

Ohio Supreme Court Vacates \$4.5 Million Order of Restitution to City of Cleveland

By Jonathan Miller

In a six-to-one decision, the Ohio Supreme Court ruled that the Ohio Court of Common Pleas was not the appropriate venue for a legal claim against the state. This decision vacated a \$4.5 million judgement awarded to the City of Cleveland (hereinafter, "City") by the Cuyahoga Common Pleas, and affirmed by the Eighth District Court of Appeals.

The basis of the City's argument was that the State of Ohio had overbilled them millions in premiums. In Ohio, employers are divided into two separate groups: state fund and self-insured. The City operates as a state fund employer. A state fund employer pays premiums based on the employer's risk experience much like your personal car insurance. As the risk for you goes up, so too does your premium; e.g., the more injuries the higher your premium payment to the state. In the late 1990's to early 2000's, the bureau disclosed that it was charging excessive premiums to some state fund employers. The City alleged that it was overcharged millions in premiums from that mistake, which spawned the lawsuit at issue.

Due to sovereign immunity, the State of Ohio is generally immune to lawsuits which occurred during the course of official duties in the State's official capacity. Typically, any such lawsuits which seek legal relief (cash) must be brought in the Court of Claims, not the Court of Common Pleas. Because the City's suit sought money for alleged over charging by the State of Ohio, the Supreme Court indicated that the Court of Common Pleas did not have jurisdiction to address the City's complaint, nor did the Eighth District Court of Appeals have the jurisdiction to affirm or deny that ruling. The City's remaining option is to refile in the Court of Claims. This decision means that the City is now forced to start all over again—making the past seven years of litigation between the City and the State of Ohio pointless. It stands to reason that the City will not hesitate to seek its \$4.5 million despite this setback.

For questions or additional information, please contact one of the Roetzel attorneys listed.

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