

**Gallagher Sharp Municipal Liability Newsflash:
Supreme Court of Ohio Holds that a Political Subdivision Employer is not
Immune from Liability for a Claim Brought by a Former Employee**

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On June 26, 2019, the Supreme Court of Ohio held that under R.C. 2744.09(B), a political subdivision employer is not immune from liability for a claim brought by a former employee if there is a causal connection between the claim and the plaintiff's employment relationship with the political subdivision employer.

In *Piazza v. Cuyahoga County*, __ Ohio St. __, 2019-Ohio-2499, Piazza sued her former employer, Cuyahoga County, for false light invasion of privacy. Her claim was based on a statement allegedly made by a Cuyahoga County executive to the Plain Dealer about the termination of Piazza's employment. The county moved for summary judgment, arguing that it was immune from liability pursuant to R.C. 2744.02(A). The Cuyahoga County Court of Common Pleas denied the motion. It held that pursuant to R.C. 2744.09(B), political subdivision immunity did not apply to Piazza's claim. R.C. 2744.09(B) states that Ohio's Political Subdivision Immunity Act, codified at R.C. Chapter 2744 does not apply to "[c]ivil actions by an employee * * * against his political subdivision relative to any matter that arises out of the employment relationship between the employee and the political subdivision."

The county appealed to the Eighth District Court of Appeals where it argued that because the alleged tortious conduct (the statement by the county executive) occurred after the county had already terminated Piazza's employment, her claim did not arise out of her employment relationship with the county. The county maintained that for R.C. 2744.09(B) to apply, Piazza needed to be a *current* employee both when her claim accrued and when she filed her lawsuit. The Eighth District rejected this argument and held that the county was not immune from liability pursuant to the express exception in R.C. 2744.09(B). The Eighth District affirmed the trial court's rejection of the county's assertion of immunity. The county appealed.

The Supreme Court affirmed the judgment of the Eighth District. The Court's interpretation of R.C. 2744.09(B) was based on a previous interpretation of the terms "in the course of" and "arising out of" as used in a workers' compensation statute. Matters "in the course of" the employment relationship would include only conduct that occurred during an employee's technical employment. However, as used in R.C. 2744.09(B), matters "arising out of" the employment relationship more broadly applies where there is a causal relationship between the claims raised by an employee and the employment relationship. The Court also found that no court in Ohio has ever concluded that R.C. 2744.09(B) requires that the lawsuit must be filed while the employee is employed by the political subdivision. The Court noted that such a

requirement would lead to an unreasonable result, as employers would be encouraged to terminate employees to avoid liability for potential claims.

The opinion can be found at: <http://www.supremecourt.ohio.gov/rod/docs/pdf/0/2019/2019-Ohio-2499.pdf>.

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