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BLOGS

Vicarious Liability

Pennsylvania Court Finds That U.S.-Based Hertz Corp. Could Be Held Liable for the Conduct of Hertz Canada, LTD (A Canadian Company) Under Agency Relationship

In *Loyle v. Hertz Corp.*, 2007 WL 4555201 (Pa. Super. Ct. Dec. 28, 2007), the plaintiffs rented a vehicle from a Hertz facility located at the international airport in Toronto, Canada after making the reservation by telephone in the United States. Shortly after the plaintiffs returned the vehicle to the Toronto airport, they were detained by police officers for four hours and subjected to a strip and cavity search after Hertz personnel found a loaded handgun in the vehicle. Plaintiffs asserted that the gun did not belong to them and contended that it most likely had been left in the rental car by a previous renter and overlooked by Hertz personnel.

Outraged by how they had been treated, plaintiffs sued Hertz Corporation, which is a company based in the United States, for negligence and emotional distress. In response to the lawsuit, Hertz Corp. brought a motion for summary judgment and argued that the proper defendant was Hertz Canada, Ltd because the conduct had occurred in Canada. Hertz Corp. also argued that because Hertz Canada was a separate and distinct corporate entity, it could not be held liable for the plaintiffs' claimed injuries. The lower court agreed and granted summary judgment in favor of Hertz Corp. The court held that because the plaintiffs had failed to plead that an agency relationship existed between Hertz Corp. and Hertz Canada, there was no basis upon which to hold Hertz Corp. liable for Hertz Canada's actions.

On appeal, the court of appeals reversed the lower court's summary judgment ruling and held that the plaintiffs had set forth facts sufficient to allege the existence of an agency relationship between Hertz Corp. and Hertz Canada. In addition, the court held that a genuine issue of material fact existed over whether an agency relationship existed between the two Hertz entities. The appellate court found that because Hertz Corp. advertised itself as a multi-national company with locations worldwide from which cars could be rented by a simple telephone call in the United States, a reasonable person could conclude that Hertz Corp. was the responsible entity for all locations worldwide, including the Toronto location controlled by Hertz Canada, Ltd.