In the
Supreme Court of Ohio

RICHARD COMBS,	:	Case No. 2014-1891
	:	
Plaintiff-Appellee,	:	On Appeal from the
	:	Franklin County
v.	:	Court of Appeals,
	:	Tenth Appellate District
OHIO DEPARTMENT OF NATURAL	:	
RESOURCES, DIVISION OF PARKS &	:	Court of Appeals
RECREATION,	:	Case No. 14AP-193
	:	
Defendant-Appellant.	:	

MERIT BRIEF OF DEFENDANT-APPELLANT OHIO DEPARTMENT OF NATURAL RESOURCES, DIVISION OF PARKS & RECREATION

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INTRODUCTION

For more than fifty years, the General Assembly has incentivized landowners in Ohio to allow the public to freely use their lands for recreational pursuits by granting them immunity in the event that a recreational user is injured on their property. The General Assembly's grant of immunity is broad, and covers all non-intentional harms in order to make opening one's land to the public a "zero cost basis" proposition. *Shutrump v. Mill Creek Metro. Park Dist.*, No. 97 C.A. 40, 1998 WL 158864, at *3 (7th Dist. Apr. 2, 1998). Indeed, Ohio is one of only two states to offer *absolute* immunity to landowners under its recreational-user statute. *See* Dennis E. Dove, *The Expansion and Restriction of Ohio's Recreational User Statute*, 19 Cap. U. L. Rev. 1191, 1211 n.92 (1990) ("Idaho and Ohio are the only two states that have granted absolute immunity to landowners for injuries sustained by recreational users." (citation omitted)); *Fetherolf v. State, Dep't of Natural Res.*, 7 Ohio App. 3d 110, syl. (10th Dist. 1982) (holding that the recreational-user statute protects landowners even from "an action . . . brought against the owner by a recreational user for alleged wanton misconduct"). And this Court has previously upheld Ohio's absolute-immunity rule against an equal-protection challenge, finding that the General Assembly's decision to offer such broad immunity was reasonably related to a legitimate state interest. *Moss v. Dep't of Natural Res.*, 62 Ohio St. 2d 138, 142 (1980).

The General Assembly determined that expansive immunity was necessary to effect its goal of "encourag[ing] owners of premises suitable for recreational pursuits to open their land to public use without fear of liability." *Loyer v. Buchholz*, 38 Ohio St. 3d 65, 66 (1988). Thus, it made immunity "the quid pro quo for owners who ma[k]e their private land available for public recreation free of charge." *Thomas v. Coleco Indus., Inc.*, 673 F. Supp. 1432, 1434 (N.D. Ohio 1987) (citation omitted). Any rule that creates uncertainty about the scope of the broad grant of landowner immunity in R.C. 1533.181 would run counter to the General Assembly's purpose

and would cause landowners "to restrict recreational use of their properties, or close them entirely, from fear of liability." *Pauley v. Circleville*, 137 Ohio St. 3d 212, 2013-Ohio-4541 ¶ 35. Thus, this Court has cautioned that even when application of the statute produces "a harsh result," it is for "the General Assembly, not the courts" to create an exception to the immunity statute. *Id.* ¶ 38; *see also McCord v. Ohio Div. of Parks & Recreation*, 54 Ohio St. 2d 72, 74 (1978) (noting that if the immunity provided by R.C. 1533.181 is to be altered, "it must be accomplished by the General Assembly and not by this court"); *Phillips v. Ohio Dep't of Natural Res.*, 26 Ohio App. 3d 77, 81 (10th Dist. 1985) ("One, indeed, would be most oblique and egregiously insensitive if he would not respond with a deep feeling of sympathy for the tragedy and trauma that have occurred to the appellants. This court, however, must decide this case on what it understands are the present parameters of immunity that apply to these facts in Ohio as established by the General Assembly and the Ohio Supreme Court.").

Plaintiff Combs was injured while preparing to fish on property open to the public for recreational use, and seeks to hold the landowner liable. His claim is squarely foreclosed by the General Assembly's grant of immunity in the recreational-user statute, as evident from the plain text of R.C. 1533.181, the General Assembly's purpose in enacting that statute, this Court's prior precedents, and lower-court decisions around the State, which have all shown that the immunity determination "simply turns on the status of the plaintiff" as a recreational user when injured. *Milliff v. Cleveland Metroparks Sys.*, No. 52315, 1987 WL 11969, at *3 (8th Dist. June 4, 1987); *McCord*, 54 Ohio St. 2d at 74-75. The court below departed from this established rule and should be reversed.

STATEMENT OF THE CASE AND FACTS

A. Combs was injured when a mower flung a rock over 100 yards in the air and it hit him in the eye near the end of an overnight fishing trip in a state park.

On a summer night in 2011, Plaintiff Richard Combs and a friend entered Indian Lake State Park to go fishing for Combs's birthday. Transcript of Deposition of Richard Combs 15-19 (Oct. 23, 2013) ("Combs Dep. Tr."). They did not pay a fee to enter the Park; indeed, Combs had been to the Park a few times in the past and had never paid a fee. *Id.* at 21, 23. Combs and his friend fished all night but were unsuccessful; in the morning, they decided to try their luck at a location in the Park called Pew Island, where Combs believed from past experience there was "better fishing." *Id.* at 21-22, 30.

While Combs traversed to his chosen fishing spot on Pew Island just after 7 a.m., a veteran Ohio Department of Natural Resources employee was mowing weeds and overgrown brush from the edge of the lake surrounding the island to improve access to the lake for fishermen. Transcript of Deposition of Jerry Leeth 16 (Nov. 18, 2013) ("Leeth Dep. Tr.") ("Q: Okay. And [sic] what purpose were you mowing the edge of the lake? A: Because it grows up and then the fishermen can't access the water."). The employee was mowing near the edge of the lake when the blade of his mower hit riprap, an arrangement of rocks near water that prevents erosion. *Id.* at 25. Although Combs was more than 100 yards away from the mower at the time, he was struck in the eye by a piece of the riprap. Combs Dep. Tr. 25; Transcript of Deposition of Frank Giannola 12-13 (Nov. 25, 2013) ("Giannola Dep. Tr.") (noting that after the accident, Park manager had walked off the distance and estimated it to be over 110 yards).

B. The trial court dismissed Combs's suit because he was a recreational user at the time of his injury and thus R.C. 1533.181 barred him from suing the landowner.

