

Ask Our Lawyer

by Rod Taylor - A.B.A.T.E. Legal Services

Q. Do You Want To See Some Of The Best Motorcycles, Motorcycle Art And Advertising Ever Produced?

A. How about the 1902 Indian (only 2 in existence), or a 1905 Harley, or a 1916 Indian, or the 1929 Indian Scout (the one favored at county fairs in the wooden barrel WALL OF DEATH because of weight and handling), or a 1942 Indian four cylinder Police Model, or say a 1948 Indian Chief Roadmaster next to a 1953 Chino Panhead, like you would have found in Hollister California in 1948, or the "Easy Rider Bike" that was burned in the movie and later restored, or Evel Knievel's jump bike next to Russ Hess' "Art Attack" and more? If you like that sort of thing then go to the Eiteljorg Museum at White River State Park in Indianapolis from March 10 through August 5, 2012. Get ready to enjoy it folks because they are planning the best motorcycle art show in the country. It is called "STEEL PONIES: MOTORCYCLES AND THE AMERICAN WEST."

This exhibit will feature production American made motorcycles during motorcycles' early years. Racing, stunts, delivery, transportation, touring, and military uses will be featured. This exhibit will be one of the first to address the popularity of motorcycles as an expression of identity and as an art form. The curators at the Eiteljorg have assembled a one-of-a-kind show with artwork, period graphics and advertising from the old days. Don't miss it. Stay tuned on this one for more information.

My New Handle: Sidecar Rod

Doesn't A Side Hack Have All Of The Disadvantages Of A Motorcycle With None Of The Advantages?

I must confess. I have always wanted a side hack for what many will say is for no good reason. A friend of mine once said that a "side car has all the disadvantages of a motorcycle with absolutely none of the advantages." I let that expression guide me for over three decades. I have now struck a blow for liberty. By the time the January edition of this column appears, I will be a "side hack" owner - for good or bad. You can then honestly call me "Sidecar Rod." My motivation - I am running out of time. And I had two life-altering events hit me between the eyes. The first was running into Bob Heady at the license branch plating his side car rig. Bob is one of those guys you can't get enough of. A former Marion County Deputy Sheriff, he went on to become a Federal Bomb Demolition Expert. And just in time to go to Oklahoma City to investigate the bombing there and get his fill of Timothy McVeigh. You talk about a fascinating human being - Bob Heady is it. And know one knows more about the pitfalls of a side hack and its beauty.

After only about 15 minutes of setting next to him waiting on license plates, I knew that my '84 shovel FLH was going to have a rebirth of freedom and was going to have three wheels, despite arguments from my friends to the contrary. So off I went to LA Cycle in Whitestown. The owner is Larry Averitt and he just happens to be the side car master. Years ago, Larry said he was coming to the Miracle Ride with his triplets. I wondered how he was going to pull that one off until I saw him roll in with a FLH and side hack. There, bunched up in the side car was Larry's triplets. Now that was a photo-op and a justifiably proud father if there ever was one. I don't have triplets, but I do have a pair of shelter dogs that my wife and I just adopted. They are the second life-altering event. These girls want to go for a ride and they will - as soon as Larry gets done with the shovelhead. After a few trial runs, I am convinced they will become side-car queens.

P.S. My friends have promised me a personalized concrete block and a 50 # lead wieght. They said something about right hand turns. I will soon learn exactly what they were referring to.

Surviving the Close Encounter

Q: My local chapter might have a big problem. We sponsor a charity ride every year, and we insist that all riders and passengers sign a release and waiver. This year, we had somebody jump the gate and get injured during the ride. He has said he is going to sue us for failing to provide a safe ride. Since he didn't sign a release and waiver, are we screwed? - ABATE MEMBER

A: As I have long said, the best thing you can do to protect your organization is to have a release and waiver signed by each participant and make sure you have procedures in place to make sure that everyone signs it. Sometimes, however, someone will slip over the gate and get into the ride without signing the release, despite the best efforts of the organizers. Always one of my big fears.

A recent opinion by the California Court of Appeals may provide you some breathing room. In that case, a couple injured in a recreational motorcycle ride sued because the ride did not have a police escort. The Plaintiff was an experienced rider and had signed waivers for previous rides, but somehow got in the ride without signing a waiver, including previous years of the same ride in which they were injured. The Court of Appeals ruled that the injured couple "assumed the risk" of the ride.

The couple on the ride were injured when a van swerved into their lane causing a collision. The court ruled that the couple had waived any right to sue even though they had not signed a waiver for this ride but had signed such waivers in previous rides. (As I said earlier, waivers are still needed but this case helps with those that sneak into an event without signing a waiver) The court held that the risk of participating in a motorcycle ride with a large number of participants along public highways is self-evident, and that the risk of being injured while in a motorcycle procession is well known as all rides do not have police escorts. The rule is that a voluntary participant in a recreational activity cannot recover damages for injury from a co-participant or organizer if the injury arises from a risk inherent in the activity and defendant does nothing to increase that risk. The court held that the lack of police escorts did not increase the risk of injury on a public highway.

This case is a victory for all organized motorcycle rides in this country and should result in lowering of insurance premiums for events- for those that can get insurance. Recreational activity organizers can breathe a little easier with this court decision if it becomes the trend in all states.

NOTE: Marc Falsetti was the legal beagle on this one. Marc, thank you for your good eye.

Remember, injured ABATE members pay only 28 ½% of total recovery and expenses as approved by client, consistent with and conforming to applicable state law. Elsewhere, you may pay 33 ½%, 40% or even 50% of your recovery. And, ABATE members are not charged for recovery of damage to your motorcycle, and have access to a 24-hour toll-free telephone number.

Call us at (800) 25-RIDER

If you have any questions you would like to ask the lawyer, please submit them to ASK OUR LAWYER, at rodtaylor@abatelegal.com. © 2011, A.B.A.T.E. Legal Services