

# The **BOYK** LAW REPORT

11 Offices >>> NW Ohio & SE Michigan

## ATTORNEYS

Charles Boyk, Michael Bruno, Andrea Young, Zac Shaffer & Sam Bolotin, Fredric Boyk, Wes Merillat, of counsel

## CONTACT US TODAY!

### MAIN OFFICE

1500 Timberwolf Dr.  
Holland, OH 43528  
(419) 241-1395 Main  
(800) 637-8170 Toll-free  
(419) 241-8731 Fax

### BOWLING GREEN

121 E. Wooster St., Suite 100  
Bowling Green, OH 43402

### DOWNTOWN TOLEDO

405 Madison Ave., Suite 1200  
Toledo, OH 43604

### DEFIANCE

1012 Ralston Ave.  
Defiance, OH 43512

### FINDLAY

612 S. Main St., Suite 107  
Findlay, OH 45840

### FREMONT

219 S. Front St., Suite 105  
Fremont, OH 43420

### LIMA

114 N. West St., Suite 203  
Lima, OH 45801

### MAUMEE

1683 Lance Pointe Rd  
Suite 104 B  
Maumee, OH 43537

### SWANTON

10725 Airport Hwy.  
Swanton, OH 43558

### WEST TOLEDO

7659 Kings Pointe Rd., Suite B  
Toledo, OH 43617

### WEST UNITY

123 E. Jackson St.  
West Unity, OH 43570

## What You Need To Know Before Buying Legal Malpractice Insurance *By Chuck Boyk*



I have been purchasing legal malpractice insurance for the last 25 years from Professional Liability Services, Inc. out of Solon, Ohio. This business is run by Ray Sadd, The Founder and Chairman, and Ryan Sadd, the President.

They are a trusted team to thousands of Lawyers, CPAs and Business Professionals. They deliver for hard-to-place cases, and only work with A-rated providers. Their competitive advantage is fantastic customer service, knowledge of the industry, and individual attention. I give them the highest recommendation and their contact information is (216)-447-5001.

In my conversation with them, we discussed the most important considerations an attorney should have when purchasing malpractice insurance:

- *Do professional liability policies include coverage for disciplinary matters?* All policies Ray and Ryan sell contain coverage for grievances in varying degrees. You need to discuss the specifics and costs.

- *How do attorneys cover their past once they retire or close their practice?* If full retirement and an extended reporting period endorsement (tail) must be in place. They can be purchased or might be free with full-limits coverage through a solid carrier.
- *Why do premiums increase even if no claims?* All claims-made policies go through a step-rating increase as insureds get closer to the fully mature level, which is typically 7 years. After 7 years, firm changes or economic conditions are to blame for increases.
- *Do professional liability policies include coverage for cyber-attacks?* Yes, but this coverage will pale in comparison to the stand-alone coverage cyber liability policies firms can purchase separately.
- *What type of policy enhancements are available?* The most popular ones are Claims Expenses Outside of Limits (CEOL) which prevents the policy from being overly eroded by defense costs and First Dollar Defense (FDD) which prevents deductible payments on frivolous lawsuits.
- *How much coverage should you carry? With which company?* Their agency only uses highly rated carriers with long track records. The amount of coverage is a personal conversation based on case size and quantity.

As an independent agency, they have a variety of top-rated carriers at their disposal, which allows them to find nearly the perfect fit for everyone. Cost alone should never be the overriding consideration. Remember, you get what you pay for. Contact them by phone (888) 475-5001 or their website [professionalliability.com](http://professionalliability.com)



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## Waiver by Participation? The Ohio Supreme Court Says No

Litigation is an immense undertaking, from filing the complaint to your closing statements. One of the most controversial aspects of the process is making sure you have proper service. Imagine the following scenario:

A complaint is filed and the defendant(s) file their answer. Both sides spend countless hours fighting over the case. Then, after years of pouring blood, sweat, tears, and A LOT of money into the case, the whole thing gets dismissed because the plaintiff never perfected service.

Frustration. Irritation. Hulk-like rage. These are just a few of the emotions one undoubtedly experiences. As a plaintiff, you cannot fathom how the law supports this kind of behavior: allowing a party to participate fully in the suit and then claim they “didn’t know they were being sued.” While that might sound strange, the purpose behind the civil rules regarding service is to ensure that parties have notice they are being sued (and why).

Now, as a defendant, you might be happy. You won, right? Motions, hearings, etc.; Now, take a look at your bill and tell me what you really won.

Well, all I can say is “Welcome to Ohio”. In a recent Ohio Supreme Court decision, the court was asked to make active participation in a case waive service of process. Seems like a logical and fair change. Ohio’s rules are modeled after the federal rules and Ohio federal courts have that rule. Unfortunately, this is not what happened. In *Ackman v. Mercy Health W. Hosp. L.L.C.*, the Ohio Supreme Court upheld a dismissal of a case after two years of litigation. The reasoning behind upholding the controversial precedent was that regardless of the defense’s gamesmanship or strategy, the defense still follows the rules.

