# Baptist memorial hospital system law general essay

Law

Cases BriefCASE 1: Baptist Mem’l Hosp. Sys. v. Sampson, 969 S. W. 2d 945 (Tex. 1998). Fact: On March 23, 1990 Rhea Sampson went to Baptist Memorial Hospital System in the evening after being bitten on the arm by an unidentified creature. Dr. Susan Howle, an emergency room physician examined her and treated her for an allergic reaction and sent her home. When her condition worsen, she went back to the hospital the following day to this time being treated by Dr. Mark Zakula another emergency room physician who was unable to diagnose the real issue and told her to continue her treatment. Fourteen hours later, as her condition wasn't getting better she went to another hospital where there they diagnosed her bite as that of a brown recluse spider and gave her the proper treatment that saved her life. Procedural History: Rhea Sampson sued Drs Howle and Zakula for medical malpractice, as well as Baptist Memorial Hospital System on the claims of negligence of emergency to diagnose and treat her poisonous spider bite, failing to properly instruct medical personnel in the diagnosis and treatment of brown recluse spider bites, failing to maintain policies regarding review and diagnoses and that Hospital was liable for Dr. Zakula The 288th District Court in Bexar County granted summary judgment in favor of hospital. The court of Appeals reversed and remanded and the Supreme Court Reversed the summary judgment stating that the hospital was not vicariously liable for negligence of its emergency room physicians under theory of ostensible agency theory. Issues: Can an individual or entity that hires an independent contractor can be liable for the tort or negligence of that person under the doctrine of ostensible agency? Holding: No, ReversedReasoning: A hospital can be vicariously liable for the medical

malpractice of a physician who is an independent contractor if the patient looked to the hospital rather than the individual physician for treatment and the hospital held out the physician as an employee. In other words, if the patient believed or was made to believe that the independent contractor actually worked for the hospital then there is a claim. Unfortunately the court realized that the hospital never implies in any way that the independent contractor was actually one of its employees. They made sure to put sign and provided document to be sign by the client in order for her to be well aware that the physician she would see wasn't working for the hospital. The plaintiff even paid directly her bill to the physician. Based on that, the Supreme Court held the doctrine of ostensible agency does not apply in this case therefore the hospital cannot be found liable. Evaluation: I do agree with the Supreme court holding because obviously the hospital made sure to let the patient know about its relationship with the physician. CASE 2: Robertson Tank Lines, Inc. v. Van Cleave, 468 S. W. 2d 354 (Tex. 1971). Fact: Acie Van Cleave was killed by crashing into the rear of a tank truck owned by Robertson Tank Lines which was park on the side of the road with no light on. The driver Alfred Dean Donaghey was employed by Robertson as its driver. Johnie Van Cleave sue the company to recover damages from the death of her husband. Procedural History: Johnie Van Cleave sued Robertson Tank Lines and the driver. The District Court No. 11 entered judgment n. o. v and plaintiffs appealed. The Houston Court of Civil Appeals reversed judgment and defendant brought error. The Supreme Court reversed judgment of Court of Civil Appeals and affirmed judgment of the District Court. Issue: Can an employer be liable for the actions of its employee when

he is on duty? Holding: No, reversed Court of Civil Appeals decision and Affirmed District Court decisionReasoning: An employer can only be liable for its employee action, if this one acted in such a way for the business matter. In other words, his wrong doing was the result of him acting within the scope of his employment. Unfortunately, the court found that the driver was actually not working during the time of the accident despite of the fact that he was still responsible for the vehicle. Evaluation: I totally agree with the Supreme Court ruling, because even though it is true that he was employed and was on a work trip during the time of the accident. His " job" was already over at the time of this accident and the truck should have never been parked where it was if he had follow the instructions giving to him as to go back to Corpus. CASE 3: Texas Gen. Indem. Co. v. Bottom, 365 S. W. 2d 350 (Tex. 1963). Facts: Bottom was employed by General Indem. Co as a driver. He was killed on October 12th when the tractor he was leasing from the company and driving overturned. He was coming from his home in Hillsboro and was heading to work in Dallas. Procedural History: Bottom widow filed a suit for death benefit under Workmen's Compensation Act. The Sixty-Sixth District Court entered judgment for employer's insurance carrier. It appealed. The Waco Court of Civil Appeals affirmed and insurance carrier brought error. The Supreme Court reversed the two lower courts judgment and rendered that the widow take nothing. Issues: Can injuries received while going or coming from a place of work be compensable, especially when the vehicle in used is owned by the company? Holding: No, Reversed. Reasoning: An employee can received compensation if the injury he sustained resulted from him heading to or coming from work and that the vehicle in used was owned

