

Upcoming Events

All Events held at The
Bluestone (formerly
BoMA) at 583 East Broad
Street, Columbus.

July 12, 2011

Luncheon - 12:00 – 1:30

September 13, 2011

Annual Judicial Reception

5:30 – 7:00

November 8, 2011

Ethics Seminar – 2:30 – 5:00

Dinner - 5:30 – 7:00

Mission Statement

*To promote justice for individuals in
all local, state, and federal courts;
to support our membership; to
assist the legal community; to
improve the judicial system; and to
serve the citizens of Central Ohio.*

Common Law Employer Intentional Tort Claims Survive *Kaminski* and R.C. 2745.01

The Eighth District Court of Appeals has held that claims for common law employer intentional tort are still viable after the enactment of R.C. 2745.01 and the Supreme Court's decision in *Kaminski*. *Houdek v. Thyssenkrup Materials N.A., Inc.*, 2011-Ohio-1694, Eighth Dist. No. 95399.

Relying on a companion case to *Kaminski* (*Stetter v. R.J. Corman Derailment Servs.*, L.L.C., 2010-Ohio-1029, 125 Ohio St. 3d 280) the *Houdek* Court noted that R.C. 2745.01 constrained rather than abolished the cause of action for EIT. As the Supreme Court held in *Stetter*, "R.C. 2745.01 does not eliminate the common-law cause of action for an employer intentional tort." *Houdek* at ¶8.

The *Houdek* Court distinguished the facts in *Kaminski* by noting that there was no specific directive from the employer to the employee in *Kaminski*. By contrast, *Houdek* "acted in accordance with a series of direct orders that resulted in *Houdek*'s catastrophic workplace injuries." *Houdek* at ¶ 31.

The Eighth District concluded, "[d]oes [R.C. 2745.01] constrain common law employer tort as the *Kaminski* majority holds, or does it, as Justice Pfeifer predicts, abolish it? Taking the majority at its written word, we find merit to *Houdek*'s appeal and reverse the trial court's judgment granting summary judgment in favor of *Krupp* and against both *Houdek* and the BWC. If the facts and circumstances of this case do not present genuine issues of material fact as to the existence of an employer tort, then none shall." *Houdek* at ¶38.