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Thorpe Shwer Prevails on Summary Judgment, Again, For Its Railroad Client

Thorpe Shwer attorneys Bill Thorpe, Brad Shwer, and Adam Reich successfully obtained summary judgment on behalf of a major Class I railroad in a matter in Maricopa County Superior Court. The case was brought by the injured driver and the representatives of a deceased passenger following a fatal grade crossing accident in Northern Arizona. The plaintiffs raised numerous theories of liability against the defendant, including claims related to the actions of the train crew, the physical characteristics of the crossing where the accident occurred, and several alleged violations of federal regulations. After extensive briefing in 2013 related to, among other things, federal preemption of the plaintiffs' claims, the court granted summary judgment to the defendant, resulting in the dismissal of all claims against the defendant. The plaintiffs appealed to the Arizona Court of Appeals, who upheld the majority of the trial court's decision. The Court of Appeals determined, however, that the trial court failed to consider one of the plaintiffs' claims and remanded for further proceedings. Following additional briefing on the remaining claim, the trial court again granted summary judgment, resulting in the second dismissal of all claims against the defendant.