At the end of the day, whether you like it or not, waiver by participation is not a real thing in Ohio. If you are a plaintiff’s attorney, use the civil rules to your benefit. Utilize all avenues of discovery and, most importantly, remember that just because a party doesn’t raise issues with service during the case, does not mean it won’t present problems later.



## EPA Announces Historic Halt to Fetus-Harming Pesticide

On August 6, 2024, the U.S. Environmental Protection Agency (EPA) issued an emergency order effectively banning the pesticide dimethyl tetrachloroterephthalate (DCPA), also known as Dacthal, due to concerns about embryo-fetal toxicity. This is the EPA’s first use of its emergency suspension authority in over 40 years.

States with significant agricultural production, particularly those growing crops like broccoli, brussels sprouts, cabbage, and onions, are most affected by Dacthal exposure. Michigan and Ohio are among the states with the most extensive use of Dacthal, raising health concerns among farmworkers.

In pregnant women exposed to Dacthal, the pesticide can alter fetal thyroid hormone levels which can result in birth defects and developmental delays. Primary injuries include miscarriages, neurodevelopmental issues, low birth weight, impaired growth, impaired motor skills, and bone disease. While birth defects and developmental delays are the main injuries linked to DCPA exposure, ongoing research may reveal additional health concerns, such as cancers and thyroid disorders. Charles Boyk Law Offices is advocating for those who have been adversely affected by Dacthal exposure.

*Charles Boyk Law Offices are investigating cases of those exposed to Dacthal.*



## Andrea Young’s Experience Behind the Wheel Will Help Victims of Commercial Truck Accidents

Attorney Andrea Young recently visited Billings, Montana to attend a Commercial Truck Driving Course. Don’t worry, Andrea took part in an intensive classroom and practical experience behind the wheel of a semi-truck to better prepare her for the truck accident cases she often handles.

She learned how to conduct a pre-trip truck inspection with a heavy focus on the health of the tires. “I learned the ABC’s of tire health: Abrasion, Bulges, and Cuts,” she says. “I had hands-on experience with inspecting, loading, and driving a big rig on their training course. I practiced shifting, completing left and right turns, backing-up exercises, slowing and stopping, and emergency stopping with hard braking. I was also taken on a closed course at night which was set up with hazards to showcase how difficult it can be for truckers to see after dark.”

“Overall, it was an eye-opening experience”, says Ms. Young. “I gained valuable information and met a lot of fantastic people. It reinforced the importance of proper training for truck drivers. Driving these large trucks isn’t easy. They are potentially deadly vehicles that must be operated with the utmost care. I gained empathy for the truck drivers but confirmed my belief in the importance of safety culture within the trucking companies. It is imperative that motor carriers adequately train their drivers and put safety over profits.”



# \$300,000 Policy Limits For Stroke Caused By Car Accident

In January of 2024, we did an intake for a December 2023 minor impact car accident in Dayton. Our client was a 60-year-old male. After the accident occurred, he walked out of his car and called 911. Approximately 5-10 minutes later he began to experience stroke-like symptoms including weakness in his legs as well as the feeling of pins and needles through his left arm and continuing up through the left side of his throat. He then collapsed. What followed was a several-week hospital stay and then a similar amount of time in a rehabilitation center.

The at-fault driver had no insurance coverage. We knew that we needed to be able to link the stroke to the car accident. Our law clerk Angela Hanna was able to use the Up To Date App we subscribe to (this is what doctors use in their office) to do the medical research. She found some fantastic medical journal articles. The studies showed that motor vehicle crashes account for more than half of blunt cerebrovascular injuries. Further, she was able to isolate specific symptoms our client displayed in the medical records (an intracranial hemorrhage) that correlated with trauma being the cause of the stroke.

We provided all of this information to the treating Dayton Neurologist who we had never dealt with before. The doctor wrote a fantastic report (for free) that linked the minor damage of the car accident as proximately causing the stroke to a reasonable degree of medical probability. We sent all the records, and the report, and made a demand for settlement to our client's uninsured motorist carrier. They offered the full \$300,000 policy limits without the need to file a lawsuit. The client can use the money to support himself while undergoing the stroke recovery process.

## Co-Counsel Opportunities

Whether you have an injury case that is outside your core practice area, a case you do not have time or the resources to pursue on your own, or a case outside your geographic area, our firm would love to talk with you about a referral or being associated as co-counsel.

We are proud to work with co-counsel throughout the country. And when those cases resolve, we are honored to pay significant referral and co-counsel fees.

For more information about Co-Counsel Opportunities, contact Charles E Boyk Law Offices, by phone at 419-241-1395, email at [referceb@charlesboyk-law.com](mailto:referceb@charlesboyk-law.com) or visit our website, [www.charlesboyk-law.com/referral](http://www.charlesboyk-law.com/referral)

# End of an Era – Farewell to UToledo College of Law's Night Program

By Zac Shaffer



"Law school is a full-time job." Whether you ask a current or past student, they will all say the same thing. In fact, as a relatively recent law school graduate, I can even remember professors and staff saying this phrase to ensure that we understood the gravity of that

statement. Now imagine already having a full-time job while juggling classes, reading, case briefings, and everything else that accompanies the behemoth known as law school.

