Supreme Court of Ohio Clerk of Court - Filed May 30, 2023 - Case No. 2022-1446

In the
Supreme Court of Ohio

DOMINGO A. RAMOS,	:	Case No. 2022-1446
	:	
Appellant,	:	On Appeal from the
	:	Stark County
v.	:	Court of Appeals,
	:	Fifth Appellate District
FRESH MARK CANTON,	:	
	:	Court of Appeals
Appellee.	:	Case No. 2021 CA 00076

REPLY BRIEF OF APPELLANT

MARY E. ULM (0015842)
Mary E. Ulm, Attorney at Law, LLC
3930 Fulton Dr., NW, Ste. 106
Canton, Ohio 44718
(t) 330-495-6117
(f) 330-546-0210
marybeth@marybethulmgreen.com

Counsel for Appellee
Fresh Mark Canton

LOUIS E. GRUBE (0091337)
PAUL W. FLOWERS (0046625)
MELISSA A. GHRIST (0096882)
Flowers & Grube
Terminal Tower, 40th Fl., 50 Public Square
Cleveland, Ohio 44113
leg@pwfco.com
pwf@pwfco.com
mag@pwfco.com

DAVE YOST (0056290)
Attorney General of Ohio

BENJAMIN M. FLOWERS* (0095284)
Solicitor General
**Counsel of Record*
MATHURA J. SRIDHARAN (0100811)
Deputy Solicitor General
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
(t) 614-466-8980
(f) 614-466-5087
benjamin.flowers@ohioago.gov

Counsel for Appellant
Ohio Bureau of Workers' Compensation

RACHEL WENNING (0087718)
MATTHEW R. COPP (0063287)
Plevin & Gallucci
2323 W. Fifth Ave., Ste. 240
Columbus, Ohio 43204
rwenning@pglawyer.com
mcopp@pglawyer.com

Counsel for Appellant
Domingo A. Ramos

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Ohio workers' compensation law ensures that employees are compensated for accidental injuries they sustain while working. The same body of law compensates workers' families for injuries resulting in death. *Generally*, a claim for compensation attributable to a fatal injury must be filed within one year of the workplace accident. But there is an exception: employers must file reports of workplace injuries with the Bureau of Workers' Compensation, and "[e]ach day that an employer fails to file a report" of an "injury or death therefrom" adds "an additional day" to the otherwise-applicable one-year period, for up to two years. R.C. 4123.28.

Now turn to the facts of this case. Domingo Ramos died instantly when he fell into a meatgrinder at work. His employer, Fresh Mark Canton, had an obligation to report Ramos's "injury" and "death therefrom" to the Bureau. R.C. 4123.28. It failed to do so. As a result, Ramos's children did not learn of their entitlement to available workers' compensation until almost two years after their father's death—well outside the generally applicable one-year period for filing such claims. But because Fresh Mark did not report Ramos's workplace death, the "time period given to" them "by the applicable statute of limitations for the filing of a claim based on" Ramos's fatal "injury" never closed. His dependents, therefore, timely sought compensation when they filed their claim about two years after Ramos's death.

Fresh Mark's contrary arguments all fail. The "starting point" for statutory interpretation should be the "statute's text." *Spencer v. Freight Handlers, Inc.*, 131 Ohio St. 3d

316, ¶16 (2012). Fresh Mark, however, looks to everything *but* the statute's text to deny its obligation to report Ramos's death—including a Procedural Guide that is neither relevant nor legally binding—all while demanding "due deference" to various agencies' legal interpretations where none is due. Fresh Mark Br. at 7, 8; *but see TWISM Enters., LLC v. State Bd. of Registration for Prof'l Eng'rs & Surveyors*, __ Ohio St. 3d __, 2022-Ohio-4677 ¶¶40–44. When Fresh Mark finally turns to the statute's text, it erroneously conflates the statute's reporting duty with the wholly distinct (and irrelevant) recording duty. But an employer's broad duty to *report*, the breach of which extends the one-year time bar, is not narrowed by the duty to *record* only those injuries that result in "seven days or more of total disability."

