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LAW FIRM P.C.

SPRING 2016

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## Excellent result for family of deceased truck driver

On March 2, 2016, **Pothitakis Law Firm** received a decision in a partial commutation case. The decision resulted in an award to the client of \$450,000.

In 2013, our client was a truck driver who was fatally injured in a tragic auto accident. He was married at the time and as a result his wife was entitled to workers' compensation benefits. Those benefits would end upon her death or if she were to remarry, shortly thereafter. The surviving spouse was finding it difficult to live on the weekly workers' compensation benefits and for other reasons wanted to have the money paid in a lump sum.

Under Iowa workers' compensation laws, benefits are always awarded on a weekly basis. There are a few situations for which benefits can be awarded in a lump sum, and one of those is when one seeks a partial commutation. A partial commutation is a request to have all benefits paid in a lump sum after reducing them to present value.

In this case, the surviving spouse had a life expectancy of an additional 29 years. Reducing the payments over her lifetime after reducing to present value would total \$450,000. In order to obtain a partial commutation, the spouse was required to show that it would be in her best interests to obtain the funds in a lump sum as opposed to receiving around \$400 a week. The question of whether it is in the best interests of the spouse is based upon the balance between the benefits to the spouse in comparison to the detriments to the spouse.

The defendants argued that she would waste the money and that she would be better off having the money on a weekly basis for the remainder of her life.

The arguments that we made for the spouse included the following:

1. Interest rates are at an all-time low, and therefore the interest rate used to reduce the amount to present value resulted in a significantly higher lump sum at this time as opposed to other times in history.
2. The spouse wanted to make sure to have something left for her children if she were to die. If she was paid weekly, the benefits would end upon her death. If they were paid in a lump sum, as we requested in the petition for commutation, she would have an estate to leave to her children.
3. The spouse wanted to buy a home so that she no longer had to rent.
4. The spouse intended to purchase an annuity that would pay her a monthly income.

In support of the application for commutation, Pothitakis Law Firm hired an expert to give an opinion and options for the surviving spouse on how the money could be used. This expert was a Certified Public Accountant, and he provided an opinion that it would be in her best interests to obtain the funds in a lump sum at this time. The defendants hired their own expert, an economist, who said that she was better off receiving the money on a weekly basis.

A hearing was held in January 2016. A decision was received recently which found in favor of the Pothitakis Law Firm client, and obligated the defendants to pay the claimant the benefits in a lump sum, for an approximate total of \$450,000.

Pothitakis Law Firm is very happy with the decision, as is the spouse. Still grieving from the death of her husband, the surviving spouse is happy to be able to provide financial security for her and her family based upon the decision.

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#### OFFICE HOURS

Monday-Friday  
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WORKERS' COMPENSATION  
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- Vice President, Iowa Association of Workers' Compensation Lawyers, Inc. (2013-2014)
- President, Iowa Association of Workers' Compensation Lawyers, Inc. (Oct. 2014-Oct. 2015)
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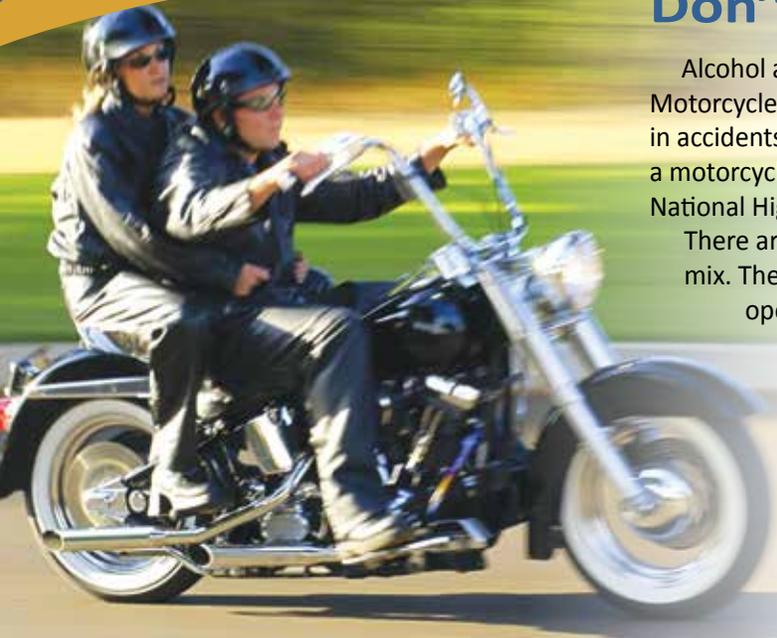
*We take pride in the quality of our legal work.*

