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Client Bulletin



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Ohio's "Return-to-Play" Law Goes into Effect

Ohio's "Return-To-Play" law went into effect on April 26, 2013. The purpose of this law is to protect student athletes after they have displayed symptoms of a concussion. This law prevents coaches and referees from sending the athletes back into the practice or game after showing signs of a concussion. Under the new law, coaches and referees must take an online course on concussions before they can be approved to serve as a coach or referee for interscholastic athletics or youth sports organizations. Additionally, the law requires parents to sign release forms affirming that they have received information about concussions.

Under Ohio Revised Code Section 3707.52, the Department of Health is required to "create a concussion and head injury information sheet for participants in interscholastic athletics and youth sports organizations." This information sheet must contain "pertinent information to inform and educate coaches, athletes, and the parents, guardians, or other persons having care or charge of athletes of the signs and symptoms of concussion or head injury and the risks of continuing to practice for or compete in an athletic event or activity after sustaining a concussion or head injury." Furthermore, R.C. 3707.52 requires the Department of Health to make the information sheet and online training courses available on its website. There are currently two free online training sessions on the Department of Health's website; one offered by the National Federation of State High School Associations and another offered by the Centers for Disease Control.

Specifically, R.C. 3313.539 establishes that a student athlete may not "practice for or compete in interscholastic athletics until the student has submitted, to a school official . . . a form signed by the parent, guardian, or other person having care or charge of the student stating that the student and the parent, guardian, or other person having care or charge of the student have received the concussion and head injury information sheet required by section 3707.52 of the Revised Code." Section 3707.511 applies the same rule to youth sports organizations. Sections 3313.539 and 3707.511 also prohibit an individual from serving as a coach or referee unless that individual has completed the training required under section 3319.303, which requires that they "successfully complete a training program that is specifically focused on brain trauma and brain injury management."

Moreover, R.C. 3313.539 mandates that "[i]f a student practicing for or competing in an interscholastic athletic event exhibits signs, symptoms, or behaviors consistent with having sustained a concussion or head injury while participating in the practice or competition, the student shall be removed from the practice or competition" by the coach or referee. The statute sets forth the rule that once an athlete exhibits signs of a concussion or head injury, that athlete is prohibited from returning to the practice or competition during the day the athlete displays such symptoms. Not only is the athlete prohibited from further participation in practice or competition the same day of showing symptoms, but the athlete is also prohibited from participation thereafter until the following conditions have been met: (1) the athlete's condition has been assessed by a physician or other licensed health care provider, and (2) the athlete receives clearance that continued participation is safe from that physician or health care provider. Section 3707.511 applies the same rule to youth sports organizations.

Top Lawyers—Columbus C.E.O. Magazine

The law firm's Dennis Pergram and Steve Martin were listed again for 2013 in Columbus C.E.O. Magazine's listing of Top Lawyers in Central Ohio. Including Dennis and Steve, there were a total of eight lawyers in the list with a Delaware, Ohio 43015 address. Steve was listed with practice areas of Contracts, Real Estate and Zoning, Planning and Land Use, the only Delaware attorney listed in those three areas of practice. Dennis was listed in the areas of Labor and Employment, Litigation and Appellate, and was the only Delaware attorney listed for Appellate practice.

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2013 Nationally Top Rated Lawyers in “Land Use and Zoning”

Steve Martin was included in The American Lawyer, Corporate Counsel and The National Law Journal's publication of 2013 Top Rated Lawyers “Land Use and Zoning.” The listing was of attorneys in the United States who were AV® Preeminent™ in Martindale-Hubbell Lawyer Ratings in the practice area of Land Use and Zoning.

Congratulations to 3 Pillar Homes and Zenios Michael Zenios

The firm extends its congratulations to 3 Pillar Homes, LLC and Zenios Michael Zenios for being named by Columbus Business First as the second largest custom home builder (by sales volume) in Central Ohio for 2012.

Court Decision Holding that Cognovit Judgment is Limited to Non-Payment

A cognovit note is a promissory note that contains a confession of judgment or judgment on warrant of attorney provision in which provision the maker of the note, the debtor, authorizes any attorney at law to appear on behalf of the maker/debtor and confess judgment on the maker/debtor's behalf without the maker/debtor being accorded notice of the filing of the lawsuit on the promissory note or notice of the hearing. A cognovit judgment may not be granted on a consumer cognovit note unless such cognovit note is dated earlier than the 1976 effective date of the legislation that banned the granting of cognovit judgments on consumer cognovit notes. Judgment by cognovit judgment/confession of judgment by an attorney is still permitted for commercial obligations and the promissory notes and guarantees used in Ohio commercial real estate transactions typically include cognovit provisions in both the note and the guarantees signed by the guarantors. The statute (RC 2323.13) requires that there be a specific, bold faced large type warning immediately above the signature of the person(s) signing the instrument with the confession of judgment/warrant of attorney provision.

In *The Henry County Bank v. Stimmels*, 2013-Ohio-1607, the Third District Court of Appeals, in what is apparently a case of first impression, reversed the trial court's granting of a cognovit judgment on the note for the maker/debtor's failures to pay real estate taxes when due and to meet the note's financial (net worth ratio) requirements, holding that the language of the statutory warning in its second sentence “IF YOU DO NOT PAY ON TIME A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE ...” limited the use of the note's cognovit provision to only non-payment of the note itself (the monthly payments of principal and interest due under the note).

Notice

This bulletin provides general information and is not legal advice. Please contact us if you need legal advice.

If you have friends or associates who you think would enjoy receiving a copy of this Client Bulletin, please feel free to forward it on. Thank you.

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