Finally, Fresh Mark argues that, even if it had a duty to report the death, death claims are not "based on" an "injury" so they are not affected by the extension clause. That defies common sense and ordinary language. When a death results from an injury, as Ramos's did, a claim relating to that death is "based on" an injury. That the injury resulted in death, rather than a bruise, amputation, hearing loss, or some other non-fatal condition, makes no statutory difference.

ARGUMENT

I. Fresh Mark had a duty to report Ramos's death to the Bureau.

1. Ohio's workers' compensation law compensates workers who sustain accidental injuries or contract diseases in the course of employment. R.C. 4123.01, *et seq.*

When a workplace injury kills an employee, the employee's dependents may seek compensation. R.C. 4123.59. Generally, claims for workplace deaths must be filed within one year of the death, unless a relevant extension applies. R.C. 4123.84(A).

One particular exception—the "extension clause" of R.C. 4123.28—matters here. But to understand it, one must first understand R.C. 4123.28's recording and reporting duties. Begin with the "recording duty":

> Every employer in this state shall keep a record of all injuries and occupational diseases, fatal or otherwise, received or contracted by his employees in the course of their employment and resulting in seven days or more of total disability.

R.C. 4123.28. Next, turn to the "reporting duty," which states:

> Within a week after acquiring knowledge of an injury or death therefrom, and in the event of occupational disease or death therefrom, within one week after acquiring knowledge of or diagnosis of or death from an occupational disease or of a report to the employer of the occupational disease or death, a report thereof shall be made in writing to the bureau of workers' compensation upon blanks to be procured from the bureau for that purpose. The report shall state the name and nature of the business of the employer, the location of his establishment or place of work, the name, address, nature and duration of occupation of the injured, disabled, or deceased employee and the time, the nature, and the cause of injury, occupational disease, or death, and such other information as is required by the bureau.
>
> The employer shall give a copy of each report to the employee it concerns or his surviving dependents.
>
> No employer shall refuse or neglect to make any report required by this section.

Id.

With that background, turn to the extension clause which states:

> Each day that an employer fails to file a report required by this section constitutes an additional day within the time period given to a claimant by the applicable statute of limitations for the filing of a claim based on the injury or occupational disease, provided that a failure to file a report shall not extend the applicable statute of limitations for more than two additional years.

Id. This clause thus extends the otherwise-applicable one-year statute of limitations by one day for every day that the employer fails to file the report required by the reporting duty.

Unpacking all this, the statute begins by imposing two independent duties—a recording duty and a reporting duty—on employers. Each duty fulfills a different purpose.

The recording duty is a purely internal-facing obligation. It requires that employers "*keep*," for themselves, "a record of all injuries and occupational diseases, fatal or otherwise," that their employees suffer in the course of employment and that result "in seven days or more of total disability." *Id.* (emphasis added).

In contrast, the reporting duty is purely outward facing. It requires that employers notify the Bureau, in writing, of every "injury or death therefrom" within one week of the injurious accident. *Id*. This report kickstarts the claims process. Any report filed with the Bureau must provide information about "the employer"; "the injured, disabled, or deceased employee"; the circumstances and nature of the "injury, occupational disease, or death"; and anything else "required by the bureau" to process the claim. *Id*. This information helps the Bureau identify and process any claim arising from the incident. What is more, reporting ensures that the injured employee or his dependents are notified

of potential benefits: a copy of any report sent to the Bureau must be provided to the "employee it concerns" or, if the incident resulted in the employee's death, "his surviving dependents." *Id.* Employers can satisfy their reporting obligation by submitting a "First Report of Injury" form to the Bureau. Ohio Admin. Code 4123-3-08(A)(1).