For years, the University of Toledo College of Law has offered amazing flexibility with course schedules to help students reach their full potential. Specifically, one of the best programs I have had the fortune of attending was UT Law's part-time night program. No matter what decade or century they attended this program, every part-time night student I have spoken with has said the same thing: the opportunity and flexibility of the night program is the reason they are where they are. For some of us, we were only temporary part-time students. While others were night students until they walked across the stage at graduation. But no matter their origins, the night program was the catalyst for their success.

Now, while Toledo College of Law might not be offering the same night program experience as myself, and many others, were fortunate to participate in, they still strive to provide the highest quality education to all students. In lieu of the night program, part-time students will have individualized schedules to provide them the best possible education and experience. While I cannot explicitly speak for all past part-time graduates, I believe most (if not all) will agree that the past, present, and future professors and administrators truly care about their students and their individual success.

The change to the part-time program will be an adjustment. It is truly the end of an era. But, when one door closes, another one opens. As a proud alumni of the part-time night program, a University of Toledo College of Law graduate, and an active member of local bar associations, I am excited to see how this new program helps a new generation of part-time students.



## ABOUT THE CO-COUNSEL NEWSLETTER

Charles Boyk Law was founded more than 20 years ago with the intent of helping people in need. Behind a team of outstanding lawyers, professional support staff, and state-of-the-art technology, our firm has grown to become one of the leading personal injury law firms in NW Ohio and SE Michigan.

We consider it an honor to be contacted by attorneys, both locally and across the U.S., who are seeking co-counsel to help litigate complex personal injury cases. It is an even greater honor when those attorneys refer us a case involving their loved ones or friends.

Our co-counsel newsletter is tailored to attorneys. It highlights examples of cases we are handling and provides updates on litigation. If you have a personal injury case you are looking to refer, we invite you to consider our firm. Our team of attorneys and professional staff have the experience, knowledge and resources to provide your clients with the best representation and maximize the recovery.



**CHARLES E. BOYK**

LAW OFFICES, LLC



**CHARLES E. BOYK LAW OFFICES, LLC**

1500 Timberwolf Dr.  
Holland, OH 43528

**PH: 419.241.1395**

**TF: 800.637.8170**

**FX: 419.241.8731**

[www.charlesboyk-law.com](http://www.charlesboyk-law.com)



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A Newsletter by Attorneys, For Attorneys

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## Profile of a Legal Mentor: Judge George Glasser – by Mike Bruno



*George M. Glasser*

I can count many blessings in my 41 years as an attorney. Among many mentors over the years, one stands out: George M. Glasser.

In 1980, I was fortunate to be hired as bailiff to Judge Glasser, then a Common Pleas Court judge, as I was finishing my first year of night law school. His courtroom was large and

busy. By that time, Judge Glasser had been a judge for 17 years. He would continue as a judge for another 19 years.

Judge Glasser chose law as a career by process of elimination. He knew he wasn't cut out for sales and wasn't particularly fond of the Sciences; so, he studied law.

I worked under Judge Glasser for three and a half years, leaving after I passed the Ohio bar exam in 1983.

Judge Glasser earned his Juris Doctor from the University of Toledo's College of Law in 1953. He was appointed to the Toledo Municipal Court in 1963 and served there through 1970. He was on the bench of the Lucas County Common Pleas Court from 1970 – 1986. He was elected to the Ohio 6th District Court of Appeals and served two terms from 1986-1999.

Judge Glasser is perhaps the most even-tempered person I have ever met. This quality in a judge is welcoming. We hear about judicial temperament; he was blessed in that regard.

He was also a great teacher of work ethic. He was consistently present and confronted the challenge of presiding over a busy docket of criminal and civil cases. If a case needed to be tried, he was on the bench. If a colleague needed assistance, he would offer to preside over another judge's case. In fact, in 1976, Judge Glasser,

along with two other judges, had three jury trials going simultaneously. The Ottawa Hills murder cases were tried under Ohio's former death penalty law. The defendants were all convicted and their death sentences were vacated when the law was later declared unconstitutional.

Above all, Judge Glasser was a model of integrity. Impartiality was another attribute and he was certainly a man of his word. In these days of partisan politics including controversy on when the Supreme Court judges should be subject to ethics rules, it is refreshing to reflect on a man who manifested integrity and a strong moral compass over a 36-year judicial tenure.

Judge Glasser has been retired for 25 years. He and his wife Maureen have been married for 70 years. I no longer consider him to be my boss. He is now a close friend and confidant.

New address or phone number? Help us stay current by letting us know! Call 419.241.1395 or e-mail [marketing@charlesboyk-law.com](mailto:marketing@charlesboyk-law.com)