



**TENNESSEE BUREAU OF WORKERS' COMPENSATION
IN THE COURT OF WORKERS' COMPENSATION CLAIMS
AT NASHVILLE**

EMILIE LOVE)	Docket No. 2020-06-0102
Employee,)	
v.)	
)	
LOVE MANAGEMENT, INC.,)	State File No. 24525-2019
Employer,)	
And)	
)	
ZENITH INSURANCE CO.,)	Judge Joshua Davis Baker
Carrier.)	

ORDER GRANTING PARTIAL SUMMARY JUDGMENT

Emilie Love moved for partial summary judgment on two issues: her status as an employee for Love Management, and whether her injuries arose primarily out of and in the course and scope of employment. Zenith asked the Court to deny the motion because Ms. Love failed to show entitlement to summary judgment under the applicable legal standard.¹ In fact, they argued that she failed to show by a preponderance of the evidence that her injuries arose primarily out of and in the course and scope of employment. The Court grants Mrs. Love's motion for partial summary judgment.

Claim History

Texas residents Emilie and Tim Love, who are married, own several restaurants operating under the umbrella of Love Management, Inc. On February 24, 2019, Mrs. Love suffered serious injuries when struck by a car just after she landed at the Nashville International Airport. The issue here is whether Mrs. Love was acting in the course and scope of her employment when the accident occurred.

¹ Due to conflicting positions that resulted in a conflict of interest, Zenith Insurance and Love Management, Inc. have separate counsel. Love Management filed a response supporting Mrs. Love's Motion for Partial Summary Judgment.

In her statement of material facts, Ms. Love claimed she worked as Love Management's marketing manager. She arrived in Nashville to attend two events where she intended to promote the Love Management brand: a T.J. Martell charity fundraiser, and a planning meeting for the Music City Eats wine and food festival, which the Loves sponsored.

Mr. Love stated in his deposition that Mrs. Love was the only person who ever served as marketing manager for Love Management, and she came to Nashville primarily to assist in the planning meeting for Music City Eats. Mrs. Love affirmed she was the marketing director for Love Management, and that her job "entailed building our brands, being out in the community, talking to guests, making sure our name is out there as a positive impact on our guests and our community." She also affirmed she came to Nashville to attend a meeting finalizing preparations for Music City Eats.

Zenith stated in its response to Mrs. Love's statement of undisputed facts that it "[a]greed based on the discovery performed to date" that she was Love Management's marketing manager on the date of injury. The only fact it disputed was whether Mrs. Love came to Nashville mainly to attend the Music City Eats planning meeting. It based this dispute on a statement in Mrs. Love's deposition that she may have come to Nashville to attend the TJ Martell event, even if no Music City Eats planning meeting was scheduled.

Law and Analysis

Before considering the motion for partial summary judgment, the Court will address Zenith's motion to continue the partial summary judgment hearing. By previous order, the Court denied Zenith's motion because it failed to include an affidavit supporting its motion as required by Tennessee Rule of Civil Procedure 56.07. *See Johnson v. Loomis Armored*, 2018 TN Wrk. Comp. App. Bd. LEXIS 60, *10-11 (Nov. 21, 2018). That same day, which was the Friday afternoon before the scheduled hearing, Zenith refiled its motion but included an affidavit. The Court again denies the motion due to its late filing. Further, as noted in the order denying Zenith's original motion for a continuance, Zenith agreed to the hearing date before the Court placed it on its docket.

Turning to the substance of Mrs. Love's motion, summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Tenn. R. Civ. P. 56.04 (2021).

As the moving party, Mrs. Love must do one of two things to prevail on her motion: (1) submit affirmative evidence that negates an essential element of Zenith's defense, or (2) demonstrate that Zenith's evidence is insufficient to establish an essential element of its defense. Tenn. Code Ann. § 20-16-101 (2021); *see also Rye v. Women's Care Ctr. of*


Memphis, MPLLC, 477 S.W.3d 235, 264 (Tenn. 2015). If Mrs. Love does either or both, Zenith must respond by producing specific facts showing a genuine issue for trial. *Id.*; Tenn. R. Civ. P. 56.06.

Here, the undisputed facts show Mrs. Love worked as marketing manager for Love Management on the date of her injury. The facts further show she came to Nashville to work in that capacity by attending a planning meeting for Music City Eats, an event that benefited Love Management by expanding its brand. Zenith agreed these facts are undisputed. In fact, the only portion of any fact Zenith disputed was whether Mrs. Love would have come to Nashville only to attend the TJ Martell fundraiser. However, this distinction is immaterial because she also came to attend the Music City Eats planning meeting.

Since the undisputed material facts show Mrs. Love was working in her capacity as marketing manager for Love Management on the date of her injury, the Court grants her motion for partial summary judgment.

It is ORDERED.

ENTERED November 12, 2021.



Joshua Davis Baker, Judge
Court of Workers' Compensation Claims

CERTIFICATE OF SERVICE

I certify that a copy of this Order was sent as indicated on November 12, 2021.

Name	Certified Mail	Fax	Email	Service sent to:
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