

The Boyk Bulletin

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Findlay, Ohio 45840

Key reversal brings lawsuit back to life

By Michael Bruno

The Wood County Court of Appeals has reinstated a case we filed on behalf of client Sean McMahon against a trucking company named Continental Express.

On April 21, 2002, our client, an over-the-road trucker, was parked late at night at the Stony Ridge truck stop in Wood County. He left his truck and observed a fight between Elmer DeForge and Continental Express employee, Raymond Blake, who was within his tractor-trailer. Blake managed to start the truck, lunged forward, and knocked DeForge to the ground. Our client noticed that Mr. DeForge was in the

path of the trailer and managed to push DeForge to safety. Unfortunately, at the same time, the trailer ran over Mr. McMahon's lower right leg, which ultimately was amputated.

Mr. Blake's employer, Continental Express, upon learning of the incident, fired Blake, and denied responsibility for the injury to Sean McMahon.

Suit was filed in the Wood County Common Pleas Court against both Continental Express and its driver. The driver never responded, and we were able to obtain a judgment of \$2,790,162 in



Attorney Michael Bruno

compensatory damages and \$500,000 in punitive damages against the driver, an amount that has since gone unpaid.

Continental Express
See **Reversal**, Page 3

Ohio Supreme court ruling hurts plaintiffs' rights

By Dale Emch

Whether you're a CEO of a company or a guy who sweeps floors for a living, the Ohio Supreme Court has put its stamp of approval on a law that could have devastating consequences for you if you're seriously injured in an accident.

In a major opinion issued last month, the Court showed contempt for its past decisions, disrespect for the Ohio Constitution, and disdain for the men and women who serve on juries.

The Supreme Court, in a

The Blade published Attorney Dale Emch's op-ed article on January 26, 2008.

This is a highly excerpted version of the article. To view the whole article, visit charlesboyk-law.com and navigate to the library section.

case called *Arbino v. Johnson & Johnson*, announced for the first time in our state's history that it's constitutional to disregard the findings of a jury if the jury decides to award more than \$250,000 to someone injured in an accident to compensate for the person's

pain – even if that pain may last a lifetime.

The Court reaches this landmark decision despite clear precedent that such a law is unconstitutional. Look at what the Ohio Constitution says and then you decide whether what the Court has done makes any sense to you. The relevant part of Article I, Section 5 says, "The right of trial by jury shall be inviolate . . ."

In Ohio, the constitutional right to trial by jury has
See **Emch**, Page 2

Attorneys publish new book to help injured Ohio workers

Suffering an injury at work can be a painful and scary experience.

Tough questions arise such as, “What if I need time off? What do I tell my boss? Will I lose my job? Who is going to pay for my medical bills?”

“The work-injury clients I talk to have no idea what their legal rights and options are,” attorney Chuck Boyk said.

That’s why he, Michael Bruno, and Dale Emch, wrote *The Ohio Work Injury Book*.

“The book provides valuable information so we can work as a team to maximize our clients’ legal rights,” Chuck said.

Emch

Continued from Page 1

always been interpreted to mean that judges and the government won’t be able to invade the jury’s fact-finding function. That’s why jurors are there, right? To hear the facts of each individual case and decide what they think is fair.

Here’s the nightmare situation that could happen to you or a family member. You’re driving to work when a guy driving a delivery truck takes his mind off the road while talking on a cell phone and plows into your car. Your head hits the window, your ankle is crushed when your car’s frame crumples, and your body is snapped back and forth like a rag doll.

By the time you get to trial years have gone by and the docs are telling you you’ll never run again and your pain will always be with you.

A jury hears your case and awards you the cost of your medical bills that may have to be repaid, and lost wages, and decides that your lifelong pain is worth

“The book provides valuable information so we can work as a team.”

- Attorney Chuck Boyk

We want to help injured workers learn about the workers compensation system, because we believe that knowledge is power. Workers need to know their rights.

Meant to be a guide for those injured on the job, *The Work Injury Book* provides practical information about the Ohio Bureau of Workers’ Compensa-

\$500,000. Or \$1 million. Or \$2 million. Whatever it is, it’s not enough to compensate you for what this accident has done to your life and no one – no one – in that courtroom would change positions with you for any amount of money.

That’s the point where the judge steps in and reduces the jury’s pain and suffering award to \$250,000 because that’s what the law requires. The jurors heard the facts and struggled to come to a fair decision, only to have their legs cut out from them by a General Assembly that knew nothing about the facts of your case or the impact the accident has had on your life.

And our Supreme Court just blessed this system.

The Court justifies its decision on the thinnest of rationales. See if you can follow its logic: When judges reduce jury awards for pain and suffering, they aren’t interfering with a jury’s fact-finding function, they’re simply applying the law.

What?

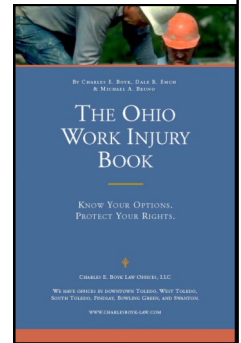
tion and what a workers’ comp claim is like.

Similar to the *Ohio Accident Book*, *The Ohio Work Injury Book* provides readers with information on how to handle a workplace injury.

To order your **FREE** copy of *The Ohio Work Injury Book*

Call **800.479.8203**

Ext. 8224



Spin that around your head for a while. It never gets any clearer. So, the jurors can do their cute little dance, and we’ll pretend to care about what they have to say. But the second they award any money to someone that could actually make an insurance company pay fair compensation, well something simply must be done. Apparently, the right to trial by jury is inviolate ... but only up to a point.