Workers' compensation law penalizes employers for failing to comply with the duties set forth in R.C. 4123.28. Failure to discharge the recording and reporting duties exposes employers to criminal liability. R.C. 4123.99(A). More relevant here, failure to discharge the *reporting* duty triggers the extension clause. R.C. 4123.28. Each day that an employer delays in "fil[ing] a report required by" R.C. 4123.28, the statute adds "an additional day" to "the time period given to a claimant by the applicable statute of limitations for the filing of a claim based on the injury or occupational disease." R.C. 4123.28. The extension clause allows time to file a claim for benefits to be extended for up to two additional years. *Id.*

Summing all that up, the extension clause applies to a fatal workplace accident when two conditions are met. First, the employer had a duty to report the workplace death under R.C. 4123.28, but failed to do so. Second, the claim arising from that death is "based on" a workplace "injury." *Id.*

2. The first condition of the extension clause is satisfied here because Fresh Mark had a duty to report Ramos's death to the Bureau yet failed to do so.

The "starting point" when interpreting the statutory reporting duty "is the statute's text." *Spencer*, 131 Ohio St. 3d 316 at ¶16. R.C. 4123.28 states that, "[w]ithin a week after acquiring knowledge of an injury *or death therefrom*, … a report thereof shall be made in writing to the bureau of workers' compensation." (emphasis added). Thus, employers unambiguously must report both "injur[ies]" and also any resulting "death[s] therefrom." This duty is broad; unlike the language setting forth the recording duty, the language establishing the reporting duty has no qualifying language that could be read to require employers to report only some subset of injuries. All injuries must be reported to the Bureau. What is more, the statute singles out a particular outcome as report-worthy: "deaths therefrom." This "clear and unambiguous" language requires that employers report all injuries, and especially those injuries that result in death. *See in re N.M.P.*, 160 Ohio St. 3d 472, ¶21 (2020).

What is more, other parts of R.C. 4123.28 confirm that employers must report workplace deaths. For example, reports must include information about "the injured, disabled, or *deceased* employee," as well as details regarding the "injury, occupational disease, or *death*." R.C. 4123.28 (emphases added). Because the statute expressly asks employers to include details about the "death" and the "deceased," it recognizes that at least some reports will relate to fatal injuries. Moreover, the employer usually provides a copy of the report to the employee. But, anticipating that some injuries end in death, the statute directs copies of the report filed with the Bureau to the "surviving

dependents." *Id.* It is thus clear from the statute that the reporting obligation extends to workplace deaths.

This conclusion fits neatly within "the context of" workers' compensation law "as a whole." *State v. Nelson*, 162 Ohio St. 3d 338 ¶26 (2020). Ohio law endeavors to compensate workers who are accidentally injured while working. When an employee dies in a workplace accident, the law provides compensation to the employee's surviving dependents. R.C. 4123.59; *see also* R.C. 4123.28; Ohio Admin. Code 4123-3-03(F). Importantly, the claims process begins when the surviving dependents and the Bureau learn of the employee's death. The role the Bureau plays in this regard is especially important for death claims. At least some statutory dependents—such as biological children that have no close relationship with the employee—may rely on the Bureau's notification to learn of their entitlement to benefits. R.C. 4123.59(D)(2). They may never come to learn of their entitlement to benefits unless the Bureau notifies them of that right. In those circumstances, the reporting duty becomes critical to ensuring that statutory dependents can assert their rights. What is more, even if the Bureau or the dependents find out about the death in some other way, the dependents will lack the information necessary to pursue a claim for benefits unless they receive a report. The broad reporting requirement is thus crucial to the claims process.

Because R.C. 4123.28 unambiguously requires employers to report all injuries, including fatal injuries, it follows that Fresh Mark had a duty to report the workplace

accident that caused Ramos's death to the Bureau. Undisputedly, Fresh Mark did not fulfill this obligation. Its failure to report Ramos's death thus satisfies the first condition of the extension clause.

2. The exception clause's second condition—which applies when a claim is "based on … injury or occupational disease"—is also satisfied. R.C. 4123.28. A claim is "based on" an injury when the injury is the "foundation" or "basis" of the claim. *See Base*, Webster's New International Dictionary of the English Language 225 (2d ed. 1948). When a workplace injury is fatal, the basis of that fatality is the fatality-causing injury. This means that claims arising out of fatal workplace accidents are necessarily "based on" a workplace "injury."

The claim here satisfies this second condition of the extension clause. Ramos was working on the factory floor when he was injured by a meatgrinder. That injury killed him instantly. His dependents filed a claim for benefits due for his death. Because the meatgrinder-inflicted injury caused his death, the claim arising from his death is "based on"—it has its "foundation" or "basis" in—the "injury" he sustained at work.

