

Circuit Court for Howard County
Case No. C-13-CV-20-000665

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 509

September Term, 2025

CHRISTINA RENEE BOS, ET AL.

v.

JOHN A. BRYANT, JR., ET AL.

Arthur,
Ripken,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Arthur, J.

Filed: July 7, 2026

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

On the morning of Friday, March 13, 2020, John Bryant, Jr., an assistant marketing manager at Aquaguard Waterproofing Corporation, drove his personal vehicle to his usual workplace shortly before his regularly scheduled starting time. Driving at an excessive speed, Mr. Bryant crashed into a vehicle driven by Jonathan Bos. Mr. Bos died six days later from injuries suffered in the crash.

Mr. Bos’s surviving family members brought suit in the Circuit Court for Howard County, raising a survival claim and wrongful death claims against Mr. Bryant and his employer, Aquaguard. Aquaguard moved for summary judgment based on the general rule that, “absent special circumstances, an employer will not be vicariously liable for the negligent conduct of [an] employee occurring while the employee is traveling to or from work.” *Barclay v. Briscoe*, 427 Md. 270, 284-85 (2012) (quoting *Dhanraj v. Potomac Elec. Power Co.*, 305 Md. 623, 628 (1986)). The circuit court granted the motion and directed the entry of final judgment in favor of Aquaguard.

The plaintiffs appealed. For the reasons stated in this opinion, we conclude that the facts of this case do not present the type of circumstances that might justify a departure from the general rule that employers are not vicariously liable for tortious conduct of an employee driving to work. Consequently, the judgment is affirmed.

BACKGROUND

A. Vehicle Crash and Resulting Death of Jonathan Bos

At around 8:55 a.m. on the morning of Friday, March 13, 2020, Jonathan Bos was driving on Route 32 in Howard County, Maryland. At the same time, John Bryant, Jr., was driving his own vehicle in the same direction. Despite the posted speed limit of 55

miles per hour, Mr. Bryant drove his vehicle faster than 100 miles per hour. Mr. Bryant drove erratically, nearly sideswiping one vehicle and nearly causing more than one head-on collision. Mr. Bryant changed lanes suddenly to maneuver around another vehicle and crashed into the rear of Mr. Bos's vehicle while continuing to accelerate.¹

The impact propelled Mr. Bos's vehicle off the side of the roadway, where it flipped several times. His vehicle came to a stop against a road support post, with the top crushed inwards. Emergency personnel extracted him from the vehicle and transported him to the University of Maryland Shock Trauma Center. Despite attempts to treat his injuries over the next several days, Mr. Bos died from his injuries on March 19, 2020.

The driver who caused the crash, Mr. Bryant, spent the previous night partying, drinking alcohol, and using cocaine. Mr. Bryant also took a Xanax pill before he began driving to work that morning. After the crash, Mr. Bryant unsuccessfully tried to start his vehicle to flee the scene. Mr. Bryant tossed two glass vials over a guardrail, one of which contained a trace amount of cocaine. Police officers arrested him and administered field sobriety tests, which showed signs of impairment. Samples of Mr. Bryant's blood tested positive for a metabolite of cocaine.

On November 12, 2020, the State charged Mr. Bryant with manslaughter by vehicle and various offenses related to his operation of a vehicle while impaired by a controlled dangerous substance. On February 12, 2021, Mr. Bryant entered a guilty plea

¹ Data recovered from Mr. Bryant's vehicle establishes that he accelerated from 104 miles per hour to 107 miles per hour just before the crash and did not apply the brakes.

to manslaughter by vehicle and possession of a controlled dangerous substance. On May 15, 2021, the trial court sentenced him to 10 years of imprisonment, to be followed by five years of probation.

B. Wrongful Death and Survival Action

On September 3, 2020, three surviving family members of Mr. Bos filed a complaint in the Circuit Court for Howard County, raising negligence and wrongful death claims against Mr. Bryant. The three plaintiffs were: Mr. Bos’s surviving spouse, Christina Bos; Mr. Bos’s son, Isaac Bos; and Mr. Bos’s father, Edwin Bos.

The complaint alleged that the crash on March 13, 2020, resulted from Mr. Bryant’s negligent or reckless operation of his vehicle, and that the crash caused the injuries that resulted in Mr. Bos’s death. As personal representative of Mr. Bos’s estate, Ms. Bos brought a survival claim, seeking damages for the physical and mental injuries that Mr. Bos suffered before his death. In their wrongful death claims, the Bos plaintiffs sought damages resulting from the death of Mr. Bos, including pecuniary losses, emotional pain and suffering, and loss of society.

Shortly after Mr. Bryant’s convictions, the Bos plaintiffs filed two amended complaints. Those amended pleadings included a new count seeking punitive damages, based on allegations that Mr. Bryant acted willfully and with malice.

The plaintiffs filed a third amended complaint on March 14, 2023. In that pleading, the plaintiffs added Mr. Bryant’s employer, Aquaguard Waterproofing Corporation, as a second defendant. The plaintiffs added a new count, claiming that Aquaguard was vicariously liable for the negligence of Mr. Bryant. The plaintiffs alleged

that, while driving to work on the morning of the crash, Mr. Bryant was “performing a special act or mission for the benefit of his employer” and “acting within the scope of his employment” with Aquaguard. The plaintiffs alleged that Mr. Bryant drove to work that morning for “the sole purpose” of meeting Aquaguard employees “to inform them in person that they would be furloughed” indefinitely and without pay.

Aquaguard filed an answer and denied liability. In addition, Aquaguard filed a cross-claim, seeking indemnity or contribution from Mr. Bryant in the event that it might be found liable to the plaintiffs.

C. Mr. Bryant’s Employment with Aquaguard

Mr. Bryant’s employer at the time of the crash, Aquaguard Waterproofing Corporation, performs repairs and waterproofing services for the foundations of residential and commercial buildings. Aquaguard operates out of a central office in Beltsville, Maryland. Aquaguard employs a team of telemarketers, or “bookers,” to speak with customers over the phone to solicit business and arrange appointments. Unlike the “outside sales representatives” who travel to other buildings to make estimates, this team of “inside” sales representatives works at the central office.

Mr. Bryant’s father, John Bryant, Sr., has worked as a senior manager for Aquaguard since 2006. Mr. Bryant first started working for Aquaguard in or around 2014 as a telemarketer. Mr. Bryant left Aquaguard after about one year and moved to another state to seek treatment for drug addiction. Mr. Bryant returned to Maryland sometime in 2019 and moved back into his parents’ home. At that time, Aquaguard rehired Mr. Bryant in the same role as a telemarketer or booker.

After several months, Aquaguard promoted both Mr. Bryant and another employee to the position of assistant marketing manager, under the supervision of the marketing manager. Mr. Bryant’s job responsibilities included booking appointments, confirming appointments, coordinating appointments with outside sales representatives, training other telemarketers, and assisting the marketing manager with motivation of the staff. In that role, Mr. Bryant would sometimes “take over” calls from other telemarketers to answer questions or objections from customers. Mr. Bryant usually worked with about four or five other telemarketers on a daily basis. Mr. Bryant did not have any responsibilities for hiring, firing, or the discipline of other employees.