The caps can be lifted in extreme cases such as when someone loses a limb or can no longer independently care for themselves and perform life-sustaining activities. But the caps apply to far more common cases like I described above even if the person will experience a lifetime of pain.

We have a right to expect the Ohio Supreme Court will do more than justify its decisions by paying fawning deference to the legislature. We have a right to expect someone in Columbus to stand up for the people of this state. And most importantly, we have a right to expect the Court to apply Ohio’s constitution and legal precedent, especially when we’re talking about something as cherished and revered as the jury system.

Law office website, YouTube features new video

The attorneys in our office have ventured deeper into cyberspace by posting video clips on our firm's website that provide information about a variety of personal injury topics.

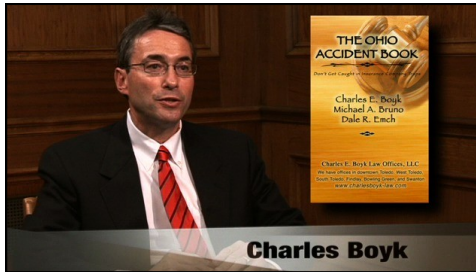
Because our office believes knowledge is power, attorneys Chuck Boyk, Mike Bruno, and Dale Emch posted the videos to give practical advice to people who may be searching for answers on the web.

In addition to being viewable on our website, the clips can also be seen on the video websites YouTube, Google video, and Yahoo video.

"I think it's important to provide information through all different types of media," said Attorney Mike Bruno. "My generation and my parents' generation are used to viewing everything in print.

"Our video, which is closer to a television-type broadcast, is helpful to those who better process information visually. It's important that people actually see the attorney talking."

Some of the topics include what to look for in an attorney, whether to speak



Attorney Chuck Boyk in video on the Ohio Accident Book

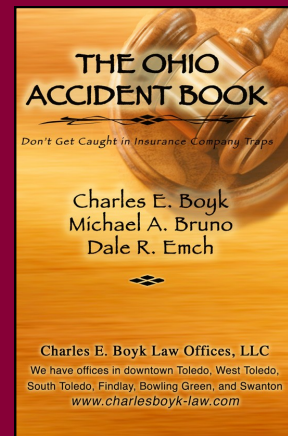
with the other driver's insurance company, the pitfalls of signing medical authorizations, and the benefits of purchasing uninsured and underinsured motorist coverage.

The attorneys have added this whole new dimension of video to give people information that's easy to digest. Videos don't require readers to wade through a lot of text to find the help they need. The information is instantly available to anyone around the world, with a click of the play button.

The videos are a great addition to the articles and library we currently have on our site. We hope sending the clips out into cyberspace will aid anyone seeking information on the personal injury or work injury process. Check them out at www.charlesboyk-law.com.

Injured?
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Accident Book

Call 800.479.8203
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Or visit
OhioAccidentBook.com

Employee Spotlight

Cindy White

Some people in an office always have the answers. They always know exactly where to find something. Exactly who to call. Exactly how to quickly and painlessly solve a problem.

In our office, that person is Cindy White. While we depend on her a lot, Cindy always provides help with a smile.

"Cindy is valuable because she puts out the daily fires that require immediate attention for our clients," Chuck Boyk said. "She is the jack of all trades to deal with the daily emergencies."

The legal assistant to Chuck Boyk and Dale Emch, Cindy handles everything from court date scheduling and filing motions to teaching her non-computer-

savvy co-workers a trick or two about technology.

Cindy's passion for her 1-year-old son is evident in her *Cindy White* proudly displayed photos and lunchtime conversation, and her love of families shows through in the work she does with our clients.

"I love working here," said Cindy. "It's hectic at times, but very rewarding when we help a client settle their case and get them the help they needed."

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



Reversal *Continued from Page 1*

refused to accept any liability for the wrongful acts of its employee. It convinced the trial judge to dismiss Sean's case against them on the basis that Continental Express didn't condone Mr. Blake's acts, and further argued that Blake was acting on his own and not furthering any company business.

The appeals court reversed the trial court dismissal, finding that the trial judge improperly ruled that Raymond Blake intended to injure DeForge or McMahan. There was no evidence in the record to support this finding.

The reinstated case is now set for trial on September 30, 2008, in Bowling Green.

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Easy, Quick, & Healthy!



Grandma's Zucchini & Carrot casserole

Ingredients

- 4 cups sliced zucchini
- 1 cup shredded carrots
- 1 can (10 oz) cream of chicken or cream of mushroom soup
- 6 slices white toast, cubed
- 1/4 cup chopped onions
- 1/2 cup sour cream
- 1 1/2 cups Corn Flakes

1. Pre-heat oven to 350°F.
2. Place zucchini, carrots and 1 cup water in microwave-safe dish. Cook on **HIGH**, 3-4 minutes or until tender. Drain.
3. In a medium bowl, mix together zucchini, carrots, soup, toasted bread, onions and sour cream.
4. Pour mixture into 8x8 greased glass pan. Top with Corn Flakes.
5. Bake uncovered 25-30 minutes until brown and bubbly.

Cases of Interest our office is handling

Passenger sustains traumatic brain injury including partial blindness, extensive hospitalizations, and inpatient rehab following car accident.

32-year-old man suffers injuries to head, hand and shoulder after being struck by driver who was trying to flee scene of hit-and-run accident.

74-year-old woman falls while descending a Dial-A-Ride bus, suffering broken hip.

Truck driver suffers fractured ribs and injuries to shoulder after roll over accident.

12-year-old on sidewalk is injured after hit-skip driver runs red light and forces another vehicle off the road and into her.

74-year-old passenger spends three days in hospital after being injured at an intersection.