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UPCOMING EVENTS

May 11, 2021

Annual Membership Luncheon
12:00 p.m. – 1:30 p.m.
@ The Boat House at Confluence Park

September 14, 2021

Annual Judicial Reception
5:30 p.m. – 7:00 p.m.

December 14, 2021

Annual Holiday Luncheon and Silent Auction
12:00 p.m. – 1:15 p.m.

COAJ Mission

To promote justice for individuals in all local, state, and federal courts; to support our membership; to assist the legal community; to improve the judicial system; and to serve the citizens of Central Ohio.

Impact of Supreme Court Decision in Domestic Relations Cases

Bruns v Green, 2020-Ohio-4787

A recent Supreme Court decision, *Bruns v Green*, 2020-Ohio-4787, makes clear that a court only needs to consider the best interest of the child(ren) when deciding whether to terminate a shared parenting decree. The court does not need to consider whether there has been a change of circumstances. This decision is based on the plain language of the statute, which indicates that a court may terminate a shared parenting decree if requested by a party or whenever the court determines shared parenting is not in the best interest of the child. R.C. 3109.04(E)(2)(c). Then, the court proceeds as if no prior decree had been issued. R.C. 3109.04(E)(2)(d). The Court distinguished this case from its prior decision *Fisher v Hasenjager*, 116 Ohio St. 3d 53, 2007-Ohio-5589, which holds that modifying the designation of residential parent and legal custodian requires finding a change of circumstances. *Id.* at syllabus, citing R.C. 3109.04(E)(1)(a). The distinction is fine and comes down to the language used by the appellate court in *Fisher* when it determined that it was *modifying*, as opposed to *terminating*, the decree.

Change to Superintendence Rule 48 which governs Guardians ad Litem (GAL)

Superintendence Rule 48, which governs Guardians ad Litem (GAL), was updated effective January 1, 2021. The Rule is now divided into several subparts with expanded definitions. It requires a GAL to include non-disclosure language in each report filed, making clear that unauthorized disclosure could subject a person to contempt penalties. The duties and responsibilities of a GAL were also modified. A GAL's responsibilities are listed under 48.03(A), while the duties are listed under 48.03(D). Previously, the responsibilities were all under one heading and qualified by language that such responsibilities were required "unless impracticable or inadvisable to do so." Now, the duties and responsibilities listed are the minimum requirements that must be carried out by the GAL. Lastly, the training and continuing education requirements have doubled. A GAL must take 12 hours of preservice training before becoming a GAL and must complete 6 hours of continuing education each year to maintain eligibility.

Updates on House Bill 7 and House Bill 172

Last year, the Ohio Legislature passed H.B. 7, which resulted in significant changes in how medical negligence claims are litigated. Most notably, it changed the law to give plaintiffs the ability to conduct discovery during the 180 days following the Complaint being filed, in order to determine if any additional parties need to be added to the case under this new law. R.C. 2323.451. This process requires the defendant(s) to cooperate and timely respond to discovery requests, such that any new parties can be timely identified and added to the case under the statute. As a practical matter, plaintiffs may increasingly need to seek court intervention to compel discovery responses or depositions, in order to protect the plaintiff's rights to timely identify and join necessary parties prior to the expiration of the 180-day discovery window. It should be noted, however, that the common law discovery rule relating to discovery of a claim is not affected by this rule.

This legislation also changed the manner in which 180-day letters, another tool used by litigants to extend the one-year statute of limitations to permit additional time to conduct a pre-suit investigation, can be served. Now, 180-day letters can be sent to (a) the person's residence, (b) the person's professional practice, (c) the person's employer, and (d) the address of the person on file with the state medical board or other appropriate agency that issued the person's professional license. R.C. 2305.113(B).

Sixth Circuit Court of Appeals Opinion

On January 25, 2021, the Sixth Circuit Court of Appeals reversed a district court's reduction of attorneys' fees in a wage and hour case under the Fair Labor Standards Act. The 6th Circuit held that "a district court abuses its discretion if it limits the fee awardable under the FLSA to a percentage of the plaintiff's recovery." The case was remanded for a full award of the attorneys' fees and costs requested. Read the full opinion at: <https://www.opn.ca6.uscourts.gov/opinions.pdf/21a0017p-06.pdf>.