As of early March 2020, Mr. Bryant worked 40 hours per week, with a regular schedule of around 9:00 a.m. to 5:00 p.m. on weekdays. Mr. Bryant owned his own car, registered in his own name, which he acquired with his own funds. Although his father lived in the same house and commuted to the same workplace, about 25 miles away, Mr. Bryant usually drove to work alone. Mr. Bryant almost always used Route 32 during his daily commute. Aquaguard did not require Mr. Bryant to have a vehicle as a condition of his employment. Aquaguard did not provide Mr. Bryant with any subsidies or reimbursements for his travel to or from the office.²

D. The Furlough of Aquaguard Employees in March 2020

During the first few weeks of March 2020, Aquaguard, like many other

² Aquaguard provided travel reimbursement when Mr. Bryant attended a home show in early March 2020, but he did not receive any travel reimbursement for attending work at the Beltsville office.

businesses, was preparing for the possibility that it might need to shut down as a result of the COVID-19 pandemic. It is undisputed that, at some point in March 2020, Aquaguard instituted a furlough under which its employees stopped working and stopped receiving pay. The exact timing of the furlough decision and its announcement is in dispute.

On Thursday, March 5, 2020, the Governor of Maryland issued a proclamation declaring that COVID-19 was a catastrophic health emergency, requiring emergency measures to prevent and control the spread of COVID-19. Following that proclamation, the owner of Aquaguard, Jonathan Siegel, initiated discussions with two senior managers: Jack Buchanan, the general manager, and John Bryant, Sr., the sales and marketing manager. The three of them discussed the possibility of shutting down the business at meetings on Tuesday, March 10th, and Thursday, March 12th. Other Aquaguard employees did not attend those meetings.

On the night of Thursday, March 12, 2020, John Bryant, Sr., talked to his wife, Karen Bryant, about the possibility that Aquaguard might shut down its business. Their son, Mr. Bryant, was also present and may have overheard their conversation.³

At her deposition, Karen Bryant testified that, as of March 13, 2020, she had “some knowledge” that Aquaguard’s employees would be furloughed. She stated that she understood that her son and other Aquaguard employees would pick up their last paychecks on that day. She also stated that she “didn’t know the extent” of the furlough, or “the timing,” or “how long” it would last.

³ For his part, Mr. Bryant testified that he never had discussions about details of the furlough with his father outside of work.

In his deposition testimony, Mr. Bryant stated that the senior managers at Aquaguard told employees that a furlough “was a possibility” around the first week of March 2020 and that “it became . . . official the following week.” Mr. Bryant testified that the senior managers “told everybody directly” and that he “didn’t break the news to anybody.” Mr. Bryant testified that the employees were told that, as soon as the government issued restrictions on work, they “were going to have to be furloughed and not come into the office.” Mr. Bryant stated that “[t]here was never a discussion of when the furlough” would start, because Aquaguard was “waiting on Maryland to specifically instruct companies” to shut down. Mr. Bryant expected that, whenever the senior managers decided when the furlough would begin, “they would tell everybody at once.”

Mr. Bryant testified that, although he usually worked 40 hours per week, he reduced his work hours significantly during the week of March 9th through March 13th. Time records show that Mr. Bryant recorded only 18 work hours during the first four days of that week. Mr. Bryant recalled that, in early March 2020, Aquaguard employees “dialed down the hours that [they] were coming in” because business “volume was down” and because Aquaguard was “going to be closed” soon. According to Mr. Bryant, Aquaguard had “started to trim the staff down” and he “had been kind of picking up slack” by doing some tasks normally performed by others.

Mr. Bryant testified that, to his understanding, March 13, 2020, was the last day that the inside sales representatives would be working in the office. He recalled that the senior managers “met with everybody” and told them that, although “they weren’t furloughing [them] yet[,]” they “were not coming into the office” after that week. He

stated that there were “discussions about how they were going to get everybody working from home” after that week and “get[ting] them to work virtually,” but they “weren’t sure how they were going to do it” at the time.

During his testimony, Mr. Bryant mentioned that he attended “in-office meetings between the managers” on “every Friday.” Counsel for the plaintiffs asked him to explain his understanding of what was “scheduled to happen” or “supposed to happen” on Friday, March 13, 2020. In response, Mr. Bryant stated:

I know it was pay day. Nothing really out of the ordinary. Like I said, we were waiting to be instructed to not come back, and that hadn’t came [sic] down yet directly. It was more of like we did know it was like on a week-by-week basis.

So, there definitely was concern thinking that could this be the last week. We just didn’t know, but that was every week.

But I knew it was going to be a short day. You know, get in, get done what had to be done, and, you know, get out. But that was pretty much the whole week.

Counsel further asked Mr. Bryant to describe his “schedule or agenda” for that day. Mr. Bryant answered:

Well, I was trying to get in. I was trying to get our appointments set for the weekend. I knew I had to go in and kind of pick up the slack, because, like I said, we had our sales reps in the office, but not all of them for the full hour. So, I had to go in and not only do my job, do their job as well.

So, I just wanted to get in and get that done. And I knew there would be a meeting at some point that day. I didn’t know what it was for, what the meeting entailed. I mean, I assumed it would be, you know, a conversation about something that was going on, but I didn’t know what.

But other than that, you know, it’s kind of a normal Friday from a work standpoint, just a little bit more responsibility of what I had to do on

my shoulders because I had to do a couple of jobs for a couple people.

Counsel also asked Mr. Bryant whether it was his understanding “that the furlough was going to be announced” to the staff on that day. Mr. Bryant responded: “I didn’t know for sure that we were going to be furloughed. I knew they would meet with us, but I didn’t know that they were going to announce that.”

On three different occasions, John Bryant, Sr., made statements about the events leading up to the furlough of Aquaguard’s employees. In his first statement, he was addressing the court at the sentencing hearing for his son’s criminal convictions. He gave the following account of the events leading up to the furlough:

. . . [John Bryant, Jr.,] started working at my company and started to move up the ranks and became an assistant manager. We were pleased with his progress and saw great things from him. His employees liked and trusted him, his department was doing well and believed he finally had his addiction under control.

Then COVID came, our company started to reduce staff. In the week leading up to the accident we told him we needed to furlough everyone until we can figure out this Pandemic. On Friday, March 13th, the day of the accident was the day we were going to break the news to our staff. We believe the days leading up to this accident were a triggering event that contributed to his relapse. We are not using the Pandemic as an excuse, . . . but believe his job loss played a part in his relapse.

In his second statement, John Bryant, Sr., testified in his individual capacity at a deposition for the civil action against his son. John Bryant, Sr., testified that, at some point in March 2020, the senior managers of Aquaguard decided to shut down operations and to furlough all employees. He referred to Friday, March 13, 2020, as “the day we were shutting down” and “the last day [the employees] were getting a paycheck.” He added, however, that “everybody knew about [the furlough] before that date.” He stated

that Aquaguard employees “already knew they were being furloughed” because he and Mr. Buchanan had “told everyone” on the previous Monday that they would be furloughed. John Bryant, Sr., testified that his son came into work on Friday, March 13, 2020, “[t]o work his last day and get his paycheck.”

In his third statement, John Bryant, Sr., was testifying at a second deposition, in his capacity as corporate designee for Aquaguard, after the plaintiffs added Aquaguard as a defendant in the civil case. In preparation for that deposition, he reviewed employment records and other documents.

Testifying as corporate designee, John Bryant, Sr., stated that his prior statements about the timing of Aquaguard’s furlough were “incorrect by a little over a week.” He testified that the senior managers did not decide to furlough employees or announce the furlough to employees until Monday, March 23, 2020. On that same day, the Governor of Maryland issued an executive order directing the closure of all non-essential businesses. According to John Bryant, Sr., that executive order “prompted” the senior managers to furlough all employees on that day. He testified that “there was talk before then” about the possibility of shutting down, but “[t]he 23rd was the day that [they] told the employees either in person or by text” that it was their last day of work.

