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MEMORANDUM

TO: MEMO TO FILE - FAMILY PURPOSE DOCTRINE
FROM: S. DAVID CHILDERS
DATE: MAY 31, 2011
RE: FAMILY PURPOSE DOCTRINE

On April 5, 2011, the Arizona Supreme Court reaffirmed the application of what is commonly called the Family Purpose Doctrine, in the case of *Young v. Beck*, 605 Ariz. Adv. Rep.22. A summary of the Court's decision follows:

FACTS:

The Becks, Kenneth and Barbara, furnished a sport utility vehicle to their seventeen year old son, Jason. He was the primary driver of the vehicle and was authorized to use it for travel to and from school, church, and work and, with permission, social and recreational purposes. The Beck's, however, specifically instructed Jason not to "taxi" his friends or drive their girlfriends home. On the occasion giving rise to this case, Jason was authorized by one of his parents to use the vehicle to drive to a friend's home after work with the understanding that he would drive to his friend's home, spend the night there, and drive home the next day. Jason did not receive or request permission to use the vehicle for any other purpose. On that evening, however, after going to his friend's house, Jason drove around with several other friends as they threw eggs at houses and parked cars. He then drove to his friend's girlfriend's home and while on his way to drop off another friend, collided with a vehicle driven by the Plaintiff who was seriously injured.

Plaintiff's sued Jason Beck and his parents alleging that they were liable for Jason's negligence under the Family Purpose Doctrine. The Superior Court granted Partial Summary Judgment in favor of the Plaintiff and that Judgment was affirmed on appeal.

ISSUE:

The sole issue in this case was the continued liability of the common law Family Purpose Doctrine in the State of Arizona.

ANALYSIS:

Under Arizona common law, beginning with the case of *Benton v. Regeser*, 20 Ariz. 273, 179 P2d. 966 (1919), the Family Purpose Doctrine “subjects the owner of a [vehicle] to vicarious liability when the owner provides an automobile for the general use by members of the family . . . and when the vehicle is so used by a family member.” Dan B. Dobbs, *The Law of Torts* Section 340 at 935 (2001). Under this doctrine the head of household who furnishes or maintains a vehicle for the use, pleasure, and convenience of the family is liable for the negligence of family members who have the general authority to drive the vehicle while it is used for family purposes. *Brown v. Stogsdill*, 140 Ariz. 485, 487, 682 P2d. 1152, 1154 (App. 1984)

The Becks gave several reasons why they felt that the Family Purpose Doctrine was not applicable in this case. Without describing each of the arguments in detail, the holding of the Court as to each of these can be summarized generally as follows:

1. The Legislature did not abrogate the Doctrine by amending the Uniform Contribution Among Tortfeasors Act (“UCATA”), noting that:
 - The statute does not change the common law unless the Legislature clearly and plainly manifests its intent to do so;
 - The Family Purpose Doctrine relies upon concepts of agency, not ownership or liability;
 - The Family Purpose Doctrine is a form of vicarious liability not abolished by the UCATA and is based upon the agency relationship deemed to exist between the head of household and the driver of the family car.
2. The Legislature did not preempt the Family Purpose Doctrine by adoption of the Financial Responsibility Act (“FRA”) (A.R.S. § 28-4009, *et seq.*).
 - The FRA contains no language indicating the Legislature intended to abrogate or limit the Family Purpose Doctrine;
 - Requiring all vehicle owners to carry liability insurance is not inconsistent with the imposition of vicarious liability under the family purpose doctrine.
3. According to the Court, the Family Purpose Doctrine remains viable in Arizona for the following reasons:
 - Longstanding precedence will be overruled only for a compelling reason;
 - The Doctrine represents a social policy generated in response to the problem presented by massive use of the automobile;
 - The Doctrine’s primary justification is to provide for an injured party’s recovery from the financially responsible person – the family head – deemed most able to control to whom the car is available.

- The Family Purpose Doctrine has not been eroded by the development of Arizona's common-law;
- The Legislature could abrogate the doctrine if it decided to do so;
- The Superior Court did not misapply the Doctrine based upon the undisputed facts;
- The Doctrine does not require that the vehicle be furnished for a parental or communal errand and that fact that the driver may have been using the vehicle for his own purpose and pleasure would not automatically rule out the application of the Doctrine.
- When a car is driven for the pleasure and convenience of a family member, the Family Purpose Doctrine generally is served;
- The Doctrine does not require that a parent give permission for every possible route taken or deviation made;
- The fact that Jason's permission did not extend to transporting friends does not entitle the Beck's to Summary Judgment under the Family Purpose Doctrine.

SUMMARY:

The Family Purpose Doctrine remains alive and well in Arizona. Liability under the Doctrine arises:

1. When there is a head of the family;
2. Who maintains or furnishes a vehicle for the general use, pleasure and convenience of the family, and
3. A family member uses the vehicle with the family head's express or applied permission for a family purpose.

Based upon the holding in *Young v. Beck*, it is apparent that the courts will continue to exercise considerable leeway in finding parental responsibility for accidents resulting from a minor child's use of a family-owned vehicle.

S.D.C.

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