3. Putting all this together, Fresh Mark never filed a report of Ramos's workplace death as required by R.C. 4123.28. Ramos's dependents claimed benefits for his death, and that claim is "based on" the workplace "injury" that killed Ramos. Thus, R.C. 4123.28's extension clause applies to this case. Because Ramos's dependents filed within the additional two-year period provided for by the extension clause, their claim is timely.

II. Fresh Mark offers no compelling reason to affirm.

1. Fresh Mark argues that it had no duty to report Ramos's death. Its arguments are unavailing.

First, Fresh Mark argues that employers have a duty to report only those injuries that they must record—that is, only injuries that result in "seven days or more of total disability." Fresh Mark Br.4–6. Fresh Mark argues that instantaneous death, such as the one Ramos suffered, is not a "total disability." Therefore, Fresh Mark argues, it had no duty to record or, correspondingly, to report Ramos's death. Fresh Mark Br.7.

This argument fails at the first step. An employer's reporting duty is not limited by the employer's recording duty. Recall the language and structure of R.C. 4123.28. The first sentence sets forth the recording duty and states that employers must "keep a record of all injuries and occupational diseases, fatal or otherwise" that "*result*[] *in seven days or more of total disability*." R.C. 4123.28 (emphasis added). That qualifying language—"resulting in seven days or more of total disability"—is not included in the second sentence, which sets forth the reporting duty. Rather, the second sentence of R.C. 4123.28 requires that, "[w]ithin a week after acquiring knowledge of an injury or death therefrom, … a report thereof shall be made in writing to the bureau of workers' compensation." R.C. 4123.28. Because the second sentence omits the qualifying language that appears in the first, it does not restrict the reporting duty to injuries resulting in "seven days or more of total disability." R.C. 4123.28. In other words, even if the *recording* duty applies only to

injuries that result in at least seven days or more of total disability, the *reporting* duty applies to all workplace injuries, regardless of the length of time the injury lingers.

Thus, the relevant "starting point" for the reporting duty is the second sentence which establishes a duty distinct from the one established in the first sentence. *Spencer*, 131 Ohio St. 3d 316 at ¶16. That distinction is evident from the statute's structure. The recording and reporting duties are found in neighboring sentences in the very same statute. When the General Assembly "includes particular language in one section of a statute but omits it in another," we assume it did so "intentionally and purposely." *NACCO Indus., Inc. v. Tracy*, 79 Ohio St. 3d 314, 316 (1997). So it is here. The qualifying language—"seven days or more of total disability"—appears only in the first sentence (establishing the recording duty), which appears directly before the second sentence (establishing the reporting duty). The omission of that qualifying language from the second sentence must be given effect: the reporting duty, unlike the recording duty, is not limited to injuries resulting in "seven days or more of total disability."

The foregoing is consistent with statute's legislative evolution. *See* Bureau Br.17–18. The General Assembly created recording and reporting duties at the same time, in 1913. 103 Ohio Laws 72, 90 (1913). When the General Assembly added the "seven days or more of-total disability" qualifier to the recording duty in 1949, it did not do the same with the reporting duty. *See* 123 Ohio Laws 250, 260 (1949). Thus, starting in 1949, although employers had a duty to record only injuries that "result[ed] in seven days or more

of total disability," their reporting duty covered a broader range of injuries. 123 Ohio Laws 250, 260 (1949). Specifically, employers had to "report" any "occurrence of an accident resulting in such personal injury." *Id.* And, in 1989, the General Assembly removed the only other connection between the second sentence and the first by replacing the phrase "such injury" in the second sentence with "an injury." Am. Sub. H. B. No. 222 (effective Nov. 3, 1989). This change eliminated an ambiguity that might have been used to argue that the second sentence (the reporting duty) applied only to injuries addressed by the first sentence (the recording duty). What this evolution shows is that the reporting and recording duties are not only distinct, but that the General Assembly intended to limit one (the recording duty) but not the other (the reporting duty) with the "seven days or more of total disability" language.