Combs sued the Department, claiming that the Department's employee had been negligent in operating the mower. After discovery, the trial court granted the Department

summary judgment on the ground that it owed no duty to Combs under Ohio's recreational-user statute, R.C. 1533.181, because Combs was a recreational user when he was injured on the Department's premises, the Park.

Combs appealed, and the Tenth District reversed. *Combs v. Ohio Dep't of Natural Res.*, 2014-Ohio-4025 ¶ 14 (10th Dist.) ("App. Op."). Although Combs had conceded that he was a recreational user on premises covered by the recreational-user statute, the Tenth District found that the recreational-user statute did not apply because Combs's claim was based on employee negligence, not premises liability. The Tenth District relied on this Court's plurality decision in *Ryll v. Columbus Fireworks Display Co., Inc.*, 95 Ohio St. 3d 467, 2002-Ohio-2584, which held that the recreational-user statute did not immunize a landowner from a suit to redress injuries caused by shrapnel from an exploded firework because the firework was not part of the "premises" covered by the statute. Here, the Tenth District found, the rock from the shoreline that injured Combs was not a part of the premises covered by the recreational-user statute, but was analogous to the firework shrapnel in *Ryll*. App. Op. ¶ 11. Applying this narrow reading of the recreational-user statute, the Tenth District held that the Department was not immune from suit. *Id.* ¶ 10.

The Department filed a notice of appeal, and this Court granted further review. *See 04/08/15 Case Announcements*, 2015-Ohio-1353.

ARGUMENT

Appellant Ohio Department of Natural Resource's Proposition of Law:

> *R.C. 1533.181(A) immunizes landowners from liability for injuries to recreational users arising from the condition and maintenance of the land.*

As this Court and the lower courts have recognized, the General Assembly passed the recreational-user statute to grant broad immunity from suit to all Ohio landowners to encourage

them to open their lands for gratuitous public recreational use. The Tenth District's opinion defies the plain text of R.C. 1533.181, the General Assembly's intent in passing the statute, and more than thirty years of Ohio caselaw. The decision below should be reversed.

A. The Department is immune under the plain text of R.C. 1533.181 because Combs was a recreational user injured during a gratuitous use of the Department's land.

The recreational-user statute says that "[n]o owner, lessee, or occupant of premises . . . [o]wes any duty to keep the premises safe for entry or use" by "recreational users." R.C. 1533.18. Thus, a landowner is immune from suit if: (1) the injured party was a "recreational user"; (2) the injury occurred on "premises"; and (3) the "recreational user" did not pay for the privilege of using the covered "premises." *Id.*; *see Mitchell v. City of Blue Ash*, 181 Ohio App. 3d 804, 2009-Ohio-1887, ¶¶ 8, 12 (1st Dist.); *see also McNamara v. Cornell*, 65 Ohio App. 3d 269, 272 (8th Dist. 1989) ("In determining whether [landowners] should be given immunity under R.C. 1533.181, the analysis of a recreational user should focus on the character of the property upon which the injury occurred and the type of activities for which the property is held open to the public."). This Court has noted that the manner in which the plaintiff is injured is of "no significance" to the analysis, because the focus is whether "[t]he essential character of [the land on which plaintiff was injured] is that of premises held open to the plaintiff, without fee, for recreational purposes." *Miller v. Dayton*, 42 Ohio St. 3d 113, 115 (1989). Because two of the three elements of R.C. 1533.181—the nature of the premises and the location of the injury—are often not in dispute, courts have observed that the "determinative factor" is usually "whether the plaintiff was a recreational user." *Milliff v. Cleveland Metroparks Sys.*, No. 52315, 1987 WL 11969, at *3 (8th Dist. June 4, 1987) (cited with approval by *Pauley v. Circleville*, 137 Ohio St. 3d 212, 2013-Ohio-4541 ¶ 21).

Here, it is undisputed that all three elements of the test have been met. Combs was a "recreational user" because he was using the Park to fish. *See* R.C. 1553.18(B) (defining "recreational user" to include "a person to whom permission has been granted . . . [to] fish"). The Park met the definition of "premises" because it was open to the public for recreational use. *See* R.C. 1533.18(A) (defining "premises" as "all . . . lands, ways, waters, and any buildings and structures thereon"); *Moss v. Dep't of Natural Res.*, 62 Ohio St. 2d 138, syl. (1980) (holding that "the definition of 'premises' in R.C. 1533.18(A) effectively encompassed state-owned lands"). Finally, Combs did not pay to use the Park. Combs Dep. Tr. at 21. Thus, under the plain text of the statute, the Department owed no duty to Combs, and therefore summary judgment was appropriate. *See, e.g.*, *Mitchell*, 2009-Ohio-1887 at ¶¶ 8, 12 (holding that recreational-user statute barred plaintiff's suit where plaintiff, a recreational user who had not paid a fee, was injured by employee negligence while on covered premises); *Meiser v. Ohio Dep't of Natural Res.*, 2004-Ohio-2097, ¶¶ 1, 12 (Ct. Cl.) (holding same for suit for damages to recreational user's car, where damage was caused by object flung from weed whacker used by landowner-employee to maintain the premises).

B. Negligence claims arising out of injuries caused by the premises are subject to the recreational-user statute.

Combs cannot avoid the recreational-user statute by claiming that his suit is based on employee negligence, rather than premises liability, for two reasons. *First*, the recreational-user statute has always extended immunity to both active and passive negligence. *Second*, a contrary result would conflict with the General Assembly's purpose in creating the statute.

1. The recreational-user statute has always covered both active and passive negligence.

The recreational-user statute has immunized landowners from claims based on both passive and active negligence for nearly thirty years. *See Milliff*, 1987 WL 11969 at *3

(applying recreational-user statute to claims based on both actively creating a harm and failing to correct a defect in the premises). Courts have long agreed that landowners who open their property to the public owe no duty to make their property safe or protect recreational users from harm, including harm caused by the landowners' active negligence. *See, e.g.*, *Mitchell*, 2009-Ohio-1887 at ¶ 12 (granting immunity for harm allegedly caused by park employee negligence on premises); *McCord v. Ohio Div. of Parks & Recreation*, 54 Ohio St. 2d 72, 74 (1978) (same); *Gudliauskas v. Lakefront State Park*, 2005-Ohio-5598 at ¶¶ 4, 12 (Ct. Cl.) (same); *Meiser*, 2004-Ohio-2097 at ¶¶ 1, 12 (same). In the words of the Eighth District, "the recreational users statute does not contemplate a distinction between . . . passive and active negligence. The statute protects all owners of land who fall within it from [liability for] *all acts of negligence*." *Milliff*, 1987 WL 11969, at *3 (emphasis added); *see also* Dennis E. Dove, *The Expansion and Restriction of Ohio's Recreational User Statute*, 19 Cap. U. L. Rev. 1191, 1211 n.92 (1990) ("Idaho and Ohio are the only two states that have granted absolute immunity to landowners for injuries sustained by recreational users." (citation omitted)).

