

# The Boyk Bulletin

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## We Have Six Offices to Serve You

### Downtown Toledo

405 Madison Avenue  
Suite 1200  
Toledo, Ohio 43604  
419.241.1395  
1.800.637.8170 Toll-free  
419.241.8731 Fax

### West Toledo

4032 Secor Road  
Suite A  
Toledo, Ohio 43623

### South Toledo

5241 Southwyck Boulevard  
Suite 108B  
Toledo, Ohio 43614

### Bowling Green

121 E. Wooster Street  
Suite 255  
Bowling Green, Ohio 43402

### Swanton

110 W. Airport Highway  
Suite 208  
Swanton, Ohio 43558

### Findlay

612 Main Street  
Suite 101  
Findlay, Ohio 45840

## Dog bite prevention important in summer

The summer months and school vacation mean children and dogs will be outside enjoying the warm weather at the same time, which is why it is important to pay attention to the tips given last month during Dog Bite Prevention Week.

Sponsored by the American Veterinary Medical Association, the United States Postal Service, and the Centers for Disease Control and Prevention, Dog Bite Prevention Week was created as a way to help Americans focus on ways to avoid the dangerous and traumatic occurrences that can leave kids scarred and scared.

The first tip to preventing



dog bites is to remember that the worst thing to do if you encounter a dog is to run. Running away from a dog triggers a predator versus prey drive in the animal, making it more likely that the dog will chase you.

Lucas County Dog Warden Tom Skeldon advises people to stand their ground and mask their fear. If you are afraid that an approaching dog is going to attack, give the dog another target.

“Put something between you and the dog - preferably something that he would like to bite, like leather or cloth instead of steel or plastic,” Mr. Skeldon said.

If a dog does act as if it is going to attack you, don't yell, wave your arms around, or make eye contact, according to the American Kennel Club. Try to make yourself seem as vulnerable and unthreatening as possible, which means never using a stick or other object to fight back with the dog. The AKC also recommends staying away from dogs you are unfamiliar with, and not disturbing a dog that is eating, sleeping, or taking care of puppies. If the dog

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## Recorded statements could jeopardize recovery

In last month's issue of *The Boyk Bulletin*, we stressed the importance of speaking with an attorney before talking to an insurance adjuster.

Tip #4 of “Ten tips to maximize recovery in an injury accident,” **Don't provide a statement to the adjuster**, describes how giving the insurance company too much information can actually hurt your case.

“The insurance adjuster

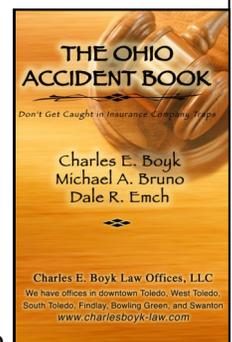
will use the statement against you,” Attorney Chuck Boyk said. “They will take what you have told them and lock you into a position.”

Here is Tip #4, excerpted from *The Ohio Accident Book*.

If an insurance adjuster contacts you, don't make any statements about the accident, your physical condition, and whether you're being treated by a doctor. The adjuster may be recording your conversa-

tion and certainly will be taking notes. You can settle any claims dealing with the damage to your vehicle, but any statements you make about your injuries could come back to haunt you. Simply thank the

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## Employee Spotlight

## Lindsay Freeman



Lindsay Freeman

In the event that a personal injury case does not reach settlement, it is Lindsay Freeman who takes the reigns and steers it into preparation for court.

“Lindsay’s job is crucial for communicating with the clients and with the courts to ensure that we have all of our lawsuit documents,” Attorney Chuck Boyk said. “Her job is to coordinate all the information in the case in order to present it in front of a jury.”

Even though the job is time consuming and can be difficult, Lindsay is always focused on helping our clients, and ensuring they are prepared and confident for a court appearance.

Her outgoing personality has a huge

impact on others in the office.

“Since taking over the litigation area of the practice a little over a year ago, Lindsay has been able to handle the busy schedule with a friendly and positive outlook,” Office Manager Leslie Rombkowski said. “She is very kind and she is someone you can always count on.”

Lindsay is a 2005 graduate of the University of Toledo, and holds a Bachelor of Science degree in Paralegal Studies.

