

# WARNING!



## NO ONE IS EXEMPT FROM OUR LITIGIOUS SOCIETY

— by Andrej Lah, Esq.

Ask anyone about our society today and they'll likely concur that people sue for every little thing. Look at the products we buy; the warning labels are so extensive that they become ridiculous. Warnings at the end of television commercials for new medication have become so pervasive that they are now parodied on late night comedy shows.

No organization is immune from the nonsensical lawsuits that are filed every day. Those who are in positions responsible for protecting companies from these unreasonable cases are caught in a constant defensive battle to stifle plaintiffs' lawyers. One of the best methods of frustrating a plaintiff's lawyer is to provide sufficient warning of the conditions that exist, thereby placing a visitor on notice of potential hazards.

Warnings labels are on everything and are everywhere and while they tend to point out the obvious, they serve the sole purpose of mitigating damages. For example, a lawsuit stemming from a fall from a ladder would prove difficult to litigate because of the myriad warnings on the product placed by the manufacturer. It is no different for managers of properties open to the public. The better the warning the less likely a personal injury lawsuit will succeed.

A plaintiff's attorney will always focus on the failure to warn when presenting their case to a jury. When a property owner fails to warn of the conditions that exist, liability may ensue and the insurance carrier will settle the claim rather than attempt a defense. A plaintiff's lawyer is presented with a best case scenario where there is an injured client and a defendant that failed to provide any warning of any conditions that may cause injury. Common sense would dictate that hazardous conditions exist at a property used for the interment of the deceased but this is a court of law and common sense has no place within the courtroom.

A cemetery is unique in the fact that every few feet there is a polished granite memorial that is slippery when wet and even more so with recently cut grass atop of it. New graves settle when it rains and mud will not support a person's weight. Pillow markers hidden by snow can cause someone to trip. In addition to an injury, some plaintiffs maintain that they have been traumatized by the fact that an injury occurred on a loved one's grave. "It felt as if I was being pulled into the grave." The Catholic Cemeteries Association of the Diocese of Cleveland has developed a tool that may help in defending against the litigious members of the plaintiff's bar.

Working with the design team at Nutron Nameplate, Inc. with final review by the liability experts at the law firm Taft, Stettinius and Hollister, LLP, the CCA has developed what we believe will be a significant tool in the battle to protect our cemeteries from the members of the plaintiff's bar trolling for their next case. While no warning sign will prevent a lawsuit, and it may not prevent an adverse finding because juries can be unpredictable, what it will do is allow defense counsel to mount a strong defense. The insurance carrier may still attempt to settle but the amount may be significantly reduced if the defense counsel can show that the plaintiff was warned of the potentially hazardous condition and placed themselves at risk by ignoring the warning.

Facing a lawsuit is the worst time to find out that you should have placed warning signs at each entrance to your property.

Andrej Lah, Esq., is president/CEO of the Catholic Cemeteries Association, Diocese of Cleveland. He may be reached at 216.641.7575 or email [alah@clevelandcatholiccemeteries.org](mailto:alah@clevelandcatholiccemeteries.org).