

Louisiana Court Holds Employer Responsible for Failing to Protect Employee From Off-Duty Threat of Violence by Coworker

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A Louisiana appellate court has ruled an employee may sue her employer for negligence for injuries sustained on the job when the injuries resulted from a dispute that began outside of work. The case is particularly instructive for disputes that originate outside of work where one or both of the participants is a Louisiana employee.

Background

In [*Carr v. Sanderson Farms, Inc.*, No. 2015 CA 0953 \(February 17, 2016\)](#), Carr asserted a claim of negligence against her employer Sanderson Farms for injuries she sustained from an assault at work. Specifically, Carr alleged that her Sanderson Farms coworker, Webb, deliberately struck her with a pallet jack multiple times. Carr further alleged that, prior to this incident, while she and Webb were away from the workplace, Webb threatened her with bodily harm. Carr alleged that she told Sanderson Farms about the threats, to which Sanderson Farms responded that it would take no action because the threats were not made on Sanderson Farms property.

At the trial court level, Sanderson Farms filed a motion arguing that Carr's negligence claim was barred by the Louisiana Workers' Compensation Act. In general, an employee who is injured by a negligent act at work is restricted to asserting a claim for workers' compensation and may not sue for his or her employer's negligence under the act. The trial court agreed with Sanderson Farms and granted the employer's motion dismissing the case. Carr appealed.

The Appellate Court's Decision

On appeal, the court considered whether, under these circumstances, Carr could sue Sanderson Farms for its negligence, if any, in failing to prevent Webb's attack on Carr. The court, relying on La. R.S. 23:1031(E), explained that "although negligence claims by an employee against her employer for injuries sustained on the job are typically barred by the exclusivity provision of the workers' compensation act, the act does not cover injuries arising out of a 'dispute with another person or

employee over matters unrelated to the injured employee's employment." When an injury is explicitly excluded from the Workers' Compensation Act, the court reasoned, the employer is not immune from a negligence suit based on that injury. The court emphasized that in Carr's case, her claim for workers' compensation benefits was dismissed because of the finding that her injury arose out of a "non-work related dispute." As a result, the negligence claim could proceed against Sanderson Farms.

Next, the court considered whether "a cause of action can be stated in negligence against an employer by an employee who was the subject of an intentional act committed by a co-employee, after the employee notified the employer of threats by the co-employee made away from the workplace."

The court found that "a duty may be owed by Sanderson Farms" because Carr informed her employer about Webb's bodily threats that were made off-site that might result in harm at work. However, the court cautioned that the employee would need to give the employer detailed information about the threats to establish the foreseeability of the injuring conduct, which would lead to the creation of a duty on the part of the employer. As a result, the Louisiana First Circuit Court of Appeal sustained the trial court's granting of the motion against Carr but reversed the dismissal, to allow Carr to plead additional facts.

Appellate Court Reconsiders Petition

After Carr filed her amended petition, Sanderson Farms re-urged its exception of no cause of action, which again was granted by the district court, resulting in dismissal of the claim. Carr thereafter appealed.

In [*Carr v. Sanderson Farms, Inc.*, No. 2016 CA 1064 \(February 17, 2017\)](#), the Louisiana Court of Appeal, First Circuit, reversed the trial court and declared that Carr's negligence claim, as now plead, was not barred by the exclusive remedy provision of the Workers' Compensation Act.

In so declaring, the court relied on the additional facts provided in the amended petition, including details about the nature of the threats made to Carr and Sanderson Farm's knowledge of Webb's history of criminal behavior and "propensity for violence." For example, Carr plead that Webb was involved in two physical altercations during his employment with Sanderson Farms, including a fight during a break at work on Sanderson Farms' premises a month before he made the threats to Carr. Carr also plead that Webb explicitly stated that he was going to "get" her and implied that the threat could be carried out at work. Carr reported Webb's threat to her supervisors the very next time she went to work.

Sanderson Farms' primary argument in support of its exception was that the amended petition did not specifically allege that Carr told her supervisor and shift manager that Webb threatened to injure her *at work*. The First Circuit rejected this argument, stating, "The allegations assert that following the confrontation, Carr spoke to her supervisor and shift manager and 'reported what had happened,' including Webb's threat that 'he was going to get at me, that he was going to get back at me.'" Carr likewise expressed fear of being around Webb. At the time this information was conveyed, Sanderson Farms was allegedly aware of previous incidents wherein Webb physically attacked other people, including the altercation at work only one month earlier. According to the petition, Sanderson Farms took no action to address Webb's threat against Carr other than telling Carr to tell Sanderson Farms the next time Webb said something.

Accepting these allegations as true, the Louisiana court found that the petition stated a valid cause for relief. “If an employer knows or should know of a dangerous condition or person on his premises, the employer is obligated to take reasonable steps to protect its employees.”

Key Takeaways

The message of *Carr* is that a Louisiana employer is potentially liable for negligence under Louisiana law if an employee puts the employer on notice of a non-work related dispute that might spill into the workplace. Such notice might create a duty on the part of the employer to prevent harm to that employee by the intentional act of a fellow employee. *Carr*’s analysis extends to harm threatened by a non-employee who might come to work to harm an employee as well. The case carries a cautionary message for employers regarding domestic or romantic disputes involving Louisiana employees.

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