

**SNELL & WILMER SUCCESSFULLY OVERTURNS A CENTURY-OLD
STANDARD OF CARE FOR COMMON CARRIERS IN ARIZONA**

TUCSON (March 9, 2012) – Snell & Wilmer attorneys Bill Poorten, Andrew Jacobs, Dan Wierzba and Kate Foss recently assisted firm client, Professional Transit Management of Tucson, Inc. (d/b/a Sun Tran) (“PTMTI”), in overturning a century-old standard of care for common carriers in Arizona. PTMTI operates the Tucson bus service. In 2008, a wheelchair-bound passenger on one of the buses fell when the bus driver hit the brakes to avoid a collision. The passenger sustained injuries from her fall and sued PTMTI.

At trial, and relying on Arizona Supreme Court cases from 1910 and 1949, Plaintiff argued the trial court should issue a jury instruction that PTMTI, as a common carrier, owed passengers a duty to use the highest degree of care practicable. PTMTI argued that the jury should receive an instruction that common carriers, including buses, owed passengers a duty of reasonable care under the circumstances, relying on a 2002 opinion from the Arizona Court of Appeals and a 1998 case from the New York Court of Appeals. The trial court agreed with Plaintiff, and issued the jury instruction stating that common carriers owed passengers a duty to use the highest degree of care practicable. The jury allocated a certain percentage of fault to Plaintiff, placed the remaining percentage on PTMTI and awarded damages for Plaintiff. The Arizona Court of Appeals affirmed the trial court in all respects, doing so by issuing a memorandum opinion and denying oral argument.

On appeal to the Arizona Supreme Court, PTMTI argued, among other things, that the trial court issued the wrong jury instruction regarding the common carrier’s standard of care to passengers. PTMTI argued that the proper standard of care should be that common carriers owe passengers a duty of reasonable care under all the circumstances, which would cover any and all circumstances, including whether the passenger needed extra care and the fact that common carriers are professional drivers. PTMTI also argued that the duty of reasonable care made the most sense in terms of the direction the Arizona Supreme Court was taking in other tort cases, as well as common sense approaches taken by other states.

The Arizona Supreme Court agreed with PTMTI, vacating the Court of Appeals opinion and remanding the case to the trial court for a new trial. In doing so, Arizona is now one of six states that impose a duty of reasonable care on common carriers.

About Snell & Wilmer L.L.P.

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