



# Daily Legal News

A DAILY NEWSPAPER DEVOTED TO LEGAL, FINANCIAL, REAL ESTATE AND GENERAL NEWS

AN EDITION OF THE AKRON LEGAL NEWS

VOL. 95 NO. 114

Designated by the Courts as the  
Official Law Journal of Mahoning County

Youngstown, Ohio, Thursday, June 13, 2019

(USPS 143-780)

50¢

**INSIDE:** • Michigan task force to evaluate Upper Peninsula energy needs Page 13  
• The Conversation: A concise history of the US abortion debate Page 13

## MAHONING COUNTY BAR ASSOCIATION



## PAGE THREE

## At Cincinnati zoo, animal playtime is serious business

Today in the Legal News

## BUSINESS SECTION

Page 14

## PHONE NUMBERS

Area code 330  
unless otherwise indicated

### Visitors Information

Youngstown/  
Mahoning County Convention  
& Visitors Bureau 747-8200  
Toll Free 1-800-447-8201

### Transportation

Youngstown/Warren  
Regional Airport 539-4233

WRTA Bus System 744-8431

Greyhound Bus Lines 743-4141

Independent Radio Taxi, Inc 746-  
5419

Taxicab Service 24 hours  
744-8294

AAA Ohio Motorists Association  
726-9083

AAA (Emergency Road Service  
24 hours) 1-800-447-4888

Weather & Time  
National Weather Service  
1-216-265-2370

## INSIDE

Business Section .....	14
Common Pleas Assigns .....	5
Common Pleas Court .....	4
Community Calendar .....	16
Legal Notices .....	9
Recorder's Office .....	11
Venire for Petit Jurors .....	10

## CONTACT

Ohio Legal News.com  
Daily Legal News  
(330) 747-7777  
100 Federal Plaza East, Ste. 126  
Youngstown, OH 44503

## Attorneys: Keys to building successful negligence claim

**SHERRY KARABIN**  
Legal News Reporter

A customer slips and falls on a spill in a grocery store, sustaining neck and back injuries. The individual later meets with an attorney to file a negligence claim against the business owner, but can this person prevail?

As Harrington, Hoppe & Mitchell attorney Patrick Manning explains, the answer depends upon a number of variables.

"In order to recover for his or her injuries, a person must first prove negligence on behalf of the allegedly responsible party," said Manning, who focuses on civil litigation, personal injury and employment and public sector law matters. "From a legal standpoint, negligence is a failure to use reasonable care under the circumstances."

Manning said to establish a claim the plaintiff must be able to prove four elements: A duty, a breach of that duty, causation and damages.

"First you must be able to demonstrate that the person or establishment against whom your claim is made owed you a duty due to ownership or operation of the instrument responsible for the injury, the relationship between the people involved or by law.

"Once a duty is established, you must be able to prove that the responsible party breached that duty, either through an action or inaction."

In the case of the slip and fall incident, Manning said the business owner is generally required to ensure that the premises are "reasonably safe." However, that does not mean the owner must protect customers against every possible scenario.

"If the spill is open and obvious to the average person, just



Patrick Manning

happened and was just reported, the injured party likely would not be able to establish a breach of duty," he said. "However, if the spill is not open and obvious and was reported hours ago and nothing was done to clean it up, it's more likely that the plaintiff would be able to establish a breach of duty.

"Another example might be if a plaintiff customer is walking behind another shopper in the store and that first shopper drops a bottle of Coke and it spills, immediately causing the plaintiff to slip and fall, the store owner would likely not be responsible."

Kisling, Nestico & Redick senior partner Joshua Angelotta said it's not necessary to prove that the breach was intentional or meant to cause harm to the other party.

"All the plaintiff needs to do is to prove that the defendant had a duty to exercise ordinary and reasonable care in the context of the incident and failed to do so," said Angelotta.

"Some instances of actionable negligence, such as car acci-



Joshua Angelotta

dents involving drinking and driving or texting and driving, are so egregious that the tortfeasor's behavior may be deemed reckless and this can affect case value for the victim."

Simply proving a breach of duty is not enough. Manning said the plaintiff must be able to demonstrate that the actions of the responsible party not only caused the resulting harm but that the harm was "reasonably foreseeable" by the defendant.

