

# KREKELER LAW REPORT

KREKELER STROTHER, S.C.

ATTORNEYS AT LAW



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## MEANS BACK TO STUDENT LOANS

By: Ryan A. Blay

We just celebrated Labor Day, so our students eagerly (or perhaps not so eagerly) returned to school. For college and graduate students, that often means taking out new student loans to cover room and board, tuition, and living expenses for another year.

The US Department of Education issued new guidelines for student loan servicers in July. The Department wants to see consistency in servicing and more accurate information provided to borrowers. These new policies will affect companies like Navient, Great Lakes Higher Education Corp. and American

Education Services. These are the companies you would call with questions about your federal or public student loans.

We have reviewed the full 56-page Policy Direction. Unfortunately, it will likely do little or nothing to help the already bad student loan landscape. You should therefore protect yourselves, including utilizing some of the following suggestions.

When students and their family members (who often serve as co-signers) review loan paperwork, there are a few things to keep in mind:

1. At some point, the loans (cont'd on Page 3)



Have a question? Idea for a future article?

If you ask for it – we will write it!

Contact Deanna at  
[dgajewski@ks-lawfirm.com](mailto:dgajewski@ks-lawfirm.com)  
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## NEWS YOU CAN USE



# Wisconsin's New Law Bans Use of Cell Phones in Construction Zones

By Dana Holle

Wisconsin natives, and anyone who has lived here for over a year, know we have only two seasons; construction and winter. It is still construction season, so be aware of a change in our laws regarding cell phone use while driving.

Starting October 1, 2016, drivers can no longer use cell phones in a construction zone for communication or any other use. This ban includes sending an e-mail, surfing the internet, or checking Facebook. This ban does not, however, include voice-operated or hands-free devices in the car. The only other exception is to report an emergency.

The penalty for violating this law is a fine of between \$20 and \$40 for the first offense. That fine increases to \$50 to \$100 for the second or more offenses within the same year.

The new law comes from a recent nationwide initiative to regulate overall cell phone use and texting while driving. This initiative sparked from new research by AT&T, which found that 7 out of 10 drivers use smartphones while driving. Surveyed

drivers not only made calls on their cell phones, but they also used their cell phones to access a wide variety of apps, including text, e-mail, Facebook, Twitter, and video chat.

Additional research shows that using cell phone apps while driving plays a role in driver distraction, especially while passing through construction zones. According to reports from the American Automobile Association, distracted driving is a factor in an estimated 3,000 highway deaths each year.

With these new concerns over safety, Wisconsin's new construction zone law is likely the first step to a complete ban of any type of cell phone use while driving. It is already illegal to text while driving.

If you would like a copy of the new law, please let us know. We will be glad to forward it to you. Contact us at [www.ks-lawfirm.com](http://www.ks-lawfirm.com) for more information.

## WHERE'S KREKELER ?

**CHECK US OUT! Krekeler Strother is proud to present our newly designed website:**  
[www.ks-lawfirm.com](http://www.ks-lawfirm.com)

Attorney Jennifer Schank of our firm has been selected as an Up and Coming Lawyer by the Wisconsin Law Journal. Hundreds of nominations are received, but only 30 attorneys are chosen. Up and Coming Lawyers are recognized for their career achievements, pro bono affiliation, community involvement and mentorship, and their advancement of the legal profession.

Jennifer's biography can be viewed on our website, [www.ks-lawfirm.com](http://www.ks-lawfirm.com). We are proud to have her as a part of our Krekeler Law team.



# BACK TO SCHOOL MEANS BACK TO STUDENT LOANS

(cont'd. from P. 1) will come due. If the student is thinking about quitting school or transferring, be sure to review what impact that would have on the payment schedule for any loans already taken out.

2. Before consolidating student loans, take a look at what this will mean in the long term. Consolidation is a way of combining loans. But it can be a hassle or actually prevent you from qualifying for certain forgiveness options. You need to know what the terms would be for the consolidation and any consequences.

3. Keep track of your student loans as you receive correspondence or bills. Have a short chart handy with payment terms and amounts. Any information will be better than none. This will especially be handy if you find yourself struggling with payments and need to consider a bankruptcy or some other option to help manage student loan payments.

4. If you have concerns about student loans, you can reach out to lawyers like us. You can also file complaints with the Consumer Financial Protection Bureau ([www.consumerfinance.gov](http://www.consumerfinance.gov))

5. Many servicers won't be proactive and tell you how to save money on payments. But you may be eligible for an income based payment that can lower your payments by hundreds of dollars per month. Know your options and visit <https://studentaid.ed.gov/sa> for more information.

