

PA Supreme Court Dramatically Changes Scope of Qualified Immunity for Government Entities for Torts Related to “Operation of a Motor Vehicle”

Litigation Alert | September 6, 2018

By: David R. Zaslow and Joshua Gajer

The Pennsylvania Political Subdivision Tort Claims Act (PSTCA), 42 Pa. C.S.A. §§ 8541, *et seq.* generally provides local governmental agencies in Pennsylvania with qualified immunity for tort liability. However, this statute contains a number of exceptions – the most common and often-litigated of which is the “vehicle liability exception.” For 30 years, the Supreme Court of Pennsylvania has held that under the PSTCA, a governmental agency could only be held liable in tort under this exception if the injuries or damages at issue were caused by voluntary movement of a government vehicle. See *Love v. City of Philadelphia*, 543 A.2d 531 (Pa. 1988).

In *Balentine v. Chester Water Authority*, 2018 Pa. LEXIS 4299 (Aug. 21, 2018), the Supreme Court abrogated its prior decision in *Love* and adopted a far more expansive interpretation of the “motor vehicle exception.” In so doing, the *Balentine* court adopted Justice Newman’s dissenting opinion in *Warrick v. Pro Cor Ambulance, Inc.*, 739 A.2d 127 (Pa. 1999) which stated that the term “operation” for purposes of the PSTCA reflects a “continuum of activity.”

“When a person ‘operates’ a vehicle, he makes a series of decisions and actions, taken together, which transport the individual from one place to another. The decisions of where and whether to park, where and whether to turn, whether to engage brake lights, whether to use appropriate signals, whether to turn lights on or off, and the like, are all part of the ‘operation’ of a vehicle.” *Balentine*, 2018 Pa. LEXIS at *19 (citing *Warrick*, 739 A.2d at 128-29 (Newman, J. dissenting)).

In *Balentine*, the Supreme Court cited the rationale advanced in *Warrick* to hold a governmental entity liable for injuries caused by an allegedly negligently parked government vehicle. The *Balentine* opinion dramatically expands the scope of the “vehicle liability exception” to the PSTCA and makes it far more likely that, in the future, liability can be imposed on a government entity in a case involving a commonwealth or municipal vehicle. The *Balentine* case also signals an increased willingness by the Supreme Court of Pennsylvania to depart from long-standing precedent to reach a desired result in a particular case.

If you have questions or would like additional information, please contact David R. Zaslow (zaslowd@whiteandwilliams.com; 215.864.6844) or Joshua Gajer (gajerj@whiteandwilliams.com; 215.864.6837).

This correspondence should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult a lawyer concerning your own situation and legal questions.