

LEGISLATIVE UPDATE – Toledo Claims Association

November, 2008

LEGISLATION:

In light of the recent elections and the legislature's focus on their campaigns, there is no new legislation to update at this time. One development of note from the elections is that the Ohio House of Representatives majority will be held by the democratic party beginning in 2009.

RECENT DECISIONS/JUDICIAL DEVELOPMENTS:

Achison v. Anchor Packing Company, Slip Opinion No. 2008-Ohio-5243. The Ohio Supreme Court held that the asbestos reform legislation (H.B. 292) can be applied to cases that were pending prior to its effective date without violating the Retroactivity Clause of the Ohio Constitution. The Court noted that the statute was explicitly enacted to address the burden placed on the court system by asbestos litigation. More importantly the Court noted that the legislation did not impact substantive rights of the litigants, but addressed procedural requirements and was a 'procedural prioritization' statute. It was estimated that at the time of the enactment of H.B. 292, there were over 40,000 asbestos related claims in the Ohio court system.

Maynard v. Eaton Corp. (2008), 119 Ohio St.3d 443 – The Ohio Supreme Court held that the amendment to R.C. 1343.03(A) (the interest statute) applies in cases that were pending prior to June 2, 2004 (the effective date of the amendments). The Court clarified that when calculating interest, the fixed rate that was in effect through June 1, 2004 shall apply from the beginning calculation date through June 1, 2004 and the remainder of the interest from June 2, 2004 through the end calculation date shall be determined using the amended version of 1343.03(A), which fluctuates yearly.

Snowden v. Hastings Mut. Ins. Co. (2008), 177 Ohio App.3d 209 (7th Dist.) – The Seventh District Court of Appeals held that an intentional acts exclusion did not apply to acts allegedly taken in self-defense.

Should you have any questions or have a topic of interest that you would like discussed in the legislative update, do not hesitate to contact me directly at (419) 248-2613 or tzimmerman@rcmtz.com. I will be glad to either provide you with the information you need or include something in the next monthly legislative update.