Good luck with your courses in 2016-2017.



## COURT RULES ANNUITIES ARE PROTECTED FROM CREDITORS UNDER WISCONSIN LAW

By Ryan A. Blay

A recent court ruling impacts financial planning, investors, and bankruptcy debtors. The Seventh Circuit (one court below the U.S. Supreme Court) held that retirement annuities are protected from the claims of creditors under Wisconsin's laws.

### What is an annuity?

- An annuity allows you to invest money and be paid back over a fixed period of time, usually with monthly payments. So let's say you receive an inheritance of \$50,000, and you are worried about spending it too quickly. You can purchase an annuity that will pay you back at \$500 per month over a longer period of time.
- Why would you do this? Because you may be worried that you won't have enough money to live off of when you retire. After all, social security will only get you so far. Annuities were designed to provide a steady income during retirement.

### What types of annuities are exempt?

Annuities can qualify for an unlimited exemption (you can have any dollar amount protected) as long as the annuity meets the terms of

one specific part of the Internal Revenue Code (26 U.S.C. §72 for those who are tax professionals).

### Why is this a big deal?

Under Wisconsin's rules, the court decided the debtors in the bankruptcy case had a lot of money at stake! The debtors bought almost \$300,000 worth of annuities in the two years before they filed for bankruptcy. If the Court had ruled against them, they would have only protected \$4,000 in the contracts. The rest of the money would have gone to creditors.

These annuities weren't created by the debtors' employers, like your typical 401K plan would be. So they didn't qualify under other sections of the Wisconsin rules to get bigger protection.

Because of this ruling, annuities are now very valuable to use to protect assets from creditors prior to a bankruptcy filing. Companies who issue annuities should make sure the annuity contracts comply with Section 72 and be aware of the ability of their clients to use the Wisconsin laws.

Contact us for more information about exemptions, annuities, and financial planning.

# CAR ACCIDENTS CAUSED BY A DEFECT OR FLAWED DESIGN

By Rose M. Yanke

One of the best known car-related product flaws is the Toyota gas pedal issue. You may remember that certain Toyota vehicles had the gas pedal stick when it was pressed down. This caused many drivers to lose control, resulting in lots of accidents and fatalities. Toyota was forced to recall more than 4 million vehicles.

Another car-related product liability case is the defective Takata airbags, which mostly affected cars built between 2002 and 2008. The problem with the Takata airbags was that some deployed explosively, injuring or even killing car occupants. The recall included more than 30 million vehicles in the United States made by 10 different vehicle manufacturers. In total, eight fatalities and more than 100 injuries have been linked to the Takata airbags.

**Car Accidents Resulting from Brake and Tire Defects.** There have been many manufacturing defects related to the brakes, and they typically include problems with the rotors, drums or pads. Defects caused the brakes to fail or to not work as intended. Research has shown that cars with Anti-Lock Brake System (ABS) are more likely to be involved in a fatal rollover accident than other types of brakes. Braking systems are extremely complex, and can fail for a variety of reasons, whether from improper installation or flaws in the basic design. Brake defects are rarely noticeable until the brakes fail.

Tires today are certainly safer than those manufactured decades ago. But defects can still exist that lead to tread separation and subsequent car crashes. Years ago, there were a number of injuries and deaths attributed to Firestone tires on Ford Explorer vehicles, which led to millions of tires being recalled. Defective tires can fail suddenly, causing a rollover or other serious accidents from loss of control during normal driving conditions.

**Other Car Defects That Can Lead to an Accident and Injuries.** Seat belt latches can fail during a crash, or a seat belt can apply undue force in a particular direction, which leads to secondary impact injuries. Oftentimes, those injuries are worse than the ones

suffered from the crash itself.

Airbags, meant to protect those inside, can fail to deploy during a crash, or can deploy with too much force. In some cases, defective airbags can deploy when no crash has occurred. Fuel tanks can be poorly designed, leading to gas leaks or explosions, and door latches have been known to fail, causing a door to come open during a crash.

**Types of Car Defects.** There are basically two types of car defects that can lead to serious injury or death.

- **Design Defects** - when the defect is inherent to the design of the part rather than the actual production of the part, then a car design defect has occurred.
- **Manufacturing Defects** - this means that the defect occurred not in the original design, but due to an error made during the manufacturing process. A manufacturing defect case can be more complex because the injured party must show that the error in assembly or manufacturing directly contributed to the accident.

If you, or someone you know, were injured in a car accident, contact us to discuss your claim.

## KREKELER STROTHER, S.C.

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