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Florida Trucking Association Weighs In to the Florida Supreme Court



By William W. Large

Spiraling lawsuits for the trucking industry are nothing new. A recent Fox Business headline traced “brutally tough’ insurance rates hammering trucking companies” to nuclear verdicts and a worsening litigation environment.

In response, trucking companies have increasingly turned to video evidence to manage risk, control litigation expenses, and most importantly, defend against lawsuits alleging fault.

Against that backdrop, a recent court decision compelled the Florida Trucking Association to take its advocacy on behalf of its members all the way to the Florida Supreme Court.

In *WilsonArt v. Lopez*, FTA joined with the Florida Justice Reform Institute, the leading organization working to restore fairness and personal responsibility to Florida’s civil justice system, and together filed a “friend of the Court” brief urging adoption of the federal summary judgment standard.

The facts of the underlying case will probably not surprise you.

Jon Lopez crashed his vehicle into the back of a Freightliner that was coming to a stop. He died as a result of his injuries. Video from the tractor dashcam showed unequivocally that the Freightliner was traveling in a safe manner in its lane before being struck all of a sudden from behind.

After being sued by Lopez’s estate, WilsonArt successfully asked the judge to rule directly in their favor under a “summary judgment” without the



expense and delay of a trial, since the evidence clearly showed there was no real basis for the lawsuit.

On appeal, Lopez’s estate submitted one man’s testimony that he saw the Freightliner change lanes in the moments before impact. The estate also had an “expert” who concluded, mostly from the eyewitness testimony, that the Freightliner was partially in the right line before impact. Essentially, in the face of the video evidence, their argument was who are you going to believe, me or your lying eyes?

In their ruling, the 5th District Court of Appeal (DCA) said that under the current Florida summary judgment standard, even the slightest doubt of an issue of material fact prevented granting summary judgment. In this case, the Court said, the eyewitness and expert testimony conflicted with the video evidence, and therefore a jury – not a judge – should weigh the issues and determine the conclusive facts.

That’s a very high bar to clear in order to avoid a lawsuit.

Luckily, recognizing this result raised serious questions, the 5th DCA asked the Florida Supreme Court to clarify

the standard when video evidence “completely negates or refutes any conflicting evidence” and there is no evidence that the video was altered.

In the brief, FTA and FJRI noted that Florida’s rules of civil procedure exist expressly to achieve the “just, speedy, and inexpensive” resolution of litigation. In this case, though, the standard as interpreted allowed Lopez to contradict objective evidence with subjective evidence and avoid summary judgment, thus prolonging the litigation.

Instead, FTA and FJRI argued that the Court should adopt the federal standard for summary judgment. Under that standard, when there is no genuine issue of material fact that prevents awarding summary judgment to the party asking for it, the burden shifts to the other party who must come forward with enough credible evidence to establish a genuine, as opposed to alleged, factual dispute.

Now it’s up to the Florida Supreme Court, which, with three appointments from Governor DeSantis last year and two more coming this year, is in the middle of its own evolution. Recent actions by the Court, including adoption of the federal Daubert expert evidence standard (a story for another day), suggest that the Court is open to improving the efficiency, and fairness and predictability, of Florida jurisprudence. ➔

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