## Don't DRINK and RIDE

Alcohol and motorcycles are a tragic—and common—mix. According to the Motorcycle Safety Foundation (MSF), 46 percent of motorcycle riders killed in accidents have alcohol in their system. The incidence of drinking and riding a motorcycle has increased 10 percent in the last decade, according to the National Highway Traffic Safety Administration.

There are several factors that make alcohol and motorcycles a deadly mix. The most obvious is that it requires more skill and coordination to operate a motorcycle. They are smaller and lack the stability of traditional vehicles. The MSF also says that it takes less alcohol to impair a rider's ability. The organization said that statistics show that a blood alcohol content level of .05 (under the legal limit) increases a rider's crash risk 40 times, and that even a small amount of alcohol raises their crash risk fivefold.

If you're planning spring rides, consider stopping for a meal rather than a drink, and only drink at festivals and rallies if you are camping onsite or have alternative transportation to your hotel.



## CONSULTING WITH A LAWYER ABOUT A CAR ACCIDENT? *Here's what they are going to want to know...*

After an auto accident, if you are able, it is vital to write down and record everything you can remember while it is fresh in your mind. Take photos and video of the accident scene, vehicles, injuries, etc. While the trauma of an accident may make it seem as though you could never forget exactly what happened, the details will slip away.

### WHO

An attorney will want to know who was involved in the accident, if the police were there, and if there were any witnesses.

### WHAT

What happened and how? It's likely that everyone involved will have a slightly different story; that is why it is vital to write down, draw, photograph, and record anything that might be helpful in showing what happened.

### WHEN

Know the date and the time of your accident. If you were taken to the hospital or a doctor's office, be prepared to say when you went and how you got there.

### INJURY

Tell your attorney about all your injuries that were a result of the accident or worsened by the accident.

### MEDICAL EVIDENCE

Aside from a police report and photos and/or videos of the accident scene, submit any diagnostic testing (X-rays, MRIs, etc.) or medical records that support your claim. Keep note of how your medical condition affects your everyday life. If your doctor believes that an injury is permanent, be sure your attorney is aware.

### ADMISSION OF GUILT

If the other driver apologized for the accident, tell your attorney. If you are in an accident in the future and the driver admits fault, be sure to tell the police so that they can note it in their report.

### INSURANCE

Provide a copy of your policy and the insurance information of other drivers involved in the accident.



## Spa and salon injuries

Springtime is full of weddings, proms, graduations, and other social events that send women and men off to spas and salons for massages, manicures, and new hairstyles. These services make one feel pampered and refreshed, but what happens when something goes wrong... when a pedicure turns into a serious skin infection, when your scalp is burned by a negligent or inexperienced colorist, or when a masseuse injures your back? Are spas liable for injuries they might cause?

## Link between spinal cord injury and sleep apnea

Spinal cord injuries are complex and often go hand-in-hand with other conditions, including breathing and respiratory disorders. According to the Centers for Disease Control and Prevention, approximately 200,000 people are living with spinal cord injury in the United States.

In a recent study published in the *Journal of Clinical Sleep Medicine*, three of four people with spinal cord injuries also had sleep apnea, a condition where breathing slows or stops briefly but frequently during sleep, decreasing oxygen to the brain. Other studies have estimated that 25 to 45 percent of people with spinal cord injuries have the disorder. Weakened diaphragm muscles, sleeping flat on the back, nasal congestion, and excess fluid in the mouth and throat all contribute to a higher incidence of sleep apnea in those with spinal cord injuries.

“Sleep-disordered breathing may contribute to increased cardiovascular mortality in spinal cord injury patients,” said American Academy of Sleep Medicine president Dr. M. Safwan Badr, who was involved in the study. “All spinal cord injury patients should undergo a comprehensive sleep evaluation using full, overnight polysomnography for the accurate diagnosis of sleep apnea.”

