Ray C. Freudiger

Shareholder

RCFreudiger@mdwcg.com
Cincinnati – 513.372.6803

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.

Education

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

Practices

- 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
- Non-Profit D&O
- Lawyers' Professional Liability
- Catastrophic Claims Litigation

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

Admissions

- Ohio, 1991
- U.S. District Court Southern District of Ohio, 1993
- U.S. Court of Appeals 6th Circuit, 2017
- U.S. District Court Northern District of Ohio, 2018
- U.S. Supreme Court, 2019

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

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*

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.

Results

Summary Judgment Secured, Preserving $750,000 in Coverage for Insured in Major Trucking Liability Dispute

Ray Freudiger and **Michael A. Roberts** (both of Cincinnati) successfully obtained summary judgment on behalf of their client in a coverage dispute arising from a May 19, 2022, motor vehicle accident. A permissive driver operated a box truck for an interstate trucking company and caused severe injuries to two tort victims. Prior to the accident, the insured had procured a commercial auto policy for the trucking company with stated limits of $1,000,000. Following the accident, the insurer initiated a declaratory judgment action asserting that only reduced bodily injury limits of $25,000/$50,000 applied and later counterclaimed, alleging it would not have insured the driver had he been properly submitted for approval under the policy. After extensive discovery, briefing, and oral argument, the court rejected the insurer’s attempt to shift responsibility for the $750,000 in coverage it was legally required to provide for permissive drivers under Ohio law, granting summary judgment in favor of the insured and preserving $750,000 in liability exposure.

Summary Judgment Secured in a Design Defect Case

We won summary judgment on behalf of a company that provided software for the overall design of roof trusses in a design defect case. The plaintiff owned the apartment complex being built and hired Turnbull Wahlert to construct the building. 84 Lumber was

subcontracted by Turnbull to build and install the roof trusses. 84 Lumber contracted with our client to use its software for the design of the roof trusses and to provide truss connect plate hangers. The building experienced severe water damage allegedly because the roof trusses were not sloped properly and the HVAC units were misplaced on the roof. Damages were estimated at over $1.2 million. 84 Lumber demanded that our client defend and indemnify it against Turnbull's allegations. The court granted our motion for summary judgment.

Charges Filed by the Ohio Civil Rights Commission Dismissed

We won dismissal of a charge filed by the Ohio Civil Rights Commission (OCRC) against our client, a public housing authority. A tenant claimed the housing authority discriminated against him based upon race, disability, sex, and sexual orientation or engaged in retaliation. The OCRC determined there was no discrimination and dismissed the charge against the housing authority.

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

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. We argued at the trial court that the oral agreement should be enforced because memorializing the agreement in writing was not a material term of the parties' agreement, and that the parties did not intend for the settlement agreement to only be enforceable upon the execution of the writing. Further, all the material terms of the agreement had been agreed on. The First District Court agreed and upheld the decision in favor of the condominium owners' association.

Ohio Retailer Not Liable for Slip and Fall

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. We successfully argued that the act of pushing a cart does not qualify as an attendant circumstance, as the customer has the ability to see the parking lot ahead of a grocery cart and pushing a cart was a situation the plaintiff regularly encountered. Further, the oil spill was wide in nature and darker in color than the asphalt. It was observable had the plaintiff looked and, therefore, qualified as an open and obvious condition. Summary judgment was granted on behalf of our client.

Claims against Ohio insurance agent dismissed.

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

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. The insurance company for the rental facility paid for repairs to the excavator and demanded reimbursement from the third-party plaintiff who, in turn, requested our client satisfy the claim. The third-party plaintiff eventually dismissed his claims against our client after we argued: (1) the third-party plaintiff could not satisfy the elements needed to establish a negligence claim; (2) our client made no negligent misrepresentation of fact; and (3) our client did not owe a fiduciary duty to the third-party plaintiff. There were no facts to support a finding that there was negligence just because this specific instance was not covered by the policies in place. An insurer has a duty to read his policies and a failure to do so does not impute negligence. Additionally, there were no misrepresentation of facts and there was no fiduciary duty between the agent and the insured. For there to be a fiduciary duty between an agent and insured, there must be a mutual understanding of such, which was not the case here.

