

From The President

Special points of interest:

- March 09, 2011 meeting
- Bring a New Member

Dear Everyone:

We have a very exciting meeting planned for March 9, 2011. The Cincinnati Claims Association will be holding its monthly meeting at the Reds Hall of Fame in the Great American Ballpark. We are honored to have Phil Castellini slated to be our featured speaker for the night. Mr. Castellini is the Chief Operations Officer of the Cincinnati Reds. The team had a great season last year. We look forward to hearing what the Reds have in store for the 2011 season. Please reserve your seat early, as we expect a large crowd.

Furthermore, the Cincinnati Claims Association is now on Facebook. This is part of our ongoing effort to expand our presence and influence in the community and industry. If you haven't already, please "friend" us. During the past few months, we have added several new members to our organization. We are grateful that the Cincinnati Claims Association continues to grow and prosper. We are always looking to add good people to our organization. If you know someone who has previously been or would like to get involved with the Cincinnati Claims Association, please invite them to one of our meetings. If you know of a company that would like to hear more about the benefits of the Cincinnati Claims Association, please let us know and we will be happy to share this information with them.

Thank you for your ongoing support of our organization. We look forward to seeing you at the next meeting!

Very truly yours,
Jack J. Lah

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CCA BRING A NEW MEMBER COUPON

Bring a new* member and YOU get in free.

*New member cannot have been a CCA member in the last 2 years and must pay for meeting and yearly dues at the door. Dues are \$20.00 for the year and \$20.00 for the meeting.



March Activities

The next meeting is Wednesday, March 09, 2011 –

Red's Hall of Fame

located at:

**100 Main Street
Cincinnati, OH 45202**

Cocktails at 6:00 pm and Dinner at 7:00 pm

\$25.00 member

\$25.00 non-member

Please email cincinnaticlaimsassocinfo@fuse.net

or

call 513-530-0080 x 10 to make your reservations.

MARCH GUEST SPEAKER

**Phil Castellini
Chief Operating Officer—Cincinnati Reds**



Phillip J. Castellini was named Chief Operating Officer for the Cincinnati Reds in January 2008. Following the 2005 season, he was hired as the Reds' Senior Director of Business Operations and in January 2007 was named Senior Vice President of Business Operations. Phil is responsible for all business and ballpark operations of the organization as chief operating officer and reports directly to Bob Castellini, the Reds' president and chief executive officer. Since 1993 he also has served as President of Merchants Cold Storage in Walton, Kentucky.

Since he joined the organization, Mr. Castellini has been instrumental in the revival and expansion of Redsfest, the club's annual fan festival, and Winter Caravan. He oversaw additions of the ballpark experience that include a new scoreboard in 2009, new party areas Frontgate Outdoor Luxury Suite and Cincinnati Bell Riverboat Deck, renovations to Scouts Alley, improvements to the Fan Zone, the addition of new mascots Mr. Redlegs and Rosie Red and the development of new uniforms.

Mr. Castellini also helped combine the Reds Community Fund and Community Relations departments in an effort to put more focus on community affairs.

Mr. Castellini is a member of the Young President's Organization, served as President of Joy Outdoor Education Center, and is chairman of the board of the Xavier University Entrepreneurship Advisory Board. He serves on the board of directors of the Underground Railroad Freedom Center, and is on the Queen City Club Board of Governors. He also serves as a trustee on the Cincinnati Parks Foundation Board.

Mr. Castellini graduated from Babson College with a bachelor of science in marketing and entrepreneurial studies and a minor in literature.

Mr. Castellini and wife Britt have four children, Lucia, Gabriella, Chloe, and Millie.

**COURT OF APPEALS SIDES WITH CEMETERY
IN “STEP IN HOLE” CASE**

by Timothy P. Heather, Esq.

On November 19, 2010, the Lucas County Court of Appeals issued its decision in Madison v. Woodlawn Cemetery Ass'n, 2010-Ohio-5650. In that case, the appellant, Marcia Madison, had sued a cemetery, Woodlawn Cemetery, for injuries she sustained when she stepped into a hole at the Cemetery. The decision sets forth the underlying facts as follows:

{¶}2 Appellant asserts she was injured when she fell into a hole at Woodlawn while visiting the gravesite of her uncle on December 4, 2007. According to appellant, she was walking around, looking for her uncle's grave. Appellant was having trouble locating the grave where he had been buried several weeks earlier because there was no headstone, only numbered markers. Although she could tell where newly dug graves were because they were covered in dirt and raked over, and she could see areas where there was new grass, she was still unable to locate her uncle's grave.

{¶}3 Appellant called Woodlawn from her cell phone to ask for directions. While making the call, she stepped into a hole. She contends that the hole was covered by leaves and grass. She screamed, attracting the attention of cemetery employee Roger Wilhelm, who had been working nearby. The hole was located at the foot of her uncle's grave. Appellant, apparently uninjured, was able to stand up, pay her respects to her uncle, and walk back to her car.