John Bryant, Sr., testified that it was still “[b]usiness as usual on the 13th” at Aquaguard. He testified that Aquaguard’s senior managers made “[n]o final decisions at all” about furloughing employees at the meeting on the previous day. He stated that March 13th was not the last day for any of Aquaguard’s employees. He testified that, on that day, sales representatives were still “taking calls from clients” and operating “as

[they] normally did every day throughout the week.” He stated that the “week of the 16th” was also “[p]retty much business as usual” and “just a normal workweek.” He testified that employment records showed that Aquaguard employees continued working on the week of March 16th, and that they would not have worked any hours that week if they had been furloughed on March 13th. He claimed that his prior statements about the timing of the furlough were incorrect because he had not reviewed the documents that established the timeline.

John Seigel, the owner of Aquaguard, also testified as a corporate designee for Aquaguard, alongside John Bryant, Sr. Mr. Seigel testified that, at the March 12th meeting, Aquaguard’s senior managers “[c]onceptually” discussed an employee furlough, but they made no decisions “to furlough [employees] or to do anything specific” at that time. Mr. Seigel testified that Aquaguard employees continued to work until March 23rd, the date of the executive order requiring the closure of non-essential businesses.

D. Aquaguard’s Motion for Summary Judgment

After discovery, Aquaguard moved for summary judgment on all claims against it. The materials in support of the motion included transcripts from the deposition of Mr. Bryant and the joint deposition of Mr. Seigel and John Bryant, Sr., as corporate designees for Aquaguard. Aquaguard contended that there was no evidence to support the plaintiffs’ allegation that, on the morning of the accident, Mr. Bryant was driving to work for the sole purpose of informing employees that they would be furloughed.

Aquaguard observed that, on the morning of the accident, Mr. Bryant was commuting to his usual workplace in his own personal vehicle, which he purchased with

his own funds. Aquaguard asserted that it provided no subsidies or reimbursement to Mr. Bryant for driving to or from work, that it never required him to have a vehicle as a condition of his employment, and that he did not need a vehicle to perform his regular duties. Aquaguard argued that there was no evidence that it consented to or authorized Mr. Bryant's use of his personal vehicle or that it had any right to control the use of his vehicle.

Aquaguard further argued that the task of informing employees of a furlough was not within the scope of Mr. Bryant's job responsibilities. Aquaguard asserted that there was no evidence that his supervisors at Aquaguard ever directed him to inform other employees on March 13, 2020, that they would be furloughed. Aquaguard observed that, by his own admission, Mr. Bryant had no "definitive knowledge" that there would be any furlough announcement that day. Aquaguard emphasized Mr. Bryant's testimony that he believed that March 13, 2020, was a "normal Friday" at work and that "[n]othing really out of the ordinary" was supposed to happen on that day. In light of that testimony, Aquaguard argued that it was "a factual and temporal impossibility" that he could have been driving to work for the purpose of notifying employees of a furlough.

In opposition to the motion for summary judgment, the plaintiffs relied on the statements made by John Bryant, Sr., at the criminal sentencing hearing and at his first deposition in his personal capacity. The plaintiffs argued that these statements, in combination with Mr. Bryant's testimony, supported a finding that Mr. Bryant knew that March 13, 2020, was the last day of work for employees at the Beltsville office. The plaintiffs argued that Aquaguard "expected" Mr. Bryant "to travel" to the office so that

he would “be present for and participate in” the meeting at which Aquaguard would announce the furlough. Asserting that the “tasks to be performed” by Mr. Bryant on that day were “unusual” and “onerous[,]” the plaintiffs argued that Mr. Bryant was performing a ““special mission”” for the benefit of Aquaguard when he drove to work that morning.

As the plaintiffs acknowledged, Maryland courts have not previously used the “special mission” exception to determine whether an employer is acting within the scope of employment. The “special mission” exception is a feature of workers’ compensation law and other employee compensation laws. Under this doctrine, an employee is considered to be “acting in the course of employment when travelling on a special mission or errand at the request of the employer and in furtherance of the employer’s business, even if the journey is one that is to or from the workplace.” *Barnes v. Children’s Hosp.*, 109 Md. App. 543, 555-56 (1996) (citing *Huffman v. Koppers Co. Inc.*, 94 Md. App. 180, 187 (1992), *aff’d*, 330 Md. 296 (1993)). The plaintiffs argued that Maryland courts have previously “indicated” that courts may use the special mission exception to determine an employer’s vicarious liability. The plaintiffs also argued that courts outside of Maryland have determined that an employer may be vicariously liable for negligence of an employee operating a vehicle to perform a special mission for the benefit of the employer.

In the reply in support of its motion for summary judgment, Aquaguard argued that it would be inconsistent with Maryland precedent to use the special mission exception to determine an employer’s vicarious liability. Aquaguard further argued that,

even if the special mission exception could be used for that purpose, the record failed to support the plaintiffs’ theory that Mr. Bryant was performing any special mission when he drove to work on the morning of the crash.

In addition, Aquaguard argued that the deposition testimony of John Bryant, Sr., as corporate designee for Aquaguard, established that Aquaguard did not announce the furlough to its employees until March 23, 2020. Aquaguard argued that John Bryant, Sr., made “misstatements” when he previously stated that the date of the furlough announcement was March 13, 2020, but he had since “corrected” and “clarified” his testimony. Based on his deposition testimony as corporate designee, Aquaguard argued that there was no genuine dispute that March 13, 2020, “was an ordinary day for Aquaguard.”

E. Judgment in Favor of Aquaguard

The circuit court considered arguments on the motion for summary judgment at a hearing on July 30, 2024. The court took the matter under advisement after the hearing.

On September 30, 2024, the circuit court issued a memorandum opinion and order granting Aquaguard’s motion for summary judgment. The court concluded that, at the time of the accident, there were no special circumstances to justify a departure from the general rule that employers are not vicariously liable for tortious conduct committed by employees driving to or from work.

In its opinion, the court reasoned that the evidence did not support a finding that, on the morning of the accident, Mr. Bryant was traveling to work for the purpose of attending a meeting to announce the furlough. The court observed that Mr. Bryant

testified that he “‘knew there would be a meeting at some point that day’” but he did not know “‘what it was for, what the meeting entailed[.]’” Citing the deposition testimony from Mr. Bryant and Aquaguard’s corporate designees “and the fact that the ‘furlough date’ was March 23, 2020,” the court reasoned that the evidence failed to show that Mr. Bryant’s “sole purpose in traveling to work that morning was to attend the furlough meeting.”

The plaintiffs and Mr. Bryant made a joint motion asking the court to enter a final judgment as to Aquaguard under Md. Rule 2-602(b). On April 17, 2025, the circuit court entered an order expressly finding that there was “no just reason for delay of an entry of final judgment” in favor of Aquaguard. The court stayed the proceedings on the remaining claims against Mr. Bryant. Pursuant to Md. Rule 2-602(b), the court directed the entry of a final judgment in favor of Aquaguard and against the plaintiffs.

The plaintiffs noted a timely appeal from the judgment in favor of Aquaguard. Mr. Bryant also filed a timely notice of appeal.

APPELLATE JURISDICTION

The principal statute governing the right of appeal to this Court provides that a party may appeal from a “final judgment” entered by the circuit court in a civil case. Md. Code (1974, 2020 Repl. Vol.), § 12-301 of the Courts and Judicial Proceedings Article. Under Maryland Rule 2-602(a), an order in a civil case is not a final judgment unless it adjudicates or completes the adjudication of all claims against all parties. In a limited exception to this requirement, if the circuit court “expressly determines in a written order that there is no just reason for delay,” the court “may direct in the order the entry of a

final judgment . . . as to one or more but fewer than all of the claims or parties[.]” Md. Rule 2-602(b)(1).

