

RAY C. FREUDIGER

SHAREHOLDER



AREAS OF PRACTICE

Miscellaneous Professional Liability
Employment Law
School Leaders' Liability
General Liability
Product Liability
Commercial Litigation
Real Estate E&O Liability
Public Entity & Civil Rights Litigation
Insurance Agents & Brokers Liability
Architectural, Engineering & Construction
Defect Litigation
Insurance Services – Coverage & Bad Faith
Litigation
Hospitality & Liquor Liability
Lawyers' Professional Liability
Catastrophic Claims Litigation

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ADMISSIONS

Ohio
1991

U.S. District Court Southern
District of Ohio
1993

Sixth Circuit Court of Appeals
2017

U.S. District Court Northern District
of Ohio
2018

U.S. Supreme Court
2019

EDUCATION

University of Cincinnati College of
Law (J.D., 1991)

University of Cincinnati (B.B.A.,
1982)

OVERVIEW

Ray Freudiger is a highly experienced litigator, having represented and defended clients in over 100 bench and jury trials in the state and Federal courts of Ohio. He has spent his career defending businesses and public entity clients in a wide variety of professional and general liability claims and suits brought against them.

As a member of the firm's Professional Liability Department, Ray has experience defending school districts in a wide array of matters including allegations of wrongful termination and discrimination and has knowledge of Special Education laws needed to appear in due process hearings before independent hearing officers. He also defends employers against allegations of discrimination based on race, gender, ethnicity and/or national origin. He represents these clients before the Ohio Civil Rights Commission, the EEOC, and in the federal and state courts. Ray additionally defends insurance agents and brokers, amusement park operators, real estate brokers & agents, architects, engineers, surveyors and homeowners associations in errors & omissions claims. Since joining the firm, he has had 11 jury trials, 10 of which resulted in a defense verdict and the other verdict substantially less than the pretrial offer.

Ray has defended clients before administrative agencies such as in the Ohio Division of Real Estate, Ohio Civil Rights Commission, and Department of Urban Development (HUD). He also regularly conducts seminars for real estate brokers and their agents on real estate law issues, as part of their continuing education requirements and to help them to avoid litigation. Prior to attending law school, Ray obtained his property and casualty insurance license, which has served him well in representing clients in insurance coverage and bad faith matters.

ASSOCIATIONS & MEMBERSHIPS

Cincinnati Bar Association

Ohio State Bar Association,
Education Law Committee

Dayton Bar Association, Civil Trial
Practice Committee

Ohio Association of Civil Trial
Attorneys, Alternative Dispute
Resolution Committee

DRI (Defense Research Institute)

Education Law Association

YEAR JOINED

2014

THOUGHT LEADERSHIP

Legal Update for Special Education Law – Updates from the U.S. Department of Education

Cincinnati
School Leaders' Liability
July 1, 2024

A federal court in Missouri has blocked President Biden's latest attempt to forgive nearly \$500 billion in federal loans. U.S. Legal Update for Special Education Law – July 2024

Legal Update for Special Education Law – Updates from the U.S. Department of Education

Cincinnati
School Leaders' Liability
May 1, 2024

Newly Released Title IX Protections Legal Update for Special Education Law – May 2024

Legal Update for Special Education Law – Updates from the Ohio Department of Education

Cincinnati
School Leaders' Liability
April 1, 2024

Ohio Legislature Expands Private School Voucher Program

Avoiding Tortious Interference Claims

Cincinnati
Insurance Agents & Brokers Liability
October 19, 2020

When an insurance agent retains a private investigator to investigate the circumstances The material in this law alert has been prepared for our readers by Marshall Dennehey Warner Coleman & Goggin.

Ohio Courts Crack Down on Attempts to Expand Insurance Agent Liability

Cincinnati
Insurance Agents & Brokers Liability
March 1, 2019

Edited by Timothy Ventura, Esq. The material in this law alert has been prepared for our readers by Marshall Dennehey Warner Coleman & Goggin.

