

STATE OF LOUISIANA

COURT OF APPEAL, FIRST CIRCUIT

LISA WHITTINGTON

NO. 2021 CW 0745

VERSUS

WALMART INC. AND ADAM
BOURGEOIS

NOVEMBER 02, 2021

In Re: Walmart Inc., applying for supervisory writs, 23rd
Judicial District Court, Parish of Ascension, No.
128735.

BEFORE: GUIDRY, HOLDRIDGE, AND CHUTZ, JJ.

WRIT GRANTED. The district court's June 3, 2021 ruling denying the motion for partial summary judgment filed by defendant, Walmart Inc., is hereby reversed. A plaintiff cannot maintain direct negligence claims such as negligent hiring, entrustment, supervision, etc., against an employer while simultaneously maintaining claims against the employer for vicarious liability after the employer has admitted that the employee was in the course and scope of employment at the time of the alleged conduct. **Wheeler v. United States Fire Insurance Company**, 2018-1422 (La. App. 1st Cir. 6/13/19), 2019 WL 2612903, *2 (unpublished) (per curiam); **Elee v. White**, 2019-1633 (La. App. 1st Cir. 7/24/20), ___ So.3d ___, 2020 WL 4251974, *4, writ denied, 2020-01048 (La. 11/10/20), 303 So.3d 1038. In this case, the employer, Walmart Inc., admitted that its employee was in the course and scope of employment at the time of the accident. Accordingly, the motion for partial summary judgment filed by defendant, Walmart Inc., is granted and all claims of independent negligence against Walmart Inc. for negligent hiring, training, supervision and retention are dismissed.

JMG
WRC

Holdridge, J., concurs. I am constrained to follow the First Circuit jurisprudence of **Wheeler v. United States Fire Insurance Company**, 2018-1422 (La. App. 1st Cir. 6/13/19), 2019 WL 2612903, *2 (unpublished) (per curiam); and **Elee v. White**, 2019-1633 (La. App. 1st Cir. 7/24/20), ___ So.3d ___, 2020 WL 4251974, *4, writ denied, 2020-01048 (La. 11/10/20), 303 So.3d 1038.

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DEPUTY CLERK OF COURT
FOR THE COURT