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D&H Digest

Diehl & Hubbell, LLC

**Volume XVIII
Issue 2**

A note from Tom . . .



Attorney Thomas J. Diehl



I hope you enjoy this edition of the Digest! Watching the Big Game earlier this month and talking about yardage gains got me wondering where did the phrase “the whole nine yards” come from and does it have anything to do with football? Read inside for the answer.

Hint: It does NOT have anything to do with football!

Lumber piles, discarded appliances, abandoned cars, swimming pools, hot tubs. What do these have in common? They are all examples of potential “attractive nuisances.” For further explanation about the attractive nuisance law, read the case study inside this issue.

And, as usual, we include a little something to make you chuckle, a fantastic Teacher of the Month winner, and a great recipe (at least I'm told it's good—it's green beans so I wouldn't know, but, hey, if you like green beans, then you might love it!)

Have a great month!

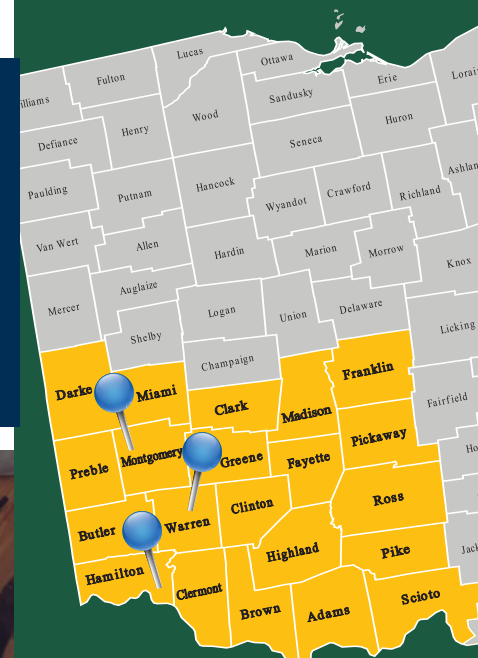
Tom

DIEHL & HUBBELL, LLC

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KNOW?**

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WORDS: A LAWYER'S STOCK IN TRADE

"WHOLE NINE YARDS"

When we use the expression "the whole nine yards," we are saying that the person did everything that is possible or available to create an outcome. The phrase was even the title of a Bruce Willis movie that came out in February of 2000. But where did the phrase originate? It is thought that it originated as an outgrowth of World War II. Gunners on aircraft would have a nine-yard chain of ammunition. When a gunner emptied all of the ammunition on one target, he would say he "gave the whole nine yards," to the enemy.



Need a great veggie dish to go to serve with your Easter ham or leg of lamb? This recipe was given to me years ago by my sister-in-law prior to some family holiday gathering. It is one of my favorite green bean recipes, the flavors pair well with ham, lamb or beef, and it's a welcome change from the traditional green bean casserole. It can be served hot or cold. I literally could make this my entire meal!

Venetian Green Beans with Tomatoes

1 pound fresh green beans

¼ cup olive oil

2 cups canned plum tomatoes, drained and chopped (or fresh tomatoes if you prefer)

2 cloves garlic minced

1 T snipped fresh basil

1 T fresh oregano

1 T fresh parsley

Salt and pepper to taste

2 T freshly grated Parmesan cheese

Optional: Cook 4-8 strips of bacon, crumble them and sprinkle on top with the Parmesan

Wash and trim your green beans. In a 2 quart sauce pan, cook beans in a small amount of boiling salt water, covered, for 7 to 9 minutes or until just barely tender. Drain well.

In a 10 inch skillet, heat the olive oil. Add drained beans and toss to coat. Add the tomatoes, garlic, basil, oregano, and parsley. Boil rapidly for 1 minute to evaporate any juice. Reduce heat to low. Cook 5 to 10 minutes more or until the beans are tender. Season to taste with salt and pepper. Sprinkle the cheese and bacon, if desired (and I do recommend!) on top. Serve warm or cold.



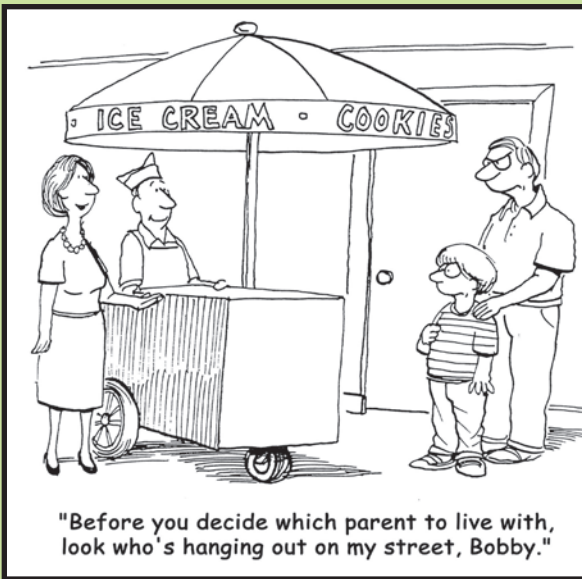
DID YOU KNOW?

THINGS YOU MIGHT NOT KNOW ABOUT AUTO ACCIDENT CASES*

*and maybe some attorneys don't know either

THE WRONG RELEASE COULD MAKE THE AWARD TAXABLE

Generally speaking, proceeds from a personal injury case are not considered income for federal income tax purposes. When a settlement is reached, the injury claimant is expected to sign a release, relinquishing claims against the negligent driver. If this release contains inappropriate language, some or part of the settlement award could become taxable. You might recall watching clips of a Chicago Bulls game in which forward Dennis Rodman stumbled into a courtside camera pit and kicked a cameraman who had the misfortune of being courtside. The cameraman was carried out on a stretcher and the cameraman brought suit against Rodman and the Chicago Bulls. Eventually, the cameraman negotiated a pretrial settlement. He was awarded \$200,000. However, the settlement agreement contained a confidentiality clause and the IRS treatment of that confidentiality clause made part of the award taxable. The IRS determined that \$80,000 of the award was not compensation for physical injuries but instead was tendered in exchange for the confidentiality agreement. The IRS concluded that that part of the award was taxable. See *Amos v. Commissioner of Internal Revenue* (December 1, 2003, No. 13391-01)



"Before you decide which parent to live with, look who's hanging out on my street, Bobby."

