

# Torres v reardon case study

[Business](#), [Employee](#)



The Case is being contended under four criteria; the first criteria being, whether there could be a triable issue of existence as to whether the employee was under employment during the occurrence of the accident that caused the injuries. In this respect, when a judgmental summary is appropriately adhered to, the court has an obligation to establish as to whether there is an issue to be tried. If it is determined that no triable issue of fact is in existence, it is the duty of the court to opt for contending the case using the law.

The second criterion is as to whether Torres had been engaged as an independent contractor by Reardons or as a mere employee could hold some liabilities under the doctrine of "peculiar risk". In this respect, if Torres had been engaged as an employee in the due course of his injury, then the employee could be held liable under the workers compensation laws. In this scenario it was undisputed that, the employer did not maintain any workers compensation insurance cover, therefore unlimiting Torre from the remedies and he was only now entitled to bring an action of law to the employer. The action of law assumes that, the negligence of the employer contributed towards the injuries but this is viewed as a contributory negligence by the both parties. On the other hand if Torres had been engaged as an independent contractor by the employer to trim the trees, the employer would be held liable under the doctrine of "peculiar risk" for any injuries that might be sustained to "others" resulting from the negligent act of the employee.

The third criterion that the case contended from was as to whether Reardons could also be held liable if could be held that he was negligent in hiring and

supervising Torres in his work and also as to whether such negligence towards the injuries Torres suffered from. In this respect, Torres contends that his employer predominantly contributed towards his injuries in two ways. The employee claims that, his employer breached a duty of care to him by engaging him in the dangerous aspect of trimming the tree, without having an assurance if he was competent enough to handle such a risk. Such a claim by the employer could be held as merit, considering that the employee new of risk involved but he negligently assumed the risk and commenced on with the job. There was evidence whatsoever that the employer unreasonably relied on the Torres presentation to engage him. The employer was not under any obligation to determine whether his employee was licensed to carry out the task. The employee could also claim compensation in the sense that, the injuries sustained had been contributed by the employers' neighbor, and in this case a triable issue of fact should be proven as to whether there was any conspiracy between the employer and the employee towards the injuries sustained by Torres. Torres contentions against his employer's neighbor do not hold any weight considering the fact that there was no evidence as to whether, Bores, the neighbor was working as an agent to Reardon. On the contrary, Bores involved himself in the tree-trimming project for his own reasons, namely he was preventing the branch from falling on his roof tops.

The fourth and the last scenario that could determine the liability effect to either the parties involved is the fact as to whether Torres reasonably assumed the risk involved in trimming the 70 -foot tree could also add some weight to the case. By Torres accepting the deal and presenting him that he

could carry out the task, can be taken as a presumption that the employee reasonably knew of the risk involved and undertook the project. His claim on compensation could therefore be held futile. In this case it was held that, there was factual material that evidenced as to whether, Reardons were negligent or not therefore the evidenced material was not mature enough to present a material issue as to whether, the employer was liable.