“I’ve always wanted to have a job where I would get to make a difference. Now I do - not only with our clients, but I hope with my co-workers as well, and I love it,” Lindsay said. “Working for Chuck over the past year has been a

great experience. Every day is a new adventure, sometimes challenging, but almost always rewarding.”

When she’s not holding down the litigation fort at work, Lindsay spends a lot of time with her younger brothers, Adam and Paul, in her hometown of Clyde, Ohio. She also interns at her church, The Ten Mile Vineyard, where she is the worship leader.

A world traveler, Lindsay loves to visit new places. She has been to 22 states, as well as Paris, Rome, Monaco, and the Bahamas. She hopes to someday visit the Middle East.

*Employee Spotlight runs periodically in the Boyk Bulletin, as part of an ongoing feature highlighting our staff.*

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adjuster for calling, tell her that you don’t want to make any statements, and that you don’t want her to call back. Tell the adjuster that you’ll initiate a conversation when you’re ready. You don’t have to be rude, but you need to be firm. The adjuster can’t make you talk.

It’s a foreign concept to most people, but you have to view your injury case with the idea that it could go to trial. Most cases don’t, but you don’t want to hinder your negotiating strength by making a statement to an adjuster that can be misconstrued or twisted. The concern about making a statement is that you may not know the extent of your injuries right after an accident. It’s not uncommon for people to feel worse in the weeks or months following the accident than they do in the immediate aftermath.

One way to avoid awkward conversations with an adjuster or making statements that could hurt your case is to contact a lawyer to represent you. Your lawyer will stop the adjuster from having any further contact with you.

*Learn tips on how to maximize your recovery*

Order the

*Ohio Accident Book* at

[OhioAccidentBook.com](http://OhioAccidentBook.com)

or

Call

**800.479.8203**

**Code 8224**



### Dog bites, cont. from page 1

knocks you to the ground, curl up in a ball, making sure to cover your face and neck, to protect main arteries and veins.

The main reasons dogs bite are because they feel threatened, they are trying to protect their territory, or because they are not spayed or neutered, according to the United States Humane Society. Some dogs may have mistakenly been taught that biting is a form of play.

Protect yourself and others by being smart around dogs, even if they are familiar with you and your loved ones. Remember, as close as dogs may be to a family, they are still animals and have animal instincts. Mr. Skeldon recommends teaching your children how to conduct themselves around dogs.

“If you have preschool children, get them signed up in your local Safety City program,” Mr. Skeldon said. “It’s free, and almost every community has one.”

# Slip and fall cases can be tough to prove

**D**ear Dale: When I went to the restroom of a local chain restaurant the other day, I slipped and fell when my walker slid away from me. When I was on the ground, the floor around me was very wet like it had just been mopped. There was no sign in the restroom to warn me about the wet floor. The fall caused me to break my hip and now I'm in the hospital. Is the restaurant responsible for my injuries?

Answer: First of all, let me say I'm sorry that you've suffered such a bad fall. Slip and falls provide fodder for a lot of good lawyer jokes, but we've seen a number of these cases in our office where the person was seriously injured.

Whether or not you can hold the restaurant liable for your injuries depends on a lot of variables. Let's go through some of the basics. Businesses generally are liable for the safety of its patrons if the employees knew of the dangerous condition. The employees' superior knowledge of the danger creates the liability.

In Ohio, courts initially look at three things:

1. Whether an employee was responsible for the hazard, or;
2. If an employee knew about the hazard, did he or she fail to warn patrons of its presence or remove the hazard, or;
3. The hazard existed for so long that the lack of a warning or removal of the hazard showed that employees didn't

*Legal Briefs is a question and answer column in the Toledo Blade, authored by Attorney Dale Emch. It is reprinted by The Boyk Bulletin with permission from The Blade.*

exercise appropriate care.

If any of those factors are present, a business could be found to liable assuming the hazard caused injuries claimed by the patron. Showing those elements isn't always easy, though. If the business denies that it was responsible for the fall, a lawsuit would have to be filed. Depositions would have to be conducted to determine whether any of those elements existed and even then the business could dispute liability.

Another major hurdle exists in these types of cases. If the hazard is deemed by the court to be open and obvious, the case could get tossed before it ever gets to trial. For example, if an employee left a mop on the floor and a patron tripped over the mop, most people would assume the business would be liable, right? Under the open and obvious doctrine, though, a judge probably would determine that a normal person should have been able to see the mop and should have avoided it.

