

Maryland Court of Appeals Holds That Security Guard Companies Cannot be Held Strictly Liable for the Wrongful Acts of their Employees

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On March 2, 2015, the Maryland Court of Appeals in *Antonio v. SSA Security, Inc.* (Misc. No. 1, September Term, 2014), held that the Maryland Security Guards Act, Md. Code Bus. Occ. & Prof § 19-501, does not impose strict liability or otherwise expand vicarious liability for the employees of Maryland security guards.

In *Antonio*, the appellants, African-American homebuyers, were the victims of racially motivated arsons. Two security guard employees of the appellee, SSA Security (a security guard company), and four of their confederates carried out a conspiracy to set fires to the homes. The homebuyers asserted various negligence-based claims and a claim premised on a provision of the Maryland Security Guards Act. The homebuyers contended that the Act established a basis for SSA's strict liability, asserting that the Act extends the vicarious liability of security guard agencies beyond the Maryland common law doctrine of respondeat superior.

The applicable provision of the Act states that “[a] licensed security guard agency is responsible for the acts of each of its employee while the employee is conducting the business of the agency.” Md. Code. Bus. Occ. & Prof. § 19-501. The homebuyers argued that the security guard company could be held strictly liable for the conduct of its employees while the employees were on duty, even if such conduct was not within the scope of their employment.

The case eventually made it up to the United States Court of Appeals for the Fourth Circuit, and the Fourth Circuit certified the following question to the Maryland Court of Appeals:

Does the Maryland Security Guards Act, Md. Code Ann., Bus. Occ. & Prof § 19-501, impose liability beyond common law principles of respondeat superior such that an employer may be responsible for off-duty criminal acts of an employee if the employee planned any part of the off-duty criminal acts while he or she was on duty?

The Maryland Court of Appeals answered, no. The Court of Appeals held that “§ 19-501 of the Maryland Security Guards Act is a codification of Maryland’s common law doctrine of respondeat superior and does not broaden the scope of vicarious liability of the employers of security guards for their employees’ acts beyond these principles.”

In so holding, the Court of Appeals reasoned that legislature did not evince clear intent to abrogate the common law in enacting the statute. Initially, the Court noted that it will not presume abrogation of the common law unless the legislature expressed a clear intent to do so. The Court then examined the contents of the statute, the legislative history, and policy considerations, but it found insufficient evidence of the legislature’s clear intent to abrogate the common law. The Act has the same meaning as Maryland’s common law doctrine of respondeat superior. Wrongful actions taken by security guards on duty, even if such acts are not within the

scope of their employment, do not expose the employer-security guard company to strict liability.