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# Digest

Diehl & Hubbell, LLC

**Volume XVI  
Issue 6**

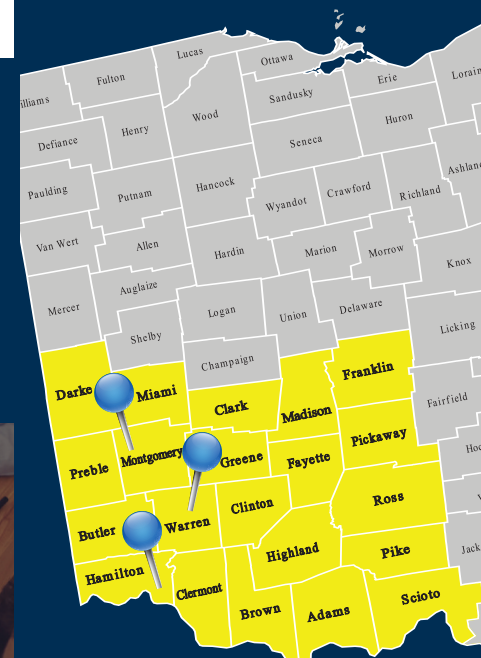
*A note from Tom . . .*

**DIEHL & HUBBELL, LLC**

**Since 1988 located at:**

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**HOURS**  
Mon-Fri 8am - 5pm



## WE ARE BRINGING THE WAGON BACK TO LEBANON!

Yes, it's that time of year again! We are excited to announce our third annual Hamburgers for Heroes Day will be **Friday, September 9** at Bicentennial Park (aka Gazebo Park) in downtown Lebanon! We look forward to feeding many of you delicious Hamburger Wagon burgers and, in turn, using the proceeds from our paying customers to feed many underserved families in our local area. See enclosed flyer for details and hope to see you there!



Attorney Thomas J. Diehl

*Tom*



# Digest

Diehl & Hubbell, LLC

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**DID YOU  
KNOW?**

We Handle All of These  
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**Wrongful Death**

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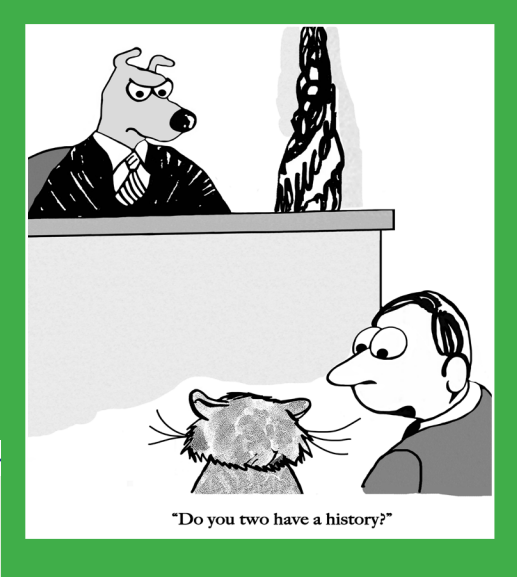
Most of our business comes from word of mouth. We are so appreciative of you sharing your good experience with the people you know!



A LAUGH TO START YOUR DAY...

**ROLL CALL**


I WAS IN JUVENILE COURT, PROSECUTING A TEEN SUSPECTED OF BURGLARY, WHEN THE JUDGE ASKED EVERYONE TO STAND AND STATE HIS OR HER NAME AND ROLE FOR THE COURT REPORTER. “LEAH RAUCH, DEPUTY PROSECUTOR,” I SAID. “LINDA JONES, PROBATION OFFICER.” “SAM CLARK, PUBLIC DEFENDER.” “JOHN,” SAID THE TEEN WHO WAS ON TRIAL. “I’M THE ONE WHO STOLE THE TRUCK.”



**WORDS: A LAWYER’S STOCK IN TRADE “VICARIOUS”**

In this edition of the Diehl & Hubbell Digest, we study situations where someone is held liable for the acts or mistakes of another. Lawyers sometimes refer to this as vicarious liability. An example would be where parents are held responsible for the acts of their children, or someone throwing a party is held responsible for the acts of a negligent driver who was over-served at that party. This is known as social host liability. In some cases, an employer is responsible for the negligent driving of one of its employees while that employee is on the clock. This is known as respondeat superior. All of these are examples of vicarious liability.

Where does the word vicarious come from? Like many legal phrases, it is of Latin derivation. Vicis is the Latin word for “stead.” We might say that a person will be there instead of someone else. In other words, to take the place of or to replace. Vicarious refers to taking the place of or standing in the shoes of someone else. Thus, one who faces “vicarious” liability is faced with the liability of another in that person’s place.



**DID YOU KNOW?**

Typically, in an automobile accident, the person causing the accident is cited by the police for violation of a traffic law. If the defendant appears in court and enters a plea of no contest, and is found guilty of that offense, you will be prohibited from informing the jury that he was found guilty of violating a traffic law.