In the present case, the circuit court found that there was no just reason to delay the entry of final judgment as to the claims against Aquaguard. The court exercised its discretion to enter a final judgment as to Aquaguard, even though the claims against Mr. Bryant remained pending. Generally, this Court reviews a circuit court’s decision to direct the entry of final judgment under Rule 2-602(b) for abuse of discretion. *See Grier v. Heidenberg*, 255 Md. App. 506, 517 (2022) (citing *Miller Metal Fabrication, Inc. v. Wall*, 415 Md. 210, 222 (2010)). Although the circuit court did not articulate the basis for its decision, we conclude that the court properly exercised its discretion to employ Rule 2-602(b) here.

In *Barclay v. Briscoe*, 427 Md. 270 (2012), the Court approved the use of Rule 2-602(b) under circumstances resembling those of the present appeal. In that case, the trial court had granted summary judgment in favor of two alleged employers, concluding that, as a matter of law, the employers could not be held vicariously liable or directly liable for the negligence of an employee who caused an accident while driving home from work. *Id.* at 273-74. The Court held that the trial court properly exercised its discretion to enter a final judgment as to the employers, despite the unadjudicated claims against the employee. *Id.* at 278 n.6. The Court explained that the plaintiffs might suffer financial hardship if they were required to litigate their claims against the employee alone, because their damages exceeded the potential recovery from the employee’s estate. *Id.* The Court further explained that “a partial ruling on appeal would not confuse the unresolved

issues” in the case, because an appeal regarding the employers’ “alleged vicarious and primary liability would not involve the same legal questions presented in an appeal regarding [the employee’s] negligence[.]” *Id.*

Because the circumstances of the present case are substantially similar to those of *Barclay v. Briscoe*, we conclude that it was appropriate for the circuit court to direct the entry of final judgment under Rule 2-602(b) here. From the record, it is apparent that the plaintiffs seek to recover damages that would exceed the potential recovery from an individual motorist and his insurer. An interlocutory appeal concerning whether Mr. Bryant was acting within the scope of his employment at the time of the crash will not involve the same issues involved in an appeal regarding Mr. Bryant’s underlying negligence.⁴

DISCUSSION

In their appeal, the plaintiffs contend that this Court should reverse the circuit court’s decision to grant summary judgment in favor of Aquaguard. The plaintiffs present the following question: “Did the circuit court err as a matter of law when it granted summary judgment in favor of Aquaguard and ruled that Mr. Bryant was not on a ‘special mission’ for Aquaguard at the time of the collision?”

⁴ The decision to direct the entry of a final judgment as to the plaintiffs’ claims against Aquaguard was appropriate even though the ruling did not dispose of Aquaguard’s cross-claims against Mr. Bryant for indemnity or contribution. See *Zilichikhis v. Montgomery County*, 223 Md. App. 158, 174 (2015) (citing *Shofer v. Stuart Hack Co.*, 324 Md. 92, 98 (1991)) (holding that trial court had discretion to enter a final judgment under Rule 2-602(b) where it granted summary judgment in favor of defendants and did not adjudicate cross-claims for indemnity and contribution).

In his cross-appeal, Mr. Bryant adopts the same question presented by the plaintiffs. Mr. Bryant also contends that this Court should reverse the grant of summary judgment in favor of Aquaguard.

For its part, Aquaguard argues that the judgment should be affirmed. Aquaguard contends that the circuit court was correct when it determined that there were no genuine disputes of material fact and that Aquaguard was entitled to judgment as a matter of law.

The question of whether a trial court properly granted summary judgment is a question of law, subject to non-deferential review on appeal. *See Schneider Elec. Bldgs. Critical Sys., Inc. v. Western Surety Co.*, 454 Md. 698, 705 (2017). The court may grant a motion for summary judgment “if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law.” Md. Rule 2-501(f). On appeal from the grant of summary judgment, the appellate court makes an independent determination of whether the parties properly generated a genuine dispute of material fact and, if not, whether the moving party was entitled to judgment as a matter of law. *See Romeka v. RadAmerica II, LLC*, 485 Md. 307, 331 (2023).

To assess whether a genuine dispute of material fact exists, the court must “construe the facts properly before the court, and any reasonable inferences that may be drawn from them, in the light most favorable to the non-moving party.” *Appiah v. Hall*, 416 Md. 533, 546 (2010) (quoting *O’Connor v. Baltimore County*, 382 Md. 102, 111 (2004)). Accordingly, where witnesses provide conflicting testimony, the court may not weigh the evidence, decide credibility issues, or resolve factual disputes. *See Okwa v.*

Harper, 360 Md. 161, 182 (2000).

Nevertheless, “merely generating factual disputes will not necessarily defeat a properly supported summary judgment motion.” *Gurbani v. Johns Hopkins Health Sys. Corp.*, 237 Md. App. 261, 290 (2018) (citing *Appiah v. Hall*, 416 Md. at 546). Rather, “the party opposing the motion must produce some evidence demonstrating that the parties *genuinely* dispute a *material* fact.” *Lavine v. American Airlines, Inc.*, 266 Md. App. 549, 559 (2025) (emphasis in original) (quoting *Wankel v. A&B Contractors, Inc.*, 127 Md. App. 128, 156 (1999)). “A material fact is a fact the resolution of which will somehow affect the outcome of the case.” *Castruccio v. Estate of Castruccio*, 456 Md. 1, 34 (2017) (quoting *King v. Bankerd*, 303 Md. 98, 111 (1985)). “The existence of a dispute as to some non-material fact will not defeat an otherwise properly supported motion for summary judgment[.]” *Okwa v. Harper*, 360 Md. at 178.

Maryland Rule 2-501(b) requires the non-moving party to “identify each fact in dispute with ‘particularity’ and support its position with evidence that would be admissible at trial.” *Walton v. Premier Soccer Club, Inc.*, 490 Md. 204, 228 (2025). Accordingly, “mere general allegations or conclusory assertions which do not show facts in detail and with precision will not suffice to overcome a motion for summary judgment.” *Educ. Testing Serv. v. Hildebrant*, 399 Md. 128, 139 (2007). To create a triable issue, “[a] plaintiff’s claim must be supported by more than a ‘scintilla of evidence[,]’ as ‘there must be evidence upon which [a] jury could reasonably find for the plaintiff.’” *Blackburn Ltd. P’ship v. Paul*, 438 Md. 100, 108 (2014) (quoting *Beatty v. Trailmaster Prods., Inc.*, 330 Md. 726, 738-39 (1993)).

In this appeal, the parties disagree about what inferences might reasonably be drawn from the record. Aquaguard, relying principally on the testimony of its corporate designees, asserts that the evidence conclusively establishes that, as of March 13, 2020, Aquaguard had not yet made or announced a decision to furlough its employees. Aquaguard argues, therefore, that March 13, 2020, was simply an ordinary business day, on which nothing unusual was scheduled to occur. Aquaguard notes that Mr. Bryant expected to attend a meeting sometime that day, as he did every Friday, but he did not know the purpose of the meeting. Aquaguard further observes that furloughing employees or announcing a furlough was not within the scope of Mr. Bryant’s job responsibilities.