Fresh Mark makes no statutory arguments to the contrary. Instead, Fresh Mark relies on a provision in the Bureau's procedural guide. Fresh Mark Br.5. That provision states:

> A medical-only claim is categorized as a claim of seven or fewer days of lost time due to a work-related injury with no compensation paid pursuant to ORC 4123.56 (A) or (B), ORC 4123.57, or ORC 4123.58. A medical-only claim is not required to be reported to the BWC unless the employer is disputing the claim.

Ohio Bureau of Workers' Compensation, *Procedural Guide for Self-Insured Claims Administration*, 12 (Feb. 2020). Relying on this language, Fresh Mark argues that Ramos's

instantaneous workplace death is a "medical-only claim" that did not have to be reported because it did not result in "seven or fewer days of lost time due to a work-related injury."

This argument fails on several levels. For one thing, this provision is irrelevant to death claims—it does not even mention R.C. 4123.59, which governs such claims. Rather, it applies only to disability claims compensated under R.C. 4123.56, R.C. 4123.57, and R.C. 4123.58, all of which pertain to claims by still-living employees.

Second, and more importantly, the provision conflicts with the statutory text if it means what Fresh Mark thinks it means, since the statute requires employers to report all injuries, without qualification. When an agency's interpretation contradicts the statute, it is the statute and not the agency's interpretation (and certainly not a Procedural Guide with no legal force) that controls. *Maralgate, LLC v. Greene Cnty. Bd. of Revision*, 130 Ohio St. 3d 316, 2011-Ohio-5448 ¶21 (citations omitted); *TWISM*, 2022-Ohio-4677 ¶¶40–44. For that same reason, Fresh Mark is wrong to argue that this Court should give "due deference" to the Industrial Commission's determination that Fresh Mark had no duty to report Ramos's death. Ohio courts owe no deference to agencies' legal interpretations. *TWISM*, 2022-Ohio-4677 ¶¶40–44.

In sum, because the recording duty is wholly distinct from the reporting duty, one is not contextualized by the other. Thus, the Bureau has not shown, and this Court need not decide, that death constitutes "total disability": only the recording duty, not the reporting duty, is limited to injuries that result in seven days or more of total disability.

Thus, *even if* death is not "total disability," Fresh Mark still had a duty to report Ramos's death to the Bureau. None of Ramos's arguments concerning whether "death" is a "total disability" has any bearing on the Bureau's position.

Indeed, whether or not "seven days or more of total disability" includes instantaneous death, there is no practical reason for the recording and reporting duties to be harmonized. Even if the statute's best reading means that employers must report a wider class of injuries than those they must record, that does not frustrate the goals of workers' compensation law. *See* Bureau Br.19–20. Remember, the recording duty is internal-facing, while the reporting duty is outward facing—it serves to notify all relevant parties of a potential claim. The statute recognizes as much; it obligates the employer to send a "report," not a record, to the Bureau and to the employee (or his surviving dependents). R.C. 4123.28. And the "report," not the record, provides relevant details about the employer, employee, and the incident. *Id.* That is why, under the statute, failure to fulfill the reporting duty, not the recording duty, triggers the tolling of the statute of limitations. *Id.* So the fact that the best reading of R.C. 4123.28 makes reporting duty broader than the recording duty is no cause for concern.

Fresh Mark next argues that this Court should interpret the recording and reporting requirements as coextensive because the legislature will amend the statute if the Court adopts a contrary interpretation. Fresh Mark Br.8–9. That argument misunderstands the judicial task. This Court's responsibility is to interpret the law as written. If

the General Assembly would like it to say something else, it can and should amend the statute.

Finally, Fresh Mark appeals to a statutory canon of interpretation—the rule of lenity—to argue that any ambiguity should be resolved in Fresh Mark's favor because failure to report exposes the employer to criminal penalties. Fresh Mark Br.9. But the rule of lenity applies only where the statute is unclear. *See State v. Pribble*, 158 Ohio St. 3d 490, 2019-Ohio-4808 ¶¶22–23. That is not the case here. And even if it were, as Fresh Mark itself notes, "workers' compensation statutes are to be liberally construed in favor of the injured worker." Fresh Mark Br.9 (citing R.C. 4123.95). Where these two canons clash, the specific canon set forth by the General Assembly (liberal construction in favor of worker) must prevail over the more generally applicable rule of lenity.

