



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**SHEROLD D. ROAF v. STEPHEN S. REBUCK CONSULTING,
LLC, dba MEDSTAR MEDICAL TRANSPORT et al.
CV-23-0233-PR**

PARTIES:

Petitioners: Stephen S. Rebeck Consulting, LLC, dba Medstar Medical Transport, et al.
("Medstar")

Respondent: Sherold D. Roaf ("Roaf")

FACTS:

Francisco Ortiz ("Ortiz"), while working as a driver for Petitioner Medstar, rear-ended Respondent Roaf in an automobile accident. Roaf sued Ortiz for negligence and Medstar for vicarious liability and negligent hiring. Roaf did not seek punitive damages.

Medstar admitted that Ortiz was working in the scope and course of his employment and admitted that Ortiz was negligent. All parties also agreed that Roaf was not at fault for the accident. Based on its admission of vicarious liability, Medstar asserted that Roaf's negligent hiring claim against it was confusing, cumulative, and unnecessary and that the only issues for trial were whether the accident caused the damages Roaf sought and the amount of the damages. Medstar filed a motion in limine asking the trial court to preclude Roaf from presenting Ortiz's employment file and driving record to the jury and arguing that Roaf could not pursue negligent hiring when Medstar admitted vicarious liability. The court denied the motion and ruled that Roaf could pursue both direct negligence and vicarious liability claims against Medstar at trial.

During trial, the judge questioned Roaf's assertion that the jury needed to apportion fault between Ortiz and Medstar, and Medstar again argued that the negligent hiring claim was unnecessary and that Roaf should not be able to present arguments based on Ortiz's driving record because the only issues were causation and the amount of damages attributable to the accident. The judge declined to limit the evidence and arguments.

The verdict form asked the jury to state the amount of Roaf's damages and to apportion liability between Ortiz and Medstar. The jury awarded Roaf \$4,625,000 in damages and attributed 40% of the fault to Ortiz and 60% of the fault to Medstar. Regardless of the allocations, Medstar would be responsible for the full damages award because it admitted vicarious liability for Ortiz's driving.

Medstar moved for a new trial, arguing that the verdict form improperly asked the jury to allocate fault between Medstar and Ortiz, when Medstar had assumed liability for Roaf's damages and when Roaf did not seek punitive damages but nonetheless argued that Medstar deserved punishment. The trial court denied the motion.

On appeal, Medstar argued that the trial court erred as a matter of law by submitting the negligent hiring claim to the jury after Medstar assumed liability for Roaf's injuries. It urged the Court of Appeals to adopt the "*McHaffie* rule," which prohibits a plaintiff from pursuing both direct and vicarious liability claims against a tortfeasor's employer when the employer has admitted vicarious liability for the tortfeasor's negligence. *See McHaffie v. Bunch*, 891 S.W.2d 822 (Mo. 1995). The court recognized that Arizona has neither adopted nor rejected the *McHaffie* rule, but it determined that it did not need to consider the issue because Medstar did not establish that any alleged error prejudiced it. The court reasoned that Medstar assumed liability for 100% of Roaf's damages resulting from the accident, regardless of any direct liability for negligently hiring Ortiz. "Thus, if the jury awarded Roaf any damages, Medstar was going to pay 100% of them."

ISSUE:

Did the Court of Appeals err by finding no prejudicial error in allowing Roaf to proceed against Medstar on separate claims of negligent hiring and vicarious liability when Medstar admitted it was vicariously liable for its employee's negligence and when Roaf was not seeking punitive damages against Medstar?

This Summary was prepared by the Arizona Supreme Court Staff Attorneys' Office solely for educational purposes. It should not be considered official commentary by the Court or any member thereof or part of any brief, memorandum, or other pleading filed in this case.