

OHIO CASE SUMMARIES

A SERVICE OF

GREEN & GREEN, LAWYERS
A Legal Professional Association

Ohio case summaries will be provided on a continuing basis every Wednesday and Friday of each week (excluding holidays). Summaries include brief descriptions of cases decided in the past week by the Ohio Supreme Court and lower appellate courts on issues related to insurance law. To discontinue receiving this service, please call Travis Vieux at 937-224-3333 or email Travis at tjvieux@green-law.com.

Court of Appeals: Fifth District Court of Appeals

Case Name: Rawls v. Cinemark USA, Inc.
(2007-Ohio-5511)

Decided: October 15, 2007 (Posted October 15, 2007)

Issue: Premises Liability

Summary of Opinion: The Fifth District found that the plaintiff failed to establish a breach of duty of care by the defendant Cinemark USA.

Plaintiff Rawls went to see a movie at the Tinseltown Theatre owned by defendant. At the conclusion of the film, as plaintiff was standing up, he put his weight on the arm rests of the seat to support himself. One of the armrests snapped off causing plaintiff to fall and hit his head. Inspection by the manager found that a piece had been removed or broken off from the armrest, causing it to detach from the seat.

Plaintiff sued defendant for negligence in failing to remedy the defect or to warn plaintiff of this hidden danger. Plaintiff failed to identify an expert on causation before the deadline set by the court. The trial court granted summary judgement to Cinemark USA. Plaintiff appealed to the Fifth District Court of Appeals.

GREEN & GREEN, Lawyers represents select insurance clients in all aspects of insurance litigation, from complex coverage questions to more routine torts. We will see to it that your file will be handled only by a competent, seasoned attorney who will work diligently to obtain the best result possible.

As a service to our clients, we provide weekly summaries of the most recent Ohio Supreme Court and appellate court decisions on cases of interest to our insurance clients. No opinion as to the legal import of the cases summarized is intended. Any questions regarding the information contained in this transmission should be directed at any time to one of the attorneys of the firm.

The court reiterated that a business owner owes a duty of ordinary care to a business invitee to maintain the premises in a reasonably safe condition so that customers are not unnecessarily and unreasonably exposed to danger. This duty includes an obligation to warn invitees of latent or concealed defects of which the owner has or should have knowledge. However, the occurrence of an injury does not give rise to an inference of negligence., the burden is still on the plaintiff to identify or explain the reason for the fall.

Plaintiff asserted that a proper inspection would have revealed the defect in the seat. However, the court found there was no support in the record for this assertion. Neither did the plaintiff show that the defendant knew or should have known of the defect. Without evidence to support these allegations, summary judgement for Cinemark USA was affirmed.

GREEN & GREEN, Lawyers represents select insurance clients in all aspects of insurance litigation, from complex coverage questions to more routine torts. We will see to it that your file will be handled only by a competent, seasoned attorney who will work diligently to obtain the best result possible.

As a service to our clients, we provide weekly summaries of the most recent Ohio Supreme Court and appellate court decisions on cases of interest to our insurance clients. No opinion as to the legal import of the cases summarized is intended. Any questions regarding the information contained in this transmission should be directed at any time to one of the attorneys of the firm.