

Court Limits Employee Right to Sue Related Corporation as “Common Employer”



Corporate entities often operate their businesses via multiple corporations for purposes of tax, liability and other strategic reasons. Thus, employees can get caught up in corporate shell games if the particular corporation they work for goes out of business. Under the so-called “common employer” rule, employees can sue these other corporations for the wages and other debts owed by the liquidated corporation. However, the Ontario Court of Appeal has ruled that a corporation isn’t a common employer just because it owns, controls or is affiliated with another corporation that had a direct employment relationship with the employee. For the rule to apply, there must be evidence of an intention to create an employer-employee relationship between the individual and related corporation, according to the high court [[*O'Reilly v. ClearMRI Solutions Ltd.*](#), 2021 ONCA 452 (CanLII), June 21, 2021].