After all, premises liability is merely a historical offshoot of traditional negligence, and still requires all of the same elements to state a claim, including proof of "duty." *See, e.g.*, 76 Ohio Jurisprudence 3d § 130 ("The rules relating . . . to negligence actions specifically . . . apply to premises liability cases."); 62 American Jurisprudence 2d § 1 (noting that "the liability of a possessor of land to one injured on that land was historically treated as a branch of . . . negligence"); *Menifee v. Ohio Welding Prods., Inc.*, 15 Ohio St. 3d 75, 77 (1984) ("[I]n order to establish actionable negligence, one must show the existence of a duty, a breach of the duty, and an injury resulting proximately therefrom."). Thus, by expressly absolving landowners of any "duty" owed to recreational users, R.C. 1533.181 effectively immunizes landowners against *all*

negligence claims relating to the premises, without regard for whether the landowner's negligence was active, *see Pauley*, 2013-Ohio-4541 at ¶ 22 (no duty and thus no liability for injury on premises despite landowner's active negligence); *Mitchell*, 2009-Ohio-1887 at ¶ 12 (same); *McCord*, 54 Ohio St. 2d at 74 (same); *Gudliauskas*, 2005-Ohio-5598 at ¶ 16 (same); *Meiser*, 2004-Ohio-2097 at ¶¶ 1, 12 (same), or passive, *see Mason v. Bristol Local Sch. Dist. Bd. of Educ.*, 2006-Ohio-5174, ¶ 63 (11th Dist.) (no duty and thus no liability despite landowner's failure to correct defect in premises); *Fetherolf v. State, Dep't of Natural Res.*, 7 Ohio App.3d 110, 112 (10th Dist. 1982) (same); *Cantu v. Ohio Dep't of Natural Res.*, No. 2013-00386, 2014 WL 1193848, *2 (Ct. Cl. Mar. 21, 2014) (same); *Hill v. Beaver Creek State Park*, No. 2007-09089-AD, 2008 WL 5478287, ¶¶ 14-16 (Ct. Cl. Oct. 1, 2008) (same).

The history of the recreational-user statute supports these decisions applying the statute to both active and passive negligence. The statute was passed against the backdrop of common-law premises liability. *See Gladon v. Greater Cleveland Reg'l Transit Auth.*, 75 Ohio St. 3d 312, 315 (1996) ("Ohio adheres to the common-law classifications of invitee, licensee, and trespasser in cases of premises liability." (citations omitted)). Under the common law, recreational users like Combs would be licensees, and owed specific duties by the landowners as licensors. *See* Legislative Service Commission Commentary, H.B. 179 (1963) (discussing how R.C. 1533.181 would alter the "[p]resent common law in Ohio [which] requires a licensor to warn licensees" of dangerous conditions). But the General Assembly departed from the common law when it declared that landowners would owe no duty to recreational users, transforming them into, in essence, trespassers under the common-law premises-liability regime. *Id.* (recognizing the change in duty traditionally owed to licensees under the common law, and the abrogation of that duty under the new statute); *McCord*, 54 Ohio St. 2d at 74 n.* (recognizing that the statute

"abrogate[d] the common law" of premises liability); *Gladon*, 75 Ohio St. 3d at 317 ("[A] landowner owes no duty to a . . . trespasser except to refrain from willful, wanton or reckless conduct which is likely to injure him."). And under the common-law regime, landowners could not be held liable for either active or passive negligence that harmed an unknown trespasser. Restatement (Second) of Torts § 333 ("[A] possessor of land is not liable to trespassers for physical harm caused by his failure to exercise reasonable care . . . to carry on his activities so as not to endanger them.") (cited with approval by *Gladon*, 75 Ohio St. 3d at 316 n.2).

In R.C. 1533.181, the General Assembly simplified the common-law analysis for injuries on land opened for recreational use by creating two categories of users: those who use the land for recreational purposes without paying a fee, and everyone else. The former group—like traditional common law trespassers—were owed no duty under the statute, while the latter were still owed the duties that were traditionally owed to licensees and invitees. Thus, just as how under the common law "the status of the person who enters upon the land of another . . . define[s] the scope of the legal duty that the landowner owes the entrant," *Gladon*, 75 Ohio St. 3d at 315, so too does the immunity inquiry under R.C. 1533.181 "simply turn[] on the status of the plaintiff." *Milliff*, 1987 WL 11969, at *3; *see also Phillips v. Ohio Dep't of Natural Res.*, 26 Ohio App. 3d 77, 79 (10th Dist. 1985) (noting that "the decisive factor was the status of [users] at Ash Cave Park on the day of the accident" when combined with users' admission that they had not paid a fee to use the park).

Accordingly, this Court has usually focused the inquiry on whether the plaintiff was a recreational user, not the cause of the plaintiff's injury: "The determination of whether R.C. 1533.181 applies depends not on the property owner's actions, but on whether the person using the property qualifies as a recreational user." *Pauley*, 2013-Ohio-4541 at ¶ 21; *see also Miller*,

42 Ohio St. 3d at 115 (noting that the court "attach[ed] no significance" to the way the plaintiff was injured).

In *Pauley*, for example, this Court looked only to whether the plaintiff was a "recreational user" under the statute in determining that the city was immune from liability: because "Pauley was a recreational user within R.C. 1533.181," the city was immune under the statute, even though the city had created the hazard that caused Pauley's injuries. *Pauley*, 2013-Ohio-4541 at ¶ 22. *See also id.* ("[T]he city's alleged creation of a hazard on the premises does not affect its immunity.").