The open and obvious doctrine is a very powerful defense in all slip and fall cases. In one case I reviewed, the injured person claimed she slipped on a patch of ice created by someone spilling a soda in the parking lot. The judge tossed her claim because the frozen soda was a different color than the parking lot, so the hazard was open and obvious. I'm not saying that was a good case – in fact it's the type of injury case

people rightly ridicule – but if frozen soda on pavement is open and obvious almost anything can be.



Attorney Dale Emch

So, applying those general principles to your situation, you'd have to determine such things as whether an employee mopped the floor and failed to put up a warning sign; or, even if an employee didn't create the hazard, the employee knew about it and failed to correct it; or if the floor had been wet for such an extended period of time without the hazard being corrected it can be inferred the business didn't exercise the appropriate level of care.

After that, you'd have to be able to get past the open and obvious doctrine. Water on the floor from mopping likely wouldn't be an open and obvious hazard, but if there was so much water on the floor that any reasonable person would have seen it and taken steps to avoid it, that's a different story.

On another note, in these types of cases, it's helpful to document everything the best you can. Get the names, phone numbers, and addresses of all witnesses, including employees if possible. Also, since most people have cameras in their cell phones, take photos if the hazard is visible. The evidence you gather may be crucial to your case. Hope this helped and I wish you well on your recovery.



## FREE MOVIE TICKETS FOR YOUR QUESTIONS!

Just send in your general legal question to Attorney Dale Emch for consideration in his Toledo Blade *Legal Briefs* column, and receive FREE movie passes!

Send questions to 405 Madison Ave., Suite 1200, Toledo, Ohio 43604 or via email [demch@charlesboyk-law.com](mailto:demch@charlesboyk-law.com).

## Charles E. Boyk

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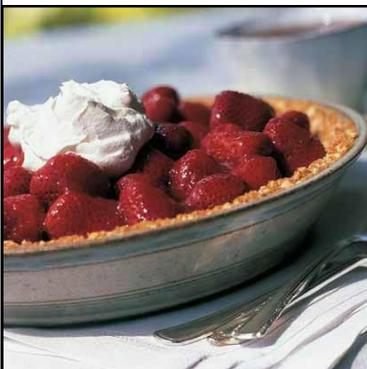


**New address or phone number? Help us stay current & let us know!**

Call Anneke at 419.241.1395 or email her at [akurt@charlesboyk-law.com](mailto:akurt@charlesboyk-law.com)

## Summer Strawberry Pie

- 1 prepared graham cracker crust**
- 1 egg yolk**
- 1 quart fresh strawberries**
- 1/2 cup sugar**
- 2 teaspoons unflavored gelatin**
- 3 teaspoons cornstarch**
- 2/3 cup water**
- 1 Tablespoon lemon juice**



1. Brush egg yolk on graham cracker crust, bake in preheated oven at 375°F for 5 min. Let cool.
2. Place 2/3 cup of strawberries in cooled crust, set aside.
3. In a medium saucepan, mash remaining strawberries with sugar. Over medium heat, bring mixture to a boil, stirring frequently.
4. In a small bowl, combine water, gelatin, cornstarch, and lemon juice. Gradually add to boiling strawberry mixture, reduce heat. Stir constantly until thickened, approx. 10 min.
5. Pour mixture over strawberries into crust. Chill thoroughly before serving, 2-3 hours. Top with whipped cream, optional.

## Cases of Interest our office is handling

**43-year-old man is life flighted to hospital after safety violation at work causes hand injury, resulting in amputation of three fingers.**

**36-year-old woman slips and falls on oil at place of employment, injuring left shoulder and neck.**

After falling in a local restaurant bathroom, **55-year-old woman breaks hip**, requiring surgery and nursing home care.

**Severe dog bites to leg causes 36-year-old woman** to spend six days in the hospital for life-threatening blood infection.

**Three children - ages 8, 3 and 5 months - visit ER** after being rear-ended while riding in grandmother's car.

**55-year-old tears rotator cuff, requiring need for physical therapy** after lifting a heavy object at work.

**Also great with Peaches!**