



## Insurance Reform: Whose fault is it anyway?

After years of criticism by insurers, consumers and regulators, on July 1, 2003 the sun set on Colorado's "no-fault" automobile insurance system. Under the new system, Colorado joins 37 other states in operating under a fault-based (tort) system. A tort is a civil wrong based upon common law principals of negligence and responsibility. How do these changes affect us?

The primary change in the system is the elimination of "Personal Injury Protection" (PIP) coverage. Previously, if you were injured in an accident, your own insurer paid your medical expenses, up to your policy limits, regardless of who caused the accident. Now, if you are injured and the accident is not your fault, the other driver's liability insurer pays the medical expenses, up to the policy limits. In the "fault-based" system, you must have adequate coverage for accidents caused by uninsured or underinsured motorists. Even though you have the right to sue the other driver, their failure to have adequate insurance is probably an indication that they are otherwise unable to pay damages.

If the accident is your fault, your medical expenses are now paid by your own health insurance, rather than your auto insurance. If you do not have health insurance, or if you have another reason for not wanting to submit claims under your health insurance policy, then you should purchase "Medical Payments Coverage" from your auto insurer, which provides for the payment of some or all of your medical expenses if you have an accident. On the other hand, if you have excellent health insurance coverage, you may want to purchase only liability and uninsured motorist coverage. If your accident is work-related, any worker's compensation insurance would be the primary policy.

Under the tort system, it is important to make sure you have sufficient liability insurance. Since you or your insurer are required to pay the medical expenses of the other driver if you are at fault, your policy limits should be adjusted upwards to allow for this new increased exposure. The statutory minimum liability insurance (\$25,000 per person for injury, \$50,000 per accident, and \$15,000 for property damage) is clearly insufficient to protect your personal assets if you cause a serious accident. Many agents recommend that you purchase the maximum amount of liability insurance that you can afford. Most auto insurers allow a \$1,000,000 combined single limit of liability, and more coverage can be acquired by purchasing an umbrella policy.

You should also consider "lost income" and "disability" coverage, which provide payment if you are unable to work or disabled because of an injury. Under the new system, loss of income coverage is not mandatory, but it is an available option.

Each person's situation is different, and different circumstances may warrant different insurance coverage. The most important step is to review your current policy with your agent and revise it to suit your own needs. If you have any questions regarding this change in the law, please feel free to give us a call.

About the author: Scott Fitzke is a native of Denver. He earned his B.A. from the University of Nebraska and his J.D. from the University of Denver, College of Law.

## W I N T E R 2 0 0 4

It's spring! Almost. It is that time of the year when most of us long to push ahead both clock and calendar to longer, warmer, greener days.

In the "almost spring" of 2003, Colorado winter took one last deep breath, exhaled profoundly and delivered several feet of snow that crippled the region for days. Devastating for some, the blizzard was an annoyance for us as we pushed to complete our office-move checklist. In spite of the unexpected delays, on March 29, we moved into our new office on time and within budget as the direct result of good planning.

Planning is the best natural defense for people like us; we hate surprises. You know the kind of surprises we're talking about, don't you? They're the kind that cost you hard-earned cash when the unexpected happens unexpectedly. But, life is fraught with the unforeseen. So, how can you live prepared?

Just as spring prompts you to clean and repair the house and to replant the garden, allow it to be a yearly prompt to get your business and personal matters in order as well. Where will you be if life serves up a storm? Do you have a plan? Did a blizzard catch you off guard and now you need help to dig out? Or, maybe you're enjoying blue skies and want to bottle some for a rainy day? We are here to help you plan, to help you repair and recover, to help you protect and to grow.

Our business is about partnering with you to help ensure that your future surprises are happy ones!

Best regards,

*Curtis Shortridge*

## Can the sale of your business or investment property qualify for tax deferral?

Section 1031 of the Internal Revenue Code provides a valuable financial planning tool for the owner of any business or investment property to exchange it for any other “like kind” property, tax deferred.

In an ordinary sale transaction, the investment property owner is taxed on any gain realized by the sale. In a Section 1031 real estate exchange, the tax on the exchange is deferred. You must comply exactly with the requirements of Section 1031 to qualify for the tax deferral on the transaction. Generally, these are: (1) both the property surrendered and the property received must

be held for productive use in a trade or business or for investment; (2) the property surrendered and the property received must be of “like-kind;” and (3) there must be an exchange as distinguished from a sale or a purchase.

While the first requirement might be easiest to understand, the second and third requirements can be very complex. While navigating the intricacies of Code Section 1031 can be complicated, we have the expertise and experience to help you utilize this, and other, asset protection tools to your best advantage. We look forward to exploring legal strategies with you to maximize profit on your assets and to preserve and enhance your net worth.

About the author: Shawn C. O'Buckley holds a Masters of Law in Taxation (LL.M.) from the University of Denver Graduate Tax Program. His areas of practice include Business Law; Transactions; Tax; Wills, Trusts and Estates; Real Estate; Corporate and Partnership Law.



## Ronald Scott Fitzke Joins SS&R as Special Counsel

In January we were honored as Ronald Scott Fitzke joined the firm as Special Counsel. Scott is a committed advocate for his clients with asset protection as a major focus.

Scott considers his family to be his own greatest asset. His wife, Tracy, is HRIS Program Mgr. at Gates Corporation, and his tireless partner in the joys and challenges of raising two active children. Their son, Taylor (age 11), is a 5<sup>th</sup> grader, and daughter, Morgan (age 8), is a 2<sup>nd</sup> grader at Shaffer Elementary School. Their busy calendar of commitments include Boy Scouts, Brownies, church, sports, gymnastics and dance as well as Scott's leadership role in the Colorado Blues Society.

Scott would appreciate the opportunity to assist you with attaining your legal objectives. His practice areas include Civil Litigation, Business (including formation), Real Estate, Entertainment, Estate Planning, Probate and Elder Law.