"If standing water has been left unattended for hours in a grocery store, the plaintiff can make an argument that a slip and fall accident was 'reasonably foreseeable' by the owner," said Manning.

It is also important that the plaintiff reports the incident to the owner right away and seeks appropriate medical attention to document any related symptoms and injuries.

"If someone waits six months to see a doctor and then goes for treatment, it will be difficult to prove that the injuries are directly related to the fall," said Manning.

"Proving an individual has been harmed as a result of a tortfeasor's negligence is more straightforward when there is an objective injury such as a broken bone or a catastrophic injury like wrongful death," said Angelotta.

"Injuries such as a mild concussion or whiplash are diagnosed primarily through subjective complaints. Since the injured party's credibility is always an issue in proving the claim, these cases can be more difficult."

Angelotta said even in cases in which negligence and the resulting damages are clear, it may not be possible to recover monies spent on medical and other bills.

"If I get a call from the family of a person killed in an auto accident and the other motorist is uninsured or has minimal coverage, which in Ohio is \$25,000, I have a responsibility to explain that their recovery amount can be minimal," said Angelotta. "Usually tortfeasors with such minimal coverage have little by way of collectible assets or can avoid personal exposure through bankruptcy. Unfortunately this is something that I encounter a lot," he said.

In fact, Angelotta said he recommends that his clients carry a liability policy with limits well in excess of the state minimum. In addition, he advises them to purchase a similar amount of uninsured or underinsured motorist coverage.

"This will provide relief to an individual hurt by an uninsured driver or a driver who has minimal insurance," said Angelotta. "Uninsured or underinsured coverage can help the individual to recover for damages such as medical expenses, income loss and non-economic damages like pain and suffering."

## Authorities warn of summer spike in teen driving accidents

DAYTON, Ohio (AP) — Law enforcement and AAA are warning of a summer spike in teen driving accidents with the end of the school year.

The risk for fatal teen crashes increases by 17% between Memorial Day and Labor Day, according to the Dayton Daily News.

AAA officials say about six in 10 crashes involving young drivers result from distractions.

Distractions include sending and reading emails and texts on cellphones. Passengers also can be distractions.

Driving school officials recommend storing phones out of reach while driving and some urge parents to enforce a no-passenger rule for at least six months.

Summer also may be more deadly for young drivers on the road because more get their license in the summer, said Sharon Fife, owner of Kettering-based D&D Driving School.

"It's the busiest time for driver's education," Fife said.

Teens also are driving "with less intention in the summer," said Kara Hitchens, AAA spokeswoman.

"They aren't driving to school or to work as much," Hitchens said. "They have more free time and may drive more recklessly."

Mike Belcuore, AAA driving school manager, said in a news release that teens should practice safety during every trip.

Minding the speed limit and staying away from impairing substances like alcohol and marijuana will help prevent many crashes from ever occurring, he said.

Teens make up about 5% of Ohio drivers, but were involved in more than 15% of crashes between 2014 and 2016.

Over the last five years, 15- to 17-year-old drivers have been at fault in more than 67,000 crashes in Ohio. Of those 150 were fatal and 1,451 included a seri-

ous injury, according to a Dayton Daily News investigation of State Highway Patrol data.

Patrol Sgt. Chris Colbert has said "we owe it to teens to make sure they're as equipped as possible."

## Mother charged in newborn's death pleads not guilty

CHARDON, Ohio (AP) — A woman who authorities say put her newborn baby boy in a garbage bag and left him in a wooded area in 1993 has pleaded not guilty to charges including aggravated murder.

Forty-nine-year-old Gail Eastwood-Ritchey pleaded not guilty Monday in Geauga County to aggravated murder and murder charges. Her bond was set at \$250,000.

A message seeking comment was left for her attorney.

Community members paid for a funeral, burial and a headstone marked "Geauga's Child," where gifts and flowers continue to be placed. Investigators say Eastwood-Ritchey stated she hid the pregnancy from everyone.

They say the woman, of the Cleveland suburb of Euclid, married the baby's father and has three grown children.

Authorities say familial DNA ancestry from an online database was used to track down Eastwood-Ritchey.