

OHIO CASE SUMMARIES

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Ohio case summaries will be provided on a continuing basis every Wednesday and Friday of each week (excluding holidays). Summaries include brief descriptions of cases decided in the past week by the Ohio Supreme Court and lower appellate courts on issues related to insurance law. To discontinue receiving this service, please call Sean McCormick at 937.224.3333 or send an email to smccormick@green-law.com.

Court of Appeals: Supreme Court of Ohio

Case Name: *Eppley v. Tri-Valley School District.*, 2009-Ohio-1970

Decided: May 5, 2009

Issue(s): Whether or not the “malpractice trap” still exists under the state’s wrongful death saving statute

Summary of Opinion: Joshua M. Eppley died while a passenger in a car accident. His father, the administrator of the estate, filed a wrongful death action against the Tri-Valley School District on August 3, 2005. He dismissed the case under Civ.R. 41(A)(1)(a) on September 15, 2005. He re-filed the following year on September 7. The School District filed a motion for judgment on the pleadings, arguing that the statute of limitations had run and it was immune from liability. Eppley claimed that the general saving statute R.C.§ 2305.19 applied to his re-filed action, not the wrongful death saving statute R.C.§ 2125.04. Alternatively, he argued that R.C.§ 2125.04 violated his equal protection rights under the US and Ohio Constitutions.

The trial court dismissed the complaint but did not state a reason for the dismissal. Eppley appealed, and the Fifth District Court of Appeals reversed the judgment holding that R.C.§ 2125.04 violates the right to equal protection because no legitimate state interest is related to the statute.

The Supreme Court of Ohio first addressed the question of which statute applied. The general saving statute was recently amended by the General Assembly in an effort to close the so called “malpractice trap.” The statute permits a plaintiff to re-file an action within one year after dismissal or within the time remaining under the statute or limitations,

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whichever is longer. However, the Assembly did not amend the wrongful death statute, which only gives a plaintiff an additional to year to re-file an action if the dismissal occurred *after* the original statute of limitations had run. In short, if the general saving statute applied then Eppley's re-file was timely, but if the wrongful death saving statute applied then it was not. The Court held that since the wrongful death saving statute was specific it applied, and the re-filed complaint was untimely.

Addressing the question of whether or not R.C. § 2125.04 is unconstitutional, the Supreme Court of Ohio first recognized the presumption against such a finding. Moreover, the Court explained that, in an equal protection claim, government actions that affect suspect classifications or fundamental interests are subject to strict scrutiny. However, the Court concluded that the statute did not implicate either of the aforementioned criteria because it applied to all similarly situated, did not violate a fundamental right, and advanced a legitimate government interest.

In his dissent, Justice Pfeifer argued that the Court wrongly found rationality in an unintentional act, and believed that the General Assembly likely intended to make the law consistent but simply forgot to amend R.C. § 2125.04.

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