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TRANSPORTATION LAW UPDATE



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COMMERCIAL MOTOR VEHICLE

Summary Judgment for Trucking Company and Its Good Samaritan Driver



Anthony D. Luis

The Bronx County Supreme Court in New York City recently issued an Order granting Rawle & Henderson LLP's motion for summary judgment and dismissed the complaints of three plaintiffs against our clients J.B. Hunt Transport, Inc. and its driver. The cross-claims of co-defendants were also dismissed.



Sylvia E. Lee

This action arose out of a three-vehicle accident September 28, 2013, on the westbound Brooklyn Queens Expressway ("BQE") in New York. The accident resulted in one death and serious injuries to three other people.

The J.B. Hunt driver was driving a tractor trailer owned by J.B. Hunt. They were brought into the lawsuit despite making no contact with any of the vehicles involved in the three-vehicle accident. The co-defendant driver of Vehicle #1 first struck and impacted Vehicle #2, a yellow taxi cab, and then also rear-ended Vehicle #3.

A plaintiff passenger of Vehicle #2 subsequently died the next day due to injuries stemming from this three-vehicle accident. The decedent's estate later made a wrongful death claim. The co-defendant driver of Vehicle #1 was arrested at the scene for driving while intoxicated and she ultimately pled guilty to vehicular manslaughter in criminal court.

Driver of Vehicle #1 admitted at her deposition that she was intoxicated at the time of the accident. At her deposition we were able to establish that she was driving at a very high rate of speed and she caused the accident when she changed lanes, making impact with the vehicle that was occupied by the decedent (Vehicle #2).

We moved for summary judgment seeking dismissal of the three Complaints against J.B. Hunt and its driver, as well as for dismissal of the co-defendants' cross-claims. We argued in our motion that the J.B. Hunt driver was merely a Good Samaritan who stopped his vehicle and called emergency services after witnessing this catastrophic multi-vehicle accident.

In support of our summary judgment motion, we pointed out that according to the police report, the J.B. Hunt vehicle was not listed or mentioned in the report as being involved in the subject accident, and only identified our driver as a “witness.” Also, prior to making the motion, we deposed the responding police officer, who testified that the investigation found that there was no wrongdoing on the part of the J.B. Hunt driver. Furthermore it was established at the depositions of the plaintiffs and co-defendants that none of them saw the J.B. Hunt vehicle make any contact with the vehicles involved in the accident. During the deposition questioning, all of them, including plaintiffs, admitted that they found no fault on the part of the J.B. Hunt and its driver.

In granting summary judgment in favor of our clients J.B. Hunt and its driver, the Court found that our clients established their entitlement to summary judgment on the ground that no liability could be imposed against them for the occurrence of the accident. The Court was not persuaded by plaintiff’s opposition that the J.B. Hunt driver caused the accident by “driving slowly.” The Court found that this claim was not supported by any deposition testimony, and held that no questions of fact existed warranting a trial against our clients.

In rendering its decision, the Court found that our client driver established that he was operating and traveling his tractor trailer in the middle lane of the BQE and never made contact with any of the other vehicles. The court’s decision highlighted that none of the three drivers testified

that the J.B. Hunt tractor trailer made any contact with their vehicle.

The Court also noted that in the deposition of the police officer who responded to the accident, he testified that when he arrived at the scene he observed the tractor trailer was stopped at a far distance from the three vehicles involved in the collision, and that he did not observe any damage to the tractor trailer, in contrast to vehicles #1 and #2, which were totaled, and minor damage to vehicle #3.

Prior to the filing of any lawsuit, two weeks after the accident, the attorney for one of the plaintiffs conducted an inspection of our clients’ tractor trailer vehicle, which included an analysis of downloaded data from the tractor’s electronic control module (ECM). Rawle & Henderson LLP also retained an accident reconstruction expert to analyze the downloaded data.

Our accident reconstruction expert’s analysis of the tractor’s ECM indicated that there was no “hard braking” event on the date of accident; in addition to the fact that the tractor and the trailer had no damage whatsoever, the lack of a “hard brake event” was a very strong indication that the J.B. Hunt vehicle was not involved in the subject accident.

The early ECM data analysis by our accident reconstruction expert was critical to our defense during the discovery phase, setting the stage for our successful motion for summary judgment and eventual dismissal of the case.

Anthony D. Luis is a partner in our New York City office. He concentrates his practice on the defense of clients involving commercial motor vehicle litigation, medical malpractice, oral surgery and dental malpractice, architectural and engineering malpractice, construction litigation, workers’ compensation and commercial litigation. Anthony received his J.D. from Western New England University School of Law in Springfield, Massachusetts, in 1999. He earned a B.A. in Political Science and English in 1996 from State University of New York at Geneseo. Anthony served as an Assistant District Attorney in Queens as a prosecutor in the Homicide Investigation Unit, Domestic Violence Unit, and the Felony Trial Bureau, where he tried numerous cases to verdict including several jury trials. He is admitted to practice in New York and New Jersey, and before the United States District Courts for the Eastern and Southern Districts of New York and the U.S. District Court for the District of New Jersey. Anthony has been rated AV Preeminent.

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Sylvia E. Lee is Of Counsel to the firm in our New York City office. She concentrates her practice in the defense of medical and dental professionals, hospitals, nursing homes, product liability, premises liability, toxic tort including asbestos litigation, auto liability, and commercial litigation. In addition, she has an extensive appellate law practice. Sylvia graduated with a B.S. degree from the State University of New York at Stony Brook. She then attended New York Law School and earned her Juris Doctorate degree. She is admitted to practice in New York and New Jersey, as well as the U.S. District Courts for the Southern District of New York and the U.S. District of New Jersey.

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