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# Digest

Diehl & Hubbell, LLC

**Volume XV  
Issue 8**

*A note from Tom . . .*

## WHO IS BATES? WHO HAD A BLIND EYE? WHAT ABOUT BUILDING STEPS?

You know how you get a really big bill from a hospital and then the insurance company reviews it and you get a new greatly reduced “adjusted” bill? What does this have to do with almost all injury cases? Read this month’s tip regarding Robinson v Bates for an explanation of how it could impact you or a loved one.



Attorney Thomas J. Diehl

Are all stair steps created equal and how important is it that they are? Inside this issue we review a recent case where a seemingly small difference was quite problematic.

I hope you find the history of the saying “turn a blind eye” as fascinating as I did! Read about that inside.

I’d like to wish all of you a safe and very Happy Thanksgiving!

*Tom*

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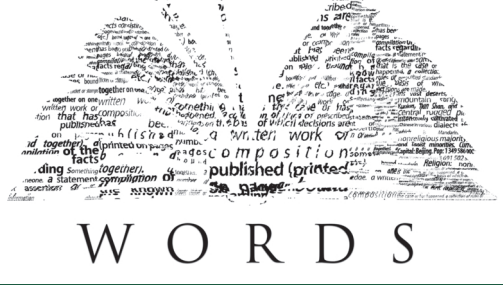
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## WORDS: A LAWYER’S STOCK IN TRADE

**“TURN A BLIND EYE”**



Today when we use the phrase to “turn a blind eye” this refers to someone who is ignoring useful information. For instance, we might say that the patient “turned a blind eye” to the symptoms of his serious condition. But where did this phrase originate?

According to many sources, the phrase was first used by Admiral Horatio Nelson, who was an officer in the British Navy. Nelson lost one eye while serving. While taking part in the Battle of Copenhagen in 1801, he was ordered by a superior officer to discontinue action and retreat from his plan to attack an enemy ship. He was frustrated by this, as he was an aggressive and incautious warrior, and he wanted to continue on with the attack.

In the 19th Century, Naval officers would receive messages through signal flags. When his commanding officer gave the retreat order to Nelson through one of these signal flags, Nelson used his blind eye to look through his telescope at the flag and said, “I have a right to be blind sometimes. I really do not see the signal.” Nelson disregarded the retreat flag and continued with the attack. His superior officer was not happy and he was relieved of duty for this transgression. The story of how he “turned a blind eye” became famous, and we still use this phrase today!



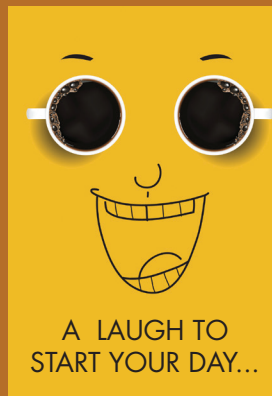
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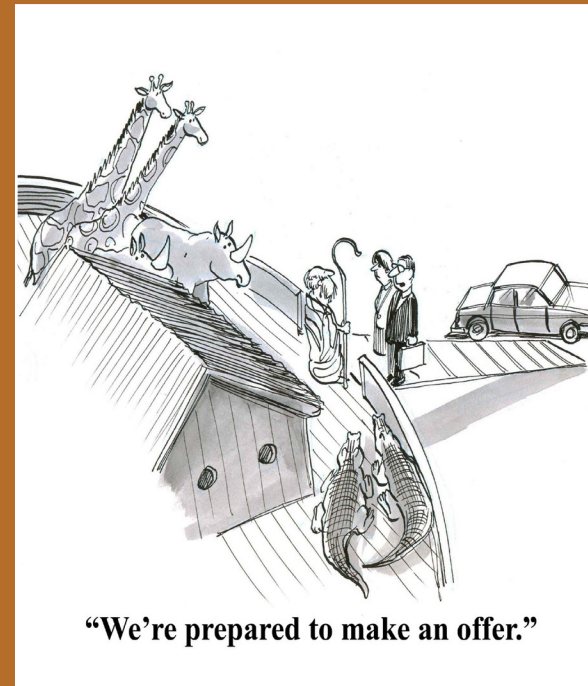


### THE FIRST CASE

An investment banker decides she needs in-house counsel, so she interviews a young lawyer. "Mr. Peterson," she says. "Would you say you're honest?"

"Honest?" replies Peterson. "Let me tell you something about honesty. My father lent me \$85,000 for my education, and I paid back every penny the minute I tried my first case." "Impressive. And what sort of case was that?"

"Dad sued me for the money."



### RECENT CASE WE HAVE BEEN WORKING ON

We recently represented a client who tripped over the front porch steps of his manufactured home. He was retired and living comfortably in Hillsboro, Ohio. He owned a lot in a park there and wanted to put a new manufactured home on this property. He entered into a contract to purchase this home and part of the contract required the seller to install the manufactured home on his lot and to, among other things, build and install two site built sets of steps for the front and back porch.

The home was beautiful. The steps were not built correctly. Shortly after purchasing the home, our client was walking down the steps and he tripped and sustained a serious injury to his lower limb. He faced huge medical bills and a long period of pain and suffering.

Our client contacted us to determine if a claim could be brought for the damages and injuries he sustained. We went to the site and took pictures and retained the services of an experienced architect familiar with the Ohio Building Codes. The architect verified that the steps were not built correctly. The last riser was offset by more than an inch and a half and represented a tripping hazard. Additionally, the steps did not have a handrail as required by Ohio Building Code and the handrail would have allowed our client to be able to right himself once the tripping started. The combination of the mis-built steps and the lack of a handrail was an extremely dangerous situation.