The plaintiffs offer a different theory of the facts. The plaintiffs do not dispute that the furlough of Aquaguard’s employees officially took effect on March 23rd. As the plaintiffs observe, however, Mr. Bryant testified that the senior managers informed him that March 13th would be the last day in the office for inside sales representatives. The plaintiffs observe that John Bryant, Sr., contrary to his testimony as corporate designee, previously testified that March 13th was the last day in the office for Mr. Bryant and his co-workers.

The plaintiffs argue that the evidence reasonably supports a finding that March 13th “was the last day that the employees that Mr. Bryant supervised would be in the office and was also the date of a meeting with management regarding plans for an official furlough.” According to the plaintiffs, one can infer that Mr. Bryant “expected to participate in a conversation about the next steps” at the meeting on March 13th. In their

view, Mr. Bryant came to work that morning “to participate in the corporate wind down process” in response to the COVID-19 pandemic.

For the purposes of this discussion, we will assume, without deciding, that the plaintiffs’ interpretation of the evidence is reasonable. We will assume that the evidence supports the conclusions that March 13th was the last day in the office for Mr. Bryant and his team, that the meeting on that day entailed a discussion of the impending furlough, and that both Aquaguard and Mr. Bryant assumed or expected that he would be present and participate in the meeting. Nevertheless, the plaintiffs have identified no evidence that Aquaguard directed or instructed Mr. Bryant to do anything on that date. Based on this factual background, the plaintiffs seek to establish that Aquaguard is vicariously liable for Mr. Bryant’s negligence while driving to work.

Under the doctrine of *respondeat superior*, an employer is ordinarily liable for torts committed by an employee while the employee was “‘acting within the scope of the employment relationship.’” *Barclay v. Briscoe*, 427 Md. 270, 282 (2012) (quoting *Embrey v. Holly*, 293 Md. 128, 134 (1982)). “For conduct to be considered within the scope of employment, the conduct must be of the same general nature as the type of conduct authorized by the [employer] in the performance of the employment duties.” *Southern Mgmt. Corp. v. Taha*, 378 Md. 461, 481 n.6 (2003). The question of whether a particular act was within the scope of employment ordinarily is a question of fact, but “‘where there is no conflict in the evidence relating to the question and but one inference can be drawn therefrom, the question is one of law for the court.’” *Barclay v. Briscoe*, 427 Md. at 283 (quoting *Sheets v. Chepko*, 83 Md. App. 44, 47 (1990)).

Courts have “to some extent narrowed” the scope of an employer’s liability “with respect to automobiles.” *Dhanraj v. Potomac Elec. Power Co.*, 305 Md. 623, 627 (1986). As a well-established general rule, an employer is not responsible for an employee’s negligent operation of an automobile, even if the employee was engaged at the time in furthering the employer’s business, ““unless the [employer] expressly or impliedly consent[ed] to the use of the automobile, and . . . had the right to control the [employee] in its operation, or else the use of the automobile was of such vital importance in furthering the [employer’s] business that [the employer’s] control over it might reasonably be inferred.”” *Id.* at 627-28 (quoting *Henkelmann v. Metro. Life Ins. Co.*, 180 Md. 591, 599 (1942)).

Accordingly, “[d]riving to and from work is generally not considered to be within the scope of . . . employment because getting to work is the employee’s own responsibility and does not involve advancing the employer’s interests.” *Oaks v. Connors*, 339 Md. 24, 32 (1995). The Court has explained:

The application of the doctrine [of *respondeat superior*] rests upon the power of control and direction which the superior has over the subordinate, and . . . does not arise when the [employee] is not actually or constructively under the direction and control of the [employer]. In other words, the doctrine may be properly invoked if the [employer] has, expressly or impliedly, authorized the [employee] to use [the employee’s] personal vehicle *in the execution of [the employee’s] duties*, and the employee is in fact engaged in such endeavors at the time of the accident. Normally, therefore, while driving to and from [the employee’s] job site, an employee is not acting within the scope of [the employee’s] employment. It is essentially the employee’s own responsibility to get to or from work. Thus, the general rule is that absent special circumstances, an employer will not be vicariously liable for the negligent conduct of [an] employee occurring while the employee is traveling to or from work.

Dhanraj v. Potomac Elec. Power Co., 305 Md. at 628 (emphasis in original) (citations and quotation marks omitted).

In a variety of factual circumstances, Maryland appellate courts have applied this general rule to hold that, as a matter of law, an employer could not be held vicariously liable for negligence committed by an employee while driving to or from work. See *Dhanraj v. Potomac Elec. Power Co.*, 305 Md. at 631; *Oaks v. Connors*, 339 Md. at 32-33; *Sheets v. Chepko*, 83 Md. App. at 52; *Barclay v. Briscoe*, 427 Md. at 292. In each of those cases, the court determined that the employer did not consent to or exert control over the employee’s operation of the vehicle and that the use of the vehicle was not of such vital importance to the employer’s business that its control might reasonably be inferred.

In the *Dhanraj* case, the employee crashed while driving his personal automobile to attend a training course assigned by the employer. *Dhanraj v. Potomac Elec. Power Co.*, 305 Md. at 625. Although the employer provided a “travel allowance” for transportation to the training facility, the employer did not otherwise consent to, authorize, or direct the operation of the vehicle. *Id.* at 629-30. The employer’s “only concern was that [the employee] take the [training] course, not how he got there.” *Id.* at 630. Under the circumstances, the Court reasoned that “mere travel to and from the facility was no more within the scope of his employment than was his travel to and from his usual job site[.]” *Id.* at 628.

In *Oaks v. Connors*, 339 Md. at 28-29, the driver was an employee for a grocery store chain, who crashed during his daily commute to a corporate facility. Although the

employer required him to have a personal vehicle available to perform his duties at its stores, he “was not actually performing any of his designated job responsibilities at the time of the accident” and “was not furthering any business purpose” of his employer. *Id.* at 32. His “work day did not even begin until he arrived” at the facility, where he would receive his daily assignment. *Id.* Where the employer “exerted no control over the method or means by which [the employee] operated his vehicle[.]” the employer could not be found vicariously liable for the employee’s negligence while driving to work. *Id.* at 32-33.

The employee in *Sheets v. Chepko*, 83 Md. App. at 45, worked as a “floating custodian” for a county board of education, “filling in for permanently assigned custodians who were absent.” The employee had “no fixed place of employment[.]” as his employer required him to work at schools throughout the county. *Id.* at 50. Unlike permanent custodians, the floating custodian received compensation for an additional 30 minutes of time before and after each workday. *Id.* at 50-51. He crashed his personal vehicle while driving to a school to perform his custodial duties. *Id.* at 45. The Court concluded that, even if the accident occurred within the 30-minute period for which he received pay, “that would not constitute the type of ‘special circumstances’ required” to make the employer vicariously liable. *Id.* at 51. Under the facts of the case, there was no indication that the employer “manifested any consent to, or control over, [the employee’s] means of transportation to or from his job[.]” *Id.* at 52.

The negligent driver in *Barclay v. Briscoe*, 427 Md. at 273, caused a head-on collision when he fell asleep at the wheel while driving home after working a 22-hour

shift as a longshoreman. The Court concluded that, even if the employers “forced [the employee] to work for an unreasonable amount of time, and thereby contributed to the impairment which ultimately caused the collision,” the case did not present any special circumstances that might establish vicarious liability. *Id.* at 289. The Court emphasized that “the pertinent inquiry centers on the employer’s influence over the operation of the vehicle.” *Id.* at 290. The Court explained that, to establish “any ‘special circumstances[,]’” the evidence must show that “the employee is, in fact, not only commuting to or from work, but additionally, is using his personal vehicle, as authorized by the employer, to engage in the execution of his duties on behalf of the employer.” *Id.* at 288. Because the employee “was neither authorized to use his personal vehicle in the execution of his duties, nor engaged in those duties at the time of the collision,” the employers could not be held vicariously liable for the employee’s negligent operation of his vehicle. *Id.* at 292.

