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Privette Revisited Property Owner Not Liable For Wrongful Death Of Contractor's Employee Arising From Property Owner's Alleged Violation Of Safety Regulations.

Television Center, Inc. ("TCI") owns a three-story building in Hollywood, California. TCI contracted with Chamberlin Building Services ("CBS"), a licensed contractor, to wash the building's windows. Under the contract, CBS made all decisions regarding the window washing, and CBS owned, inspected, and maintained all the equipment used on the job.

Salvador Franco ("Franco") was a window cleaner for CBS. In the summer of 2011, while Franco was washing the building's windows, his descent apparatus detached and he fell to his death. Franco's survivors sued TCI for negligence alleging Franco died because TCI failed to equip the building with structural roof anchors to which window washers could attach their gear, in violation of Cal-OSHA.

TCI sought to dismiss the lawsuit. TCI argued that under the Supreme Court's decision in *Privette v. Superior Court* (1993) 5 Cal.4th 689, when a property owner hires an independent contractor, the property owner is not liable for injuries sustained by the contractor's employees unless the property owner's affirmative conduct contributed to the injuries. TCI argued that in accordance with *Privette*, TCI had contracted with CBS to wash the building's windows and TCI had not retained control over the manner in which CBS would perform.

Franco's survivors argued that *Privette* did not bar their claims because as a building owner, TCI had a statutory duty pursuant to Cal-OSHA to install roof anchors. According to Franco's survivors, TCI could not delegate this statutory duty to CBS, and its violation gave rise to liability not barred by the *Privette* doctrine.

The trial court agreed with TCI and dismissed the case.

Franco's survivors appealed and the Court of Appeal affirmed the trial court's decision. In doing so, the Court of Appeal rejected the survivor's claim that TCI's duty to install statutorily-required roof anchors was not delegable. The Court held that under *Privette* and its progeny, TCI properly delegated its legal duty to provide a safe workplace to CBS. "[W]hen TCI hired CBS, an independent contractor, to provide window washing services, it delegated to CBS its duty to provide a safe workplace for CBS's employees. Accordingly, TCI's alleged breach of a statutory duty to provide safety anchors did not give rise to liability to the decedent or his survivors."

Delgadillo v. Television Center, Inc. (2018) 20 Cal.App.5th 1078.

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