

A Win for Trial Lawyers: A Blow to Illinois Employers

Labor & Employment Law Update

on June 6, 2014

SB 3287 was signed by Governor Quinn yesterday, June 5, 2014. This legislation effectively overturns the prior (2012) Appellate Court decision in *Mockbee and Mockbee v. Humphrey Manlift Company, Inc. and R. Harris Electric, Inc.*, 973 N.E.2d 376, 362 Ill.Dec. 276. It eliminates the workers' compensation exclusive remedy/immunity enjoyed by service companies that provide safety consulting services unless those companies are wholly-owned by the employer, insurance broker or the insurer.

Erosion of the exclusive remedy provision always creates more litigation and higher costs. The need for removing this protection only for certain safety consulting companies is unknown but again it will be a problem for smaller to mid-sized employers which typically cannot afford or need a full-time safety professional on their staff to address safety issues. Many employers use consulting firms, at varying degrees, which provide expertise to help keep their operations in compliance with OSHA standards and limit their workers' compensation exposure to employee injury. SB 3287 will only make it more difficult for employers to maintain safe workplaces.

In addition, these necessary and valuable consulting businesses may be forced out of business by increased insurance costs of their own in light of increased legal exposures. One more double hit on small business and poor public policy.