Fruit v. Schreiner

Supreme Court of Alaska (1972)

At the time of the accident, Fruit, a life insurance salesman, was attending a sales convention of his employer, Equitable Life Assurance Society (Equitable).

Sales employees of the company were required to attend the convention. The agency manager decided that participants should travel by private transportation, and that they would be reimbursed a lump sum for their expenses. Clay Fruit chose to drive his own automobile.

Insurance experts from California and Washington were also invited as guests to the convention, and the Alaska salesmen were encouraged to mix freely with these guests to learn as much as possible about sales techniques during the three-day gathering. Scheduled events included business meetings during morning hours, evening dinners and at least two cocktail parties. District managers entertained their own sales personnel at other cocktail parties.

At some time between 10:00 and 11:30 p.m. following a seafood dinner, members of the group awoke Fruit who, accompanied by his wife and two couples, walked to the Salty Dawg Bar. The others were tired and went to bed but Fruit decided to drive to another town as he was under the impression that the out-of-state guests were at the Waterfront Bar and Restaurant. Fruit then drove his car to Homer but departed when he did not find any of his colleagues.

His return route took him past the Salty Dawg Bar where Schreiner’s automobile was disabled. At approximately 2:00 a.m. Fruit applied his brakes and skidded across the dividing line of the highway, colliding with the front of Schreiner’s car. The hood of Schreiner’s automobile had been raised and Schreiner was standing in front of his car. The collision crushed his legs.

EQUITABLE’S LIABILITY UNDER THE DOCTRINE OF RESPONDEAT SUPERIOR

The jury found that Fruit was an employee acting within the course and scope of his employment for Equitable at the time and place of the accident. Under the doctrine of respondeat superior (which simply means ‘let the employer answer’) Equitable would thus be liable for Fruit’s of negligence despite lack of fault on Equitable’s part.

Equitable argues, however, that the evidence was insufficient to establish that Fruit was acting within the course and scope of his employment. Equitable contends that any business purpose was completed when Fruit left the Waterfront Bar and Restaurant. It cites cases holding that an employee traveling to his home or other personal destination cannot ordinarily be regarded as acting in the scope of his employment. But Fruit was not returning to his home. He was traveling to the convention headquarters where he was attending meetings as a part of his employment.

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A truly imaginative variety of rationale have been advanced by courts and glossators in justification of this imposition of liability on employers. Among the suggestions are the employer's duty to hire and maintain a responsible staff of employees, to 'control' the activities of his employees and thus to insist upon appropriate safety measures; the belief that the employer should pay for the inherent risks which result from hiring others to carry on his business; the observation that the employer most often has easier access to evidence of the facts surrounding the injury; and the metaphysical identification of the employer and employee as a single 'persona' jointly liable for the injury which occurred in the context of the business.

Baty more cynically states: 'In hard fact, the reason for the employers' liability is the damages are taken from a deep pocket.'

The concept of vicarious liability is broad enough to include circumstances where the master has been in no way at fault; where the work which the servant was employed to do was in no sense unlawful or violative of the plaintiff's rights; where there has been no delegation of a special duty; where the tortious conduct of the servant was neither commanded nor ratified; but nevertheless the master is made responsible. This liability arises from the relationship of the enterprise to society rather than from a misfeasance on the part of the employer.

Scope of employment as a test for application of respondeat superior would be insufficient if it failed to encompass the duty of every enterprise to the social community which gives it life and contributes to its prosperity.

The basis of respondeat superior has been correctly stated as 'the desire to include in the costs of operation inevitable losses to third persons incident to carrying on an enterprise, and thus distribute the burden among those benefited by the enterprise'.

Consistent with these considerations, it is apparent that no categorical statement can delimit the meaning of 'scope of employment' once and for all times. Applicability of respondeat superior will depend primarily on the findings of fact in each case. In this particular case, Clay Fruit's employment contract required that he attend the sales conference. Each employee was left to his own resources for transportation, and many of the agents, including Fruit, chose to drive their own automobiles. By the admission of Equitable's agency manager, the scope of the conference included informal socializing as well as formal meetings. Social contact with the out-of-state guests was encouraged, and there is undisputed evidence that such associations were not limited to the conference headquarters at Land's End. Some agents, including Fruit, gathered with the guests in Homer the evening before the accident, and groups of agents and their wives visited the Salty Dawg on various occasions.

When Fruit left for the Waterfront Bar and Restaurant his principal purpose was to join the out-of-state guests. This testimony of his was further confirmed by the fact that once he discovered that they were not present at the Waterfront he departed immediately.

Because we find that fair-minded men in the exercise of reasonable judgment could differ as to whether Fruit's activities in returning from Homer to the convention headquarters were within the scope of his employment, we are not disposed to upset the jury's conclusion that liability for damages may be vicariously imputed to Equitable.

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