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Broad Protection for State of New Mexico for Claims by State Employees Narrowed Slightly

The New Mexico Court of Appeals addressed the exclusivity provisions of the Workers' Compensation Act in Sarah Quintero v. State of New Mexico Department of Transportation. The case presented an interesting issue of first impression of whether the New Mexico Workers' Compensation Act provides the exclusive remedy in the case of a worker employed by one agency of the State who was injured as a result of the negligence of another separate agency. The Court ruled that it did not.

The facts are pretty straightforward. Sarah Quintero worked for the Department of Public Safety. Her job required no travel. She used the State's public transportation system, provided by the Department of Transportation, for commuting to work. She was injured at a Park and Ride facility when she stepped into an unmarked, unlit, unprotected hole in the facility's parking lot. She suffered a compound fracture to her leg as a result of the accident. The Department of Public Safety terminated her employment and refused worker's compensation coverage for her injuries arguing that they were not work related.

This position did not stop the State from later arguing that workers' compensation was the exclusive remedy when Ms. Quintero sued the State of New Mexico and the Department of Transportation for personal injuries in a premises liability action. The State argued for dismissal of her claims on the basis of workers' compensation exclusivity. The case illustrates the lengths to which employers, including the State of New Mexico, will go to avoid the fair compensation of their employees by invoking the protection of the Workers' Compensation Act. This case is particularly egregious since the State denied workers' compensation on one end, and attempted to enlist its protection on the other. Fortunately, the Court of Appeals was not inclined to adopt their abusive and opportunistic position.

The ruling rested primarily on two grounds. First, there is a general exception to workers' compensation coverage for travel to and from work known at the "going and coming rule." In fact, the rule is regularly invoked by employers to avoid workers' compensation coverage for workers' injured in route to or from work. Clearly, in this case, Ms. Quintero was en route to work which served the basis for the initial finding by her employer that her injuries were not work related.

Perhaps more importantly, the Court addressed the unfairness of a rule that would deny rights to all state or municipal employees who suffer injuries en route to work as a result of the negligence of the transportation or transit systems on which they travel. Clearly, a clerical worker traveling to work by road, bus or train is not doing so as part of their employment any more than any other citizen. Moreover, allowing such a broad interpretation of workers' compensation exclusivity would lead to the complete denial of a state employee's rights when dealing with any state agency. The outcome would be both absurd and profoundly unjust.

However, there are cases in New Mexico which have come to precisely that conclusion. So it may be expected that the State will appeal this ruling to the New Mexico Supreme Court. The dissenting opinion in the case has lit the way. In light of the lengths to which the courts and the legislature will go to protect employers against their own negligence toward their employees, it will not be at all surprising if this case is reversed.

Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958

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