In the present appeal, the plaintiffs make little attempt to argue that this case presents the kind of “special circumstances” discussed in the *Dhanraj* line of cases. The undisputed facts establish the following: Mr. Bryant drove to his regular workplace at the Beltsville office on Friday, March 13, 2020, in accordance with his regular weekday schedule of beginning work at 9:00 a.m.; Mr. Bryant used a personal vehicle, which he acquired with his own funds, for his daily commute; Aquaguard did not pay for that vehicle or any expenses related to its operation; Aquaguard did not provide any subsidies or reimbursement to Mr. Bryant for transportation to or from the Beltsville office; Aquaguard did not require Mr. Bryant to have a vehicle to perform his duties as an

assistant marketing manager; and Mr. Bryant was not performing any assigned job duties at the time of the accident.

In short, there is no indication that Aquaguard authorized, consented to, exerted influence over, or had the right to control the operation of Mr. Bryant’s vehicle. Nor is there any indication that the use of Mr. Bryant’s vehicle was of such vital importance in furthering Aquaguard’s business that its control over the vehicle might reasonably be inferred. Any connection between the employer and the vehicle here is weaker than in *Dhanraj*, where the employer provided a travel allowance; weaker than in *Oaks v. Connors*, where the employer required the employee to keep and maintain a vehicle; and weaker than in *Sheets v. Chepko*, where the employer compensated the employee for extra time before and after work. In each of those cases, the employee’s travel to work, as a matter of law, could not be regarded as within the scope of employment.

In his brief, Mr. Bryant contends that special circumstances exist here because, in his view, Aquaguard explicitly or implicitly required him to appear in person for an important meeting that day. Mr. Bryant’s position lacks any support in the controlling case law. An employee’s daily commute in a personal vehicle is not considered to be within the scope of employment merely because the employee expects to perform a relatively important task on a particular day. See *Barclay v. Briscoe*, 427 Md. at 288 (explaining that “any ‘special circumstances’ must . . . prove that the employee . . . is using [the employee’s] personal vehicle, as authorized by the employer, to engage in the execution of [the employee’s] duties on behalf of the employer[.]”) (citing *Dhanraj v. Potomac Elec. Power Co.*, 305 Md. at 628).

Lacking any Maryland authority that might directly support their theory of vicarious liability here, the plaintiffs look to a different area of law. The plaintiffs invoke the “special mission” exception to the “going and coming rule” of workers’ compensation law.

Under the Maryland Workers’ Compensation Act, an employee is entitled to compensation for “an accidental injury that arises out of and in the course of employment[.]” Md. Code (1991, 2025 Repl. Vol.), § 9-101(b)(1) of the Labor & Employment Article. An injury arises out of employment “when it results from some obligation, condition, or incident of employment.” *Livering v. Richardson’s Restaurant*, 374 Md. 566, 574 (2003). An injury is in the course of employment “when it occurs during the period of employment at a place where the employee reasonably may be in performance of [the employee’s] duties and while fulfilling those duties or engaged in something incident thereto.” *Id.* at 577 (quoting *Montgomery County v. Wade*, 345 Md. 1, 11 (1997)). “By statutory command and by case law, the Maryland Workers’ Compensation Act is to be construed as liberally in favor of injured employees as its provisions will permit in order to effectuate” its remedial purposes. *Alitalia Linee Aeree Italiane v. Tornillo*, 329 Md. 40, 48 (1993) (citing Md. Code, § 9-102 of the Labor & Employment Article).

Ordinarily, under “the ‘going and coming rule,’ an employee is not considered to be acting in the course of employment when travelling to or from work.” *Barnes v. Children’s Hosp.*, 109 Md. App. 543, 555 (1996). For that reason, employees usually are not entitled to compensation for injuries suffered while driving to or from work. *Id.*

(citing *Alitalia Linee Aeree Italiane v. Tornillo*, 329 Md. at 44).

“The ‘special mission or errand’ doctrine . . . constitutes an exception to the ‘going and coming rule.’” *Barnes v. Children’s Hosp.*, 109 Md. App. at 555. “It provides that an employee is acting in the course of employment when travelling on a special mission or errand at the request of the employer and in furtherance of the employer’s business, even if the journey is one that is to or from the workplace.” *Id.* at 555-56. Under this exception, “[a] journey not normally covered under the Act . . . may be brought within the course of employment by the fact that the trouble and time of making the journey, or the special inconvenience, hazard, or urgency of making it in the particular circumstances, is itself sufficiently substantial to be viewed as an integral part of the service itself.” *Calvo v. Montgomery County*, 459 Md. 315, 333 (2018) (citing *Montgomery County v. Wade*, 345 Md. at 15) (further citation and quotation marks omitted).⁵

To determine “whether a mission is sufficiently ‘special’ to fall within the exception[,]” courts examine several factors. *Calvo v. Montgomery County*, 459 Md. at 334 (quoting *Barnes v. Children’s Hosp.*, 109 Md. App. at 557). First, courts consider the “relative regularity or unusualness of the particular journey.” *Calvo v. Montgomery*

⁵ As the plaintiffs note, the special mission exception is not strictly confined to workers’ compensation cases. In *Director of Finance for City of Baltimore v. Alford*, 270 Md. 355, 363-64 (1973), the Court used the special mission exception to decide an employee’s entitlement to special disability retirement benefits. Much like the Workers’ Compensation Act, the applicable statute required the employee to show that his disability resulted from “an injury which arose ‘out of and in the course of the actual performance of duty.’” *Id.* at 359.

County, 459 Md. at 335 (citation and quotation marks omitted). “If the trip is ‘relatively regular in the context of the employee’s duties,’ then there is a ‘strong presumption’ that the going and coming rule applies.” *Id.* (quoting *Barnes v. Children’s Hosp.*, 109 Md. App. at 557) (further citation and quotation marks omitted).

Second, courts examine “the relative onerousness of the journey compared with the service to be performed at the end of the journey.” *Calvo v. Montgomery County*, 459 Md. at 335 (citation and quotation marks omitted). “Traveling a long distance to perform a minor service” may indicate that the journey is part of the service. *Id.*

Third, “the suddenness of the call to work or whether it was made under an element of urgency are also relevant factors[]” that might support a finding of a special mission. *Barnes v. Children’s Hosp.*, 109 Md. App. at 558 (citations and quotation marks omitted). “When an employee must drop everything and travel to the workplace, . . . the travel itself could be part of the service rendered.” *Id.*

The facts of *Barnes v. Children’s Hospital*, 109 Md. App. 543 (1996), offer a useful illustration of what may constitute a special mission. The injured employee, Ms. Barnes, worked as director of computer and information systems for a hospital. *Id.* at 551. In addition to her regular weekday hours, Ms. Barnes was “considered ‘on call’ at all times.” *Id.* The hospital sometimes contacted her during off-hours to seek assistance with problems at the office, and she usually was able to resolve problems by phone. *Id.* On a Saturday, when Ms. Barnes was not working, the hospital’s comptroller instructed her to return to the hospital to produce a financial report because the employee who usually produced the report was unavailable. *Id.* Ms. Barnes halted a shopping trip with

her family, intending to transport her family members home so that she could drive to the hospital. *Id.* When she stopped at a gas station to buy enough gasoline to make the trip to the hospital, she slipped on an oil spill and suffered injuries. *Id.* at 551-52.

