

## DRI Members Share Their Victories

### *Kirk Sanchez v. TA Operating Nevada LLC, et al., No. A-19-807349-C (February 28, 2023).*

Michael Correnti and Philip Kegler of *McDonald Toole Wiggins PA* in Orlando, Florida, won a summary judgment dismissal with prejudice for **TA Operating LLC d/b/a TravelCenters of America** in a suit brought by Plaintiff Kirk Sanchez who was driving a motorcycle when he was involved in a crash on Dean Martin Drive, a public roadway that is adjacent to TA's trucking facility in Las Vegas, Nevada. Plaintiff claimed that an unidentified semi-truck was exiting TA's property and struck his motorcycle because of alleged vision obstructions and lack of signage on TA's property near the exit way. Mr. Sanchez sustained a right leg amputation as a result of the accident. TA disputed Plaintiff's description of the accident, particularly as there was no evidence to corroborate his testimony that a semi-truck was leaving TA's property, struck his motorcycle, and then fled the scene. To the contrary, TA's accident reconstruction showed that Plaintiff's accident occurred because he lost control of his motorcycle and struck a parked semi-truck on the side of the road. Nonetheless, for purposes of summary judgment, even accepting Plaintiff's testimony as true, TA successfully argued that summary judgment was appropriate because: (1) TA did not owe a legal duty to Plaintiff who was not on TA's property and operating a motorcycle on a public roadway; and (2) Plaintiff failed to come forward with any evidence to support his theory that hazardous conditions on TA's property caused or contributed to this incident. As such, a jury would only be left to purely speculate.

On February 28, 2023, the Honorable Adriana Escobar for the Eighth Judicial District Court in Clark County, Nevada granted final summary judgment in favor of TA and dismissed Plaintiff's lawsuit with prejudice. In granting summary judgment, the Court's Order stated "the Court finds there is no evidence that the lack of stop sign, yield sign, or stop line caused or contributed to this specific accident. The Court finds it is undisputed that this alleged semi-truck driver was never identified. The Court finds it is undisputed that there is no eyewitness testimony explaining whether this unidentified driver ever existed, or what this unidentified driver did or did not do while on TA's property. Plaintiff's liability expert, Mr. Avrit, admits there is no code or regulation that requires a private owner to place a stop sign at the exit of their property." The Court further stated "[w]ithout any evidence, Plaintiff argues that the addition of a stop sign would have prevented this incident and that the vision obstruction to the truck driver caused or contributed to the accident. A jury cannot make this determination without purely speculating which they are not permitted to do." Notably, Plaintiff also brought claims against Clark County which were dismissed when Clark County's summary judgment was

granted because of the applicable qualified immunity and discretionary function immunity.

The case is *Kirk Sanchez v. TA Operating Nevada LLC, et al.*, No. A-19-807349-C (February 28, 2023).



*Pictured, L to R: Correnti, Kegler*