

COURT OF APPEALS FOR THE TENTH DISTRICT OF TEXAS AT WACO

Roger Landry, Kenneth Porter and Q.A. Services, L.L.C. v. Philip Currie and Charlotte Currie

No. 10-23-00346-CV (Tex. App.—Waco Jan. 29, 2026) · No. 10-23-00346-CV · Decided January 29, 2026

SUMMARY

The Texas Court of Appeals considered challenges arising from a motor-vehicle-accident judgment involving negligent entrustment, respondeat superior, scope of employment, and damages. The court held that the evidence supported the negligent-entrustment finding against Porter and the finding that Landry was acting within the scope of his employment, but that the trial court improperly submitted a general negligence theory against Q.A. without the required instructions for negligent hiring, supervision, or retention. The court modified the judgment and affirmed it as modified.

CASE DETAILS

COURT	Court of Appeals for the Tenth District of Texas at Waco
WRITING FOR THE COURT	Matt Johnson, Chief Justice; Justice Smith; Rex Davis, Senior Justice, sitting by assignment
JURISDICTION	Texas Court of Appeals, Tenth Appellate District
DECIDED	January 29, 2026
DOCKET	10-23-00346-CV
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from a judgment entered on a jury verdict in a motor-vehicle negligence action. The appellants challenged negligent entrustment, jury submission, scope of employment, negligence findings, and damages; the appellees filed and then voluntarily dismissed a cross-appeal.
STANDARD OF REVIEW	Legal sufficiency is reviewed by viewing the evidence in the light most favorable to the verdict and affirming if more than a scintilla supports the finding. Factual sufficiency is reviewed neutrally, with reversal warranted only if the finding is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Jury-charge error is reviewed in light of the pleadings, evidence, and charge as a whole and is reversible only if it probably caused rendition of an improper judgment. Noneconomic damages are reviewed for factual sufficiency and may be reversed only when so

	against the great weight and preponderance of the evidence as to be manifestly unjust.
PRECEDENTIAL VALUE	published
PARTIES	Roger Landry, Kenneth Porter, Q.A. Services, L.L.C. v. Philip Currie, Charlotte Currie

TOPICS

negligence

negligent supervision

negligent hiring

vicarious liability

damages

PRACTICE AREAS

personal injury

negligence

civil procedure

appellate procedure

damages

QUESTIONS PRESENTED

1. Whether legally and factually sufficient evidence supported Porter's negligent-entrustment finding.
2. Whether the trial court improperly submitted a general-negligence theory against Q.A. instead of separately submitting the Curries' negligent hiring, supervision, training, and retention theories.
3. Whether legally and factually sufficient evidence supported the finding that Landry was acting within the course and scope of his employment with Q.A.
4. Whether legally and factually sufficient evidence supported the negligence finding against Q.A.
5. Whether the entire judgment had to be reversed and remanded if the jury submission or Q.A. findings were erroneous.
6. Whether legally and factually sufficient evidence supported the remitted noneconomic damages awarded to the Curries.
7. Whether the exemplary-damages award had to be reversed because of an alleged insufficiency in the noneconomic damages.

HOLDINGS

1. The evidence was legally and factually sufficient to support the jury's finding that Porter negligently entrusted his vehicle to Landry.
2. A general-negligence question, without the additional proof requirements for negligent hiring, supervision, training, or retention, cannot support recovery on those theories.
3. Legally and factually sufficient evidence supported the finding that Landry was acting within the course and scope of his employment when the collision occurred.
4. Although the general-negligence submission against Q.A. could not support direct liability on negligent hiring, supervision, training, or retention, the judgment against Q.A. could stand on the separate respondeat-superior finding. Q.A. was therefore liable for Landry's 30% share, not the jury's separately assigned 50% share.

5. The evidence was factually sufficient to support the remitted noneconomic damages awarded to Charlotte and the noneconomic damages awarded to Philip; the challenge to exemplary damages therefore failed.

