



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**CRAVENS, et al. v. MONTANO, et al.
CV-24-0143-PR**

PARTIES:

Petitioner: Cincinnati Indemnity Company

Respondent: Michael Corey Cravens, surviving spouse of Samantha J. Cravens

FACTS:

Cincinnati Indemnity Company (“Cincinnati”) issued a commercial automobile insurance policy to Casas Custom Floor Care, LLC (“Casas”). In April 2018, a Casas employee (“Montano”) borrowed his mother’s vehicle and drove to a jobsite. He completed his duties at the site, working fewer hours than he had reported in his already-submitted timesheet. He then left the jobsite in his mother’s vehicle and began driving toward Casas’ office, intending to correct his timesheet. On the way, he failed to stop for a red light and struck Samantha Cravens’ vehicle, killing her.

Samantha’s husband (“Michael”) filed suit against both Casas and Montano, alleging claims for wrongful death, negligence, negligence per se, and respondeat superior. Cincinnati accepted coverage of the vicarious liability claim against Casas. However, Cincinnati reserved its rights to deny coverage to Montano pursuant to the nonowned autos provision of Casas’ policy. That provision limits coverage for autos that Casas does not own, lease, hire, rent, or borrow to those autos that are “used in connection with” Casas’ business. The policy does not define the phrase “used in connection with your business.”

The superior court granted summary judgment in favor of Casas on the respondeat superior claim. Around the same time, Michael and Montano stipulated to a proposed judgment against Montano in the amount of \$3,850,000. They also entered into an agreement pursuant to *United Services Automobile Association v. Morris*, 154 Ariz. 113 (1987) (“*Morris*”). Under the *Morris* agreement, Montano assigned to Michael any claims he may have against Cincinnati, and Michael agreed not to enforce the stipulated judgment against Montano’s personal assets. The *Morris* agreement contains a provision stating that the agreement is “null and void and given the effect of rescission” if a court determines that the agreement or any provision of it precludes Michael from pursuing his respondeat superior claim against Casas.

Cincinnati intervened in the case, seeking a declaration that it had no duty to indemnify Montano and challenging the stipulated judgment as unreasonable. Michael, as Montano’s assignee under the *Morris* agreement, filed a counterclaim alleging that Cincinnati breached the insurance contract by wrongfully denying coverage. The superior court granted summary judgment in favor of Michael, finding that Montano had used his mother’s vehicle “in connection with” Casas’ business at the time of the accident. The Court of Appeals later vacated that ruling, finding that a genuine

issue of material fact existed as to whether Montano was acting in the course and scope of his employment at the time of the accident.

Cincinnati also sought summary judgment regarding enforceability of the *Morris* agreement. The superior court denied Cincinnati's motion and determined that the agreement is reasonable and enforceable. The superior court ultimately entered judgment in favor of Michael against Montano in the amount of \$3,850,000 and against Cincinnati on Michael's counterclaim for breach of contract. Cincinnati appealed.

The Court of Appeals affirmed the superior court's judgment. It rejected Cincinnati's argument that "in connection with your business," as used in the nonowned autos provision of Casas' policy, means "in the course and scope of employment." Instead, the Court of Appeals determined that the phrase means "an association, link, or relationship." Applying this definition, the Court of Appeals found that the undisputed facts establish the requisite association, link, or relationship between Montano's use of his mother's vehicle and Casas' business, even if that relationship fell short of the showing necessary to establish Casas' liability under respondeat superior. The Court of Appeals also found no clear error in the superior court's determination that the *Morris* agreement was reasonable. It further found that the rescission provision contained in the *Morris* agreement was not evidence of fraud or collusion because the provision affects only Montano's interests.

ISSUES:

The Arizona Supreme Court requested that the parties address the following issues:

1. What is the proper interpretation of the phrase "in connection with your business" as used in a nonowned auto provision of an employer's commercial automobile insurance policy?
2. Is a contingent *Morris* agreement unenforceable?

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