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Thorpe Shwer's Summary Judgment Victory for Its Railroad Client Affirmed by Ninth Circuit

Thorpe Shwer, P.C. attorneys Bill Thorpe, Brad Shwer, and Jamie Gill Santos were successful in arguing to the Ninth Circuit that the District of Nevada's ruling on summary judgment in favor of its major Class I railroad client should be affirmed. The case was brought by a trespasser who was struck along mainline track in New Mexico and sustained serious injuries. The trespasser's wife also sued. The plaintiffs raised numerous theories of liability against both the railroad operating the train involved in the accident, as well as another railroad that owned the tracks in question. The district court granted both railroads summary judgment on all claims, finding that the only duty owed to the trespasser under New Mexico law was not to willfully or wantonly injure him and that there was no evidence suggesting the railroads acted in such a manner. The plaintiffs appealed the summary judgment decision pertaining to the railroad operating the train to the Ninth Circuit. After extensive briefing in 2014, on April 13, 2016, the Ninth Circuit upheld the district court's granting of summary judgment in favor of the railroad.