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Thorpe Shwer Obtains Complete Victory for Client in Commercial Contract Suit, Including 100% of Its Attorney's Fees

On June 19, 2018, Thorpe Shwer attorneys Brad Shwer and Bill Thorpe finalized a two-year effort to obtain relief on behalf of one of its regional building and construction supply clients. The client retained Thorpe Shwer after two of its employees were injured in an accident caused by a brake failure while the employees were driving down a significant downgrade south of Payson, Arizona.

The client's post-accident inspection revealed that the brake failure was caused by a service contractor's failure to properly adjust the brakes following a recent brake replacement on the Truck. The contractor refused to settle the claim, arguing that there was no way to determine the cause of the accident without performing extensive and unnecessary destructive testing of the Truck's braking system. Because of the position taken by the contractor, Thorpe Shwer had no choice but to file suit on its client's behalf for breach of the contract between the parties.

Despite the numerous delay tactics imposed by the other side, Thorpe Shwer forced the contractor to a stipulated judgment for the full amount of the client's claimed damages less than one month before trial. After stipulating to the judgment, the contractor refused to reimburse the client for its attorneys' fees, arguing that the fees were not recoverable, excessive, and unnecessary. The Court disagreed. After reviewing Thorpe Shwer's work in this case, the Court found that fees were recoverable and awarded the client 100% of the requested fees, plus costs, pre-judgment interest, and post-judgment interest. Congratulations to Brad, Bill, and the rest of the Thorpe Shwer team that assisted in this case in securing a great result for the client.

