

Weston Hurd Client Advisory - February 2012  
**Ohio Supreme Court Holds Sovereign Immunity  
Does Not Protect Political Subdivisions Against  
Employee Intentional Tort Claims**

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Those involved with political subdivision claims will be interested in the Ohio Supreme Court's new decision holding that sovereign immunity does not bar employee intentional tort claims when they arise out of the employment relationship. In *Sampson v. Cuyahoga Metro. Hous. Auth.*, 2012 Ohio 570, defendant CMHA had plaintiff arrested in full view of his co-workers and local media after investigating employee use of agency credit cards for personal gasoline purchases. A grand jury indicted plaintiff for theft, but the prosecutor appeared for trial unprepared and had to dismiss the case. Plaintiff filed a union grievance and the arbitrator found that CMHA fired him without just cause and ordered reinstatement. Plaintiff ultimately resigned finding the work atmosphere intolerable. He then sued CMHA for intentional infliction of emotional distress and other claims.

Political subdivisions are ordinarily protected by statutory sovereign immunity for damage claims arising out of governmental or proprietary functions. Ohio Revised Code Section 2744.09 (B) provides an exception to immunity for civil actions filed by employees "relative to any matter that arises out of the employment relationship." Citing to the Ohio Supreme Court's 1982 decision in *Blankenship v. Cincinnati Milacron Chems., Inc.*, 69 Ohio St.2d 608, 433 N.E.2d 572 (1982), CMHA argued that since plaintiff based his claim on intentional conduct it necessarily arose outside the employment relationship. The Supreme Court's decision in *Blankenship* eroded the worker's compensation immunity that Ohio employers enjoyed for many years.

In *Sampson*, the Supreme Court rejected the *Blankenship* reasoning and held that the exception to sovereign immunity in R.C. 2744.09(B) applies when there is a "causal connection or a causal relationship between the claims raised by the employee and the employment relationship." The Court found a causal connection between plaintiff's claims and his employment. It sent the case back to the trial court for a determination of whether CMHA intentionally injured plaintiff. In a concurring opinion, Justice Lanzinger noted that under R.C. 2745.01, plaintiff would have to prove that CMHA acted with deliberate intent to injure him.

Although *Sampson* is limited to political subdivision cases, the Supreme Court's analysis will interest anyone following the development of employer intentional tort law in Ohio.

Click the link below to view the Supreme Court's analysis:  
[\*Sampson v. Cuyahoga Metro. Hous. Auth.\*](#)

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