

August 16, 2023

PCRB Information Bulletin #002

To All Members of the PCRB:

**Re: Recent U.S. Supreme Court Decision in FELA Case Based on Pennsylvania's Unique
Corporate Law**

Some concern has been shared with the PCRB regarding a recent (June 27, 2023) decision of the U.S. Supreme Court in *Mallory v. Norfolk Southern Railway Co.* (600 U. S. ____ (2023)). In *Mallory*, a plurality of the Court held that corporations that are incorporated and headquartered in states other than Pennsylvania, but that have registered to do business in Pennsylvania, are subject to the personal jurisdiction of the Pennsylvania state courts – meaning they can be sued in civil cases in Pennsylvania state courts – even if the plaintiff does not reside in Pennsylvania and the claim did not arise in Pennsylvania or under Pennsylvania law (the claim in *Mallory* was a claim under the Federal Employers' Liability Act (FELA) relating to exposure to toxic substances in other states).

Four Justices reasoned that Pennsylvania's unique corporate law supported their decision. One Justice, in addition to citing Pennsylvania's unique corporate law, based his vote on the fact that the defendant, Norfolk Southern, had extensive operations in Pennsylvania. But this Justice did state a concern that Pennsylvania's corporate law might violate the Dormant Commerce Clause of the U.S. Constitution, a point not raised by Norfolk Southern in the litigation to date but that can be expected to be raised when the case goes back to the Pennsylvania Supreme Court for further proceedings.

What the *Mallory* opinion does not address is whether a state workers compensation claim arising under the workers compensation laws of a state other than Pennsylvania and from an injury or exposure occurring outside of Pennsylvania can or will be adjudicated in the Pennsylvania system. *Mallory* stands only for the proposition that Pennsylvania courts have broad personal jurisdiction (as opposed to subject matter jurisdiction), including in FELA cases, over corporations that are registered to do business in Pennsylvania and have extensive operations here.

We will continue to monitor developments in this area as they occur.

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