2. Having failed to persuade that it had no obligation to report Ramos's death, Fresh Mark next argues that the extension clause does not apply to claims arising from workplace deaths. Fresh Mark Br.10–14. According to Fresh Mark, because the extension clause applies only to claims "based on … injury or occupational disease" without ever expressly mentioning "death," it excludes claims "based on" death. On this basis, Fresh Mark argues that its failure to report did not toll the time to file a claim based on Ramos's death.

That argument fails on several grounds. First, the General Assembly's failure to mention death expressly in the extension clause is both unsurprising and irrelevant.

Death is not a category of harm, as "injury" and "occupational disease" are in workers' compensation law. *See* R.C. 4123.01(C), (F). Rather, death is one of many *consequences* that flow from injuries and diseases one might sustain or contract at work—just as blindness, amputation, or hearing loss are consequences of injuries, not injuries themselves. These specific consequences are covered despite not being listed alongside "injury" and "occupational disease" as a category of harm. The same goes for death.

That death is not a special category of harm is apparent both from R.C. 4123.28 and other workers' compensation statutes. Under R.C. 4123.28's reporting obligation, employers must report injuries and occupational diseases "or death[s]" that follow "therefrom." Likewise, under the statute's recording obligation, employers must record certain injuries and diseases, "fatal or otherwise." R.C. 4123.28. This phrasing recognizes that death is caused by an injury or disease—not a standalone category of harm.

Other provisions in Chapter 4123 bolster this reading. For instance, one statute directs the Bureau to adopt rules pertaining to claims for injury and occupational disease, along with any "death *resulting* from either." R.C. 4123.05 (emphasis added). Another statute contains similarly causal language: surviving dependents of an injured worker may seek benefits when "injury to or an occupational disease contracted by an employee *causes* the employee's death." R.C. 4123.59 (emphasis added). What is more, both "injury" and "occupational disease" are defined by workers' compensation statutes. *See* R.C. 4123.01(C), (F). But the consequences of injury or disease—such as blindness, limb loss,

or even death—are not included in those definitions. Yet claims for compensation relating to such consequences are undoubtedly subject to the extension clause. All of this shows that the extension clause applies to all consequences of workplace injuries. There is no basis for treating death any differently.

Fresh Mark agrees that "blindness, hearing loss, [and] amputations" are all consequences that flow from "injury" or "occupational disease." Fresh Mark Br.12. Yet it contends that claims for those conditions are different from death claims because death claims require one more form, the C-5 form, for processing. Fresh Mark Br.11–12. While it is true that death claims require one additional form for processing, Fresh Mark's argument is a *non sequitur*: the need to file a C-5 form has no conceivable statutory relevance, because it does not shed light on whether a claim relating to a workplace death is a claim "based on" a workplace "injury." Further, the argument fails on its own terms. A C-5 form is indeed required for any application for death benefits and associated funeral expenses. Ohio Bureau of Workers' Compensation, *Application for Death Benefits and/or Funeral Expenses* (Revised May 30, 2019), https://perma.cc/2S2Q-4BKU. As part of that submission, however, the claimant must provide a copy of the First Report of Injury form that is required of *all* claims, including compensation claims for other, obviously compensable harms such as blindness, hearing loss, or amputations. *Id.* at 2. Thus the C-5 form *confirms* that death is, in all relevant respects, like other obviously compensable harms that flow from injury or disease.

