IMMUNITY - WASHINGTON

Hanson v. Carmona

Supreme Court of Washington, En Banc - March 23, 2023 - P.3d - 2023 WL 2604579

Motorist brought claims for negligence and vicarious liability against local governmental entity that administered for multiple counties grants for programs under Senior Citizens Services Act, and entity's employee, relating to collision when employee was driving vehicle owned by entity.

Defendants filed motion for summary judgment, alleging motorist's failure to comply with statutory presuit notice requirement, and motorist filed amended complaint that removed all references to entity and to allegations that employee was acting in scope of employment.

The Superior Court granted partial summary judgment to entity, allowed case to proceed against employee in her individual capacity, and certified its order for discretionary review. The Court of Appeals reversed. Review was granted.

The Supreme Court held that:

- Statutory presuit notice requirement applies to a tort action alleging that a local governmental employee was acting within scope of employment, even if employee is sued in their individual capacity, and
- Statutory presuit notice requirement does not violate constitutional separation of powers.

Statutory presuit notice requirement applies to a tort action alleging that a local governmental employee was acting within scope of employment, even if employee is sued in their individual capacity and governmental entity technically is not sued; statute encompasses acts within scope of employment, and governmental entity rather than employee would be bound by any judgment.

In light of legislature's constitutional power to decide conditions precedent to suing state and local governments, statutory presuit notice requirement for tort actions did not violate constitutional separation of powers, as applied to motorist's tort action alleging that employee of local government entity that administered for multiple counties grants for programs under Senior Citizens Services Act was acting within scope of employment at time of collision between motorist's vehicle and entity-owned vehicle driven by employee, despite conflict with a civil rule for courts, i.e., presuit notice requirement changed court rule's procedure for commencing a lawsuit, by adding a precondition not found in court rule.

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