

How Much is a Good Name Worth? Ohio Supreme Court Says Damages for Defamation are Capped

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In a 4-2 decision, the Ohio Supreme Court has held that Ohio's statutory cap on noneconomic damages applies to defamation claims.¹ In light of the Court's ruling, a \$1.55 million jury award obtained by Ann Wayt, a former nurse at Affinity Medical Center in Massillon, Ohio, will be significantly reduced.

Affinity fired Wayt in 2012 after investigating accusations that she had neglected her job duties and falsified hospital records. Following Wayt's discharge, the head of nursing at Affinity sent a complaint to the Ohio Board of Nursing alleging that Wayt had engaged in misconduct. After Wayt was unsuccessful in obtaining another permanent nursing job, Wayt's union filed charges with the National Labor Relations Board, claiming, in part, that Wayt had been fired because of her union activity. The NLRB successfully obtained an injunction against Affinity. As a result, Affinity was ordered to reinstate Wayt to her position and withdraw the negative report it had made to the Nursing Board.

After returning to work, Wayt filed a lawsuit alleging that Affinity and its employees had defamed her. The jury sided with Wayt, awarding her \$800,000 in compensatory damages and \$750,000 in punitive damages. After the trial, Affinity asked the court to apply Ohio's caps on noneconomic and punitive damages to reduce the jury award. The trial court refused to do so, holding that the statutory cap on noneconomic damages did not apply to injuries to reputation. After the Fifth District Court of Appeals affirmed the trial court's ruling, Affinity appealed to the Ohio Supreme Court.

Ohio's highest court reversed the \$1.55 million jury award Wayt received and remanded the matter to the trial court for further proceedings. The noneconomic damage cap in Ohio Revised Code Section 2315.18 applies to tort actions seeking to recover damages for noneconomic loss as a result of injury to "person or property." The Court ruled that when the state's legislature capped damages for injury to a person, it also intended to cap them for defamation. Citing a case from 1928, the Court noted that it has held for 90 years that defamation is an injury to a person. The Court saw "no reason to overturn the well-established precedent that defamation is a 'personal injury' according to the plain meaning of the term."²

As many homeowners and business liability insurance policies cover claims for defamation, the Ohio Supreme Court's ruling is an important one for insurance companies who write insurance in Ohio. The ruling means potentially smaller recoveries for plaintiffs who successfully pursue defamation claims and, as a result, smaller payouts by carriers. While economic damages are not subject to statutory caps in Ohio, noneconomic damages such as pain and suffering and mental anguish are generally limited to the greater of \$250,000 or three times the economic loss, not to exceed \$350,000, for each plaintiff, or a maximum of \$500,000 for each occurrence that is the basis of the tort action. There is no question now that this cap applies to defamation claims.

¹ See [Wayt v. DHSC, L.L.C., Slip Opinion No. 2018-Ohio-4822](#).

² *Id.* at ¶ 23.

If you have any questions about this topic or any other labor and employment matter, please contact one of the listed Roetzel attorneys.

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