Similarly, in *McCord*, this Court found barred a suit based on allegations of active negligence by a landowner's employee because the decedent met the plain-text requirements of the statute. *McCord*, 54 Ohio St. 2d at 72-75. There, McCord and her nine-year-old son visited Punderson State Park to swim, and her son eventually drowned. *Id.* at 72. A lifeguard employed by the State was on duty that day and, according to McCord's complaint, failed for more than thirty minutes to investigate reports from beachgoers that McCord's son had disappeared under the water. *Id.* at 72-73. McCord sued on negligence principles, not premises liability. She alleged the landowner failed (1) "to fulfill their duty of reasonable care to supervise and watch over the minor children known to be swimming in said lake"; (2) "to supervise the operation of the lake or the persons swimming therein"; (3) "to have adequately trained lifeguards at the lake for the protection and supervision of persons swimming therein"; (4) "to train lifeguards adequately before permitting them to assume such a role at the lake"; and (5) "to have proper guidelines and or instructions for lifeguards assigned to the lake." *Id.*

The Court of Claims dismissed the complaint because the landowner was immune from suit under the recreational-user statute. *Id.* at 73. On appeal, the Tenth District reversed, finding

that there were factual issues to be decided regarding whether the lifeguard had been negligent and whether his negligence could be attributed to the landowner. *McCord v. Ohio Div. of Parks & Recreation*, No. 76AP-797, 1977 WL 200061 at *2 (10th Dist. Mar. 31, 1977). The Tenth District also noted that "it cannot be said that no duty attached to the state concerning the foreseeability of injury when it voluntarily maintains lifeguards while operating a swimming facility." *Id.* at *3.

Despite the complaint raising employee negligence rather than premises liability, this Court reversed the Tenth District. *McCord*, 54 Ohio St. 2d at 75. This Court reinstated the Court of Claims's dismissal, approving that court's decision that the statute barred the suit because the swimmer was a recreational user of covered premises under the statute. *Id.*

So too, here: Combs admits that he was a "recreational user" when he used the Park premises to fish, and he did not pay a fee to use the Park's lands for recreation. Therefore, under the recreational-user statute, the Department is immune from suit for his injury. *Pauley*, 2013-Ohio-4541 ¶ 22; *McCord*, 54 Ohio St. 2d at 74.

2. A contrary ruling would conflict with the General Assembly's intent in passing the recreational-user statute.

The ruling Combs urges would discourage landowners from performing maintenance necessary to allow the public to enjoy their property, thus squarely conflicting with the General Assembly's intent in creating the recreational-user statute itself. If the General Assembly granted immunity to encourage landowners to open their properties to the public for recreational use, then surely it did not intend to discourage those same landowners from maintaining their properties so that the public may enjoy them. *See Aumock v. State*, Nos. 00AP-676, 00AP-683, 2001 WL 95877, at *3 (10th Dist. Feb. 6, 2001) (noting a lack of authority "for the proposition that an entity (whether public or private) loses its immunity under the recreational-user statute by

undertaking certain activities that are designed to make the recreational use more safe" and rejecting the proposition as inconsistent with *McCord*).

But that is exactly the message the decision below sends landowners: you are immune from liability if you open your property to the public and a tree falls on someone, *see Estate of Finley v. Cleveland Metroparks*, 189 Ohio App. 3d 139, 2010-Ohio-4013 (8th Dist.), but you open yourself to liability if you notice that tree is a danger and cut it down yourself and unexpectedly injure someone in the process. In light of the General Assembly's expressed intent to encourage landowners to open their properties for public use through the liberal grant of immunity in the recreational use statute, an interpretation of that statute that discourages landowners from maintaining their properties both to enhance the public's enjoyment of them and to make them safer for that use must be rejected. *See Sorrell v. Ohio Dep't of Natural Res.*, 40 Ohio St.3d 141, 145 (1988) (rejecting an argument on the grounds that it would "discourage the state from holding its land open to the general public" and thus "would hinder the common goal of . . . the recreational user statutes, which is to encourage the state to open its land to public recreational use without fear of liability").

Even if owners are not discouraged from maintaining their properties, other adverse effects will follow from the lower court's ruling and Combs's position. For one, landowners may be driven to close their properties to the public entirely, judging that the risk of liability they face is not worth the trouble of keeping the property open for public recreational use. *See Pauley*, 2013-Ohio-4541 ¶ 35 ("Removing the protection of immunity would undoubtedly cause property owners to restrict recreational use of their properties, or close them entirely, from fear of liability."). But at a minimum, some landowners would close their lands to the public while they perform maintenance activities to avoid liability. And evidence in the record suggests that

closures for maintenance could be lengthy. Indeed, as one Department employee testified at his deposition in this case, it took upwards of three weeks to mow and perform routine maintenance in the park in which Combs was injured. *See* Leeth Dep. Tr. 23. As anyone with a lawn is aware, maintenance and upkeep is a constant for much of the spring, summer, and fall in Ohio. If the Department was required to close its land to the public during maintenance activities, the amount of time the public could enjoy the land would shrink noticeably. Full or partial closures would run counter to the General Assembly's intent to broaden access to lands for recreational use, not to restrict it.

The lower court's erroneous interpretation of the statute, if upheld, would have widespread effects in the State. Public and private parks blanket Ohio, and the decision below has consequence for all of them. For example, Ohio has 75 state parks that receive more than 50 million visitors each year. *See* Ohio Department of Natural Resources, *Ohio State Parks 2011 Annual Report* at 30, *available at* http://parks.ohiodnr.gov/portals/parks/pdfs/about/2011-annual-report.pdf (reporting 51,224,756 visitor occasions in Ohio's 75 state parks in 2011) (last visited June 1, 2015). Many of Ohio's municipalities also own and operate parks and other spaces available to the public for recreational use. In just the Cleveland metropolitan area, for example, there are more than 150 parks, playgrounds, and green spaces that are owned or maintained by the municipality's Department of Parks, Recreation and Properties. *See* City of Cleveland :: Parks & Playgrounds, *available at* http://www.city.cleveland.oh.us /CityofCleveland/Home/Government/CityAgencies/ParksRecreationandProperties/ParksPlaygrounds (last visited June 1, 2015). Under the lower court's ruling, each and every one of these parks could have to close to the public multiple times per summer during maintenance—or forgo

maintenance entirely—in order for the State and its municipalities to avoid potential liability. That is not what the General Assembly intended.

Beyond public lands, the statute—and therefore the rule of law at stake here—affects private landowners as well. *See, e.g.*, *Curtis v. Schmid*, 2008-Ohio-5239, ¶ 74 (5th Dist.). The statute reaches owners regardless of the size of the property and regardless of whether the owner "denies entry to certain individuals." R.C. 1533.181(B). This broad reach means broad applicability. Relying on the statute, private landowners around the State open their lands to others for hunting, fishing, off-trail riding, and other pursuits. All of these owners' valuable recreational land would be affected, and even potentially closed, if the lower court's ruling stands. At a minimum, like public lands, these private lands would be closed during periods of maintenance and upkeep, thus denying the public the enjoyment and benefit of their use in direct contravention of the General Assembly's intent in creating R.C. 1533.181.

