



Jul 05, 2005

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Summary Judgment Obtained In Substantial Personal Injury Lawsuit

Frost Brown Todd attorneys Lori Landrum and Ali Razzaghi of the Cincinnati office obtained summary judgment on behalf of their client, Kinder Morgan Liquid Terminals, LLC ("Kinder Morgan"), in a substantial personal injury lawsuit involving a Kinder Morgan employee who was injured while unloading the contents of a pressurized railroad car.

The case arose when a manway cover on a pressurized railroad car blew off. The employee was working on top of the car at the time and was struck in the head and then fell off of the car. As a result of his injuries, the employee filed this action against numerous defendants, including Sterling Chemicals, Inc. ("Sterling") – the registered owner of the tank car – and Rescar, Inc. ("Rescar") and Alltranstek, Inc. ("Alltranstek") – companies that performed repairs and maintenance on the tank car, as well as the manufacturer of the car and other service providers. Sterling, Rescar, and Alltranstek filed third-party complaints against Kinder Morgan for contribution in the event they were found liable to the employee.

Under R.C. § 2745.01, which governs employer liability, an employer like Kinder Morgan is only liable for injuries to an employee if the injuries were caused by the employer's intentional conduct. Accordingly, Kinder Morgan moved for summary judgment against Sterling, Rescar, and Alltranstek on grounds that there was no evidence from which it could have been proven that Kinder Morgan intended to injure the employee. Following a hearing before the Court during which Ms. Landrum successfully argued this point, the Court granted Kinder Morgan's motion for summary judgment and dismissed Kinder Morgan from the lawsuit accordingly. Specifically, the Court found that Kinder Morgan had no intent to injure the employee and that it was not reasonably foreseeable that the manway assembly could have separated from the tank car in such a fashion as to cause the employee's injuries.

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