**Oklahoma Case Summaries**

***Pina v. American Piping Inspection, Inc.,*** 2018 OK 40, ---P3d---.

Question: Is worker in the course and scope of employment at time of collision when: working oil site 130 miles from home, working 6 days and then off 1, provided a *per diem* for food and lodging, paid for use of his truck, had gasoline was paid by employer and employer paid for water and ice only if procured at employer designated time and gas station.

Answer: Yes.

Facts: Octavio Pina was pipeline installer for American Pipe Inspection, Inc. (API). At time of MVA he was working 130 miles from home, on six days and off one. API paid his gas and paid him for use of his truck. API agreed to pay for water and ice only if Pina obtained it at gas station designated by API and at time designated by API (so that API supervisor would be there to make the purchase. After getting water and ice, Pina would drive another 30 miles to site and sign official log that employer claimed was start of work day. ON day of injury, after getting the water and ice, Pina was involved in a collision while driving the additional 30 miles to the site. The supervisor agreed Pina’s work day started when he made it to the gas station (contrary to official company line). Pina had also asked supervisor’s permission to leave the gas station and drive to the site.

Administrative Law Judge (ALJ) determined Pina was not in course and scope. Workers’ Compensation Commission affirmed the holding by the ALJ. Pina appealed, asserting: the facts fall within the ambit of 85A § 9 as “travel by an employee in furtherance of the affairs of an employer that is specifically directed by the employer”; the AWCA violates Okla. Const. Art. 2, § 6 by leaving him without a remedy; and, deprives him of due process per Okla. Const. Art. 2, § 7. COCA affirmed. The Supreme Court reversed and remanded.

Holdings: The Supreme Court reviewed the legal question *do novo,* while accepting the factual determinations of the Commission where supported by substantial evidence. The AWCA defines “course of scope of employment” in 85A § 2 to include activities at the “premises of an employer,” which Pina was not, but also to include activities **“at other locations designated by an employer and travel by an employer in furtherance of the affairs of an employer that is specifically directed by the employer.”** The “at other locations” proviso contains the following exceptions:

a. an employee's transportation to and from his or her place of employment,

b. travel by an employee in furtherance of the affairs of an employer if the travel is also in furtherance of personal or private affairs of the employee,

c. any injury occurring in a parking lot or other common area adjacent to an employer's place of business before the employee clocks in or otherwise begins work for the employee or after the employee clocks out or otherwise stops for the employer, or

d. any injury occurring while an employee is on a work break, unless the injury occurs while the employee is on a work break inside the employer's facility and the work break is authorized by the employee's supervisor[.]

Since Pina was not at the employer’s premises, the Court had to first determine if his activities were in furtherance of the affairs of Employer and were done at the direction of Employer. If so, the court had to then decide whether the exceptions applied.

As to the first requirement, the Court first noted the AWCA envisions “travel by an employee in furtherance of the affairs of an employer that is specifically directed by an employer” to be in the “course and scope of employment.” Since API used Pina’s truck and, by prior decisional law, “hauling ice and water to an oilrig drilling site is considered ‘material being hauled for the employer,’” Pina was furthering ALI’s affairs at the time.

As to the exceptions, the Court determined Pina’s travel that day was not “to and from employment” (since his supervisor testified he was on the job as soon as he reached the gas station), nor was it for a “dual purpose” (exception “b,” above)—Pina’s travel that morning “was for the sole benefit of [API]” and thus in the course and scope of employment. The Court thus did not need to answer the constitutional claims.

(1) whether Petitioner's activities were in furtherance of the affairs of Employer and were done at the direction of Employer, (2) whether Petitioner's travel from the gas station to the drill site was transportation to and from his place of employment, and (3) whether the travel by Petitioner was in furtherance of Employer as well as a personal or private affair of Petitioner.

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