

It's All in the Details: Recent Case Won on Facts

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Too often corporate defendants take for granted the details involving their drivers when facing litigation arising out of an accident. Our team was recently successful in obtaining summary judgment for a client in a case with a strange set of facts.

In the case, Plaintiff alleged that she was injured when she was an authorized passenger in a tractor-trailer in 2008. She sued the driver and his alleged employer in the Circuit Court of Cook County in 2010. The trucking company removed the case to the U.S. District Court for the Northern District of Illinois. The driver was never served in that action. The motor carrier moved for summary judgment in the original action on the grounds that it had no employee by the name the plaintiff used in the complaint and that the vehicle alleged to have been involved in the incident had been sold by the trucking company prior to the date of the alleged incident. By agreement, the court entered summary judgment in favor of the trucking company on February 1, 2011. The case was then dismissed on April 25, 2011.

Plaintiff then filed a second lawsuit in the Circuit Court of Cook County on September 29, 2011, this time only naming only the driver with his correct name as a defendant. The driver was served with summons in the second lawsuit, but never appeared and a default judgment was entered. Neither the driver nor the Plaintiff's attorney ever notified the motor carrier of this second suit.

Over two years later, Plaintiff filed a third lawsuit, against only the trucking company, arguing that the default judgment which had been entered in the second lawsuit against the driver should be enforceable against the motor carrier, contending that agency rules made the motor carrier liable for the driver's actions.

The trucking company removed the matter to federal court based on diversity jurisdiction and immediately moved for summary judgment on three grounds:

1. The judgment entered in the trucking company's favor in the first lawsuit was res judicata;
2. Plaintiff signed a valid waiver and release of her claim; and
3. The statute of limitations barred Plaintiff's claim.

Ultimately, the court granted the motor carrier's motion for summary judgment. This case reminds us that details matter. Plaintiff and her counsel's failure in the first lawsuit to provide accurate information (as to her residence, the defendant's correct name, the correct truck number, etc.) or to dispute information as presented to the court by the defendants, ultimately led to her action against the motor carrier getting dismissed, not just once, but twice.

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