

No. 2008-0857

In The Supreme Court of Ohio

**APPEAL FROM THE COURT OF APPEALS
SEVENTH APPELLATE DISTRICT
COLUMBIANA COUNTY, OHIO
CASE NO. 07-CO-15**

ROSE KAMINSKI,
Plaintiff-Appellee,

v.

METAL & WIRE PRODUCTS COMPANY,
Defendant-Appellant.

**APPELLEE ROSE KAMINSKI'S MOTION FOR ORDER SCHEDULING ORAL
ARGUMENT IN CONJUNCTION WITH ARGUMENT SCHEDULED IN SETTER VS. R.J.
CORMAN DERAILMENT SERVICES LLC, SUPREME COURT CASE NO. 2008-0972**

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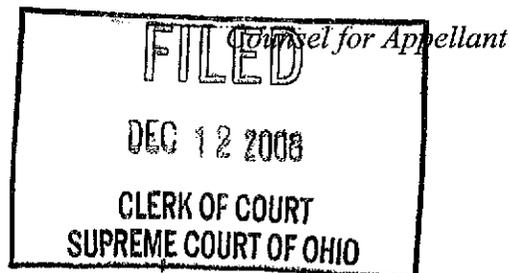


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I. **STATEMENT OF RELIEF REQUESTED**

In accordance with S.Ct. Prac. R. IX and XIV, Section Four, Appellee Rose Kaminski hereby moves this Court for an order scheduling oral argument in this appeal for the same date scheduled in another pending appeal, *Stetter vs. R.J. Corman Derailment Services, LLC*, being Supreme Court Case Number 2008-0972.

II. **MEMORANDUM IN SUPPORT**

This is a discretionary appeal and a claimed appeal of right accepted by this Court involving several issues essentially addressing the constitutionality of Section 2745.01 of the Revised Code, commonly known as the workplace intentional tort statute. Appellee files this Motion in conjunction with the submission of her Merit Brief.

Counsel for Appellee have determined from this Court's docket that certain questions have been certified and accepted from the United States District Court for the Western District of Ohio in the case captioned *Stetter vs. R.J. Corman Derailment Services, LLC*, being Supreme Court Case Number 2008-0972. The certified questions accepted in *Stetter* also pertain to the constitutionality of R.C. Section 2745.01 effective April 7, 2005. It is further noted that the Merit Briefs of the parties in *Stetter* cite to the Seventh Appellate District decision in the instant case. The docket of this Court further indicates that oral argument has been scheduled in the *Stetter* appeal for February 18, 2009.

Appellee submits that the issues accepted in the within appeal and those involved in the *Stetter* matter are substantially similar and, in essence, address the issue of whether the 2005 version of the workplace intentional tort statute is unconstitutional. For purposes of providing interested parties an opportunity to be heard on the merits and in consideration of judicial economy, Appellee

submits that oral argument of the within appeal can and should be scheduled on February 18, 2009 along with the oral argument in *Stetter*. In this way, the parties to the pending appeals may be granted a full and meaningful opportunity to be heard in these important matters before this Court.

III. **CONCLUSION**

For the reasons set forth herein, Appellee Rose Kaminski respectfully requests that this Court order the scheduling of oral argument of the within appeal in conjunction with that currently scheduled in *Stetter vs. R.J. Corman Derailment Services, LLC*, being Supreme Court Case Number 2008-0972 on February 18, 2009.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

A copy of the foregoing Motion for Order Scheduling Oral Argument of Plaintiff-Appellee Rose Kaminski has been sent this 12th day of December, 2008 by U. S. ordinary mail to the following:

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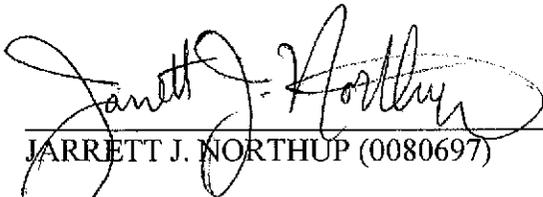
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