



## Michigan Court of Appeals Reiterates That Worker's Compensation Claims Are the Exclusive Remedy for Injured Employees

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Foster Swift attorney John Nicolucci, with assistance from Allison Collins at the Trial Court level, convinced the Michigan Court of Appeals (COA) to reverse the Eaton County Circuit Court's decision denying Defendant Employer's Motion for Summary Disposition because the Worker's Disability Compensation Act is the exclusive remedy available to injured employees.

The April 17, 2018 unpublished opinion in *Spencer Shumaker v Meritt Tool & Die and Eugene D. Miller* upheld the Worker's Disability Compensation Act of 1969 as the exclusive remedy available to the Plaintiff, who was injured when he placed his left hand into the steel cutting press he was operating.

The Plaintiff had argued that his civil suit was not barred by the Worker's Disability Compensation Act because the Defendant employer had committed an intentional tort\* by subjecting the Plaintiff to a press that the Employer knew posed a continuously dangerous condition to Plaintiff. While the Eaton County Circuit Court sided with the Plaintiff, Nicolucci of Foster Swift convinced the Michigan Court of Appeals that the employer had not committed an intentional tort and the Plaintiff's recovery should be limited to a worker's compensation claim.

The Michigan Court of Appeals held that there was no evidence that the employer knew an injury was certain to occur from the press's operation to support an intentional tort. The Michigan Court of Appeals was persuaded by Foster Swift's argument that no intentional tort had been committed because the press was not a continuously dangerous condition: there were safe methods available for operating the press, no trained employee had ever been seriously injured before while operating the press, and the plaintiff had safely operated the press for 45 minutes before his injury.

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The case was remanded to the Eaton County Circuit Court for entry of an Order granting the Defendants' Motion for Summary Disposition.

\* Intentional tort – a civil wrong resulting from an intentional act.

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