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NJ Appellate Division Addresses "Coming and Going" Rule

In an unpublished opinion decided on June 3, 2020, the New Jersey Appellate Division addressed the "coming and going" rule in the context of a third-party liability claim. In a victory for employers, the Court held that the facts of the case established the employer could not be held liable for the negligence of an employee when he was involved in a motor vehicle accident on the way to a training session at work.

The appeal arose from a trial court summary judgment dismissing the plaintiff's suit. The plaintiff was a passenger in a vehicle struck by a high school student, Ryan Vanlaningham, who was driving to work. Vanlaningham had been summoned to work by his supervisor for a training meeting. He was to be paid for the training session and would begin his regular shift thereafter.

The plaintiff alleged that Vanlaningham's employer should be held vicariously liable under the theory of respondeat superior. Under the theory, an employer can be held liable if an employee's negligence results in an injury to a third party, as long as the employee acted within the scope of employment. The defendant filed a Motion to Dismiss arguing that Vanlaningham was not in the scope of his employment under the "coming and going" rule. Pursuant to that rule, an employee who is heading to or from work is generally deemed not to be an employee because employers lack control of their employee's actions during those times.

The plaintiff argued that Vanlaningham's employer could be held liable under the "special mission" exception to the "coming and going" rule. The "special mission" limitation applies when an employer compels an employee to undertake a particular activity. In those instances, activities normally considered outside the employment scope are deemed work-related because the employer has established control over the employee.

The Appellate Division found that the facts did not warrant an application of the "special mission" exception. The Court specifically found that being compelled to attend a training session was not a special mission. The Court found Vanlaningham was traveling to his regular place of employment on a day when he was scheduled to work. Therefore, there was no evidence of a special mission.

Comment: In recent years, the "coming and going" rule has been steadily eroded by Courts who have carved out more and more exceptions. However, this particular ruling is strongly in favor of the employer. It establishes that employees who are compelled to attend training sessions conducted on regularly scheduled workdays at the usual place of business are not taking part in a special mission.

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