Fresh Mark's other arguments fare no better. It argues that death claims are distinct from claims for compensation based on total, permanent, or temporary disability. Fresh Mark Br.10–11. That may be true, but it is irrelevant. Fresh Mark's argument is hard to follow. On one hand, Fresh Mark appears to argue that death is not equivalent to "total disability" while discussing the *recording* clause. *Id.* at 11. But whatever "total disability" means, its meaning has no bearing on the *reporting* duty's requirements. *See above* 10–13. If, on the other hand, Fresh Mark is arguing that the omission of "death" from the extension clause is important because death claims are different from disability claims, that is another *non sequitur*. Even if death and disability claims differ, they do not differ in any way relevant to the statutory question whether claims relating to fatal injuries are "based on" workplace injuries. Moreover, while the extension clause does not mention "death," it does not mention "disability" either. By Fresh Mark's own logic, then, neither death claims *nor* claims arising from disability are eligible for extensions in time under the extension clause. In other words, the extension clause would apply to no claims at all. An interpretation that negates an entire statutory provision has little to recommend it. *In re Adoption of M.B.*, 131 Ohio St. 3d 186, 2012-Ohio-236 ¶19; R.C. 1.47(B).

Fresh Mark next notes that the recording duty includes the phrase "or death therefrom," while the extension clause never mentions "death." From this, Fresh Mark reasons that injuries resulting in death must not bear on the extension clause's application. Fresh Mark Br.12.

This argument fails because, as discussed already, the entire statute treats death as a consequence of injury, rather than a distinct category of harm. Even the reporting duty—the duty relevant to this case—treats it that way, speaking of "injury or *death therefrom*." R.C. 4123.28 (emphasis added). Because the extension clause applies to all claims "based on" an injury, it applies to claims based on fatal injury; the General Assembly had no need to use the word "death," making its absence uninformative.

Fresh Mark next argues that Ohio Admin. Code 4123-3-08 suggests the extension clause does not apply to claims arising from death. Fresh Mark Br.13–14. That regulation lists limitations periods for filing various types of claims. Ohio Admin. Code 4123-3-08(D). The regulation provides that "injury claims" and "claims for occupational disease" are barred after one year except when "the applicable statute of limitations is extended" under the extension clause. Ohio Admin. Code 4123-3-08(D)(1), (5). Fresh Mark points out that the provision governing "death claims" does not refer to the extension clause. Ohio Admin. Code 4123-3-08(D)(7). This, Fresh Mark argues, shows that the extension claim does not apply to death claims. Insofar as the regulation says this, however, it is contrary to the statute and must be ignored. *Maralgate*, 130 Ohio St. 3d at ¶21; *TWISM*, 2022-Ohio-4677 ¶40.

Finally, Fresh Mark argues that there is no reason to extend the time to file death claims because deaths are "clearly and immediately known to the dependents." Fresh Mark Br.14. If so, how did we get here? Fresh Mark could not locate the dependents.

Fresh Mark Br.2. And by failing to report the death, it deprived the Bureau of the opportunity to do so. This case thus proves the wisdom of applying the reporting and extension clauses to death claims.

CONCLUSION

For the foregoing reasons, the Court should reverse the Fifth District's decision.

Respectfully submitted,

DAVE YOST
Attorney General of Ohio

/s Benjamin M. Flowers
BENJAMIN M. FLOWERS* (0095284)
Solicitor General
**Counsel of Record*
MATHURA J. SRIDHARAN (0100811)
Deputy Solicitor General
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
(t) 614-466-8980
(f) 614-466-5087
benjamin.flowers@ohioago.gov

Counsel for Appellant
Ohio Bureau of Workers' Compensation

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Reply Brief of Appellant was served by email this 30th day of May, 2023 upon the following:

Mary E. Ulm
Mary E. Ulm, Attorney at Law, LLC
3930 Fulton Dr., NW, Ste. 106
Canton, Ohio 44718
marybeth@marybethulmgreen.com

Louis E. Grube
Paul W. Flowers
Melissa A. Ghrist
Flowers & Grube
Terminal Tower, 40th Fl., 50 Public Square
Cleveland, Ohio 44113
leg@pwfco.com
pwf@pwfco.com
mag@pwfco.com

Rachel Wenning
Matthew R. Copp
Plevin & Gallucci
2323 W. Fifth Ave., Ste. 240
Columbus, Ohio 43204
rwenning@pglawyer.com
mcopp@pglawyer.com

/s Benjamin M. Flowers
Benjamin M. Flowers
Solicitor General