

PUBLISHED OPINIONS

TRACTORS — CONTROL

39-11-5323 *Arroyo v. 84 Lumber, DiFabrizio Trucking*, Div. of Workers' Compensation (Giovinazzi, J.W.C.) (25 pp.) The respondent denied that it was responsible for paying the petitioner workers' compensation benefits, alleging that his immediate employer was an independent contractor to whom the respondent merely "contracted out" hauling jobs. The compensation judge rejects this argument because the evidence shows that the respondent exercised controls over various aspects of the hauling contractor's operations and effectively made that hauler an extension of its own business operations. [Decided Aug. 4, 2006.]

WORKERS' COMPENSATION — LENT EMPLOYEES AND DUAL EMPLOYMENT

39-2-5324 *Janela, etc. v. Roman Asphalt Corp., et al.*, App. Div. (per curiam) (7 pp.) The plaintiff's husband died as a result of a work-related accident on a paving job at Newark Airport, where he was working for Roman Asphalt Co., which was hired by the general paving contractor RaeBeck Construction Co. The focal issue was whether RaeBeck was the husband's sole employer at the time of the accident, or whether Roman was his general employer and RaeBeck a special or "borrowing" employer. The panel concludes that the trial judge properly explored the law governing the workers' compensation bar and the concept of "lent employees and dual employment" and, applying the five-part test summarized in *Blessing*, ruled that the husband was the general employee of Roman and a special employee of RaeBeck, and could sue neither in a civil action. His exclusive remedy was under the workers' compensation laws. [Decided Oct. 11, 2006.]

WORKERS' COMPENSATION — WORSENING CONDITION — PERMANENT DISABILITY

39-11-5311 *Harris v. State of N.J.*, Div. of Workers' Compensation (Ricciardelli, J.W.C.) (6 pp.) Petitioner suffered continual problems after fusion surgery for a work-related back injury. She claimed that, because

pp.) The court denies the motion of defendants to certify, for interlocutory appeal, the court's prior order that, inter alia, granted plaintiffs' motion finding the Columbus limited liability company defendants liable for contributory and vicarious copyright infringement as a result of the sale of pirated and counterfeit compact discs and cassette tapes at flea markets. The court concludes that defendants have failed to present a controlling question of law and have not demonstrated the existence of a substantial ground for difference of opinion with respect to the court's analysis and rulings. [Filed Oct. 10, 2006.]

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CIVIL RIGHTS — AGE DISCRIMINATION — GENDER DISCRIMINATION — § 1983

46-7-5289 *King v. Cape May County Board of Freeholders, et al.*, U.S. Dist. Ct. (Simandle, U.S.D.J.) (30 pp.) Plaintiff's claims of age and gender discrimination under 42 U.S.C. § 1983 against the police training academy and the board of freeholders in connection with her being withdrawn from the academy are dismissed because the former is an administrative arm of the latter, not a separate judicial entity under § 1983, and because she presents no evidence of any discriminatory policy or custom adopted by the BOF or a permanent or well-settled practice of age or gender discrimination at the academy. She has submitted sufficient proof of her claim that she was treated differently because of her gender by the director of the academy and there is a genuine issue as to whether his disparate treatment of her based on age was rationally related to a legitimate government interest, and his motion for summary judgment is denied. The academy is a place of public accommodation under the state Law Against Discrimination and plaintiff's claims of age and gender discrimination against it under that statute are not dismissed. The director's alleged statements regarding her age and that she should be home barefoot and pregnant were sufficient to establish a prima facie case under the LAD. Plaintiff's claims for punitive damages are not dismissed since a reasonable jury could find that the director's actions and comments reflected an evil motive or intent and were wantonly reckless or malicious. [Filed Sept. 29, 2006.]

CIVIL RIGHTS — § 1983

et al., App. Div. (per attorney, leased an defendant Payret was later began to re-contested custody litigation, plaintiff o her apartment. her than a profes- that she was disci- and suspended from ing that Payret had and she could " She filed a com- complex, Payret's billion and alleging ent, trespass, and o act or otherwise the supervisor. In : trial judge's dis- ion, and his denial ideration and for ld additional caus- [Decided Oct. 11,

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et al., Law Div. —) The debilitating ult of the loss of a gence of the hospi- ordinary circum- / period to file her 6, 2006.]

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