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Renfrow v. Norfolk Southern: Bringing the Ohio General Assembly's Intent Back to the Meaning of "Competent Medical Authority" and Upholding Ohio's Asbestos Medical Criteria Bill – Applying It as Written

SEPTEMBER 2014

By way of background, in 2008, the Eighth District Court of Appeals in *Sinnott v. Aqua Chem*, Inc., 8th Dist. Cuyahoga No. 88062, 2008-Ohio-3806, created a "VA exception" to the General Assembly's clear requirement that a plaintiff bringing an asbestos claim submit a report from a statutorily defined "competent medical authority" sufficient to establish the minimum medical requirements necessary to avoid administrative dismissal. "Competent medical authority" is defined, in part, as a physician who has treated and has or had a doctor-patient relationship with the exposed person. To the Eighth Appellate District, however, "nontraditional" patients like Sinnott were "excepted" from the statute's requirements because of "limited opportunities" to develop the traditional doctor-patient relationship. In creating this exception, the court sidestepped the statute's mandatory requirements and allowed plaintiffs to use reports by "B-reader" physicians common in asbestos litigation who admittedly never treated or had any type of doctor-patient relationship with the exposed person. Notably, the Eighth District is the appellate court to which Cuyahoga County (Ohio's largest asbestos docket) decisions are appealed. Plaintiffs after Sinnott tried to chip away at the statute by expanding who was considered a "nontraditional patient" and urging that "substantial compliance" with the statute's minimum medical requirements was the standard—and gained some success in doing so.

But no more. The Supreme Court of Ohio put an end to ignoring those mandatory requirements when it decided *Renfrow v. Norfolk Southern Railway Company* on September 3, 2014. To learn more, read the Client Alert here.

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