

THOUGHT LEADERSHIP

News

COURT GRANTS SUMMARY JUDGMENT DISMISSING NEGLIGENCE AND NEGLIGENT ENTRUSTMENT CLAIMS IN WRONGFUL DEATH CASE

Newsbrief

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Last Tuesday, the U.S. District Court in Austin granted summary judgment in favor of a manufacturer and seller of mobile homes, dismissing negligence and negligent entrustment claims asserted against them after a wheel came off of a trailer while a transportation company was towing the home to a new location. In *Fields v. Cavco Industries, Inc.*, 2018 WL 1177487 (W.D. Tex. March 6, 2018), two halves of a manufactured home were being towed to location when a wheel came off the lead trailer and both drivers pulled off to the side of the road. But the second trailer was still partially blocking a moving lane of traffic and was struck by a vehicle driven by Mrs. Fields who died in the accident. A lawsuit was filed and the transportation company and drivers settled with Mr. Fields. The only remaining claims were the negligence and negligent entrustment claims against the manufacturer and seller of the homes.

The manufacturer and seller then filed a motion for summary judgment. The court analyzed the negligence claim based on an alleged failure to remedy a known tire failure problem when recycled tires are used on trailers towing manufactured homes. The court noted that whether a duty exists is a question of law for the courts. They also noted evidence that a recycled tire was used and, that they frequently fail. But the court found the evidence insufficient to create a duty to avoid recycled tires altogether and, noted that federal regulations permit their use. Finding no duty, the court granted summary judgment to the manufacturer and seller on the negligence claims.

Turning to the negligent entrustment claim alleging the manufacturer and seller “gave a known danger to an unskilled contractor” the court applied Texas law to address the claim. The court outlined the five elements necessary to establish a negligent entrustment claim and turned to Defendants motion asserting there was no evidence that the drivers were “incompetent and reckless.” The court found that the lack of a formal policy on handling loose tires was insufficient, especially in light of the drivers’ significant experience. Accordingly, the court found the evidence was insufficient “to create a genuine issue of material fact” on whether the drivers were incompetent or reckless and granted summary judgment on the negligent entrustment claim, dismissing the claims without prejudice.