Fifth Circuit Court of Appeal
State of Louisiana

No. 26-C-83

CHRISTOPHER PIAZZA

versus

BRET JOHNSTON, C.T. TRAINA INC., ET AL.

ON APPLICATION FOR SUPERVISORY REVIEW FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 858-587, DIVISION "P"
HONORABLE LEE V. FAULKNER, JR., JUDGE PRESIDING

May 12, 2026

STEPHEN J. WINDHORST

JUDGE

Panel composed of Judges Fredericka Homberg Wicker,
Marc E. Johnson, and Stephen J. Windhorst

WRIT DENIED

SJW
FHW
MEJ

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MORGAN NAQUIN
DEPUTY CLERK

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WINDHORST, J.

In this writ application, defendant, C.T. Traina Inc., seeks review of the trial court's judgment, denying its motion for summary judgment and granting the partial cross- motion for summary judgment filed by plaintiff, Christopher Piazza. The sole issue in ruling on these motions involved whether defendant, Bret Johnston, was in the course and scope of his employment with C.T. when he was involved in an automobile accident with Mr. Piazza. The trial court concluded Mr. Johnston was in the course and scope of his employment with C.T.

BACKGROUND

In this lawsuit, Mr. Piazza seeks damages from Mr. Johnston and C.T. for injuries suffered in an automobile accident in Jefferson Parish at the southbound portion of the Causeway Bridge. Mr. Johnston struck Mr. Piazza's 2007 Chrysler Voyager in June 2024 while Mr. Johnston was driving his 2010 Ford Expedition near the 0.1-mile marker of the Causeway Bridge. At the time of the accident, Mr. Johnson was returning home from a job site in Mandeville for his employer, C.T. Mr. Piazza claims Mr. Johnston was in the course and scope of his employment with C.T. when the accident occurred.

In October 2025, C.T. filed a motion for summary judgment, contending Mr. Johnston was not in the course and scope of his employment at the time of the accident and seeking dismissal of the claims asserted against it. Mr. Piazza filed a partial cross-motion for summary judgment, asserting that Mr. Johnston was in the course and scope of his employment at the time of the accident, and thus, C.T. was vicariously liable for Mr. Johnston's negligence.

Undisputed facts indicate that on the day of the accident, Mr. Johnston arrived at C.T.'s offices in Metairie at about 7:00 A.M., at which time his shift began. His boss gave him his job assignment for the day, which was in Mandeville. Although he did not typically drive his personal vehicle to job sites, on this particular day, he

drove his vehicle to the job site in Mandeville. Mr. Johnston did not recall who told him to drive his car, or the reason he had to drive his car on this particular day. C.T. does not insure or pay for maintenance on Mr. Johnston's personal vehicle. When he used his vehicle for work, Mr. Johnston testified he could request reimbursement for fuel and C.T. would include the reimbursement in his paycheck. He did not request reimbursement for fuel for the use of his vehicle on the day of the accident.

Mr. Johston left the job site at 3:00 P.M. that afternoon and drove his car home alone. Someone at the office filled out his time sheet for that day and wrote 3:30 P.M. as his "clock out" time. The accident occurred at 3:35 P.M. While Mr. Johnston was on his way home, he did not perform any errands for C.T. or return to the office. Mr. Johnston's normal workday was from 7:00 A.M. to 3:30 P.M., although his hours did vary sometimes. C.T. paid Mr. Johnston an hourly wage and, on the day of the accident, it paid him until 3:30 P.M.

LAW and ANALYSIS

A motion for summary judgment should be granted "if the motion, memorandum, and supporting documents show that there is no genuine issue as to material fact and that mover is entitled to judgment as a matter of law." La. C.C.P. art. 966 A(3). The party moving for summary judgment bears the burden of proof. La. C.C.P. art. 966 D(1). However, if the movant will not bear the burden of proof at trial, the movant's burden on a motion for summary judgment does not require him to negate all essential elements of the adverse party's claim, but rather to point out the absence of factual support for one or more elements essential to the claim. Id. Thereafter, the adverse party has the burden to produce factual support sufficient to establish the existence of a genuine issue of material fact or that the mover is not entitled to summary judgment as a matter of law. Id.

