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Summary Judgment Obtained by TWPD Affirmed by Fourth Circuit Court of Appeals

In *Broadnax v. Yousef Odeh, LLC*, the plaintiff filed suit in connection with the fatal shooting of Corey Garrison arising out of a verbal altercation at Hanks Supermarket. The plaintiff alleged that Hanks Supermarket breached its duty of care to Garrison, who was a patron at the store on October 30, 2020. Plaintiff, Garrison, and Larry Crocket were patrons when an argument arose between Garrison and one of Hanks' employees working behind the deli counter. As Garrison verbally assaulted the Hanks employee, Sam Odeh, Hanks' co-owner, attempted to calm the situation by asking Garrison to leave the store.

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However, video surveillance showed that Garrison became increasingly agitated and there was deposition testimony that Garrison threatened to kill the Hanks employees. Garrison eventually left the store and approached his vehicle. Crockett nonetheless continued the verbal altercation outside of the store. Shortly thereafter, Husam Odeh (another Hanks Supermarket co-owner) observed Garrison pointing a gun. At that point, Husam unholstered his own gun and shot Garrison.

Based on these facts, TWPDP filed a Motion for Summary Judgment on behalf of Hanks Supermarket and its insurer. The crux of that Motion was that Hanks did not owe a duty to Garrison because he was no longer a patron once he exited the store. This was supported by the video surveillance which showed Garrison's aggressive behavior both in the store and once he exited. His continued presence in the store's parking lot was not as a patron but rather based on a personal matter. Further, TWPDP argued that Hanks did not breach a duty even if one existed because Husam was justified to use deadly force once he observed Garrison pointing a gun. Judge Marissa Hutabarat of the Civil District Court for Orleans Parish agreed and granted the Motion for Summary Judgment dismissing the claims against Hanks and its insurer, with prejudice.

On appeal, the Fourth Circuit affirmed Judge Hutabarat's ruling. That Court's analysis focused on the elements of the duty-risk analysis used by Louisiana courts to resolve claims of negligence. The Court stated that to prevail under a negligence claim, a plaintiff must prove: (1) the defendant had a duty to conform his conduct to a specific standard; (2) the defendant failed to conform his conduct to the appropriate standard; (3) defendant's substandard conduct was the cause-in-fact of injuries; (4) the defendant's conduct was the legal cause of the plaintiff's injuries; and (5) actual damages. Applying these elements, the Court concluded that the Hanks employees did not breach any duty owed to Garrison because it was undisputed that Garrison was the initial aggressor when he pointed his gun at Odeh.

Attorney Spotlight

John A. Jeanson III



John has represented a wide range of clients in the environmental, energy and industrial arena from international producers, to historical operators and current independent operators. His practice focuses on litigation plans that best suit the needs of each client, with the understanding that no two cases are the same.

John has remained on the forefront of Legacy Litigation from the inception, achieving a number of zero jury verdicts and defense favorable jurisprudence that has shaped environmental law in Louisiana. His experience in handling mass toxic torts, pipeline concerns, production and injection wells, storage and disposal of constituents and other matters all involving differing engineering principals, provides a unique perspective and ability to meet the needs of each particular client in varying scenarios.

His practice also includes the area of premises liability, long haul trucking, asbestos and general insurance defense having handled and tried numerous cases from both the defense and plaintiff perspective in Louisiana, Texas, Mississippi, Alabama and Tennessee. John has also been retained by other energy producers/operators as a testifying expert in civil litigation and arbitration proceedings in the Gulf Coast region. John was selected as a Fellow by the LA State Bar Foundation. ("Fellows" are nominated by other distinguished members of the Bar, and consist of judges, lawyers, academics, and other individuals, whose professional, public and private lives demonstrate their commitment to ensuring access to the justice system for all.)

John originally hails from Lafayette, LA, and has resided in New Orleans, LA for the past 30 years along with his wife and two children.



Second Circuit Affirms Defense Summary Judgment in Premises Liability Case

Under Louisiana law, the owner or custodian of a thing is liable for damage caused by its ruin, vice, or defect, only upon a showing that he knew or, in the exercise of reasonable care, should have known of the alleged defect. See La. C.C.P. art. 2317. In *Washington v. Shreveport Loop LP, et al.*, the plaintiff, a resident at an apartment complex, claimed that he was bracing his hand against a second-story balcony railing at the apartments, when the railing broke, causing him to fall to the ground and sustain injuries. He alleged that the disintegration and age of the railing rendered it defective. Louisiana's Second Circuit affirmed a summary judgment granted in favor of the defendants, finding that the defendants neither knew nor should have known of the allegedly defective railing prior to the incident.

Worth noting, the plaintiff had entered into a lease agreement which provided that as the lessee, plaintiff assumed sole responsibility for the condition of the premises, and the owner would only be liable for alleged defects in the event of gross neglect to take action to remedy a defect after having received prior written notice thereof.

Plaintiff nonetheless asserted that the defendants knew or should have known of the defect in the railing. In support of this contention, he pointed out that the defendants had repaired at least thirteen (13) other balconies on the property before his fall, and repaired eight (8) additional balconies within one year of his accident. Nonetheless, plaintiff testified that he personally did not have any prior issues with the railings nor notice any need for repair, and he did not notify the apartment manager/owner that the railing needed repair. Based on these admissions, the trial court granted summary judgment in favor of the defendants, finding that the defendants did not have the requisite knowledge of the allegedly defective railing. The court of appeal affirmed.



19th JDC Denies Motion for JNOV and/or Remittitur

In February 2025, an East Baton Rouge Parish jury awarded general damages of \$394 million to a carpenter who was struck in the head by a 7-foot scaffolding bar while working at a refinery in Westlake, Louisiana. As a result, he suffered a significant brain injury and spent months in the hospital and an inpatient rehab facility to learn how to walk and talk again. At the time of this incident, the plaintiff was in the course and scope of his work with his direct employer who had been contracted to erect scaffolding at the refinery.

Despite this, Judge Tiffany Foxworth-Roberts denied the employer's motion for summary judgment on the worker's compensation exclusive remedy. Instead, the jury found that the incident which injured plaintiff was either substantially certain to occur or was the result of intentional conduct by plaintiff's employer.



Following the trial, the employer filed a Motion for JNOV and/or Remittitur. On JNOV, the employer argued that evidence of violation of any safety rule does not create a substantial certainty that an incident will occur. It also argued that the probability that an incident may occur does create a substantial certainty especially where an activity like the one involved in this case had occurred countless times without incident. With respect to the Remittitur, the employer noted that the general damage award was 36 times larger than the largest amount approved by the Louisiana Supreme Court for similar injuries. The employer relied on the Supreme Court's 2023 ruling in *Pete v. Boland Marine*, which requires court to consider prior relevant general damage awards in determining whether a trier of fact's award is an abuse of discretion. Unconvinced by these arguments, Judge Foxworth-Roberts denied the employer's Motion. No doubt, the Court of Appeals will be asked to review this case.

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