wages while you are hurt, and are available in varying amounts, depending on your circumstances. These provisions are typically reasonably priced, usually totaling only a fraction of the liability portion of your policy. It is money well spent to provide peace of mind and to protect you and your family in the event of a collision.

As the spring riding season kicks off, be on the lookout for informative seminars sponsored by the **Ziff Law Firm** on motorcycle insurance and how riders can protect themselves in the event of a collision! Send us an e-mail now at [info@zifflaw.com](mailto:info@zifflaw.com) if you want to sign up for one of the motorcycle seminars.

