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## **EMPLOYEE ASSIGNED TO WORK OUT OF TOWN IS IN COURSE OF EMPLOYMENT WHEN TRAVELING TO AND FROM RESTAURANT**

March 23, 2010 | Law Alerts, News

*McCloud v. Kimbro*

Ct. Appeals, Div. Two, March 23, 2010

Authored by the [JSH Appellate Team](#)

A Phoenix DPS officer was assigned to work in the Douglas area, where he was to stay in a motel. After his shift, while looking for a restaurant, he collided with plaintiff's vehicle. The trial court granted the officer's motion for summary judgment based on the statute of limitations applicable to state employees. On appeal, plaintiff argued that a genuine issue of fact existed concerning whether the officer was acting in the course and scope of his employment because: (1) the accident occurred after the officer arrived at the motel, thus he was not on out-of-town travel, and (2) the officer's shift had ended for the day when the accident occurred. The court affirmed summary judgment for the officer, holding that if an employee is required to eat and sleep away from home in order to carry out the employer's business, then the employee is within the course and scope of employment while doing so. This necessarily includes travel to and from such lodging and meals but does not include those activities related to amusements.