Appellate courts review a trial court's grant of summary judgment *de novo*, viewing the record and all reasonable inferences that may be drawn from it in the

light most favorable to the non-movant. Landry v. Nat'l Union Fire Ins. Co. of Pittsburg, 19-337 (La. App. 5 Cir. 12/30/19), 289 So.3d 177, 179, writ denied, 20-00160 (La. 3/16/20), 370 So.3d 736, and 20-188 (La. 5/1/20), 295 So.3d 945. To determine if summary judgment is appropriate, this Court must ask the same questions as the trial court: is there any question of material fact, and is the mover entitled to judgment as a matter of law? Id.

Summary judgment is generally appropriate when all the relevant facts are marshaled before the court, the facts are undisputed, and the only issue is the ultimate conclusion to be drawn from the applicable law. Hogg v. Chevron USA, Inc., 09-2632 (La. 7/6/10), 45 So.3d 991, 999. In the present case, the determination of whether Mr. Johnston was in the course and scope of his employment based on the undisputed facts is an issue of law appropriate for summary judgment.

An employer is answerable for the damage occasioned by his servant in the exercise of the functions in which the servant is employed. La. C.C. art. 2320. For an employer to be held vicariously liable for the actions of an employee under La. C.C. art. 2320, the plaintiff must show that (1) an employer-employee relationship existed between the tortfeasor and the employer, and (2) the negligent act of the tortfeasor was committed within the course and scope of his employment with the employer. Koehl v. RLI Ins. Co., 21-68 (La. App. 5 Cir. 5/12/21), 325 So.3d 1110, 1113. There is no dispute that an employment relationship existed. Instead, the issue is whether Mr. Johnston was in the course and scope of his employment with CT at the time of the accident.

Generally, an employee's conduct is within the course and scope of his employment if the conduct is of the kind that he is employed to perform, occurs substantially within the authorized limits of time and space, and is activated at least in part by a purpose to serve the employer. Orgeron on Behalf of Orgeron v. McDonald, 93-1353 (La. 7/5/94), 639 So.2d 224, 226-27. An employer is liable for

an employee's negligent acts when the conduct is so closely connected in time, place, and causation to his employment duties that it constitutes a risk of harm attributable to the employer's business. Id.; Koehl, 325 So.3d at 1114. In determining whether the employee's conduct is employment-rooted, the court assesses several factors, including the payment of wages by the employer, the employer's power of control, the employee's duty to perform the particular act, the time place and purpose of the act in relation to service of the employer, the relationship between the employee's act and the employer's business, the benefits received by the employer from the act, the motivation of the employee for performing the act, and the reasonable expectation of the employer that the employee would perform the act. Washington v. Avondale Indus., Inc., 98-0362 (La. App. 4 Cir. 3/18/98), 708 So.2d 1254, 1257.

Because an employee usually does not begin work until he reaches his employer's premises, an employee traveling to or from work generally is not in the course and scope of employment. Orgeron, 639 So.2d at 227; White v. Canonge, 01-1227 (La. App. 5 Cir. 3/26/02), 811 So.2d 1286, 1289. Knowles v. State Farm Mut. Auto. Ins. Co., 12-806 (La. App. 5 Cir. 3/27/13), 113 So.3d 417, 419. However, there are three exceptions to the general exclusion regarding commuting to and from work, which are that an employee may be found to be in the course and scope of employment if (1) the employer provides the transportation, (2) the employer provides wages or expenses for the time the employee spends traveling, or (3) the operation of the vehicle is incidental to or in performance of the employee's responsibility. Id.

The dispatching of employees to different work locations gives rise to many "shades of gray" in the otherwise "black and white" applications of the going and coming rule. Orgeron, 639 So.2d at 227. When an employee is required to check in at a certain place and is then dispatched to the work site for that day, he is generally in the course of employment in the travel between the check in place and the work

site, but not between home and the check in place. Id. However, when an employee is instructed to report to different work sites which change periodically, without first reporting to a check in place, there are more variations in the determination of course and scope of employment. Id.

The accident at issue here occurred when Mr. Johnston was on his way home from work. Application of the going and coming rule in this case is complicated by various factors.

