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Firm Partners Benjamin Leonard and William Davis obtain reversal at Court of Appeals

By February 21, 2017

Partners Benjamin Leonard and William Davis successfully overturned an adverse ruling from DeKalb County Superior Court against a firm client. The underlying Workers' Compensation claim involved a truck accident resulting in the death of two individuals, one of whom was not an employee of the firm client, EZ Trucking, insured by Travelers. The individual's wife brought an action against EZ Trucking in liability, contending he was not an employee. As such, the liability carrier for EZ Trucking settled her claim and waived the exclusive remedy which could have been raised had the decedent been an employee.

The widow then filed a claim against the workers' compensation insurer for Southern Transportation, the decedent's employer. The carrier thereafter went insolvent, and the Georgia Insolvency Pool took over the handling of the claim. The Pool filed a Motion for Declaratory Action in DeKalb County Superior Court asking for the court to declare there were material issues as to which carrier would be responsible for the claim, and asking the court to further make some findings of fact in the record as to the material issues it raised. EZ Trucking and Travelers filed an Objection and a Motion for Summary Judgment on the grounds that the Superior Court was not the court of original jurisdiction for such a decision, and a ruling from the Court otherwise would not be proper. The DeKalb County Superior Court ruled in favor of Southern and the Pool, and EZ Trucking/Travelers appealed to the Court of Appeals.

The Court of Appeals reversed the Superior Court and remanded the case to the Georgia State Board of Workers Compensation, which it determined to be the sole arbiter of any initial factual findings and conclusions of law in a Title 34 action. In so ruling, the Court of Appeals noted the Motion for Declaratory Action was not proper and ordered the prior ruling to be vacated completely. The underlying action has now been removed to the Georgia State Board of Workers Compensation where litigation is pending in the matter.