CLIENT ALERTS & INSIGHTS

Ohio Governor Mike DeWine Signs Legislation Granting Broad Immunity from Lawsuits Relating to COVID-19 Transmission

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On September 14, 2020, Governor DeWine signed into law H.B. 606 (the "Good Samaritan Expansion Bill"), aimed at stimulating the reopening of Ohio's economy by granting sweeping immunity from lawsuits relating to the transmission of COVID-19. By its terms, the legislation bars all civil actions which are based "in whole or in part" on "injury, death, or loss to person or property" caused by "exposure to, or the transmission or contraction of" COVID-19. The sole limitation is that the legislation's immunizing effect does not apply where the exposure to, or transmission or contraction of, the disease was caused by "reckless conduct or intentional misconduct or willful or wanton misconduct. . . ." This is a heightened standard, beyond an ordinary negligence standard, such that ordinary negligence causes of action-such as negligent transmission-will not lie as a result of the legislation. The legislation defines "reckless conduct" as conduct involving "heedless indifference to the consequences" and involving "substantial and unjustifiable risk" that it will cause exposure to COVID-19.

In addition, the legislation clarifies that no government order may be construed as creating new causes of action for plaintiffs to invoke in place of an ordinary negligence cause of action, and creates a presumption that any such government order is not admissible as evidence that a new cause of action or legal right has been established. To the extent the total immunity does not apply, the legislation also bars individuals from bringing a class action against any person alleging liability for damages for injury, death, or loss to person or property caused by exposure to, or the transmission or contraction of, COVID-19.

Finally, and consistent with the broad nature of the legislation, the bill's immunizing effect applies to both public and private would-be defendants, and does not distinguish between businesses as vendors and businesses as employers. As a result, the legislation protects organizations against suit from customers and employees alike, where the transmission does not result from conduct that is at least reckless, as defined.

The legislation takes effect in 90 days, and is effective until September 30, 2021. However, because the law applies retroactively to March 9, 2020-the date that Governor DeWine declared a state of emergency due to COVID-19-the 90-day waiting period for the legislation's effect to begin should have little, if any, practical impact.

If you have any questions, we encourage you to reach out to your Benesch contact or one of the attorneys below to discuss.

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