

MULLINS ET AL. v. RIO ALGOM, INC. ET AL.

[Cite as *Mullins v. Rio Algom, Inc.*, 1999-Ohio-384.]

Employer and employee—Cause of action brought by employee alleging intentional tort by employer in workplace—R.C. 2745.01 is unconstitutional in its entirety.

(No. 97-2491—Submitted March 31, 1999—Decided April 28, 1999.)

ON ORDER from the United States District Court for the Southern District of Ohio, Western Division, Certifying a Question of State Law, No. C-1-97-73.

Casper & Casper and *Arthur B. Casper*, for petitioners Mark Mullins et al.
Lindhorst & Dreidame, *William M. Cussen* and *Brian M. Kneafsey, Jr.*, for respondents Rio Algom, Inc. et al.

Betty D. Montgomery, Attorney General, and *Arthur J. Marziale, Jr.*, Assistant Attorney General, for intervenor-respondent Ohio Attorney General.

Michael R. Thomas, in support of petitioners, for *amicus curiae* Ohio Academy of Trial Lawyers.

Stewart Jaffy & Associates Co., L.P.A., *Stewart R. Jaffy* and *Marc J. Jaffy*, in support of petitioners, for *amicus curiae* Ohio AFL-CIO.

Manley, Burke, Lipton & Cook and *Andrew S. Lipton*, in support of petitioners, for *amicus curiae* Armco Employees Independent Federation, Inc.

{¶ 1} The United States District Court for the Southern District of Ohio, Western Division, has certified the following question to us:

“Is Section 2745.01 of the Ohio Revised Code unconstitutional under state law thereby rendering Ohio Revised Code Section 2305.11.2 null and void?”

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{¶ 2} The certified question is answered in the affirmative on the authority of *Johnson v. BP Chemicals, Inc.* (1999), 85 Ohio St.3d 298, 707 N.E.2d 1107.

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER and COOK, JJ., concur.

LUNDBERG STRATTON, J., dissents.

LUNDBERG STRATTON, J., dissenting.

{¶ 3} I respectfully dissent for the reasons set forth in my dissenting opinion in *Johnson v. BP Chemicals, Inc.* (1999), 85 Ohio St.3d 298, 707 N.E.2d 1107.