CLASSES/SEMINARS TAUGHT

An Overview of Commercial Auto Insurance in Pennsylvania & Ohio, Marshall Dennehey Client Presentation, January 26, 2021

Risk Management Best Practices for Engineers, Client Presentation, January 25, 2018

PUBLISHED WORKS

Legal Updates for Insurance Agents & Brokers, August 2018 - present

"*Berry v. Paint Valley Supply, LLC*: Fourth Appellate District's Decision Provides Key Lessons for Personal Injury Defense Litigators," co-author, Ohio Association of Civil Trial Attorneys (OACTA), *Fall 2017 Newsletter*

RESULTS

Motion to Enforce Oral Settlement Agreement Affirmed by First District Court of Appeals

**Non-Profit D&O
Appellate Advocacy & Post-Trial Practice
June 18, 2024**

We won a decision from the First District Court of Appeals affirming the trial court's decision to grant our client's motion to enforce an oral settlement agreement. We defended a condominium owners association against a lawsuit filed by several unit owners. The parties went to mediation, during which their attorneys agreed on the settlement terms. However, several of the plaintiff unit owners refused to sign the written settlement agreement.

Ohio retailer not liable for slip and fall.

**Premises & Retail Liability
June 2, 2023**

We won summary judgment on behalf of a retail store in a slip and fall case in Ohio. The plaintiff alleged serious injuries as a result of slipping and falling on a spill of an oil substance in the parking lot, right outside the front entrance doors. The plaintiff argued that she was pushing a shopping cart and alleged that pushing a shopping cart creates an attendant circumstance that blocked her vision.

Claims against Ohio insurance agent dismissed.

**Insurance Agents & Brokers Liability
January 30, 2023**

The agent was sued by a condominium association, that alleged the insurance agent inappropriately and unlawfully inserted himself into the insurance company's investigation and tortuously interfered with a contract that resulted in the insurance company paying far less than the \$1.3 million in damages alleged by the condominium association. After taking depositions of the individuals from the condominium association, the insurance company and defending his client's deposition, we convinced the plaintiff's attorney to dismiss all claims against the insurance agent.

Negligence claims against insurance broker dismissed.

**Insurance Agents & Brokers Liability
November 1, 2022**

We successfully defended an insurance broker in a negligence claim. After a tornado damaged his property, the third-party plaintiff rented an excavator that was damaged due to a collision during its operation. Before renting the excavator, the third-party plaintiff contacted our client, an insurance broker, requesting that the agency procure insurance to protect him against loss to the excavator. Our client arranged for third-party plaintiff's purchase of two policies; however, the specific collision that occurred was not covered under either policy.

Successful Defense of Public Housing Authority Accused of Discrimination Against Disabled Persons Under the ADA and FHA.

**Public Entity & Civil Rights Litigation
July 13, 2022**

In a case that was closely watched by other Public Housing Authorities (PHAs), we obtained a defense verdict after a six-day jury trial in the U.S. District Court for the Southern District of Ohio where we defended a PHA accused of discrimination against disabled persons under the ADA and FHA.

SIGNIFICANT REPRESENTATIVE MATTERS

Secured a decision from the United States Sixth Circuit Court of Appeals, which affirmed a jury verdict in favor of our client, a housing authority in Ohio. After written Briefing and oral argument, The Sixth Circuit affirmed the jury verdict in which the Appellant developer failed to prove that the Housing Authority discriminated against it (in violation of ADA and FHA) by refusing to apply to HUD for VASH vouchers on behalf of the developer. The developer failed to prove it asked the housing authority for VASH on behalf of disabled persons, the request was not reasonable, and the request was not necessary to enable disabled persons to enjoy their residents as non-disabled persons could.

Secured dismissal on behalf of our client, an insurance agency in Hamilton County, Ohio. The plaintiff entity alleged that it suffered monetary damages by having to pay for claims made against its

California employees. It alleged the agency failed to obtain Employment Practices Liability insurance for the company's California employees. In our Motion to Dismiss, Ray successfully argued that the "economic loss doctrine" barred all claims against the agency.

Successfully argued in Motion for Summary Judgment that Plaintiffs' claims were precluded by law because the general grant of immunity pursuant to R.C. §2744.01 applied to them as a political subdivision and no exception to immunity existed. Plaintiffs, a minor student and parent, filed suit against the school district, school board, supervising teacher, and principal alleging they were negligent when an afterschool science project (through the STEM program) caught fire causing burn injuries to the student. This included the exception that allows for negligence claims when there is a physical defect within or on the grounds of the entity. Further, the individual employees were also granted immunity because they were acting in their official capacities and thus the same analysis afforded to the school applied to the individuals. The Judge ultimately granted our Motion and dismissed Plaintiffs' claims.

