

EMPLOYMENT SERVICES ALERT

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Ohio Does Not Recognize Dual Intent Doctrine

While many jurisdictions recognize the dual intent doctrine, which allows a workers' compensation claim when a worker is injured while traveling for both business and personal purposes, Ohio does not. In an October 21, 2014 decision, the Ohio Supreme Court held in the case of *Friebel v. Visiting Nurse Assn. of Mid-Ohio*, Slip Opinion No. 2014-Ohio-4531, that the doctrine of dual intent is not applicable when determining eligibility for workers' compensation benefits.

This case involved a woman by the name of Tamara Friebel, who was employed by Visiting Nurse Association of Mid-Ohio ("VNA") as a home health nurse to provide in-home healthcare services to VNA clients. Ms. Friebel traveled from her home to clients' homes using her personal vehicle. While on the way to a patient's home, Friebel decided to also transport her children and family friends to a local mall. Before dropping off her passengers, Friebel's car was hit from behind while stopped at a traffic light. Friebel filed an application for workers' compensation benefits, and the Industrial Commission allowed her claim at the administrative level. VNA filed an appeal into common pleas court and moved for, and was granted, summary judgment on the basis that Friebel was on a personal errand and thus not injured within the course and scope of her employment. Friebel appealed, and the court of appeals reversed the trial court's order granting summary judgment and held that, as a matter of law, the accident and injury arose out of and occurred in the course of Friebel's employment. The court of appeals indicated that Friebel had the dual intent to drop her passengers off at the mall and to travel to her patient's home and that when she was injured, she had not yet diverted from that path.

On VNA's appeal, the Ohio Supreme Court reversed the court of appeals' decision and remanded the case to the trial court. In a 5-2 decision, the Court cited a prior Ohio Supreme Court case (*Cardwell v. Indus. Comm.*, 155 Ohio St. 466, 99 N.E.2d 306 (1951)) and commented that a claim's compensability should focus on the objective standard of "in the course of" and "arising out of" a person's employment, not the subjective intent of an injured worker.

This case is good news for Ohio employers because the Court essentially rejected a blanket rule in favor of continuing a fact-based analysis for claims involving employees traveling with both personal and employment purposes.

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