## HAIR AND NAILS

Hair and nail professionals have a duty to provide competent service to their clients. If they breach that duty and cause injury, they can be held accountable. In most states, salons must carry liability insurance to cover client injuries. Common injuries include chemical burns to the scalp, neck, and face; burns from heat; loss of hair due to burns; and infection of nail beds and skin from unsanitary tools.

## MASSAGE

A massage therapist can be sued for medical malpractice if they cause or worsen a client's injury. The injury may be a result of the massage therapist failing to collect medical history, failing to massage properly, or failing to provide safe equipment.

If you sustain injuries at a spa or salon, call a personal injury attorney to discuss your case.



## Spring-break safety tips

Spring break is a tradition among college students and young adults, but alcohol, large crowds, and lots of sun often create a dangerous environment that can result in alcohol poisoning, sexual assault, and other serious injuries. Here are tips to have a memorable and safe spring vacation from SABRE, a security equipment corporation that provides personal safety, home security, and law enforcement products.

**Arrive safely.** Driving through the night to make it down to Florida or other sunny destinations is common for spring breakers. But the National Safety Council says traffic death rates are three times greater at night than during the day. If you can't avoid night driving, at least one passenger should stay awake to talk to the driver.

**Be smart about who you give personal information to.** For instance, don't tell new acquaintances your hotel or room number.

**Make sure you know the name and address of your hotel** or take a hotel business card out with you so you can give it to a cab driver. This is especially important if you don't speak the local language.

**Use the buddy system—it works!** Never leave a party with a stranger. Travel with a friend or, better yet, with a group and stay at your intended destination.

**Practice safe drinking.** Designate one person in a group per night to drink minimally or not at all to look out for everyone. Also, always keep your drink in hand or where you can see it, and only accept drinks that were made or poured in front of you.

**Hydrate and wear sunscreen.** Heat stroke and melanoma aren't happy spring-break thoughts, but too much time in the sun can leave you dehydrated with an increased risk of sunburn. Take sunscreen and plenty of water with you to the beach or pool.

Source: [sabrered.com](http://sabrered.com)

# What is a deposition?

In the course of a personal injury case, the plaintiff and witnesses may be asked to give sworn testimony for use as evidence or as discovery (the process where each side gathers information to create a case). This is called a deposition. During a deposition, one is under oath, just as if he/she were in a courtroom, and the testimony is recorded, usually by a court reporter who prepares a transcript of the deposition, but sometimes by video.

Plaintiffs should keep in mind that a deposition is asked to build the defense's case. They will not ask questions or try to gather information that would hurt their case. For this reason, it is very important to just give brief answers and to always consult with your attorney before giving a deposition. They can teach you how to word answers so they can't be used against you.

After the transcript or video is prepared, all parties are given the testimony to review. An attorney should be able to tell whether a witness will be helpful or harmful to a personal injury case and will plan your case accordingly. In addition to pretrial discovery, depositions may be used in court as evidence and may be available as part of the public court record after a trial ends.



The results from the cases of the Pothitakis Law Firm P.C. are diverse, and the results vary considerably. The case results are not a guarantee of future results, as they are specific to facts and legal circumstances of each client's case, and for this reason should not form the basis for future expectations on a different case. These cases may not be typical, and there are many factors that determine the result of a case. The determination of the need for legal services and the choice of a lawyer are extremely important decisions and should not be based solely upon advertisements or self-proclaimed expertise. All potential claimants are urged to make their own independent investigation or evaluation of any lawyer being considered.

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*Thanks to all of you  
who have  
recommended our  
firm to your relatives,  
friends, and  
neighbors. We  
appreciate your vote  
of confidence and  
pledge to care for  
these "VIPs" as well as  
we care for you.*



## NICHOLAS G. POTHITAKIS ELECTED TO THE JUDICIAL NOMINATING COMMISSION

On February 1, 2016, **Nicholas Pothitakis** was elected to serve a term on the Judicial Nominating Commission. The Judicial Nominating Commission is a group of attorneys and individuals who nominate people to fill open district court judge positions. Mr. Pothitakis was elected by the bar members who reside in Judicial District 8B.

Niko responded to the election by saying, "I am extremely happy to be elected to this position. It is a very important commission, as it decides which individuals who apply for judge positions are submitted to the governor for approval." The position runs for six years.