Every year, the Supreme Court of Ohio decides issues affecting the business community. Two pending cases will likely make an impact for years to come.

Class Actions

In 2001, the Public Utilities Commission of Ohio (PUCO) found that Ameritech had engaged in “rate discrimination,” where cellular service resellers paid Ameritech more for capacity than Ameritech’s retail arm. In Satterfield v. Ameritech Mobile Comm’ns, Plaintiffs filed a class action claiming Ameritech’s inflated wholesale prices increased consumer prices. The plaintiffs generally described their theory of common injury and damages and argued that a damages model would be developed after class certification and discovery.

The trial court certified the class, and the appellate court affirmed, noting that a damages model would “delve too deeply into the merits” during the class certification phase.

Ameritech appealed and is arguing that courts must scrutinize a damages model at the class certification stage. Ameritech argues that individual issues were especially apparent because consumer pricing depended on many discrete factors, such as length of contract, type of phone and the underlying wholesale price.

A ruling in favor of Ameritech will require plaintiffs at the class certification stage to identify common injury and damages and expend additional resources to develop a detailed class-wide damages model. Class certification will become more rigorous, more expensive, and without a strong showing of class-wide injury, less likely.

Non-economic Damages Cap

In Ohio, non-economic damages, such as emotional distress, are capped at $250,000 in cases not involving permanent disability or death. The damages cap has been applied to cases involving physical injury or property damage. No Ohio court has applied the caps to claims of injury to one’s reputation.

In Wayt v. DHSC, LLC, plaintiff was a nurse active in the local union who was terminated from her position. The employer claimed plaintiff was terminated because of poor performance. Plaintiff claimed she was terminated due to union activity, and that the employer made defamatory statements about her competence as a pretext for termination.

The jury agreed with the nurse and found the employer liable for defamation. The nurse was awarded $800,000 in compensatory and $750,000 in punitive damages. In post-trial briefing, the employer argued that the non-economic damages caps should apply thereby reducing compensatory damages to $250,000 and punitive damages to $250,000.

The lower courts held that the damages cap only applied to injuries to person or property. Because reputational injuries were distinct, the caps did not apply.

The employer appealed, claiming that reputational harm is a non-economic injury arising from a tort that should be subject to the statutory caps. The Supreme Court of Ohio accepted the issue for review.

If the Supreme Court agrees with the employer, courts will likely extend Ohio’s noneconomic damages caps to any tort claim, regardless of whether it is focused on physical injury, property damage, emotional distress or reputational harm. This would reduce the amount of damages awarded and impact plaintiffs’ incentive to bring claims.