

## EMPLOYMENT LAW UPDATE

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### ***An Employee's Accidental Death Cannot Be Attributed To The Parent Corporation Based On Control Over The Budget Of The Subsidiary Employer.***

***Waste Management, Inc. v. Superior Court (Peralta)*** 04 C.D.O.S 4719 (June 1, 2004, Cal.App.4 Dist.)

*By Jason A. Geller and Kevin Whittaker*

Rafael Peralta Rios ("Peralta") was killed by a trash truck while working as a mechanic for Waste Management of California, Inc. The Peralta family filed a workers' compensation claim against WMCI and MWCI's parent corporations, Waste Management, Inc. and USA Waste of California (collectively, "WMI").

The Peraltas claimed negligence and wrongful death against WMI on the grounds that WMI's control over WMCI's budget prevented WMCI from properly maintaining the trash trucks. The poor maintenance allegedly resulted in the accident that killed Peralta. The trial court denied WMI's motion to dismiss the claim. The Court of Appeal reversed.

The Court of Appeal explained that an employer's parent corporation is **not** responsible for the working conditions of its subsidiary's employees solely based on the existence of the parent-subsidiary relationship. An exception lies where evidence exists establishing a

duty owed by the parent corporation to the employee. Absent a duty, the imposition of liability on the parent results in treating the parent as an employer without providing it with the shield of employer immunities under workers' compensation law. Additionally, without a duty, plaintiffs could obtain a double recovery for the same act.

The Court explained that the Peraltas alleged no independent tort claim against WMI. They made no allegations that WMI assumed a duty to ensure the safety of WMCI's employees, or that WMI owned, operated, manufactured, sold or serviced the truck that killed Peralta. The Peralta family simply alleged that WMI refused to allocate corporate funds to repair or replace the garbage trucks to save costs. Based on the allegations, the Court reasoned that even if WMI engaged in a scheme to plunder monies belonging to WMCI to repair and replace WMCI's trash trucks, WMI owed a duty to WMCI as its subsidiary, not to WMCI's employees.

Negligently controlling or intentionally mismanaging a subsidiary's budget alone does not create a duty on the part of the parent corporation to ensure safety or prevent injuries to the subsidiary's employees. The ultimate responsibility for employee safety remained with MWCI. Thus, because WMI owed no duty to Peralta, the Court of Appeal directed the trial court to enter a new order dismissing the claims of the Peralta family.

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