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**Gallagher Sharp Newsflash: Ohio Statute Mandating Bifurcation of Punitive Damages in Tort Actions is Constitutional**

Today, February 15, 2012, in a 5 to 2 decision, the Supreme Court of Ohio upheld the constitutionality of Ohio Revised Code 2315.21(B), a tort reform amendment to the punitive damages statute making bifurcation (i.e., separate trials) in tort actions involving both compensatory and punitive damages claims mandatory upon request.

In *Havel v. Villa St. Joseph*, the Supreme Court of Ohio held that R.C. 2315.21(B) creates, defines, and regulates a substantive, enforceable right to separate stages of trial relating to the presentation of evidence for compensatory and punitive damages in tort actions. The Court explained that because it is a substantive statute, it takes precedence over Civ.R. 42(B) which gives a trial court discretion to bifurcate claims for trial purposes, as compared to R.C. 2315.21(B) which requires bifurcation when a motion requesting it is filed. The Court determined that because R.C. 2315.21(B) is a substantive law, it prevails over the procedural bifurcation rule promulgated by the Ohio Supreme Court in Civ. R. 42(B), and thus, does not violate the separation of powers required by Article IV, Section 5(B) of the Ohio Constitution.

Justice O'Donnell wrote the majority opinion, with Justices Lundberg Stratton, Lanzinger and Cupp concurring. Chief Justice O'Connor concurred in judgment only.

Justices McGee Brown and Pfeifer dissented, arguing that Article IV, Section 5(B) of the Ohio Constitution prohibits the General Assembly from enacting laws that conflict with the Supreme Court of Ohio's court rules and that R.C. 2315.21(B) clearly conflicts with Civ.R. 42(B), which allows a trial court judge to use discretion in deciding whether to grant motions for bifurcation.

*Havel* finally resolves the recurring conflicts and inconsistent application by trial judges of the statute's mandatory bifurcation of punitive damages which have plagued the trial of tort actions ever since R.C. 2315.21(B) was enacted in April 2005.

The opinion can be viewed by clicking on: <http://www.sconet.state.oh.us/rod/docs/pdf/0/2012/2012-Ohio-552.pdf>

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