

White and Williams Secures Affirmation of Summary Judgment in Catastrophic Personal Injury Case

2.7.18

On February 7, 2018, the Delaware Supreme Court affirmed the grant of summary judgment in favor of a premises owner in relation to an aerial lift accident that catastrophically injured a temporary worker placed on its premises by a staffing agency.

The injured temporary worker and his family alleged claims of negligence, gross negligence, recklessness, and vicarious liability with regard to the alleged negligence of one of the premises owner's employee in operating the subject aerial lift.

The Superior Court granted the premises owner and its employee summary judgment, holding that the Exclusive Remedy Provision of Delaware's Workers' Compensation Act bars all claims raised against the premises owner, who was found to be the injured worker's special employer, and its employee.

Plaintiffs appealed to the Delaware Supreme Court, challenging the Superior Court's grant of summary judgment. After briefing and oral argument, the Delaware Supreme Court affirmed the trial court's ruling, finding that there was no material issue of fact as to the temporary worker's status as a "borrowed servant" pursuant to his special employment relationship with the premises owner and his "co-employee", who was acting in the course and scope of his employment when the accident occurred.

Robert Devine and Rochelle Gumapac represented the premises owner and its employee in this matter.