C. *Ryll* does not compel a different result.

Combs relies on this Court's two-Justice plurality decision in *Ryll* to support his position that a landowner who causes an injury while maintaining property open to the public is not shielded by the recreational use statute. But *Ryll* says nothing about the issue here, and does not allow Combs to trump the immunity granted by the plain text of, and purpose behind, R.C. 1533.181.

As this Court recognized in *Pauley*, *Ryll* represents a unique exception to the general rule that the focus of the R.C. 1533.181 immunity inquiry is whether the plaintiff was a "recreational user" at the time of his injury. *See Pauley*, 2013-Ohio-4541 at ¶ 26. Under the *Ryll* exception, if the plaintiff's injury is caused by a foreign object, such as a firework shell, and not by a part of the premises, then the recreational user immunity statute does not apply. *Id.*; *see also Ryll*, 2002-Ohio-2584 at ¶ 15 ("The cause of the injury was shrapnel from fireworks, which is not part of

'privately-owned lands, ways, waters, and . . . buildings and structures thereon.'"). In *Pauley*, this Court found that a railroad tie in the city's park was unlike the firework shell in *Ryll*, because it was part of the premises of the park, and therefore the city was immune from suit arising out of an injury caused by the tie under R.C. 1533.181. *Pauley*, 2013-Ohio-4541 at ¶ 32.

Here, there is no dispute that the riprap which caused Combs's injury was a part of the Park premises, used to prevent erosion of the shoreline and allow fishermen to enjoy the Park's lake. To be sure, the riprap struck Combs after it was flung from a Department mower used to improve access to the lake for fishermen. But the involvement of the landowner and his alleged negligence was also at issue in *Pauley* with the railroad tie that was placed in the city park in that case. Only the time between the employee's actions and the injury differs between the two cases, but the legal result is the same here as there because the injury to the plaintiff in both cases was caused by an element of the premises. Thus, as in *Pauley*, this case is distinguishable from *Ryll*, because the injury Combs suffered was the result of a part of the premises that is covered by the recreational-user statute. *Id.*

Indeed, lower courts have often found landowners immune under the statute even for injuries that are caused by alleged employee negligence on the premises. *See, e.g.*, *Mitchell*, 2009-Ohio-1887 at ¶¶ 8, 12; *McCord*, 54 Ohio St. 2d at 74; *Gudliauskas*, 2005-Ohio-5598 ¶ 16; *Meiser*, 2004-Ohio-2097. For example, in *Mitchell*, a park employee opened a gate in the city park and crushed Mitchell's hand in the opening mechanism. 2009-Ohio-1887 ¶¶ 2-3. Mitchell sued the city for the injuries to his hand caused by the park employee. *Id.* ¶ 4. Noting that there, as here, it was undisputed that the plaintiff was a recreational user on premises covered by the statute, the First District held that the premises owner was immune from suit. *Id.* ¶¶ 8, 12. The First District rejected Mitchell's argument that *Ryll* compelled lower courts to deny immunity

where a contributing factor in the harm to the recreational user was the negligence of an employee. *Id.* ¶¶ 9-10. The First District distinguished *Ryll* on the grounds that, while Ryll "was not harmed by any portion of the premises," Mitchell had been harmed by the gate, which was an object on the premises. *Mitchell*, 2009-Ohio-1887 ¶ 11.

As in *Mitchell*, here *Ryll* is distinguishable because the harm to Combs came about from an object on the premises—namely, riprap near the shoreline of the lake. The riprap that caused Combs's injury was more a part of the Park here than was the gate in the city park in *Mitchell* or the railroad tie in *Pauley*, and all three inflicted the injuries giving rise to the plaintiffs' respective negligence suits. The gate in *Mitchell*, the tie in *Pauley*, and the rock here were part of the premises, unlike the flying firework shrapnel in *Ryll*. The rock was a natural condition of the Park premises; it was launched in the air as a result of a Department employee performing maintenance to improve the park for its recreational users' enjoyment. The flying shrapnel in *Ryll*, though, had no such nexus to the city's premises; the fireworks display had nothing to do with maintaining the city's premises and was a part of a one-time fireworks show. Thus, as in *Mitchell* and *Pauley*, here Combs's negligence claim is barred by R.C. 1533.181.

CONCLUSION

For the foregoing reasons, the Department urges the Court to reverse the Tenth District.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Merit Brief of Defendant-Appellant Ohio Department of Natural Resources, Division of Parks & Recreation was served by U.S. mail this 1st day of June, 2015 upon the following counsel:

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Richard Combs

/s Eric E. Murphy
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APPENDIX

In the Supreme Court of Ohio

RICHARD COMBS,	:	Case No. _____
Plaintiff-Appellee,	:	On Appeal from the Franklin County
v.	:	Court of Appeals, Tenth Appellate District
OHIO DEPARTMENT OF NATURAL RESOURCES, DIVISION OF PARKS & RECREATION,	:	Court of Appeals Case No. 14AP-193
Defendant-Appellant.	:	

NOTICE OF APPEAL OF DEFENDANT-APPELLANT OHIO DEPARTMENT OF NATURAL RESOURCES, DIVISION OF PARKS & RECREATION

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EXHIBIT 1

NOTICE OF APPEAL OF DEFENDANT-APPELLANT OHIO DEPARTMENT OF NATURAL RESOURCES, DIVISION OF PARKS & RECREATION

Defendant-Appellant Ohio Department of Natural Resources, Division of Parks & Recreation gives notice of its jurisdictional appeal to this Court, pursuant to Ohio Supreme Court Rules 5.02 and 7.01, from a decision of the Tenth District Court of Appeals captioned *Richard Combs v. Ohio Department of Natural Resources, Division of Parks & Recreation*, No. 14AP-193, issued and journalized on September 16, 2014.

Date-stamped copies of the Tenth District's Judgment Entry and Decision, and the Court of Claims' Entry are attached as Exhibits 1 through 3, respectively, to the Appellant's Memorandum in Support of Jurisdiction.

