

Liability and Risk Associated With Quarry Operations



Improving Processes. Instilling Expertise.

FRIEDMAN

DAZZIO, ZULANAS & BOWLING, P.C.

Introduction

- Our firm has been defending quarries for over 25 years.
- I have been personally defending quarries for the last seventeen years.
- Though the quarry industry has changed dramatically over the last five years, it has not had the effect on litigation that one might expect.
- The economy has left many people unemployed or under employed, which has resulted in more lawsuits being filed.
- Plaintiffs' attorneys have also gotten more creative
- As a result, the cases being filed today are as much about the quarry operations (dust, noise, hours, etc.) as they are about the blasting.
- Despite this change, the keys to winning a quarry case have not changed.

Introduction

- How to win your case.
- Some common misconceptions about lawsuits and court.
- Real world examples.

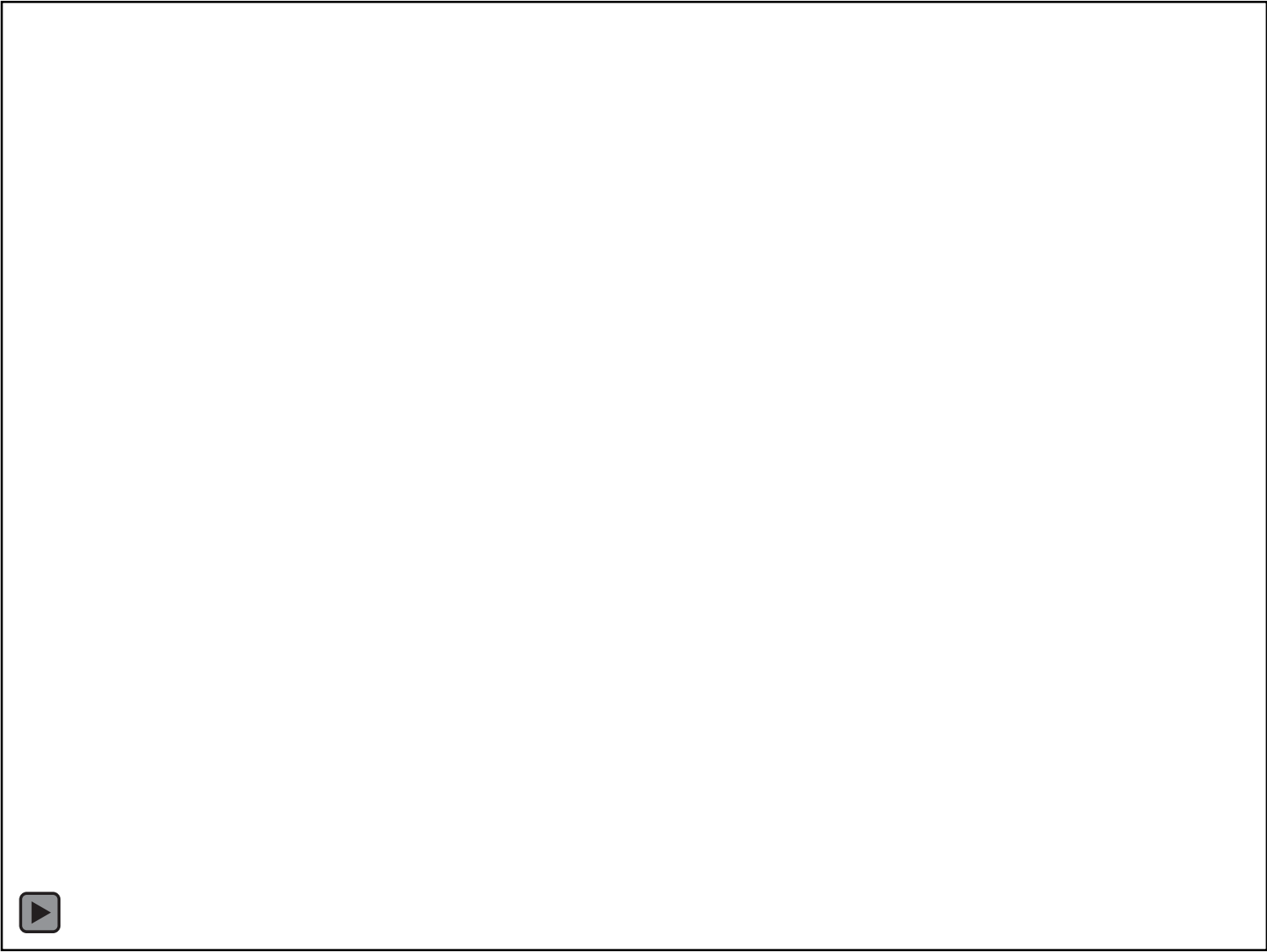
How To Win Your Case

Records Matter

- Keeping good records is an absolute pre-requisite to winning any blasting/nuisance lawsuit.
- While we as lawyers love to take credit for trial victories, the truth is that blasting cases are really won or lost long before suit is filed.
- Accurate, complete records are important because people are not familiar with and don't understand quarry operations or blasting.
- People are suspicious of things they don't understand.
- This is especially true for things they perceive as dangerous; like explosives and large machinery.

Records Matter

- Jurors and judges draw from their own experiences when analyzing any new situation.
- Almost everyone makes decisions based on first impressions or perceptions and these first impressions or perceptions are almost impossible to overcome.
- When people are faced with deciding whether something is wrong or dangerous, the first question they ask is whether the activity is legal.
- Perception is reality.



Quarry Litigation

- Blasting cases can be difficult to win.
- Changes in public perception about blasting have made cases more difficult to defend.
 - There are more quarry operations in close proximity to people's homes than ever before.
 - More people have also had to deal with blasting and construction because of highway projects, shopping center construction and coal mines.

The Multimedia Onslaught

- No one wants to live near a quarry.
- The internet allows plaintiffs to easily tell their story to the public at large.
- This change is evidenced by negative stories in the media and blatant attempts by plaintiffs' lawyers to generate blasting litigation.

BLASTING DAMAGE

**If you are damaged from blasting
in this area, please call either:**

Clifford W. Hardy, Attorney 205-428-7348

or

Ken Simon, Attorney 205-250-6662

No Representation is made to the quality of legal service to be performed or the expertise of the lawyer to perform such services.



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WBRC - 6
Birmingham

10:00 PM

TO: The Clients in the blasting case with medical damages

FROM: Cliff Hardy

Dear Clients:

The ones of you who are claiming damages due to the dust, etc., it is **IMPERATIVE** that you go to your doctors and tell your doctors about the dust, the blasting and all that is going on in Lipscomb. You must remember: If it's not in your medical records, it never happened. For you to collect damages for your medical condition, **IT MUST BE IN YOUR MEDICAL RECORDS**. I cannot collect damages for illnesses/injuries that are not documented in your medical records.

I appreciate the opportunity of representing each and every one of you in this case. I want all of you to get as much as possible for your suffering.

Please call my office if you have any questions.

CLIFFORD W. HARDY, JR.

The Multimedia Onslaught

- Judges and jurors believe blasting can cause damage.
- We are guilty until proven innocent.
- Plaintiffs try to take advantage of this by playing on these perceptions.
- They now video blasts because they realize they look worse than they are.





2:16 PM
MAR. 11, 2010