JOKES, PUNS & FUNNIES ...



Lawyer: "Now that you have been acquitted, will you tell me truly? Did you steal the car?"

Client: "After hearing your amazing argument in court this morning, I'm beginning to think I didn't."



CASE STUDY: THE ATTRACTIVE NUISANCE DOCTRINE

If a person trespasses upon another's land and in the process is injured, that injured person, cannot successfully bring a negligence claim against the landowner. However, if that injured trespasser happens to be a child, the landowner will be held to a higher standard as Ohio has adopted the Attractive Nuisance Doctrine. In *Bennett v. Stanley*, the Ohio Supreme Court addressed a situation where a five-year-old drowned after wandering into a neighbor's backyard pool that had been abandoned and was full of moss, algae and stagnant rainwater. The Supreme Court held that the landowner could be liable for this tragedy under the Attractive Nuisance Doctrine. In Ohio, in order to establish an Attractive Nuisance case the insured party must establish: (1) the injury occurred in a place known to be frequented by

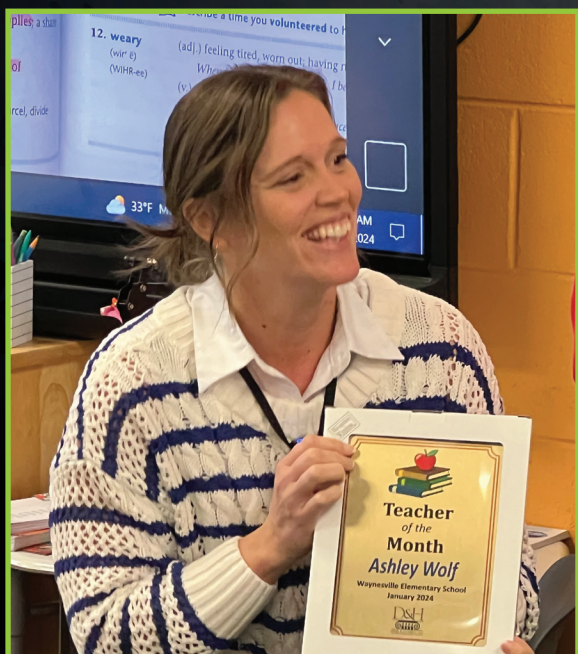


children; (2) the location of the injury contained a condition reasonably known to be dangerous to children; (3) the child, because of their youth could not be expected to appreciate the risk; (4) the cost of rectifying the dangerous condition was slight as compared to the potential injury; and (5) the landowner failed to exercise reasonable care in eliminating the danger. We used the Attractive Nuisance Doctrine to successfully assert a claim on behalf of a nine-year-old boy, who had been seriously injured while playing on stacked lumber in a lumber yard that

abutted a mobile home park where the boy lived. The boy sustained a serious injury to his lower leg when the unsecured lumber he was climbing on gave way and landed upon him. The case had all of the elements of Attractive Nuisance. Children frequently wandered from the adjacent mobile home park into the lumber yard; children loved to jump from lumber stack to lumber stack; the injured child had no appreciation for the terrible danger lurking in the stacked lumber; and the danger could have been rectified by fixing a few holes in the lumber yard fence.



Congratulations to Waynesville Elementary's Ashley Wolf! She is our Diehl & Hubbell Teacher of the Month for January 2024



We get nominations from parents, students, former students, and co-workers in schools all over Southwest Ohio, and each month Diehl & Hubbell honors only ONE of those teachers to be presented with a plaque and \$500. Mrs. Wolf had an army of people letting us know how awesome she is, and we are thrilled to be able to recognize her outstanding efforts. Congratulations, Ashley! Waynesville Elementary is lucky to have you!

Nominate your favorite teacher at www.diehlhubbell.com/teacher-of-the-month and tell us why he or she should be our next WINNER!

Please visit the teacher appreciation tab on our website www.diehlhubbell.com to nominate the most outstanding teacher you know...or, scan the QR code to the right with your camera.





THE NATIONAL TRIAL LAWYERS ANNOUNCES Thomas Diehl AS A TOP 100 Civil Plaintiff TRIAL LAWYERS IN Ohio

FOR IMMEDIATE RELEASE

The National Trial Lawyers is pleased to announce that **Thomas Diehl** of Diehl & Hubbell, LLC in Lebanon has been selected for inclusion into its **Top 100 Civil Plaintiff Trial Lawyers** in Ohio.

This honor is given to only the top 100 attorneys in each state or region for their superior skills, qualifications, and results as criminal defense or civil plaintiff lawyers. Membership into **The National Trial Lawyers** provides recognition to these distinguished attorneys, and provides essential legal news, information, networking, and continuing education to trial lawyers across the United States.

The National Trial Lawyers congratulates The National Trial Lawyers Top 100 member **Thomas Diehl** for continuously demonstrating superior qualifications, leadership skills, knowledge, and success. By combining resources, power, and influence, The National Trial Lawyers Top 100 is dedicated to preserving and defending justice for all.

To learn more about **The National Trial Lawyers**, please visit: <http://thenationaltriallawyers.org/>.