We were able to resolve this case to his satisfaction, after presenting the photographic evidence, expert reports, medical records, doctor testimony and other important information to the insurer for the responsible party. (By the way... we treat client confidentiality very seriously. We never discuss the facts of a case or the identity of our client without the express and written permission of our clients. Our client wanted us to discuss the solution we reached for our client with our readers.)

## Motor Vehicle Accidents - What to do - Tip #18

### WHAT DOES ROBINSON V. BATES MEAN?

In 2006, the Ohio Supreme Court issued a decision that has heaped enormous consequences on cases involving injuries and medical bills. The case was Robinson v. Bates, (2006)112 Ohio St.3d 17. This decision has greatly affected jury verdicts and the size of insurance settlements. Before the Robinson v. Bates case, a person injured in a car accident (or a different type of injury claim), could present to the jury his or her medical bills. The negligent driver (or insurance lawyer) could not present evidence that the medical bills were paid by health insurance (or even a kind uncle). The formal name for this rule of nondisclosure is the Collateral Source Rule and it was the law in Ohio for over 100 years.

Robinson v. Bates was a case wherein a man injured in a slip and fall had his hospital bills paid partly by private insurance. Pursuant to a contract between the private insurance company and the hospital, the

hospital reduced (adjusted) the bill downward. (This is typical. You probably have seen a hospital bill that starts with a high number, then health insurance pays something, and the rest is "adjusted" or removed from the bill.) The insurance company for the negligent defendant wanted to introduce this reduced bill to the jury. But the Collateral Source Rule prevented that. However, the Ohio Supreme Court in Robinson v. Bates ruled that the reduced or adjusted bill could be presented to the jury, upending a century of previous case law.

It is important to understand that the Robinson v. Bates decision significantly impacts almost all injury cases. There are circumstances and rules and exceptions that the savvy injury lawyer can use to reduce or minimize the impact of Robinson v. Bates has on the claim. If you have any questions about this area of law or any area, please feel free to call.

Thanksgiving is right around the corner. So many dishes to make and so little time! Who doesn't like a dish that can be made ahead of time, and, by the way, is delicious too?! This has been a tradition in our family for over 30 years. Everyone loves them and you can make this recipe in the morning and keep the potatoes in the fridge until you are ready to heat them in the oven. (I've heard they freeze well too, but I can't personally vouch for that.) Try it!!

### Posh Potatoes (sort of a fancy schmancy mashed potato)

**6-7 medium potatoes, peeled diced (Yukon Gold are best!)**

**3 cloves garlic, peeled**

**1/4 c. butter**

**1/2 c. sour cream**

**salt and pepper to taste**

**2 egg yolks, slightly beaten**

**3 oz. can mushroom pieces, well-drained**

**buttered fresh bread crumbs**

Boil potatoes in salted water to which 3 cloves of garlic have been added. When tender remove from heat and drain. Return to heat until potatoes are dry. Discard garlic. Mash potatoes with electric mixer. Add butter, salt, pepper and sour cream. Beat until smooth. Add egg yolks and stir until smooth. Fold in mushrooms. Turn into buttered 2 quart casserole. Top with buttered bread crumbs. Bake in a pre-heated 350 degree oven 30-40 min.

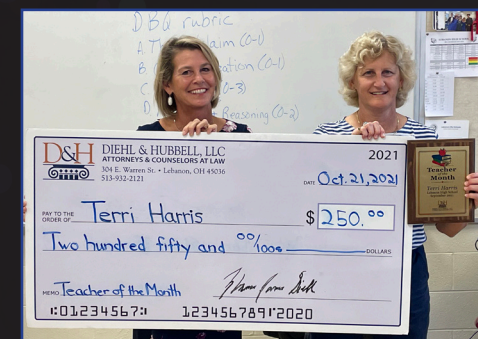


## CONGRATULATIONS TO THE TEACHERS OF THE MONTH!

Congratulations Rosie Demos on being selected as the Diehl & Hubbell "Teacher of the Month" for August 2021! Kind. Organized. Caring. These are a few of the wonderful words we heard about Rosie Demos, First Grade teacher of Centerville School's Primary Village South! "She brings a class together even when they are apart." "Mrs. Demos puts students first." She is truly a special person and teacher. Words from a parent (who also happens to be a teacher): "The first couple of weeks were really tough for him. I watched a first grader begin to get anxiety and a dislike for school. As a teacher myself, this was heartbreaking. Then came our fresh start! My son was transferred into Mrs. Demos' class. My son immediately loved her kind nature and organized teaching style. It is hard to make students feel cared about through a screen, and yet, that is exactly what she did. My son felt loved and appreciated and quickly found his zeal for school again." Congratulations, Mrs. Demos, and thank you for all you do!



We would like to congratulate Terri Harris for being chosen as the Diehl & Hubbell "Teacher of the Month" for September 2021! Terri exemplifies dedication, leadership, and kindness. The care that she shows for her students, not just as students, but as people is more impactful than even she probably realized. Students told us how she "goes out of her way to help us" and that Ms. Harris is one of those teachers that you are so lucky to have had the privilege of having as a teacher. In fact, students said that they want to do well on her tests not only because they want a good grade in AP U.S. History or AP Government, but also because they want to make Ms. Harris happy! She is interesting and entertaining, leads great discussions and is passionate about her work.



To sum it up, we were told "Ms. Harris is genuine and real and truly deserves to be recognized for her hard work." We agree!! Congratulations, Terri! Well done and thank you for all you do!

For more info about the Diehl & Hubbell "Monthly Teacher Appreciation Contest" visit:

[www.diehlhubbell.com/monthly-teacher-appreciation-contest/](http://www.diehlhubbell.com/monthly-teacher-appreciation-contest/)

