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LEGAL NOTES AND NEWS – WINTER 2015

Important Announcement!

The UC College of Law has announced the launch of the *Bruce B. & Ginny Whitman Fellowship* which will fund a UC law student to work at least 300 hours this summer for a lawyer or law firm whose practice includes personal injury or employment wrongful termination. For more information or to apply to host the student this summer, promptly contact diane.cross@uc.edu.

SWOTLA Bi-Monthly Membership Meetings

SWOTLA will hold bi-monthly membership meetings in 2015. The first meeting will be February 10, 2015 from 12 to 1 pm at Freking & Betz, 525 Vine St., 6th Floor. Free lunch is provided. Please RSVP to mnapier@frekingandbetz.com if you plan to attend so we can get an accurate lunch count. This is an informal gathering for members to share tips or ask questions.

Welcome to new SWOTLA members Joe Butkovich, Tom Gelwicks, Brian Goldwasser, Chris Heekin, and Alison King.

Congratulations to Hamilton County Common Pleas Court Judge Jody Luebbers, who was recognized as the SWOTLA Trial Judge of the Year on Nov. 20, 2014 at the Annual Dinner at The Westin.

1st District Rules in Nursing Home Patients' Bill of Rights Case

The First Appellate District Court affirmed summary judgment to the defendant nursing home in a *Nursing Home Patients' Bill of Rights* case brought pursuant to R. C. 3721.13. The Court held that plaintiff failed to prove the resident suffered any "compensable damages" of pecuniary loss, physical injury, or mental anguish. While the facility may have indeed violated one or more of the enumerated rights, compensable damages must be proven or injunctive relief sought. *Brooks v. Montgomery Care Ctr.*, 2014-Ohio-4644.

The Jury Decides If Higher Damages Cap Applies

In a medical malpractice case, the First Appellate District Court held that the trial court did not err in applying the lower damage cap of \$250,000 to reduce the jury's award, instead of the higher damage cap of \$500,000, because the jury was not given an interrogatory to make the necessary factual finding that the plaintiff had suffered catastrophic injuries as defined in R.C. 2323.43(A)(3)(a) and (b). The jury decides if catastrophic injuries are proven, not the court. *Guiliani v. Shehata*, 2014-Ohio-4240.

Ohio Supreme Court Rules Must Prove Deliberate Removal In Employer Intentional Tort Case

The Ohio Supreme Court affirmed summary judgment in an employer intentional tort case for the employer on the basis that the employee failed to prove the employer *deliberately* removed or disabled safety equipment. *Pixley v. Pro-Pak Industries, Inc.*, Slip Op. 2014-Ohio-5460, 12/18/14.

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SWOTLA PAST PRESIDENTS:

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Richard L. Norton; Jeffrey C. Waite; Michael B. Ganson; R. Lanahan Goodman; Mark B. Smith**

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SWOTLA MISSION STATEMENT: The Southwest Ohio Trial Lawyers Association seeks to preserve and promote an effective civil justice system for the citizens of Ohio, and throughout the United States of America. We serve those who are injured by the unsafe or unfair actions of others. We serve our members through the generous sharing of our individual knowledge and talents. We serve the public good through the promotion of safety, equity and fair redress for damage to person or property. We serve the interests of justice by striving to uphold the dignity of the legal profession, and the highest standards of ethical conduct with the public, opposing counsel, and the Court.