

We Can Help

If you or a relative have been injured or worse, the first thing to do is seek medical attention. Injuries may not seem serious at first, but left untreated, may become severe, debilitating and long lasting.

An attorney, knowledgeable in injuries and wrongful death can help you learn about your legal options, answer your questions and assist you in pursuing your claim.

Call Benson, Bertoldo, Baker & Carter today.

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Are You Sharing Too Much Information?



Social Networking Sites Can Harm Your Personal Injury Case

Social networking has revolutionized the way many people are connecting with each other and sharing personal information. Millions of Internet users log onto sites such as MySpace, Facebook and Twitter every day to chronicle the intimate details of their personal and professional lives. These online interactive sites allow users to create profiles that include pictures and private information for the entire world to view.



Unfortunately, social networking sites are also causing myriad problems for personal injury and workers' compensation victims. These sites create a virtual gold mine of discoverable information that may have a devastating impact on the case outcome.

Insurance companies and attorneys are savvy when it comes to social networking sites. They



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are now using information that people post on public profiles to deny or limit payments for personal injury claims. For example, if an insurance company approves a car accident victim for a settlement and she posts, "Healing quickly, headed to the gym this morning!" on her Facebook page, an insurance company can use this as justification to deny further benefits.

Consider the damage to a personal injury case if a defendant introduces a Facebook video of a personal-injury plaintiff slam dunking a basketball and the video was posted days after the alleged incident. How about an admission on one's page that she was talking to her mother on the cell phone at time of the collision? An argument could be made she maybe wasn't paying attention, and possibly could've avoided the accident.

If you publicly declare any information about your injuries, recovery or involvement in an accident, you can invalidate your benefits or limit your recovery.

In addition to denying benefits, insurance companies can also use information that you post against you in court to damage your character or embarrass you. If the insurance company can prove that you're a "bad person" (by using illegal or immoral evidence found on your page), then they may also be able to prove that you don't deserve damages. Also, be sure to tell friends not to write about your recovery or tag you in photos that may be used against you.

Our firm continually evaluates our active and potential cases to determine whether information on social networking sites could be useful or harmful to our cases. Clients should also be aware they could unknowingly leave a virtual trail of discoverable information that may provide an opposing party with a smoking gun in a high-stakes lawsuit.

Be aware that insurance companies and defense attorneys regularly check these social networking sites. Don't damage your own case. Remove and avoid posting anything that could be used against you.

*Think twice
before posting
personal details.*



Two Accidents: Need To Apportion Damages?

Not Necessarily...

Insurance companies and defense attorneys often seek to avoid their client taking responsibility for his or her actions by arguing that another accident is to blame for causing new and/or worsening old injuries. They are essentially arguing that there should be an apportionment of fault and/or damages, which would either negate or minimize their client's responsibility for compensating an injured party. Fortunately for injured parties, this type of argument is ineffective in Nevada.

The leading case on apportionment of damages in Nevada is Kleitiz v. Raskin 103 Nev. 325, 738 P.2d 508 (Nev. 1987). The Kleitiz case involved a plaintiff that was injured in an automobile collision and diagnosed with a probable herniated disc. Approximately one month later, the plaintiff was involved in a second automobile collision while on the way to the hospital seeking treatment for the first. The plaintiff settled with the driver from the first accident and continued with the claim against the driver responsible for the second accident.

The Nevada Supreme Court ultimately held that "...plaintiff must prove that the second accident defendants' actions were a cause of the injury. Once a plaintiff establishes that the second accident was a cause of the injury, the burden shifts to the defendant to apportion damages. If the defendant fails to meet his burden, he is jointly and severally liable for the entire amount of damages attributable to the injury."

Thus, in Nevada, where the plaintiff is injured in successive automobile accidents, the Kleitiz v. Raskin decision will shift the burden of proof on apportionment of damages to the defendants causing the harm.

So, even if your doctor is unable or unwilling to apportion damages between two simultaneous wrongdoers or two separate incidents, Nevada law will shift the burden of proof to the defendant. In doing so, the law properly favors the interest of those with legitimate rights to legal redress, over the interest of those whose negligence has caused harm to another.