by the employer and giving to the employee as part of his employment and not as part of an accommodation. In this case, the vehicle was not only leased by the employee but this one was also responsible for the maintenance of the vehicle as it was provided to him as a mean to work and to accommodate him beside work hour. Mr Bottom decision to go to Hillsborro wasn't part of his job therefore Texas Supreme Court found that no compensation can be made to the widow from the accident that occurred. Evaluation: I agree with the court reasoning and decision. CASE 4: Morris v. JTM Materials, Inc., 78 S. W. 3d 28 (Tex. App.—Fort Worth 2002, no pet.). Facts: On November 1996 Moris entered into a car collision with a tractor-trailer operated by Jerry Lee Largent. Largent was intoxicated when the accident occurred and he pleaded guilty to the offense. The vehicle he was driving belonged to Hammer Trucking Inc but was leased by JTM Materials. Before being employed a background check along with a test drug had been performed on Largent. Procedural History: Morris sued JTM and DVC, Inc for negligent hiring, retention and supervision of Largent, negligent entrustment, negligent failure to restrict Largent's access to the tractor-trailer after ordinary business hours and negligent failure to prevent Largent from driving the truck after ordinary business hours. He also sued Largent and Hammer Trucking but this is not the subject on the appeal because the case were separated. The case was brought to the 271 District Court who granted carrier's motion for summary judgment and motorist appealed. The Court of Appeals held that (1) if carrier was an interstate motorist carrier, it was vicariously liable for operator's negligence under Federal Motor Carrier Safety Regulations (FMCSR); (2) carrier exercised control over tractor-trailer,

for purposes of determining whether carrier was vicariously liable for operator's negligence; (3) motorist did not conclusively establish that carrier was an interstate carrier, for purposes of motorist's summary judgment motion; (4) at the time of the accident operator of tractor-trailer not acting in the course and scope of his employment; (5) genuine issues of material fact precluded summary judgment on motorist's negligent hiring, retention and supervision claims; and (6) genuine issues of material fact precluded summary judgment on whether operator's actions on the night of the accident constituted a new and independent cause. The summary judgment of the District court was therefore reversed in part, affirmed in part and remanded. Issues: Can an employer be held responsible for its employee wrong doing, when it happened while he was using the company vehicle? Can he be charged with negligence? Holding: No and yes, Reversed in part, affirmed in part and remandedReasoning: The Court of Appeals found that Mr Largent at the time of the accident wasn't on duty but since the truck trailer was leased by JMT from Hammer Trucking, therefore JMT is fully responsible of this truck whereabouts and is vicariously liable as a matter o law under FMCSR for the negligence of its statutory employee drivers. Since JTM never stated that it wasn't an interstate motor carrier but instead stated that Largent wasn't its employee the court cannot issue a summary judgment for JTM on Morris's vicarious liability claim. However, the court decline to impose a broad liability of the negligence part because no cases can support this claim. Moreover, since there is no proof that Largent was working when the accident occurred the Court also overuled morris claim based on respondeat superior. When it comes to the claim of negligent

hiring, retention and supervision, JTM failed on doing a proprer background check and failed in obtaining its DPS driving record therefore the Court sustain Morris claim and reversed summary judgment of the court on Morris's negligent hiring, retention and supervision claims. When it comes to negligent entrustment the Court also found that the trial court erred by granted summary judgment on JTM. The Court affirm the portion on civil conspiracy, joint venture, joint enterprise claim and respondeat superior and denies Morris motion for partial summary judgment. Evaluation: I agree with the court reasoning. CASE 5: Mata v. Andrews Transp., Inc., 900 S. W. 2d 363 (Tex. App.—Houston [14th Dist.] 1995, no writ). Facts: Rudolfo Mata, an occupant of a vehicle involved in collision with truck brought actions against the company owning the Truck. Procedural History: Mr Mata sued Andres Transport Inc for damages for personal injuries suffered when the truck collided with his vehicle He also sued the lessor/owner and driver of the truck Stephen Joe Henry. The Country Civil Court at Law No. 2entered summary judgment in favor of carrier and Mata appealed. The Court of Appeals held that (1) because carrier leased and did not own truck, presumption that driver was within the course and scope of employment while traveling to and from work was inapplicable so as to hold carrier liable for driver's alleged negligent acts under respondeat superior theory, and (2) exception to the general rule removing liability from employer for collisions involving employees traveling to and from work except where employee is furthering employer's businesses and being compensated for the time was inapplicable. The Court of Appeals affirmed. Issues: Can employer be liable for employees action while using the company vehicle? Holdings: No, AffirmedReasoning:

The employer didn't owned the vehicle and moreover the employee wasn't working at the time of the accident, he was actually coming from his home in Austin and was heading to his employer shipping yard in Houston therefore he cannot be held responsible in any way for what happened. The Court granted summary judgment in favor of Appellee. Evaluation: I agree with the court decision. CASE 6: Price v. Westmoreland, 727 F. 2d 494 (5th Cir. 1984)Facts: Sara Price was injured in a truck accident a sued truck owner as well as interstate carrier to which truck had been leased. Procedural History: The United State District Court for the Northern District of Texas found driver negligent but applied common law of agency to deny any recovery against carrier; passenger appealed. The Court of Appeals, Gee, Circuit Judge, held that under applicable federal law the carrier was vicariously liable so he reversed the summary judgment of the lower court. Issue: Can an employer be liable for its employe actions on the road while working for the company under authority of the Interstate Commerce Commission? Holding: Yes, reversedReasoning: Under the Interstate Commerce Commission, a carrier is responsible and therefore liable for its employee actions on the road even if the vehicle is leased and operated by the employee. The Court reversed the lower Court judgment. Evaluation: I agree with the court reasoning.