

PRE-INJURY RELEASE UPHELD

Tamez v. Southwestern Motor Transport, Inc.

Tamez and Willoughby were team co-drivers, employed by Edwin Montalvo Trucking and leased to Defendant Southwestern Motor Transport, Inc. (“SMT”). Tamez died and Willoughby was seriously injured when the tractor-trailer they were driving crashed into an interstate overpass. Willoughby and the widow of Tamez brought suit against SMT. SMT filed its motion for summary judgment based on the affirmative defenses of waiver and release, maintaining that both Tamez and Willoughby signed a release agreement. All leased drivers were required to sign this release agreement prior to driving for SMT. This signed agreement released SMT from liability for any injuries caused by the negligent acts and/or omissions of SMT and/or its employees, officers, agents and/or servants. The trial court recognized the enforceability of the release, and granted SMT’s motion for summary judgment.

The San Antonio Court of Appeals upheld the trial court’s decision, finding that the release agreement met the fair notice requirements imposed on pre-injury releases. As stated by the Court, the fair notice requirements include the express negligence doctrine and the conspicuousness requirement. The express negligence doctrine requires that the parties’ intent to release liability must be expressed in unambiguous terms within the four corners of the agreement. The conspicuousness requirement provides that the releasing language must be conspicuously written, so that a reasonable person against whom it is to operate should notice it. The Court found that the release satisfied both requirements and was therefore valid against the claims brought by and on behalf of the leased drivers and their estates.

Please contact Rene Sowell (renes@gucl.com), Richard Schellhammer (res@gucl.com), or Bob Dawson (robertd@gucl.com) for additional information on this case.