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

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.

The dispute surrounded the PHA's failure to apply to the U.S. Dept. of Housing and Urban Development (HUD) for Veterans Affairs Supportive Housing (VASH) vouchers as requested by a developer. The plaintiff claimed that the PHA arbitrarily, capriciously, intentionally, and based on discriminatory animus blocked funding and financing for 60 units of affordable housing for veterans, most of whom were disabled, which stood in violation of the ADA and the Fair Housing Act of 1968 (FHA). For background, the PHA's administrative plan required it to issue a RFP. The developer argued the PHA should have amended its administrative plan to allow it to choose a developer and that the PHA's refusal to apply for VASH vouchers on the developer's behalf was discrimination against disabled persons under the ADA and FHA.

In defense of the allegations we argued: The developer never claimed to be acting on behalf of disabled persons; the only request was for a letter of intent, which the PHA could not submit since it would have violated its Administrative Plan and federal

regulations; and the request was not necessary to enable disabled persons equal access since the PHA's decision had the same effect on non-disabled persons.

The jury unanimously agreed that the plaintiff developer failed to prove all the necessary prima facie elements of discrimination and issued a verdict for the defendant Housing Authority.

Dismissal of civil rights charges in Ohio.

We obtained dismissal of two charges filed with the Ohio Civil Rights Commission. The charging party had been removed from two of the employer's stores. He claimed it was due to discrimination, because of his race and disability (he required a service animal to be with him). The defense submitted a position statement with affidavits of employees and managers, explaining that the employee was removed because he was videoing other customers without their consent and making racially charged comments to employees and customers.

Summary Judgment Win on Behalf of Ohio Insurance Agent and Broker

The plaintiff, who owns a restaurant, sustained personal injuries in a car accident while on a business errand. He collected the tortfeasor's liability limits of $100,000, and then filed underinsured motorist claims with his own insurance carrier who had issued the personal auto and commercial auto policies. The underinsured claims were denied by the carrier. There was no UIM coverage under the personal auto policy because the $100,000 UIM limits equaled the liability carrier's limits. Further, although the plaintiff had $1 million UIM limits on his commercial policy, the Mazda he was driving at the time of the accident was not listed on the commercial policy; rather, it was listed on the personal auto policy. The court granted our motion for summary judgment on several bases: the Statute of Limitations began to run when the Mazda was first put on the personal auto policy, not when the accident occurred; despite the plaintiff's and the agent's friendship and long-standing business dealings, there was not a fiduciary relationship between the agent and insured customer; and the agent's alleged statement to the plaintiff that he was covered in "every single possible way you can think of" did not amount to a misrepresentation of fact.

Summary Judgment on Behalf of an Insurance Agent and Broker in the Franklin County Ohio Court of Common Pleas

The plaintiff, who owned his own restaurant business, sustained personal injuries in a car accident while on a business errand. He collected the tortfeasor's liability limits of $100,000 and then filed underinsured motorist claims with his own insurance carrier that had issued the personal auto and commercial auto policies. The underinsured claims were denied by the carrier. There was no UIM coverage under the personal auto policy because the $100,000 UIM limits equaled the liability carrier's limits. Further, although the plaintiff had $1 million in UIM limits on his commercial policy, the Mazda he was driving at the time of the accident was not listed on the commercial policy; rather, it was listed on the personal auto policy.

The plaintiff then sued the insurance agent and broker who listed the Mazda on the

personal rather than commercial policy. He argued professional negligence, breach of fiduciary duty and negligent misrepresentation. Extensive discovery was conducted, including depositions of insurance standard of care experts for each side. The court granted Ray's motion for summary judgment on several bases: the statute of limitations began to run when the Mazda was first put on the personal auto policy, not when the motor vehicle accident occurred; despite the plaintiff's and the agent's friendship and long-standing business dealings, there was not a fiduciary relationship between the agent and insured customer; and the agent's alleged statement to the plaintiff that he was covered in "every single possible way you can think of" did not amount to a misrepresentation of fact.