Obtained dismissal of an Ohio insurance agent who was sued by a condominium association. The allegation was that the insurance agent inappropriately and unlawfully inserted himself into the insurance company's investigation and tortuously interfered with the contract that resulted in the insurance company paying far less than the \$1.3 million in damages alleged by the condominium association. After taking depositions of the individuals from the condominium association, the insurance company, and defending his client's deposition, Ray convinced Plaintiff's attorney to dismiss all claims against the insurance agent.

Obtained a summary judgement in a slip and fall matter involving a liquor store, where the plaintiff slipped and fractured her wrist upon stepping into the store on May 18, 2018. Heavy rain that evening allegedly caused water to be blown inside, which Field claimed as the cause of her fall. A wet floor sign was present, but she did not see it. We argued that the rainwater was an open and obvious condition, which under Ohio law, they had no duty to warn against. The court, citing similar cases, agreed, noting that a property owner is generally not liable for injuries from open and obvious conditions like rainwater. As Field failed to establish that the defendants breached their duty of care, the court granted summary judgment in favor of the defendants.

Obtained a summary judgement for a general contractor insured by our client. Plaintiff was working for his employer at a fracking site when he was struck in the head by a hose that came off an above-ground storage tank. He sustained serious and permanent injuries. Plaintiff claimed the general contractor was liable for his injuries because it actively participated on the work site and controlled the unsafe condition which caused his injuries. We moved for summary judgment arguing that the general contractor relinquished complete control over the site to a sub-contractor and, thus, it had no control over any unsafe condition which caused the Plaintiff's injuries. The trial court agreed and granted summary judgment in favor of our client.

Secured significant victory in wrongful death commercial liability action at both trial and appellate court levels in suit involving death of 18-year old woman who was struck and killed by a commercial truck that was backing up an access ramp to deliver product at a grain receiving facility at the same time the woman traversed onto the ramp.

Obtained a defense verdict in a jury trial where the case involved a rear end car accident. The plaintiff alleged serious and permanent injury, and while our client admitted fault, their contention was that the impact was of a minimal nature. The plaintiff incurred over \$69,000 in medical expenses after the accident, and made a settlement demand of \$200,000. The plaintiff rejected our nominal offer to settle the case before trial. Through the use of medical expert testimony, the defense contended that plaintiff's treatment was fueled by her subjective complaints, but there was no objective evidence of injury. The jury ruled in favor of the defendant.

Obtained a summary judgment on behalf of an insurance agent and the insurance agency. The agent and agency helped a business procure property and liability insurance on its business. A fire loss occurred and the insured discovered that it did not have business interruption coverage. It sued the agent and the agency for negligence, breach of contract and estoppel in failing to procure business interruption coverage for the insured. We convinced the Court that an insurance agent only has a duty to seek coverage which has been requested by the insured. Although the agent reassured the insured the day after the fire that the insured had business interruption coverage, the fact that this statement was incorrect, there is no evidence of any reliance by the insured, any reliance would have been unreasonable and unforeseen and the insured would have know that the agent's statements were incorrect if it had looked at the policy in its possession.

Successfully defended EEOC Charge of Discrimination brought against charter school client for alleged disability discrimination and failure to provide reasonable accommodation in violation of the Americans With Disabilities Act, as well of claims of FMLA interference and retaliation, resulting in finding of No Probable Cause in favor of employer.

Obtained summary judgment on behalf of insurance agency and insurance agent clients in insurance agent/broker professional liability action involving alleged failure to procure business interruption coverage for insured's start-up restaurant, which subsequently sustained uncovered fire loss.

Obtained summary judgment on behalf of one of nation's largest grocery store chains in significant federal rights action that received considerable media attention venued in federal court in Cincinnati involving unruly patron and patron's right to open carry weapon on private premises.

Secured dispositive dismissal on behalf of national insurance carrier in breach of contract and bad faith action involving residential fire that occurred at insureds' residence. In addition, as a result of in-depth investigation and discovery in civil suit, insureds were charged with and pled guilty to crimes of arson and insurance fraud.