

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, <i>ex rel.</i> ,	:	
James F. Cordell	:	Case No. 2015-0163
	:	
Relator-Appellee,	:	
	:	On Appeal from the
v.	:	Franklin County Court of Appeals
	:	Tenth Appellate District
Pallet Companies Inc.,	:	(Case No. 13-AP-001017)
	:	
Respondent-Appellant,	:	
	:	
and	:	
	:	
Industrial Commission of Ohio,	:	
	:	
Respondent-Appellant.	:	

APPELLANT PALLET COMPANIES, INC.'S REQUEST FOR ORAL ARGUMENT

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Now comes Appellant, Pallet Companies, Inc., pursuant to S.Ct. Prac. R. 17.02(A), and requests that an oral argument be held in this case. This case involves both a matter of great public importance, as well as a conflict among court of appeals decisions on this case.

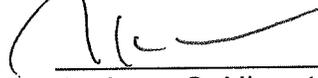
The issue presented is whether or not an employee whose termination following a positive post-injury drug test is entitled to receive temporary total compensation despite his violation of the employer's drug-free workplace policy. This issue has not yet been decided by this Court. This case has significant public policy implications as it will affect the enforcement of all drug-free workplace policies throughout the state. Moreover, the legal issue of whether a pre-injury violation of company work rules will bar the payment of temporary total compensation needs to be clarified. This court left this issue undecided in *State ex rel. Gross v. Indus. Comm.* 115 Ohio St.3d 749, 2007-OHIO-1916, 874 N.E2D 1162, (*Gross II*), a case in which the Court did hear oral argument. Similar issues are present here which can be further explored with oral argument.

Finally, although this case does not involve a conflict among court of appeals, it does present a conflict within the Tenth District Court of Appeals. This case conflicts with *State ex rel. Paysource USA, Inc. v. Indus. Comm.*, 10th Dist., Franklin No. 08-AP-677 (June 30, 2009), which held that a positive post-injury drug screen that results in the termination of employment does not bar the payment of temporary total compensation. This case involves the exact opposite holding.¹

¹ Of note, there is also a case pending before this case, which presents the identical issue, *State ex rel. Tolle v. Indus. Comm.*, Case No. 2015-1717. Other cases are pending in the Court of Appeals with this issue as well.

There are very few workers' compensation appeals which deserve oral argument. This is one of those rare cases where there are strong policy considerations, an unclear area of the law, a conflict in the court of appeals, and an issue for which the court had previously granted oral argument. It is respectfully requested that oral argument be granted.

Respectfully submitted,



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CERTIFICATE OF SERVICE

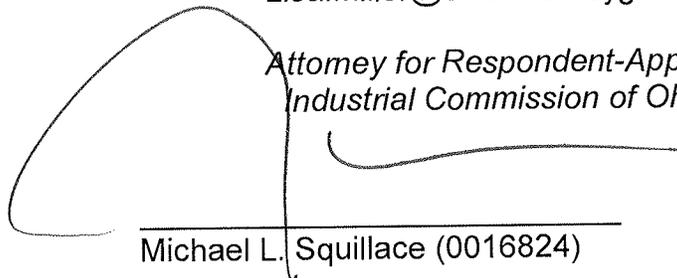
The undersigned hereby certifies that a copy of the foregoing was served by regular U.S. mail, on December 22, 2015, upon:

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