Mr. Johnston generally started his workday at C.T.'s office in Metairie and, on the day in question, he was dispatched to a worksite in Mandeville. While he did not typically drive his vehicle to the worksite, on that day, Mr. Johnston did have to drive his personal vehicle to the Mandeville site. Mr. Johnston testified that when he used his personal vehicle, his fuel expenses were reimbursed by his employer, upon presentation of a gas station receipt. Mr. Johnston indicated C.T. paid these fuel expenses every time he submitted a receipt for fuel. C.T.'s payroll records confirm C.T. reimbursed Mr. Johnston for fuel expenses on his two paychecks preceding the accident at-issue. This supports a finding that Johnston was in the course and scope of his employment at the time of the accident and raises the issue of whether an exception to the going and coming rule applies.

Although Mr. Johnston was technically "clocked out" at 3:35 P.M. when the accident occurred, C.T. paid him for the majority of his time spent driving home that day. He left the Mandeville worksite at approximately 3:00 P.M., an individual at the office clocked him out at 3:30 P.M., and the accident occurred five minutes later. We find it significant that Mr. Johnston had to drive out of town for C.T. that day, and that Mr. Johnston did not personally sign himself out on the day in question. Instead, another C.T. employee signed him out at a later time, 3:30 P.M., because Mr. Johnson's workday generally ended at that time. Mr. Johnston's timesheets, however, indicate the start and end times of his workdays did vary sometimes.

The above facts support finding that Mr. Johnston's use of his vehicle and the accident were closely connected in time, place, and causation to his employment duties such that it constitutes a risk of harm attributable to the employer's business. Although Mr. Johnston did not request reimbursement for his fuel, he was *eligible* for reimbursement from C.T. for his travel to and from Mandeville on the day of the accident. In addition, C.T. paid Mr. Johnston for most of his time spent driving home that day. We therefore find that, under the particular facts of this case, application of the various factors leads to the conclusion that the exception to the going and coming rule applies here.

We also find that Mr. Johnston was acting within the course and scope of his employment while traveling from Mandeville to Metairie on the day of the accident because C.T. offered fuel reimbursement to Mr. Johnston when he used his personal vehicle for work, and his trip to Mandeville was employment-related. When an employer pays expenses and the trip in question is employment related, an employee is in the course and scope of employment while away from his workplace. Michaleski v. W. Preferred Cas. Co., 472 So.2d 18, 21 (La. 1985).

In Miller v. Shamsnia, 24-100 (La. App. 5 Cir. 12/23/24), 410 So.3d 897, 904-905, this court found an exception to the going and coming rule applied to a doctor, involved in an automobile accident, while driving his personal vehicle across the Causeway Bridge to Lakeview Hospital to complete his consulting duties. Id. This court found the exception relative to the employer providing wages or expenses for the time the employee while traveling applied. In reaching this conclusion, the court relied on the fact that the doctor was *eligible* to receive compensation for his travel to and from Lakeview even though on that particular night he did not seek reimbursement. Id. The court also found the doctor in the course and scope of his employment because the doctor's employer had a policy for providing travel

reimbursement to doctors commuting to Lakeview and the drive to the hospital was employment-related. Id.

Considering that in Miller this court found the doctor's eligibility for reimbursement sufficient to trigger application of an exception to the going and coming rule, we believe that result is also appropriate here. In addition, in this case, CT paid Johnston for most of his drive home over the Causeway Bridge. The drive was employment-related and necessary to perform his duties that day.

DECREE

For the reasons stated above, after *de novo* review, and considering the unique facts of this case, we find that Piazza is entitled to summary judgment on the issue of C.T.'s vicarious liability for Mr. Johnston's actions, in the event he is found to be negligent or at fault for causing or contributing to the June 2015 accident. Thus, we find no error in the trial court's judgment denying C.T.'s motion for summary judgment and granting Piazza's partial motion for summary judgment on the issue of vicarious liability. We therefore deny this writ.

WRIT DENIED

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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **MAY 12, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

26-C-83

E-NOTIFIED
24TH JUDICIAL DISTRICT COURT (CLERK)
HON. LEE V. FAULKNER, JR. (DISTRICT JUDGE)
VINCENT P. SCALLAN (RESPONDENT)
SIDNEY W. DEGAN, III (RELATOR)
WM. RYAN ACOMB (RESPONDENT)
TRAVIS L. BOURGEOIS (RELATOR)
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