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Client Bulletin



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Ohio's New COVID-19 Liability Protection Act

The COVID-19 relief/stimulus bill passed by Congress prior to Christmas and signed by the President after Christmas did not include civil immunity protections from COVID-19 lawsuits, but apparently such civil immunity protections will be the subject of further federal legislation. However, this lack of liability protection from the federal government is, in Ohio, a moot point. The Ohio Legislature passed, and Governor DeWine signed, House Bill 606 ("HB 606"), known as the "Good Samaritan Expansion Bill," which became effective December 16, 2020. HB 606 has two primary parts.

Part 1 provides qualified immunity to those providing health care and emergency services during a government-declared disaster or emergency. The immunity does not apply in a tort action if the complained-of action constitutes reckless disregard or intentional misconduct or willful or wanton misconduct (sometimes collectively called "gross negligence").

Part 2 provides "qualified immunity" to those individuals, businesses and other entities from liability in civil lawsuits alleging exposure, transmission or contraction of certain coronaviruses (MERS-CoV, SAR-CoV, or SARS-CoV-2 or any mutation thereof, collectively called "COVID-19"). Effective December 16, 2020, HB 606 is a temporary measure designed to provide relief retroactively to causes of action arising from March 9, 2020 through September 30, 2021. HB 606 does not, however, provide total protection ("absolute immunity") but, rather, provides "qualified immunity" as if it is established that the exposure to, or the transmission or contraction of the coronavirus was due to "reckless conduct or intentional misconduct or willful or wanton misconduct on the part of the person against whom the action is brought," there is liability.

The law specifies that governmental orders, recommendations, and guidelines regarding COVID-19 do not create a duty of care or a substantive legal right that can be used to establish civil liability. HB 606 provides any such governmental order, recommendation or guideline is not admissible as evidence to establish a legal duty. However, arguably, such governmental order, recommendation or guideline could be used by a defendant as a "shield," such as by a defendant asserting that the plaintiff did not follow governmental orders, recommendations or guidelines such as "stay at home" guidance, the plaintiff thereby assuming the risk.

Additionally, HB 606 bars class actions based in whole or in part on allegations that a health care provider, business, government entity, or person caused "exposure to, or the transmission or contraction of" COVID-19. HB 606 does not change the other elements of a tort claim for exposure, transmission or contraction of COVID-19 that a plaintiff must prove to establish liability, such as proving "causation" (that the person contracted COVID-19 at the defendant's business and not someplace else).

Notwithstanding this "qualified immunity," for a multitude of reasons businesses should continue to put reasonable policies and procedures in place to limit the risks of exposure to, the transmission of, or contraction of COVID-19.

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Business Deduction for Meals Temporarily Returns

In the Tax Relief Act of 1986, there was eliminated the deductibility by a business on its federal income tax return of the full amount of the cost of meals, including beverages, provided at a restaurant (the so-called “3 martini lunch”). In an effort to help the dining industry, the COVID-19 relief act, signed by the President just after Christmas, restores temporarily for 2021 and 2022 only the deductibility of such meals.

**MANOS, MARTIN
& PERGRAM
CO., LPA**

Ohio Increases Minimum Wage

Ohio’s minimum wage is set to increase to \$8.80 per hour for non-tipped employees, and \$4.40 for tipped employees, on January 1, 2021. The current minimum wage in the state is \$8.70 per hour for non-tipped employees and \$4.35 per hour for tipped employees.

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Main Street Delaware Front Porch Campaign

Main Street Delaware, Inc., a 501(c)(3) nonprofit organization, is a force to be reckoned with when it comes to downtown Delaware pride. Many of the events that take place in Delaware are because of Main Street Delaware and the volunteers who help to ensure the success of each event. The summer Farmer’s Market, First Friday, Santa’s House, and the Christmas tree lighting are just a few of the festivities that Main Street hosts. Contributions to Main Street Delaware support all the events that we as a community enjoy with our families and friends and fund the projects that preserve our historic past and prepare for the future. Donations to fund a partnership with the City and County of Delaware for development of a strategic plan is in the works. This plan is referred to as the Strategic Plan. With this plan in place, downtown and east-side businesses will benefit as it will also provide a Welcome Center in the historic 20 East William Street building and other amenities, including a literal front porch. For more information please visit the Main Street Delaware website - mainstreetdelaware.com.

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Happy New Year!

We thank you for your business in the past year and wish you a happy, healthy and prosperous new year.



This bulletin provides general information and is not legal advice. Please contact us if you need legal advice.

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