



Case Summaries April 19, 2024

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DECIDED CASES

NEGLIGENCE

Common Carriers

JNM Express, LLC v. Lozano, ___ S.W.3d ___, 2024 WL ___ (Tex. Apr. 19, 2024) (per curiam) [[21-0853](#)]

The issues are whether an injured truck driver is an “employee” of three trucking companies and whether two individuals, the companies’ owners, are those companies’ alter egos.

Lauro Lozano was driving an eighteen-wheeler when he fell asleep, crashed, and suffered injuries. Lozano and his wife sued three companies (JNM, ANCA, and Omega) and two individuals (Jorge and Silvia Marin). Mr. Marin owns JNM and ANCA, which owned and leased the truck Lozano was driving. The Marins jointly own Omega, a brokerage company. The Lozanos alleged that it was unlawful for Mr. Lozano to have taken the trip during which the accident occurred because he had not taken the required rest time and that Mr. Marin pressured him into changing his records and driving anyway. They sought to hold the Marins liable with the companies.

A jury found for the Lozanos, who received a \$13.7 million judgment after the trial court reduced exemplary damages to conform to statutory limits. Underlying the judgment were findings that Mr. Lozano was the companies’ “employee,” the companies were negligent, and the Marins were responsible for the companies’ conduct. On appeal, the defendants complained that (among other things) the jury charge erroneously defined “employee.” They also challenged the sufficiency of the evidence holding the Marins liable. The court of appeals largely affirmed. It held that the objection to the definition was not preserved and that the evidence sufficiently supported holding the Marins liable as the companies’ alter egos.

The Supreme Court reversed, rendered judgment in part, and remanded. The defendants preserved their objection to the definition of employee because they asked the trial court to use the Pattern Jury Charge definition instead of a federal definition that the court used instead. The Court also limited the case on remand by resolving two more issues. First, the Court rendered a take-nothing judgment for Omega because there was insufficient evidence that Mr. Lozano was Omega’s employee under any standard. Second, the Court also rendered a take-nothing judgment for Silvia Marin, for whom alter ego was the only liability basis. Alter ego applies when, under the Court’s precedents, it would be unjust to hold only the entities liable. Here, however, the

Lozanos identified nothing in the record showing that either of the Marins had abused the corporate form such that they should be held liable personally. The Court remanded the case to the court of appeals for further proceedings.