Under those circumstances, this Court held that Ms. Barnes’s trip to the hospital at the request of her employer was a special mission and, therefore, that she had sustained an injury arising out of and in the course of her employment. *Barnes v. Children’s Hosp.*, 109 Md. App. at 568. The Saturday trip to the hospital was irregular and unusual in the context of her job duties. *Id.* at 559-60. The trip was sufficiently onerous, because it required her to report to the hospital on a day when she did not expect to work. *Id.* at 560. The request was also urgent, as the employer needed her to report promptly because another employee was unavailable that day. *Id.* at 560-61.

In the present case, the plaintiffs argue that Maryland courts have “intimated” that “in the proper circumstances the ‘special mission’ exception can apply in a tort case” to establish that an employer is vicariously liable for torts of an employee. According to the plaintiffs, the *Dhanraj*, *Oaks*, *Sheets*, and *Barclay* opinions “held open the possibility” that an employer might be vicariously liable for negligence committed by an employee while the employee was performing a special mission. The plaintiffs further argue that courts in other states have held that an employer may be held vicariously liable for negligence committed by an employee driving to or from work, where the employee was engaged in a special mission for the benefit of the employer.⁶

⁶ *E.g.*, *Sullivan v. Thompson*, 87 P.2d 62, 677-78 (Cal. Dist. Ct. App. 1939); *Jones v. Aldrich Co., Inc.*, 373 S.E.2d 649, 651 (Ga. Ct. App. 1988); *Clark v. Hoff Bros. Refuse*

For his part, Mr. Bryant acknowledges that Maryland case law does not directly support extending the special mission exception into vicarious liability principles. Mr. Bryant argues that this Court should “broaden Maryland’s view of respondeat superior to include the special mission exception.” In his view, extending the special mission doctrine to this context would “only marginally change Maryland law” and would “not require radically changing Maryland’s respondeat superior doctrine[.]”

Aquaguard argues that it is wholly inaccurate to assert that Maryland courts have “authorized” the use of the special mission exception to determine an employer’s vicarious liability. Aquaguard argues that the facts of the present case are “virtually indistinguishable” from the cases in which Maryland courts have held that an employer, as a matter of law, cannot be held liable for negligence committed by an employee driving to or from work. Aquaguard contends that the plaintiffs are asking this Court to “abandon the binding framework” established by the *Dhanraj* line of cases, without offering any compelling justification for doing so.

We are unconvinced by the plaintiffs’ assertion that the *Dhanraj* line of cases indicates that, under Maryland law, courts may rely on the special mission exception to establish vicarious liability in a tort action. In *Dhanraj*, the Court “specifically rejected the application of principles of Workers’ Compensation to a determination of whether a

Corp., 422 N.Y.S.2d 219, 220 (N.Y. App. Div. 1979); *Kadlecik v. L.N. Renault & Sons*, 40 A.2d 866, 868 (Pa. Super. Ct. 1945). Aquaguard largely disputes the plaintiffs’ interpretation of these out-of-state opinions. Aquaguard argues that, although these opinions use language that overlaps with the special mission exception, those courts are not directly importing workers’ compensation principles into the analysis of whether an employee is acting within the scope of employment.

particular activity was within the scope of employment for purposes of establishing vicarious liability of an employer.” *Sheets v. Chepko*, 83 Md. App. at 54. The plaintiff in the *Dhanraj* case had “urge[d]” the Court “to apply the special mission exception to the [workers’] compensation version of the ‘going and coming’ rule.” *Dhanraj v. Potomac Elec. Power Co.*, 305 Md. at 630. The Court rejected this suggestion, stating: “We see no need to resort, in the circumstances here, to cases under the [Workers’] Compensation Act and comparable employee compensation statutes to determine the applicability of the doctrine of *respondeat superior* in this tort action.” *Id.* at 630-31.

Similarly, in *Barclay v. Briscoe*, 427 Md. at 288 n.10, the Court refused to use the special mission exception to assess whether the employer could be held vicariously liable for the employee’s negligence while driving from work. The Court stated: “we decline, as we did in *Dhanraj*, to allow the special mission exception to inform our holding as to the doctrine of *respondeat superior* under the facts of this case.” *Id.* The Court noted the “different policy reasons underlying the Workers’ Compensation Act and the doctrine of *respondeat superior*.” *Id.* As the Court explained, the special mission exception is “one of several exceptions engrafted onto the ‘going and coming rule’ of workers’ compensation law in order to construe the statute ‘as liberally in favor of injured employees as its provisions will permit[.]’” *Id.* (quoting *Alitalia Linee Aeree Italiane v. Tornillo*, 329 Md. at 44, 49). The Court further explained: “‘Whereas qualifying for workers’ compensation benefits requires only that the injury [arise] out of and in the course of employment, recovery under the doctrine of *respondeat superior* necessitates that the employee be acting in the scope of . . . employment, a much narrower test.’”

Barclay v. Briscoe, 427 Md. at 288 n.10 (quoting *Henderson v. AT & T Info. Sys., Inc.*, 78 Md. App. 126, 139 (1989)).

The plaintiffs nevertheless argue that Maryland courts have not categorically rejected the possibility that the special mission exception might be applied in tort cases. The plaintiffs observe that the opinions in *Dhanraj* and *Barclay v. Briscoe* rejected the proposed use of the special mission exception under the particular facts or circumstances of those cases. The plaintiffs also observe that, in *Sheets v. Chepko*, 83 Md. App. at 53-54, this Court made a “factual distinction” between that case and cases in which “the employee was on [the] way to or from the performance of a special task or mission for the employer.” The plaintiffs also argue that it is appropriate to use the special mission exception to assess vicarious liability, because this exception evaluates whether an employer exerted control and direction over the actions of the employee.

For the purposes of this discussion, we will entertain the assumption that Maryland courts might, in proper factual circumstances, conclude that an employee was acting within the scope of employment while the employee was driving a vehicle to perform a special mission for an employer. Operating under that assumption, we conclude that the facts of this case do not support any finding that Mr. Bryant was performing a special mission at the request of Aquaguard at the time of the crash.

The facts of Mr. Bryant’s journey do not fit the basic description of a special mission. “[A] special errand or special mission is a trip undertaken by the employee *at the direction or request of an employer* for the purpose of helping the employer’s business.” *Garrity v. Injured Workers’ Ins. Fund*, 203 Md. App. 285, 294 (2012)

(emphasis added) (quoting *Coats & Clark’s Sales Corp. v. Stewart*, 39 Md. App. 10, 13 (1978)); see also *Calvo v. Montgomery County*, 459 Md. at 336 (stating that the special mission exception may apply where “the employee makes a special trip *at the employer’s request*[.]”) (emphasis added); *Huffman v. Koppers Co. Inc.*, 94 Md. App. 180, 187 (1992) (stating that a “special errand or mission is a trip taken by the employee *at the direction of the employer* for the purpose of helping the employer’s business[.]”) (emphasis added), *aff’d*, 330 Md. 296 (1993). There is no evidence here that Aquaguard ever directed or requested Mr. Bryant to travel anywhere on the morning of Friday, March 13, 2020.

An analysis of the relevant factors fails to support a conclusion that Mr. Bryant was performing any special mission at the request of Aquaguard that morning. He drove to his office shortly before 9:00 on that Friday morning because he was following his regular schedule, under which he usually started his workday at 9:00 a.m. on weekdays. Because this morning trip to the office was “‘relatively regular in the context of [his] normal duties,’ . . . there is a ‘strong presumption’” that the trip was not a special mission. *Calvo v. Montgomery County*, 459 Md. at 335 (quoting *Barnes v. Children’s Hosp.*, 109 Md. App. at 557).

