

LEGAL ACTION

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Landmark Decision



BY STUART GARSON AND DENNIS SEAMAN

In a unanimous vote, (7-0), the Ohio Supreme Court recently made a decision that will have a resoundingly positive impact upon all injured workers who are collecting Temporary Total Disability (TTD). TTD is the compensation paid to injured workers whose doctors' orders do not permit them to work because of injuries suffered in a worker's compensation claim.

The court ruled that employers **cannot** terminate injured workers while they are collecting TTD. This decision is a historic victory for injured workers and represents a major change in the law.

In their 17-page decision the court detailed the history of the Ohio's Workers' Compensation Act and ruled that employers, who terminate their employees while

they are recovering from their injuries, violate the spirit and purpose of Workers' Compensation. We

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continually notify employers of their inability to work once they are receiving TTD.

This landmark decision restores a much needed balance to the

wholeheartedly agree with this remarkable decision by a court that in the past has been more pro-employer than pro-worker.

The court also ruled that it is not necessary for injured workers to

Workers' Compensation system by providing injured workers the necessary time to recover from an injury without fear of losing their jobs. Our office has taken the position that this job security protection applies to injured workers from the time they are first injured, and before their claims have been allowed, to when TTD is awarded.

Over the years far too many of our clients have been intimidated by their employers not to file claims because of fear that they would be fired. Therefore, it is now absolutely necessary that anyone who is injured on the job should quickly report the incident to the employer, seek immediate medical attention, and file their claims to afford them protection under this new law.

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Legal Action is an association of the firms of Garson & Associates Co. L.P.A. and Dennis Seaman Co. L.P.A. who are dedicated to providing outstanding legal services to injured persons and their families.

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Referrals are always welcomed. The people that are important to you are important to us. Feel free to call us anytime with a referral. As always the same courtesy will be extended to your family and friends as we offer you.

It is not clear if this protection will be provided to injured workers who have been terminated before this landmark decision came out. Our office is taking the stance that it should apply to anyone who was terminated within the last two years while receiving TTD or for failure to comply with an employer's leave of absence policy while on disability.

If the above applies to you,

contact us at once to discuss the facts of your termination or any other disciplinary action that was taken against you while you were on TTD.

This decision is extraordinary for its clarity and fairness. We urge you – **do not** sit on your rights. If you believe this Supreme Court action applies to you, get your facts together and contact us as soon as possible.

ALERT: A motion has been filed by the employer requesting that the Supreme Court reconsider its decision. If reconsideration is denied, this law becomes final. If the Supreme Court votes to reconsider there could be major changes in the decision. In the meantime, if you believe you have suffered a wrongful termination, because of your worker's compensation claim, contact us immediately.

The Clock Is Ticking for Nursing Home Litigation

By Scott Rumizen



Nursing home negligence and abuse cases range from residents with Decubitus ulcers (pressure sores) to those with broken bones

due to a fall. Regardless of the injury, abused or neglected nursing home residents or their families, may be able to recover for the damages that occurred in a long-term care facility.

Although the cause and the resulting injuries in nursing home cases may differ, the way the facilities handle the injury is often the same. Either administrators will deny that an injury occurred or else they do

not report or fully explain what happened to the resident. This can be very frustrating to families that are unable to communicate with the nursing home resident or find out much later about the damages incurred.

To protect your family members it is vital to do the following:

- Attend all care planning conferences
- Ask pertinent, deliberate questions of the nursing home staff
- If you believe there was neglect, contact the Ohio Department of Health at (614) 466-3543
- Call an experienced nursing home litigation attorney to see if your loved one's rights have been violated

You should also be aware of a recent change in Ohio law pertaining to nursing home litigation. Last year the Ohio legislature and Governor Taft enacted House Bill 412 which changed the statute of limitations for filing a lawsuit from 6 years to 1 year from the date of the event. Under the new law residents or their family members have only 1 year to initiate a lawsuit. This means that unless the nursing home resident or family member is immediately aware of a specific injury or violation of rights, the time might run out before a potential claim can be filed.

Remember, it is always better to ask questions early on. If you or a loved one has a potential problem with a nursing home, please call our office immediately. You cannot afford to wait too long, the clock is ticking.

Garson & Associates Co., L.P.A.

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