For the reasons set forth in the accompanying Memorandum in Support of Jurisdiction, this case raises questions of public and great general interest.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Notice of Appeal was served by U.S. mail this 31st day of October, 2014, upon the following counsel:

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IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Richard Combs,	:	
Plaintiff-Appellant,	:	
		No. 14AP-193
v.	:	(Ct. of Cl. No. 2013-00428)
Ohio Department of Natural Resources, Division of Parks & Recreation,	:	(REGULAR CALENDAR)
Defendant-Appellee.	:	

JUDGMENT ENTRY

For the reasons stated in the decision of this court rendered herein on September 16, 2014, appellant's assignment of error is sustained, and it is the judgment and order of this court that the judgment of the Court of Claims of Ohio is reversed, and this cause is remanded to that court for further proceedings in accordance with law consistent with said decision. Costs assessed against appellee.

KLATT, BROWN and DORRIAN, JJ.

/S/JUDGE

EXHIBIT 2

Tenth District Court of Appeals

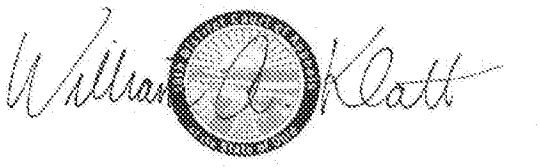
Date: 09-16-2014

Case Title: RICHARD COMBS -VS- OHIO DEPARTMENT OF NATURAL RESOURCES

Case Number: 14AP000193

Type: JEJ - JUDGMENT ENTRY

So Ordered



/s/ Judge William A. Klatt

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Richard Combs,	:	
Plaintiff-Appellant,	:	
		No. 14AP-193
v.	:	(Ct. of Cl. No. 2013-00428)
Ohio Department of Natural Resources, Division of Parks & Recreation,	:	(REGULAR CALENDAR)
Defendant-Appellee.	:	

D E C I S I O N

Rendered on September 16, 2014

Arthur C. Graves, for appellant.

Michael DeWine, Attorney General, and *Eric A. Walker*, for appellee.

APPEAL from the Court of Claims of Ohio

KLATT, J.

{¶ 1} Plaintiff-appellant, Richard Combs, appeals a judgment of the Court of Claims of Ohio that entered summary judgment for defendant-appellee, the Ohio Department of Natural Resources ("ODNR"). For the following reasons, we reverse and remand.

{¶ 2} On the morning of July 28, 2011, Combs visited Indian Lake State Park to go fishing. As he walked to his preferred fishing spot, Combs was struck in the right eye with a rock. The rock had been launched into the air by a boom mower being operated by Jerry Leach, an ODNR employee. Leach was mowing along the edge of the lake in the vicinity of riprap, which is rock placed along a shoreline to prevent erosion. Apparently,

the mower blade struck a piece of riprap, throwing it into the air. The thrown rock caused significant injury to Combs' eye.

{¶ 3} Combs filed suit against ODNR, alleging that Leach negligently operated the boom mower. After the parties conducted discovery, ODNR moved for summary judgment on the basis that it owed no duty of care to Combs by virtue of R.C. 1533.181, commonly known as the recreational user statute. In response, Combs argued that R.C. 1533.181 only provided immunity against premises liability claims, and, thus, it did not apply to his claim, which alleged negligence in the operation of the boom mower.

{¶ 4} The trial court agreed with ODNR, finding ODNR immune from liability because Combs was a recreational user injured on ODNR's premises. On February 4, 2014, the trial court entered judgment in ODNR's favor.

{¶ 5} Combs now appeals from the February 4, 2014 judgment, and he assigns the following error:

> The trial court erred in sustaining the Motion for Summary Judgment filed on behalf of the Defendants.

{¶ 6} A trial court will grant summary judgment under Civ.R. 56 when the moving party demonstrates that: (1) there is no genuine issue of material fact; (2) the moving party is entitled to judgment as a matter of law; and (3) reasonable minds can come to but one conclusion when viewing the evidence most strongly in favor of the nonmoving party, and that conclusion is adverse to the nonmoving party. *Hudson v. Petrosurance, Inc.*, 127 Ohio St.3d 54, 2010-Ohio-4505, ¶ 29; *Sinnott v. Aqua-Chem, Inc.*, 116 Ohio St.3d 158, 2007-Ohio-5584, ¶ 29. Appellate review of a trial court's ruling on a motion for summary judgment is de novo. *Hudson* at ¶ 29. This means that an appellate court conducts an independent review, without deference to the trial court's determination. *Zurz v. 770 W. Broad AGA, L.L.C.*, 192 Ohio App.3d 521, 2011-Ohio-832, ¶ 5 (10th Dist.); *White v. Westfall*, 183 Ohio App.3d 807, 2009-Ohio-4490, ¶ 6 (10th Dist.).

{¶ 7} Pursuant to R.C. 1533.181(A)(1), "[n]o owner, lessee, or occupant of premises * * * [o]wes any duty to a recreational user to keep the premises safe for entry or use." As used in R.C. 1533.181(A)(1), the term "premises" includes state-owned "lands,

ways, and waters, and any buildings and structures thereon." R.C. 1533.18(A); *Pauley v. Circleville*, 137 Ohio St.3d 212, 2013-Ohio-4541, ¶ 15. A "recreational user" is:

> a person to whom permission has been granted, without the payment of a fee or consideration to the owner, lessee, or occupant of premises, other than a fee or consideration paid to the state or any agency of the state, or a lease payment or fee paid to the owner of privately owned lands, to enter upon premises to hunt, fish, trap, camp, hike, or swim, or to operate a snowmobile, all-purpose vehicle, or four-wheel drive motor vehicle, or to engage in other recreational pursuits.

R.C. 1533.18(B).

{¶ 8} Here, Combs concedes that he was a recreational user. Thus, the operative question is whether Combs is seeking to hold ODNR liable for breaching a duty to "keep the premises safe for entry or use." If he is, then his claim fails, as R.C. 1533.181(A)(1) states that no such duty exists. If he is not, then R.C. 1533.181(A)(1) does not apply and the trial court erred in entering summary judgment based on that statutory provision.