The “‘onerousness’ of the journey depends not only on its length but also on the circumstances under which it is made, *i.e.*, the time of day, whether it is a regular workday, or the conditions of travel.” *Barnes v. Children’s Hosp.*, 109 Md. App. at 558. This factor may indicate that an employee performed a special mission “[i]f the service that the employee must perform at the workplace is minuscule, while the employee’s trip

to the workplace is long or otherwise onerous[.]” *Id.*⁷ Although Mr. Bryant testified that he expected March 13th to be a “short day” at work, he also testified that he was “trying to get . . . appointments set for the weekend[.]” that he “had to go in and kind of pick up the slack” for other sales representatives who were no longer present, and that he knew that “there would be a meeting at some point that day.” Even after a court construes the evidence in the light most favorable to the plaintiffs, Mr. Bryant’s testimony indicates that his expected services for the partial workday were relatively substantial, not miniscule.

The third relevant factor is “the ‘suddenness’ of the call to work or whether it was made under an ‘element of urgency[.]’” *Barnes v. Children’s Hosp.*, 109 Md. App. at 558. This factor is does not support a finding that Mr. Bryant performed a special mission. There is no evidence that Mr. Bryant received any literal or figurative “call” from his employer to travel anywhere or to perform any task on March 13, 2020. No one from Aquaguard instructed or directed him to travel anywhere on that date. He drove to the office because it was a Friday morning, not because anyone summoned him there to do anything in particular.

⁷ The following example illustrates the onerousness factor:

If a janitor walks five blocks to spend two hours working at a church in the evening, it would be difficult to conclude that the journey is a significant part of the total service. But if a janitor makes a longer journey merely to spend one instant turning on the lights, it is easier to say that the essence of the service was the making of the journey.

Barnes v. Children’s Hosp., 109 Md. App. at 558 (quoting 1 Arthur Larson & Lex K. Larson, *The Law of Workmen’s Compensation*, § 16.13, at 4-208.26 (1992)).

The plaintiffs argue that a jury could conclude that Mr. Bryant’s drive to work on March 13, 2020, was a special mission in light of “the unique, onerous, and unusual tasks that were to be performed that day[.]” The plaintiffs’ argument reflects a misconception of the relevant factors. The special mission exception considers “the relative regularity or unusualness of the particular journey” and “the relative onerousness of the journey[.]” *Barnes v. Children’s Hosp.*, 109 Md. App. at 557-58 (emphasis added) (citations and quotation marks omitted). “The special mission rule contemplates situations in which either the *journey* or the *mission* is special, not simply where the task to be performed at the workplace is special.” *Id.* at 561-62 (emphasis in original); *see also Calvo v. Montgomery County*, 459 Md. at 336. Accordingly, the correct focus is not whether the *tasks* to be performed by Mr. Bryant that day were unusual, irregular, or onerous, but on the characteristics of the journey.

The plaintiffs also argue that “the urgency surrounding reporting to work in the midst of a global pandemic[.]” supports a conclusion that Mr. Bryant was performing a special mission. The plaintiffs’ argument misapprehends the type of “urgency” that is relevant to the special mission exception. The “urgency” factor focuses on whether “*the call to work . . . was made under an ‘element of urgency[.]’*” *Barnes v. Children’s Hosp.*, 106 Md. App. at 558 (emphasis added). Here, the call to work was neither sudden nor urgent; it was non-existent.

Properly considered, the relevant factors here do not support a conclusion that Mr. Bryant was performing a special mission for Aquaguard when he drove to the office on the morning of March 13, 2020. His Friday morning trip to the office was not unusual or

irregular in the context of his duties, nor was it relatively onerous, nor did it occur because of any sudden or urgent call to work.

In his appellate brief, Mr. Bryant presents an alternative theory of why his travel should be characterized as a “special mission.” Mr. Bryant asks this Court to take judicial notice of certain “public-health guidance” statements or “directives” issued by state and local government agencies in early March 2020. According to Mr. Bryant, government authorities “discouraged routine in-person attendance” at work and “actively encouraged” telework by March 13, 2020. Mr. Bryant argues that, because Aquaguard insisted on “convening an in-person management meeting” at a time when “physical presence at the workplace” was “an exception rather than the norm,” his travel should qualify as a special mission.

In support of his assertions, Mr. Bryant cites documents that concern large gatherings. Mr. Bryant notes that, on March 12, 2020, the Centers for Disease Control and Prevention issued a guidance document concerning mass gatherings such as concerts, festivals, conferences, or sporting events.⁸ That document included recommendations to postpone or cancel gatherings of more than 250 people, as well as recommendations for preventing the transmission of COVID-19 at other gatherings. On the same date, the Governor of Maryland issued an executive order prohibiting large gatherings or events with more than 250 people.

Mr. Bryant also cites measures directed at employees of State and local

⁸ <https://perma.cc/4TQW-KLFU>.

governments. Mr. Bryant notes that, on March 12, 2020, the Governor of Maryland required telework for all non-essential State employees who were approved for telework.⁹ Mr. Bryant notes that, on March 13, 2020, the Maryland Department of Health issued guidelines which encouraged telework for employees of the State government.¹⁰ Mr. Bryant further notes that, on March 13, 2020, the County Executive for Howard County announced measures to limit government meetings and to implement telework for County employees.¹¹

At best, the documents cited by Mr. Bryant indicate that, by March 13, 2020, government officials in Maryland were taking action to limit mass gatherings and to encourage telework for employees of State and local government. None of the documents cited by Mr. Bryant pertain to a private business such as Aquaguard, which operated an office with about 10 to 15 people. The documents cited by Mr. Bryant fail to substantiate his assertion that “travel to the workplace” had become “exceptional” for private businesses with small offices in Maryland by March 13, 2020.

In sum, even if we accept the plaintiffs’ characterization of the facts, and even if we assume that an employer can be held vicariously liable for torts committed by an employee performing a special mission, the facts here do not support any finding that Mr. Bryant was performing a special mission at the time of the crash. Mr. Bryant’s

⁹ <https://perma.cc/A77T-Q2QA>.

¹⁰ <https://perma.cc/LS2F-DT8E>.

¹¹ <https://perma.cc/S7HR-THCA>.

anticipated workday on Friday, March 13, 2020, might be regarded as “special” in some sense, but his travel lacked the characteristics of a special mission undertaken at the request or instruction of an employer. Moreover, there is no evidence of the type of “special circumstances” discussed in tort cases concerning vicarious liability, i.e., circumstances in which the employee was “not only commuting to or from work, but additionally, [was] using his personal vehicle, as authorized by the employer, to engage in the execution of his duties on behalf of the employer.” *Barclay v. Briscoe*, 427 Md. at 288 (citing *Dhanraj v. Potomac Elec. Power Co.*, 305 Md. at 628).

The circuit court correctly determined that, under the facts presented, Aquaguard cannot be held vicariously liable for tortious conduct committed by Mr. Bryant while driving to work on the morning of Friday, March 13, 2020.

**JUDGMENT OF THE CIRCUIT COURT
FOR HOWARD COUNTY AFFIRMED.
COSTS TO BE PAID BY 50% BY
APPELLANTS CHRISTINA BOS AND
JONATHAN BOS AND 50% BY
APPELLEE/CROSS-APPELLANT JOHN
BRYANT, JR.**