

Siferd & McCluskey LPA

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So You Like to Text and Drive

I have lived my life, and I have fought my battles, not against the weak and the poor – anybody can do that – but against in-justice, against oppression; and I have asked no odds from them, and I never shall.

Clarence Darrow

Cell Phones and Driving

We have had several cases involving cell phone use and automobile wrecks. You need to be warned -- cell phone carriers keep accurate records of the times called and the numbers called.

Invariably when the issue comes up in a case the driver denies being on the cell phone. Rest assured that the cell phone companies readily provide requested information with a subpoena.

We have had cases involving cell phone use where drivers have run through stop signs, run off the road, gone left of center and crashed into the rear of a vehicle in front. In some of these cases the wrecks involve fatalities and severe injuries.

We have not yet had a case involving a driver sending a text message while driving and causing a wreck, but it is just a matter of time.

Bankruptcy and Workers' Compensation Claims

One of the questions we are asked is what happens to a workers' compensation claim if an employer goes bankrupt. With the bankruptcy of Chrysler and General Motors more claimants will wonder about this.

The short answer is that from the standpoint of the claimant, nothing

happens – i.e., the claim goes on as before.

In the Ohio system claims are either “state fund” or “self insured.” A state fund employer pays a premium into the state insurance fund which then pays benefits. If a state fund employer goes bankrupt, the state fund continues to cover the claim and the employee continues to have medical bills and compensation paid by the state fund.

A self insured employer pays benefits directly to the claimant and medical providers. If a dispute arises the Industrial Commission has a hearing, just as it would with a state fund employer.

When a self insured employer goes bankrupt one of two things happens: either the self insured employer remains self insured with the permission of the bankruptcy court, or the state fund takes over the employer's claims. In either instance the employee is still covered and the claim goes on with benefits being paid.

One other effect of the bankruptcy of GM and Chrysler is the effect on the state fund other than it stands to reason they will probably have serious effects on Ohio's state fund. Essentially they deplete the cash reserves in the state fund. These reserves are funded by payments from solvent employers in the state. It is therefore foreseeable that workers' compensation rates for employers will increase. It also follows that when rates increase, there will be further calls to reduce benefits.

What is Libel and Slander

We get people in who feel that they have been defamed. Defamation can come in two forms – in writing, which is libel, and orally, which is slander. The defamatory

statement must be “published,” that is told to a third party. If someone calls you a “dumb SOB” to your face that is defamatory, but not an actionable slander as it has not been told to a third person.

What is a defamatory statement? A statement that one is a criminal of some type or a morally bad person is considered defamatory.

A defense to libel or slander is truth. That is if one proves that the aggrieved person is a criminal, then one is not guilty of a libel or slander.

Another common defense is the “public figure” defense. If one makes an untruthful defamatory statement about a public figure, one has a defense as long as the statement is not made with actual malice.

Need a Handicap Ramp?

Local UAW retirees build handicap ramps for persons needing them. If the person can pay, then they pay the cost of materials, while if they cannot pay or can only partially pay, the ramp is free or the cost is what the person can afford. The labor is donated. If you would like to contribute to the program you can send a contribution to Crouse Lumber, 333 East Market Street, Lima, Ohio 45801 designated for the “UAW Ramp Program” and Crouse will apply the donation to ramp materials. If you need a ramp or know of someone who needs a ramp call Kevin Bourk at 228-8457 or Jack Rex at 649-0682.

The UAW Retirees deserve recognition. They perform their service quietly and efficiently. That is truly community service.

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RETURN SERVICE REQUESTED

News from Siferd & McCluskey

This newsletter will inform you of some current legal developments, as well as providing some humor to make your day a little better. We hope that you enjoy it.

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Be Careful What You Ask

In a trial, a Southern small town the prosecuting attorney called his first witness to the stand - a grandmotherly, elderly woman. He approached her and asked, "Mrs.. Jones, do you know me?" She responded, "Why, yes I do know you, Mr. Williams. I've known you since you were a young boy, and frankly, you've been a big disappointment to me. You lie, you cheat on your wife, you manipulate people and talk

about them behind their backs. You think you're a big shot when you haven't the brains to realize you never will amount to anything more than a two-bit paper pusher. Yes, I know you."

The lawyer was stunned. Not knowing what else to do, he pointed across the room and asked, "Mrs. Jones, do you know the defense attorney?" She replied, "Why yes, I do. I 've known Mr. Bradley since he was a youngster too. He's lazy, bigoted, and he has a drinking problem. He can't

build a normal relationship with anyone and his law practice is one of the worst in the entire state. Not to mention he cheated on his wife with three different women, one of whom was your wife. Yes, I know him." The defense attorney almost died.

The judge asked both counselors to approach the bench and in a very quiet voice said, "If either of you asks her if she knows me, I'll throw your sorry asses in jail for contempt."