{¶ 9} We find that the answer to the operative question lies in *Ryll v. Columbus Fireworks Display Co., Inc.*, 95 Ohio St.3d 467, 2002-Ohio-2584. There, one of the defendants was a city that had held a fireworks display in a municipal park. A spectator was killed by shrapnel caused when a firework shell exploded in its mortar tube, and the spectator's wife sued the city for negligently situating the spectator area too close to the location of the discharging fireworks. The city claimed immunity from liability under R.C. 1533.181. This court reversed the denial of the city's summary judgment motion on the immunity question, holding that R.C. 1533.181 provided immunity for all injuries incurred by recreational users. A plurality of the Supreme Court of Ohio concluded that our holding was overly expansive. *Id.* at ¶ 14. The Supreme Court stated:

> R.C. 1533.181(A)(1) does not state that a recreational user is owed no duty. Instead, R.C. 1533.181(A)(1) immunizes an owner, lessee, or occupant of premises only from a duty "to keep the *premises* safe for entry or use." (Emphasis added.) The cause of the injury in this case had nothing to do with "premises" as defined in R.C. 1533.18(A). The cause of the injury was shrapnel from fireworks, which is not part of "privately-owned lands, ways, waters, and * * * buildings and structures thereon." Id. Accordingly, R.C. 1533.181(A)(1) and (2) do not immunize [the city]. To hold otherwise would allow R.C. 1533.181 to immunize owners, lessees, and occupants for

> any of their negligent or reckless acts that occur on "premises." The plain language of the statute indicates that the General Assembly had no such intention.

Id. at ¶ 15. This holding is consistent with the law of other states that also have recreational user statutes that abolish a property owner's duty "to keep the premises safe for entry or use." *Klein v. United States*, 112 Cal.Rptr.3d 722, 730-31 (2010) ("By providing [ ] that a landowner owes no duty to 'keep the premises safe,' the Legislature has selected language implying a narrower immunity, focused on premises liability claims arising from property-based duties."); *Dickinson v. Clark*, 2001 ME 49 (2001), ¶ 7 ("[T]he Recreational User Statute only limits claims that allege premises liability."); *Young v. Salt Lake City Corp.*, 876 P.2d 376, 378 (Utah 1994) ("The operative language of the [recreational user] [a]ct does not purport to relieve landowners of their separate duty to conduct themselves in a reasonably safe manner while on the premises."); *Scott v. Wright*, 486 N.W.2d 40, 42 (Iowa 1992) (holding that the recreational user statute only immunized landowners, their agents, or employees from premises liability claims).

{¶ 10} Recently, the Supreme Court revisited *Ryll* in *Pauley*. In *Pauley*, the court stated that *Ryll* had held that "the recreational-user statute immunizes property owners from injuries that arise from a defect in the premises" and "[b]ecause the shrapnel was not a defect *in the premises*, immunity did not apply." (Emphasis sic.) *Pauley* at ¶ 26. The court went on to conclude that *Ryll* had no effect on the outcome in the case before the bar because that case involved a defect in the premises, i.e., a railroad-tie-like object embedded in a mound of dirt located in a municipal park. *Pauley* at ¶ 32.

{¶ 11} Here, the flying rock that injured Combs is akin to the flying shrapnel that injured the decedent in *Ryll*. Neither the rock nor the shrapnel constituted a defect in the premises. Consequently, although Combs, like the decedent in *Ryll*, was a recreational user, R.C. 1533.181(A)(1) does not immunize ODNR from liability for his injuries.

{¶ 12} ODNR resists this conclusion. It points to a passage in *Pauley* that states, "an owner cannot be held liable for injuries sustained during recreational use 'even if the property owner affirmatively created a dangerous condition.' " *Id.* at ¶ 21. Based on this passage, ODNR asserts that a property owner is immune under R.C. 1533.181(A)(1) for any and all dangerous conditions it creates, regardless of whether the dangerous condition is tied to the premises or not. We are not persuaded. For the cited passage to

have that meaning, *Pauley* would have had to disavow *Ryll*. *Pauley*, however, did not do that. Rather, *Pauley* discussed and distinguished *Ryll*; a treatment that indicates that *Ryll* remains valid law.

{¶ 13} Next, ODNR argues that this case is distinguishable from *Ryll* because the boom mower that threw the rock was being operated on state premises. We fail to see how that fact differentiates this case from *Ryll*. In *Ryll*, the alleged negligent act—the placement of the spectator area too close to the firework shells—also occurred on the defendant's premises. That fact did not preclude the Supreme Court from holding that R.C. 1533.181(A)(1) was inapplicable.

{¶ 14} Having rejected both of ODNR's arguments, we conclude that R.C. 1533.181(A)(1) does not bar Combs' negligence claim and, thus, the trial court erred in granting ODNR summary judgment based on R.C. 1533.181(A)(1). Accordingly, we sustain the sole assignment of error, we reverse the judgment of the Court of Claims of Ohio, and we remand this case to that court for further proceedings consistent with law and this decision.

Judgment reversed; cause remanded.

BROWN and DORRIAN, JJ., concur.

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

RICHARD COMBS

Plaintiff

v.

OHIO DEPARTMENT OF NATURAL RESOURCES

Defendant

Case No. 2013-00428

Judge Patrick M. McGrath
Magistrate Holly True Shaver

ENTRY GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

On November 8, 2013, defendant filed a motion for summary judgment pursuant to Civ.R. 56(B). With leave of court, on December 2, 2013, plaintiff filed a response. Defendant's motion is now before the court for a non-oral hearing pursuant to L.C.C.R. 4(D).

Civ.R. 56(C) states, in part, as follows:

"Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. No evidence or stipulation may be considered except as stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party's favor." *See also Gilbert v. Summit Cty.*, 104 Ohio St.3d 660, 2004-Ohio-7108, citing *Temple v. Wean United, Inc.*, 50 Ohio St.2d 317 (1977).

On July 28, 2011, at approximately 7:00 a.m., plaintiff was fishing with a friend on the premises of Pew Island, located in Indian Lake State Park. Plaintiff did not pay a fee to enter the premises. At the same time, Jerry Leeth, an employee of defendant, was

EXHIBIT 4

operating a "boom mower" on Pew Island to trim overgrown weeds and brush. As plaintiff was walking toward the lake to begin fishing, he was struck in the right eye by a rock that had been thrown from the blades of the boom mower. Plaintiff asserts that defendant's employee's negligence proximately caused his injuries.

In its motion, defendant contends that plaintiff's claim is barred as a matter of law by R.C. 1533.181, Ohio's recreational user statute.

R.C. 1533.181 states, in part:

"(A) No owner, lessee, or occupant of premises:

"(1) Owes any duty to a recreational user to keep the premises safe for entry or use;

"(2) Extends any assurance to a recreational user, through the act of giving permission, that the premises are safe for entry or use;

"(3) Assumes responsibility for or incurs liability for any injury to person or property caused by any act of a recreational user."

