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Ohio Revised Code

Section 2307.241 Tort actions alleging vicarious liability.

Effective: October 24, 2024
Legislation: House Bill 179 - 135th General Assembly

(A) As used in this section, "chiropractic claim," "chiropractor," "dental claim," "dentist," "medical claim," "optometric claim," "optometrist," "physical therapist," "physician," and "podiatrist" have the same meanings as in section 2305.113 of the Revised Code.

(B) In a tort action alleging respondeat superior or vicarious liability, the following apply:

(1) If liability arises against both a principal and agent, master and servant, employer and employee, or other persons having a vicarious liability relationship, the injured party may sue either the primarily liable agent, servant, employee, or person or the secondarily liable principal, master, employer, or person, or both.

(2) For the injured party to prevail in a tort action alleging respondeat superior or vicarious liability against a secondarily liable principal, master, employer, or other person, both of the following apply:

(a) A primarily liable agent, servant, employee, or person committed the act or omission on which the tort action is based, while in the course of, and within the scope of, that agent's, servant's, employee's, or person's agency or servant relationship with, or employment by, the secondarily liable principal, master, employer, or other person.

(b) A primarily liable agent, servant, employee, or person is not a necessary party to the tort action alleging respondeat superior or vicarious liability against a secondarily liable principal, master, employer, or other person, unless the tort action is any of the following:

(i) An action upon a medical claim against a physician, podiatrist, or physical therapist;

(ii) An action upon a dental claim against a dentist;

(iii) An action upon an optometric claim against an optometrist;

(iv) An action upon a chiropractic claim against a chiropractor;

(v) An action upon a legal malpractice claim against an attorney.

(C) Nothing in this section modifies the legal principle that the respondeat superior or vicarious liability of a principal, master, employer, or person is derivative of the liability of an agent, servant, employee, or person. In order for a principal, master, employer, or person to be found liable for the act or omission on which a tort action is based, an agent, servant,

employee, or person shall have committed such act or omission while in the course of, or within the scope of, the agent's, servant's, employee's, or person's agency or servant relationship with, or employment by, the principal, master, employer, or other person.