

From The President

Special points of interest:

- May 11, 2011 meeting
- Bring a New Member

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Dear Everyone:

We look forward to seeing you at our upcoming meeting on May 11, 2011 beginning at 6:00 p.m. The meeting will be held at the Oscar Event Center in Fairfield. We have a very exciting meeting planned. Our guest speaker will be Adrian France. Adrian is with Donan Engineering and will be presenting regarding property losses involving sump pump failures.

As many of you know, the Cincinnati Claims Association does not formally meet again until September 14, 2011. The meeting will be held at the Great Wolf Lodge in Mason. We are focusing on trying to find unique places in the area to hold our monthly meetings, and are excited about our September meeting at the Great Wolf Lodge.

Finally, our annual golf scramble will begin at 9:00 a.m. at the Fairfield Golf Course on ...well, we are still trying to finalize the date! But it is either going to be July 16 or August 19. We can discuss that at the meeting in May. We already have several companies that have come forward offering to help sponsor the event. If your company would like to join in on sponsoring this event, please contact me. There will be more details sent regarding the golf scramble in the coming weeks.

Have a great summer!

Very truly yours,

Jack J. Lah

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.



The next meeting is Wednesday, May 11, 2011 –

The Oscar Event Center—Fairfield

located at:

5440 Dixie Highway
Fairfield, OH 45014

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

\$20.00 member

\$25.00 non-member

Please email cincinnaticlaimsassocinfo@fuse.net

or

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

May Speaker:

Adrian France
Donan Engineering

Property Losses Involving Sump Pump Failures



**COURT OF APPEALS SIDES WITH CEMETERY
IN "STEP IN HOLE" CASE**

by Timothy P. Heather, Esq.

**HAMILTON COUNTY COURT OF APPEALS
ABSOLVES OWNER OF PELLET GUN USED BY 15-YEAR OLD**

by Timothy P. Heather, Esq.

On March 2, 2011, the Hamilton County Court of Appeals issued its decision in Opp v. Smith. In that case, Opp alleged that Smith had negligently furnished a pellet gun to a 15-year old, Hughes, who was known in the neighborhood as "Man-Man" because of his large physique. Man-Man admitted to having shot Opp with Smith's pellet gun.

R.C. §2923.21(A)(3) prohibits any person from furnishing any firearm to a minor except for lawful hunting or instructional purposes. However, to demonstrate that a person has furnished a firearm, this statute requires proof of some positive act by that person to supply, provide, or equip the minor with a firearm. In a previous decision, the Hamilton County Court of Appeals had noted that providing "passive access is not the same as furnishing."

In upholding the trial court's decision wherein summary judgment was granted in Smith's favor, the Hamilton County Court of Appeals held:

In this case, the evidence properly before the trial court, construed most strongly in Opp's favor, shows that Smith had discovered his son and other neighborhood children, including Man-Man, playing with his pellet gun. Smith then retrieved the pellet gun from Man-Man, admonished the children for playing with the pellet gun outside his presence, and returned the pellet gun to its hiding place behind a wooden cabinet in his bedroom. Unbeknownst to Smith, Eric Wright, a minor, had followed Smith into his home and had discovered the gun's hiding place. Wright then took the pellet gun and gave it to Man-Man who then shot Andrew Opp despite Smith's efforts to retrieve the gun yet again. It was Smith's and Man-Man's un rebutted deposition testimony that Wright and Man-Man had obtained the pellet gun without Smith's knowledge or permission.

Here, the Hamilton County Court of Appeals concluded that Smith had not performed any positive act to furnish Man-Man with the pellet gun, and that Opp had failed to demonstrate that Smith had violated R.C. §2923.21. Consequently, there was no question of fact that Smith had not breached any duty. Summary judgment was, therefore, merited.

Cincinnati Claims Association

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Golf Tournament To Be Determined	

April Door Prize Donations

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