R.C. 1533.18 states, in part:

"As used in sections 1533.18 and 1533.181 of the Revised Code:

"(A) 'Premises' means all privately owned lands, ways, and waters, and any buildings and structures thereon, and all privately owned and state-owned lands, ways, and waters leased to a private person, firm, or organization, including any buildings and structures thereon.

"(B) 'Recreational user' means a person to whom permission has been granted, without the payment of a fee or consideration to the owner, lessee, or occupant of premises, other than a fee or consideration paid to the state or any agency of the state, or a lease payment or fee paid to the owner of privately owned lands, to enter upon premises to hunt, fish, trap, camp, hike, or swim, or to operate a snowmobile, all-purpose vehicle, or four-wheel drive motor vehicle, or to engage in other recreational pursuits."

In support of its motion, defendant filed the deposition of plaintiff, who acknowledges that he was on Pew Island to go fishing, and that he did not pay a fee to enter the premises. In response to the motion, plaintiff filed his own affidavit and the depositions of

Leeth, Raymond Gaines, Jr., (park ranger), and Frank Giannola, (park manager). Plaintiff concedes that he was a recreational user, but contends that the recreational user statute does not preclude his claim because the cause of his injury was not a condition of the premises, but, rather, Leeth's alleged negligent mowing. Plaintiff argues that the recreational user statute does not apply to injuries sustained as a result of the "active negligence" of a landowner's employee.

The Supreme Court of Ohio recently addressed the recreational user statute in *Pauley v. Circleville*, 137 Ohio St.3d 212, 2013-Ohio-4541. In *Pauley*, the court stated: "Under R.C. 1533.181(A)(1), '[n]o owner owes *any duty* to a recreational user to keep the premises safe for entry or use.' (Emphasis added.) A duty is '[a] legal obligation that is owed or due to another and that needs to be satisfied.' Generally speaking, '[i]f there is no duty, no liability can follow.' Consequently, an owner cannot be held liable for injuries sustained during recreational use 'even if the property owner affirmatively created a dangerous condition.' * * * The determination of whether R.C. 1533.181 applies depends not on the property owner's actions, but on whether the person using the property qualifies as a recreational user." (Internal citations omitted) *Id.* at ¶ 21.

In addition, "[i]n determining whether a person is a recreational user under R.C. 1533.18(B), the analysis should focus on the character of the property upon which the injury occurs and the type of activities for which the property is held open to the public." *Id.*, at ¶ 29, quoting *Miller v. Dayton*, 42 Ohio St.3d 113 (1989), paragraph one of the syllabus.

Construing the evidence most strongly in plaintiff's favor, the only reasonable conclusion is that plaintiff was a recreational user at the time he was injured. Plaintiff was on state-owned land for the purpose of fishing. Plaintiff did not pay a fee to enter the premises. Indian Lake State Park, including Pew Island, is held out to the public for recreational uses such as fishing. Accordingly, pursuant to R.C. 1533.18 and 1533.181, defendant owed no duty of care to keep the premises safe for entry or use by plaintiff, and, consequently, plaintiff's claim of negligence is barred as a matter of law. The fact that a

rock was thrown by a mower blade operated by defendant's employee does not change the fact that plaintiff was a recreational user when he was injured on defendant's premises. *See Mitchell v. City of Blue Ash*, 181 Ohio App.3d 804, 2009-Ohio-1887 (1st Dist.2009) (plaintiff who was injured when park employee negligently operated fence gate was barred from recovery on a theory of negligence pursuant to R.C. 1533.181). Based upon the foregoing, defendant's motion for summary judgment is GRANTED and judgment is rendered in favor of defendant. All previously scheduled events are VACATED. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

PATRICK M. MCGRATH
Judge

cc:

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002

Baldwin's Ohio Revised Code Annotated
Title XV. Conservation of Natural Resources
Chapter 1533. Hunting; Fishing (Refs & Annos)
Hunting and Trapping Generally Recreational Users

R.C. § 1533.18

1533.18 Premises, recreational user, all-purpose vehicle defined

Effective: June 30, 2007
Currentness

As used in sections 1533.18 and 1533.181 of the Revised Code:

(A) “Premises” means all privately owned lands, ways, and waters, and any buildings and structures thereon, and all privately owned and state-owned lands, ways, and waters leased to a private person, firm, or organization, including any buildings and structures thereon.

(B) “Recreational user” means a person to whom permission has been granted, without the payment of a fee or consideration to the owner, lessee, or occupant of premises, other than a fee or consideration paid to the state or any agency of the state, or a lease payment or fee paid to the owner of privately owned lands, to enter upon premises to hunt, fish, trap, camp, hike, or swim, or to operate a snowmobile, all-purpose vehicle, or four-wheel drive motor vehicle, or to engage in other recreational pursuits.

(C) “All-purpose vehicle” has the same meaning as in section 4519.01 of the Revised Code.

CREDIT(S)

(2007 H 67, eff. 6-30-07; 2004 S 80, eff. 4-7-05; 2002 S 106, eff. 4-9-03; 131 v S 352, eff. 10-30-65; 130 v H 179)

Notes of Decisions (61)

R.C. § 1533.18, OH ST § 1533.18
Current through 2015 Files 1 to 6 of the 131st GA (2015-2016).

End of Document

Baldwin's Ohio Revised Code Annotated
Title XV. Conservation of Natural Resources
Chapter 1533. Hunting; Fishing (Refs & Annos)
Hunting and Trapping Generally Recreational Users

R.C. § 1533.181

1533.181 Exemption from liability to recreational users

Currentness

(A) No owner, lessee, or occupant of premises:

(1) Owes any duty to a recreational user to keep the premises safe for entry or use;

(2) Extends any assurance to a recreational user, through the act of giving permission, that the premises are safe for entry or use;

(3) Assumes responsibility for or incurs liability for any injury to person or property caused by any act of a recreational user.

(B) Division (A) of this section applies to the owner, lessee, or occupant of privately owned, nonresidential premises, whether or not the premises are kept open for public use and whether or not the owner, lessee, or occupant denies entry to certain individuals.

CREDIT(S)

(1995 H 117, eff. 9-29-95; 130 v H 179, eff. 9-24-63)

Notes of Decisions (114)

R.C. § 1533.181, OH ST § 1533.181
Current through 2015 Files 1 to 6 of the 131st GA (2015-2016).

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