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**RE: NEW OHIO SUPREME COURT DECISIONS ON WORKPLACE INTENTIONAL TORT CLAIMS**

On March 23, 2010 the Ohio Supreme Court issued two very important decisions on workplace intentional tort claims. The Supreme Court upheld the constitutionality of R.C. 2745.01, which was enacted in April of 2005. Links for copies of the decisions in *Kaminski v. Metal & Wire Products Co.* and *Stetter v. R.J. Corman Derailment Services* are below.

- [\*Kaminski v. Metal & Wire Products Co., 2010-Ohio-1027\*](#)
- [\*Stetter v. R.J. Corman Derailment Services, 2010-Ohio-1029\*](#)

Both cases involved suits brought by injured workers against their employers, alleging workplace intentional torts. The employers took the position the claims were governed by R.C. 2745.01, while the plaintiffs argued the statute was unconstitutional. R.C. 2745.01 changed the standard of proof an injured employee must meet. The key requirement of the statute is an employer must have acted “with a deliberate intent to cause injury.”

Both cases were decided by a 6 to 1 vote, with Justice Cupp writing the majority opinion, and Justice Pfeifer dissenting. Justice Cupp determined the Legislature did not overstep its bounds in enacting the statute, and placed particular emphasis on the fact the statute only serves to limit such claims, rather than eliminate them completely.

A number of Ohio trial and appellate courts had deferred taking any action on such cases, waiting for the Supreme Court to address the constitutionality of the statute. Those cases will now move forward. The most likely next step is for the plaintiffs’ bar and organized labor to work with the Legislature to try to amend or repeal this statute. We will keep you posted on any such efforts.

If you have any further questions regarding the impact of these decisions, please do not hesitate to contact our firm.

Sincerely yours,

Thomas F. Glassman

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