

Jennifer Studebaker Wins Summary Judgement in Wrongful Death Case

Jennifer Studebaker, recently won summary judgement for client, Wal-Mart, in the wrongful death case of *Heather Phillips on behalf of herself and all wrongful death beneficiaries of Gage Allen, Plaintiff vs. Wal-Mart Stores East LP*. The motion was heard in the United States District Court for the Southern District of Mississippi, Western Division.

The case surrounded events leading up to a car accident which caused the death of a young man. In the early morning hours of September 2, 2013, one of the teenage boys stole beer from Wal-Mart in McComb, Mississippi; he shared the beer with 3 other underage boys and drove to a house nearby, proceeded to steal liquor from that home and take shots of the alcohol. Around 5:30am, the boys were driving home when they were involved in a single car accident killing one of the boys. The investigating officer concluded the accident was caused by the driver operating the vehicle under the influence.

The Decedent's family sued Wal-Mart alleging that Wal-Mart was negligent per se asserting that Wal-Mart "furnished" beer to a person under the age of 21 in violation of State law and the McComb Municipal Ordinance. The Court held there was no violation of the law as Wal-Mart did not "furnish" the beer rather the boy stole it, and Wal-Mart had no knowledge that he had done so. Plaintiff also claimed that Wal-Mart was negligent. The Court held that the negligent and intentional criminal acts of the teenagers, such as stealing the beer, the underage consumption and possession of liquor and beer, and driving under the influence were superseding intervening causes that worked to eliminate any potential liability of Wal-Mart.

In conclusion, the Court found that as to the claim of negligence per se, there was no statutory violation to support a finding of liability. Regarding Plaintiff's claim of negligence, the Court held that the criminal act of theft was unforeseeable to the Defendant and acted as a superseding and intervening cause. Consequently, summary judgment was granted in favor of Wal-Mart. Studebaker's team on the case included Forman Watkins attorneys, Simine Reed and Joshua Leggett.

Jennifer Studebaker is a Partner in Forman Watkins' Jackson office. She has also served as Municipal Court Judge for

toxic tort cases for her clients.

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