The case turned on whether Madison was an “invitee” or a “licensee”. The Court set forth the distinction:

{¶}15 An “invitee” is “***a business visitor [or business invitee], that is, one rightfully on the premises of another for purposes in which the possessor of the premises has a beneficial interest.” Provencher v. Ohio Dept. of Transp. (1990), 49 Ohio St.3d 265,266, quoting Scheibel v. Lipton (1951), 156 Ohio St.308, 328-329; see Light v. Ohio Univ. (1986), 28 Ohio St.3d 66, 68. In other words, “[b]usiness invitees are persons who come upon the premises of another, by invitation, express or implied, for some purpose which is beneficial to the owner.” Light, supra, at 68. See Scheibel, supra, at 328-329. It is the duty of the owner of the premises to exercise ordinary care and to protect the invitee by maintaining the premises in a safe condition. Presley v. City of Norwood (1973), 36 Ohio St.2d 29, 31.

{¶}16 A licensee, however, is a person who enters the owner's premises by permission or acquiescence, for his own pleasure or benefit, and not by invitation. A licensee takes his license subject to its attendant perils and risks. Light, 28 Ohio St.3d at 68. The owner is not liable for ordinary negligence and owes the licensee no duty except to refrain from wantonly or willfully causing injury. Hannan v. Ehrlich (1921), 102 Ohio St.176, paragraph four of the syllabus.

The Court determined that Madison was a licensee, not an invitee, and as such, the Cemetery did not breach any duties owed to her. In so finding, the Court stated:

{¶}25 To succeed in a premises liability action, a plaintiff must prove by a preponderance of the evidence that defendant owed her a duty, that it breached that duty, and that breach proximately caused her injuries. Strother v. Hutchinson (1981), 67 Ohio St.2d 282, 285. See Menifee v. Ohio Welding Products, Inc. (1984), 15 Ohio St.3d 75, 77. The status of a person injured on an owner's premises determines the scope and extent of the owner's duty to the injured person. Gladon v. Greater Cleveland Regional Transit Auth. (1996), 75 Ohio St.3d 312, 315. Under Ohio law, an owner's duty of care depends on whether the injured person is an invitee, a licensee, or a trespasser. Menifee, supra at 77; Gladon, supra at 315; Bennett v. Stanley (2001), 92 Ohio St.3d 35, 44.

{¶}26 Because appellant is a licensee, the trial court properly stated that Woodlawn owed appellant only a duty to refrain from wantonly or willfully injuring her. Light, 28 Ohio St.3d at 68; Hannan, 102 Ohio St.176 at paragraph four of the syllabus. See Scheurer v. Trustees of The Open Bible Church (1963), 175 Ohio St.163, 171; Wiley v. Nat'l Garages, Inc. (1984), 22 Ohio App.3d 57, 62.

{¶}27 A licensee takes the premises subject to the attendant perils and risks. Brown v. Rechel (1959), 108 Ohio App. 347, 353-354, citing Ehrlich, supra. Ohio courts have held that if the licensor knows of the presence of any such danger, the licensee must be alerted to any danger which the licensor has reason to believe the licensee will not discover. Salemi v. Duffy Constr. Corp. (1965), 3 Ohio St.2d 169, paragraph two of the syllabus; Soles v. Ohio Edison Co. (1945), 144 Ohio St.373, paragraph one of the syllabus; Chadwick v. Ohio Collieries Co. (1928), 31 Ohio App.311, 313; Ehrlich, supra, paragraph four of the syllabus; Railroad Co. v. Harvey (1907), 77 Ohio St.235. Here, there was no evidence that Woodlawn was aware that a hole had formed, and absent knowledge of that hole, could not have warned appellant of that hole.

{¶}28 Because appellant failed to present evidence that her injuries were caused by wanton or willful conduct by Woodlawn, we hold that the trial court properly found that reasonable minds could come to but one conclusion, and that conclusion was adverse to appellant.

The Court further noted that, even if the discussion concerning Madison's legal status had been different, she still failed to provide any evidence that the Cemetery had failed to exercise reasonably and ordinary care for her.

Officers & Committees

President
Jack J Lah 889-8133

Vice President
Jon Lippert 579-0080

Treasurer
Jon Libbert 530-0080

Secretary
Pat Lunn 563-0088

Director
Cindy Gallaher 779-6413

Director
Jack Farrell 791-3096

Christmas Party
Joe Groh 947-5269

Condolence
Laura Hemmerly 867-3751

Directory
Patty Montagne 870-2134

Election Committee
Tony Iacofano 721-5672

Employment
Laura Hemmerly 867-3751

Finance/Audit
Joe Groh 947-5269
Carmen Sarge 579-0080

Financial Secretary
John Graf 859-491-5341

Historian/Photographer
Julia Tigner 858-2550

Legislative/Constitution/Ethics
Benjamin, Yocum & Heather
721-5672

Membership
Jack Farrell 791-3096

Program Committee
Joe Groh 947-5269

Sergeant at Arms
Ron Diorio 859-491-5341

Golf Tournament
To Be Determined

February Door Prize Donations

MANY THANKS TO:

Artisan Restoration
A-One Cleaners
CRDN Fabric Restoration
Donan Engineering
ServPro of Cincinnati NW
Smith Rolfes & Skavdahl LPA
Long Cleaners
Teasdale Fenton
TriWeh



New Members in February

Tom Horecny — Pekin Insurance
Charles Raque — VeriClaim Inc.
Mike Jordan — Jordan Services
Thomas Ryan — GAB Robins