Claims dismissed against Ohio housing authority.

We won summary judgment for a housing authority in a political subdivision matter in the U.S. District Court, Southern District of Ohio. The plaintiff sought over $20 million in damages, alleging the housing authority violated the Fair Housing Act and the Americans with Disabilities Act by discriminatorily blocking funding for, and financing of, 60 units of project-based affordable housing for homeless veterans, most of whom are disabled. The court had previously awarded summary judgment to our client on all but one claim, but ruled that genuine issues of material fact precluded summary judgment on the plaintiff's "reasonable accommodation" claim under the ADA and FHA. In an unusual turn of events, the court recently held that it had erred in not granting our previously filed summary judgment on all claims. It, therefore, dismissed all claims against the housing authority.

Injury at Fracking Site Not Fault of Defendant

We obtained a summary judgment on behalf of a worker who was injured at a fracking site. The injury occurred when a hose came off of an above-ground storage tank and struck him in the head, resulting in sustained serious and permanent injuries. The 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 the injuries. We moved for summary judgment, arguing that the general contractor relinquished complete control over the site to a sub-contractor and, thus, 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.

Dismissal of Surveying Company in Professional Negligence Case

We won dismissal of a professional negligence case against a surveyor filed in the U.S. District Court for the Northern District of Ohio. This action was filed by two title companies that had paid a title insurance claim to a property purchaser and sought subrogation from our client, a surveying company. They alleged that a defective survey was the cause of the title insurance claim. Ohio has a four-year statute of limitations for professional negligence claims against surveyors, and this case was filed more than four years after the allegedly defective survey was completed, rendering it untimely. The plaintiffs attempted to avoid dismissal by captioning their claims as claims for breach of contract, in order to take advantage of a longer limitations period. We argued that,

despite how the claims were captioned, they were, in substance, claims for professional negligence and time-barred. The court agreed and dismissed the case.

Successful Defense of Insurance Agency and Agent in Ohio Appellate Court
We defended an insurance agency and agent in the Twelfth Appellate District of Ohio. The plaintiffs contacted the insurance agent to obtain insurance for two residential properties. The agent obtained the requisite information for the insurance applications from the plaintiffs, including their primary mailing address, a post office box address. The agent advised them that their only insurance option was through the Ohio Fair Plan (OFP), as neither property had been insured in the prior three years. The plaintiffs gave the agent a check for the premium. The agent explained that the OFP would inspect both properties prior to issuing coverage and that coverage would be cancelled if any required repairs were not made. The OFP sent a notice of cancellation to the post office box listed on the insurance application. It also sent a refund check to the agent. The plaintiffs claimed that they never received the notice of cancellation or the refund check. They sued OFP, the agent and insurance agency. After written briefs and oral argument, the court of appeals affirmed summary judgment in favor of the agent and agency on the grounds that there was no evidence that the agent represented to the plaintiffs that the property had insurance coverage prior to a fire at one of the properties. Further, although the plaintiffs claimed that they never received notice of cancellation, the insurance application indicated that they would be informed directly from the insurer whether or not coverage was going to be provided. Therefore, the agent was not required to inform the plaintiffs of the cancellation. The court also held that the plaintiffs failed to present any evidence the agent fraudulently concealed the refund check from them, even if they did not receive the check.

Thought Leadership

May 7, 2026
New Ohio Law Targets Real Estate Wholesaling Practices

April 1, 2025
Ohio Law Does Not Conflict with the Individuals with Disabilities in Education Act

April 1, 2025
Legal Update for Special Education Law – Updates from the Ohio Department of Education & Workforce

July 1, 2024
Legal Update for Special Education Law – Updates from the U.S. Department of Education

May 1, 2024
Legal Update for Special Education Law – Updates from the U.S. Department of

Education

April 1, 2024

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