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Sent: Wed Aug 06 14:52:34 2008

Gallagher Sharp Newsflash: Legal Malpractice

Today, August 6, 2008, the Supreme Court of Ohio held that “when a plaintiff premises a legal-malpractice claim on the theory that he would have received a better outcome if his attorney had tried the underlying matter to conclusion rather than settled it, the plaintiff must establish that he would have prevailed in the underlying matter and that the outcome would have been better than the outcome provided by the settlement.” *Environmental Network Corp. v. Goodman Weiss Miller, L.L.P.*, Slip Opinion No. 2008-Ohio-3833 at ¶2. The *Environmental Network* decision is important because it clarifies *Vahila v. Hall* (1997), 77 Ohio St.3d 421, 674 N.E.2d 1164, and affirms that the “case-within-a-case” doctrine is still part of Ohio legal malpractice jurisprudence.

The Environmental Network plaintiffs made the legal malpractice claim that their attorneys coerced them into accepting a settlement on the second day of trial in the underlying case. They argued that, but for their attorneys' breach of duty in coercing the settlement, they would have tried their case to conclusion and obtained a better result. At trial, the Environmental Network plaintiffs did not attempt to prove that they would have achieved a better result had the underlying case been tried to a verdict. The trial court in the legal malpractice action instructed the jury that they could find for the plaintiffs if the plaintiffs presented merely “some evidence” of the merit of their case, an instruction based on *Vahila*. The jury returned a verdict for plaintiffs. On appeal, the Eighth District Court of Appeals affirmed the verdict, agreeing with the trial court that the Environmental Network plaintiffs were required only to present “some evidence” of the merits of their claim in the underlying case.

In reversing the Eighth District Court of Appeals, Justice O'Connor, writing for the majority, stated that the “case-within-a-case doctrine” is the appropriate tool to analyze the claim in this instance where the plaintiff's sole theory for recovery was that if the underlying matter had been tried to conclusion, he would have received a more favorable outcome than he obtained in settlement. In so doing, the Supreme Court did not overrule *Vahila*, but clarified it by stating:

“***in holding that not every malpractice case will require that the plaintiff establish that he would have succeeded in the underlying matter, the *Vahila* court necessarily implied that there are some cases in which the plaintiff must so establish. This is one such case.” ¶17. (Emphasis in original.)

The Supreme Court reversed the judgment of the Eighth District Court of Appeals and ordered the cause remanded to the trial court to enter an order of final judgment in favor of Goodman Weiss Miller. ¶30. The Syllabus of the Court states:

“When a plaintiff premises a legal-malpractice claim on the theory that he would have received a better outcome if his attorney had tried the underlying matter to conclusion rather than settled it, the plaintiff must establish that he would have prevailed in the underlying matter and that the outcome would have been better than the outcome provided by the settlement. *Vahila v. Hall* (1997), 77 Ohio St.3d 421, 674 N.E.2d 1164, clarified.”

The sole dissenter, Justice Pfeifer, would have affirmed, concluding that Environmental Network provided sufficient evidence and, in this instance, should not have been required to prove a “case-within-a-case.” ¶31. Justice O'Donnell concurred in the judgment of the majority only.

The full opinion can be found at <http://www.sconet.state.oh.us/rod/docs/pdf/0/2008/2008-ohio-3833.pdf>.

Ross, Dixon & Bell, LLP and Gallagher Sharp represented the defendant-appellant in this case. If you have any questions, please contact

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