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LEGAL NOTES AND NEWS – JANUARY 2013

ERISA Subrogation – Can They Produce The Contract?

Some believe Plaintiff attorneys are failing to hold the ERISA plan's feet to the fire by requesting a certified copy of the entire contract upon which they base their subrogation claim (rather than a page or two from a generic policy). Recent experience suggests that the plan may be unable to produce the actual contract. Since ERISA plans are taking very hard lines on their claims, do we need to fight back by insisting, at a minimum, that they prove their contract? On the other hand, especially here in the 6th Circuit, where do we stand if the contract IS produced?

SWOTLA MEMBERS – We Want To Hear From You!

This is YOUR newsletter. Let's hear about great trial results (or not so great ones), recent decisions, and other developments of interest to the Plaintiff's bar. Please submit to Mark B. Smith via info@markbsmithlaw.com

Save The Date!

The annual SWOTLA Spring CLE and mixer will be held on **Thursday, April 18, 2013 beginning at 12:30 p.m.** After the 3 hour CLE program, drinks and hors d'oeuvres will be served. The event will again be at the Phoenix. The event is **FREE**, and **JUDGES AND STAFF ARE WELCOME!**

Are personal injury settlements taxable? There's more to it than a simple "no."

For the IRS' current position on this frequent question, see: <http://www.irs.gov/pub/irs-pdf/p4345.pdf>

Cumulative Expert Witnesses

A recurring problem in medical negligence and other technical cases is the defense tactic of naming numerous and cumulative expert witnesses. Often plaintiff's counsel is faced with the unhappy and expensive job of deposing multiple defense experts, driving up costs, and potentially allowing the defense to "cherry pick" the best experts for presentation at trial. SWOTLA Past President Lanny Goodman recently briefed this issue, and has offered to share his work product with SWOTLA members. Contact Lanny for a copy.

CONSIDER THIS: The clearest way to show what the rule of law means to us in everyday life is to recall what has happened when there is no rule of law.
Dwight D. Eisenhower

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