This is governed by Ohio Evidence Rule 410, which provides as follows:

**“Except as provided in Section B of this Rule, evidence of the following is not admissible**

**in any civil proceeding against the defendant who made the plea or who was a participant personally or through counsel in the plea discussions: (2) a plea of no contest or the equivalent plea from another jurisdiction.”**

If the Defendant did not appear in court, but instead mailed in the fine to the Bureau of Motor Vehicles, that jury cannot be told about that. Evidence Rule 410(A)(3) provides that guilty pleas in a violations bureau are inadmissible if offered against the person who made the plea.

**THE OUTCOME IN A DEFENDANT’S TRAFFIC CASE PROBABLY CANNOT BE DISCUSSED IN YOUR CASE AGAINST THE DEFENDANT**

**WHAT WE HAVE BEEN UP TO: PURSUING RESPONDEAT SUPERIOR CLAIM**

Respondeat superior is a Latin phrase that means an employer can be liable for damages that an employee causes while the employee is acting for the employer. A common example of such liability occurs when an employee causes a car accident while the employee is on the clock for the employer. For example: An employee named Joe causes a car accident while he is on the clock for ABC Company. In that circumstance, ABC Company would have to pay for the damages and injuries caused from the car accident. In practice, this means that if someone is driving a truck for a company and that person causes an accident, the company might be liable for the damages and injuries in that accident. (This is a form of vicarious liability, a phrase we are discussing and analyzing in depth in this issue of the Diehl & Hubbell Digest.)


We have handled hundreds of cases in which we invoke the doctrine of respondeat superior to hold the employer responsible for the negligent driving of its employee. This is often very important as the employer’s insurance policies typically provide substantially more coverage than employee private policies.

We are currently representing someone that was seriously injured in a motor vehicle accident. The negligent driver was transporting some Amish carpenters to a job site. The Amish carpenters do not drive, apparently for observance reasons, and we are attempting to establish that these carpenters, under the doctrine of respondeat superior, are liable for the damages and injuries our client sustained. Our goal is to find additional insurance coverage under the carpenters’ policies to increase our client’s recovery.




**Cajun Butter Chicken**

My 17 year old has acquired a taste for foods with more of a kick than I generally make. One day he opened my spice cabinet and asked, “Do you ever use any of this stuff?” I assured him that I do on a daily basis, but that also led to a quest for a more flavorful chicken, and we are now obsessed with this recipe! During the school year, this and rice was the basis for his lunch almost daily. I usually double or quadruple the dry rub recipe so that I have a container of it on hand. I have not found a store bought cajun seasoning mix that we like as well as this one.



**2 teaspoons brown sugar**  
**1 1/2 teaspoons mild paprika**  
**1 teaspoon oregano**  
**1 teaspoon salt**  
**1/2 teaspoon each garlic powder and onion powder**

**1/2 teaspoon each chili powder and cayenne pepper** (more or less depending on your preference - this amount has a pretty good kick)  
**1/4 teaspoon black pepper**  
**2 large chicken breasts sliced in half to make 4 thin filets**



**1 1/2 T. Vegetable oil, divided**  
**1/4 C. Butter**  
**4 cloves garlic, minced**  
**1/2 C chicken broth/stock**

Combine all the dry ingredients for the cajun rub and mix well. Toss the chicken in the rub. Use 1/2 T. of oil to rub seasoning in all over. Heat 1 T. of oil and 1 T. Butter in a skillet over medium-high heat until combined and hot. Cook chicken in the oil/butter for about 5-6 minutes per side until golden or internal temperature is 165° if using a meat thermometer. Remove from the pan and set aside.

Optional sauce: Reduce heat to medium, melt remaining butter and sauté garlic about 30 seconds. Hand scrape up any browned bits from the pan. Pour in the broth and let reduce for about 2-3 minutes, stirring occasionally. Drizzle sauce over the chicken and serve warm.

Or also very delicious sliced into thin strips and used in salads such as one with leafy romaine, candied pecans, dried cranberries, cucumbers, tomatoes, goat cheese and mandarin oranges and topped with a sweet and sour dressing.

**WHEN CAN A PARENT BE RESPONSIBLE FOR THE ACTS OF A CHILD?**

Unfortunately, the newspapers are filled with accounts of terrible actions perpetrated by young people on innocent victims. Sometimes these are heinous acts like school shootings. Sometimes a minor negligently causes a serious motor vehicle accident. In what circumstances would the parents be responsible for the damages caused by the child?

In Ohio, there are, generally speaking, two ways in which a parent might be liable for the acts of the child. One way is under ORC §2307.70 which provides that “any person who suffers injury or loss...by a minor child has a civil action against the parent of the minor child and may recover in that action compensatory damages.” However, the amount recoverable under this statute is limited to \$15,000. But, nonetheless, this does provide an avenue for someone to recover some compensation from parents of children who cause damage and injuries.

Another way parents can be held responsible is under a legal doctrine known as negligent entrustment. If it can be proven that the parents entrusted the minor child with the instrumentality (such as a car or a gun) and the minor child used that instrument to cause injury, damages may be recoverable against the parent. It would be necessary to prove, to recover under negligent entrustment, that the parent, in fact, supplied the instrument and that the parent knew, or should have known, that the minor child did not hold the requisite skill, competence, or mental stability to safely utilize the instrument. For example, one might be able to prevail in a negligent entrustment claim if a parent allowed an unlicensed fifteen-year-old to drive the family vehicle and that minor caused a car accident.

