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Appeals Court Finds Ohio's Tort Reform Statute Limits Punitive Damages in Employment Discrimination Claims

On May 19, 2011, Ohio's Eighth District Court of Appeals reduced a plaintiff's award for punitive damages for his alleged retaliatory discharge from more than \$46 million to \$7 million, applying Ohio's tort reform statute, enacted in 2005 as Ohio Revised Code § 2315, to that damage award. *Luri v. Republic Servs., Inc.*, 2011-Ohio-2389. The holding resolves doubt, at least with respect to this court's view, as to whether employment discrimination claims are subject to the same punitive damages caps applicable to personal injury tort actions, as set forth in Ohio's tort reform statute.

The *Luri* case involved a retaliatory discharge claim under R.C. § 4112.02(A), which provides that it is an unlawful discriminatory practice for "any employer, because of the race, color, religion, sex, military status, national origin, disability, age, or ancestry of any person, to discharge without just cause, to refuse to hire, or otherwise to discriminate against that person with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment." The plaintiff, Ronald Luri, alleged that he was wrongfully discharged by Republic Services because he refused to follow supervisors' orders to terminate the company's three oldest workers without just cause. Luri named Republic Services and his two supervisors as defendants and presented evidence during trial that Republic Services, when defending its actions to terminate him, falsified evidence. The jury found in Luri's favor, awarding him \$3.5 million in compensatory damages and more than \$46 million in punitive damages, the largest retaliatory discharge award in Ohio history.

The defendants appealed the award, arguing, in part, that the punitive damages award was excessive under R.C. § 2315.21(D)(2)(a), given the amount of compensatory damages awarded. The statute provides that punitive damages in a tort action may not exceed double the compensatory damages and defines "tort action" as "a civil action for damages for injury or loss to person or property." The statute's definitions state in R.C. § 2315.21(A)(1) that a "tort action ... does not include a civil action for damages for a breach of contract damages or another agreement between persons."

The court addressed whether Ohio's tort reform statute can apply to employment discrimination claims, noting that Ohio courts have already held that "an action brought under [R.C.] § 4112 is a 'tort action' because it is 'a civil action for damages for injury or loss to person or property.'" The court also noted that R.C. § 2315.21(E), while specifically excluding certain claims from applicability, does not specifically exclude employment discrimination claims. Thus, the court held the punitive damages caps under R.C. § 2315.21(D)(2)(a) applied to Luri's discrimination claim under R.C. § 4112, reducing the punitive damages award to double the compensatory damages award, in this case \$7 million.



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