KEY QUOTATIONS

“Because negligent hiring, supervision, or retention requires additional proof requirements than general negligence, a general negligence question, unaccompanied by the additional elements as instructions or definitions, cannot support a recovery for negligent hiring, supervision, or retention.” (at 17)

“We modify the judgment to delete Q.A.’s proportionate responsibility of 50%. Because we conclude that the jury’s finding on respondeat superior is supported by the evidence, Q.A. is vicariously liable for Landry’s negligence. Therefore, Q.A. is liable for 30% of the damages awarded, and we modify the judgment to that effect.” (at 34)

FACTUAL BACKGROUND

Q.A. Services built cellular phone towers, and Porter owned trucks used by Q.A. employees. Landry, a Q.A. employee authorized to drive Porter's vehicles, became ill at a remote jobsite and was directed to return a truck to the company yard. Landry had recently been arrested for public intoxication and driving while intoxicated, and Porter knew of those arrests and Landry's alcohol-related behavior. While driving the truck, Landry, who had smoked marijuana and consumed alcohol, ran a stop sign and collided with the Curries' vehicle; his blood alcohol concentration was 0.114 and marijuana was detected. Both Curries suffered severe and lasting injuries, including Charlotte's aortic and abdominal injuries and Philip's arm fracture, stroke, and vision loss.

PROCEDURAL HISTORY

The Curries sued Landry, Porter, and Q.A. Services after a motor-vehicle collision. A jury found Landry, Porter, and Q.A. negligent, found Landry acting within the scope of his employment with Q.A., apportioned responsibility 30% to Landry, 20% to Porter, and 50% to Q.A., and awarded compensatory and exemplary damages. The trial court entered judgment and later reduced the Curries' damages through a suggestion of remittitur, which the Curries accepted. The court of appeals granted the Curries' motion to voluntarily dismiss their cross-appeal, modified the judgment to delete Q.A.'s 50% proportionate responsibility and impose vicarious liability for Landry's 30% share, and affirmed as modified.

DISPOSITION

other

CASES CITED

- Croucher v. Croucher, 660 S.W.2d 55, 58 (Tex. 1983)
- City of Keller v. Wilson, 168 S.W.3d 802, 827 (Tex. 2005)
- Cont'l Coffee Prods. Co. v. Cazarez, 937 S.W.2d 444, 450 (Tex. 1996)
- Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986)

- *McGalliard v. Kuhlmann*, 722 S.W.2d 694, 697 (Tex. 1986)
- *Schneider v. Esperanza Transmission Co.*, 744 S.W.2d 595, 596 (Tex. 1987)
- *Allways Auto Group, Ltd. v. Walters*, 530 S.W.3d 147 (Tex. 2017) (per curiam)
- *4Front Engineered Solutions, Inc. v. Rosales*, 505 S.W.3d 905, 911 (Tex. 2016)
- *City of Amarillo v. Martin*, 971 S.W.2d 426, 430 (Tex. 1998)
- *Atlantic Indus., Inc. v. Blair*, 457 S.W.3d 511, 518 (Tex. App.—El Paso 2014), rev'd on other grounds, 482 S.W.3d 57 (Tex. 2016) (per curiam)
- *Pesina v. Hudson*, 132 S.W.3d 133, 139 (Tex. App.—Amarillo 2004, no pet.)
- *United Scaffolding, Inc. v. Levine*, 537 S.W.3d 463, 469, 472, 480-81 (Tex. 2017)
- *Rosell v. Central West Motor Stages, Inc.*, 89 S.W.3d 643, 654-56 (Tex. App.—Dallas 2002, pet. denied)
- *Baptist Mem'l Hosp. Sys. v. Sampson*, 969 S.W.2d 945, 947 (Tex. 1998)
- *Painter v. Amerimex Drilling I, Ltd.*, 561 S.W.3d 125, 131 (Tex. 2018)
- *Mejia-Rosa v. John Moore Servs., Inc.*, 2019 WL 3330972, at *6 (Tex. App.—Houston [1st Dist.] July 25, 2019, no pet.) (mem. op.)
- *Green v. Ransor, Inc.*, 175 S.W.3d 513, 516 (Tex. App.—Fort Worth 2005, no pet.)
- *Orozco v. County of El Paso*, 602 S.W.3d 389, 396 (Tex. 2020)
- *Boatland of Houston, Inc. v. Bailey*, 609 S.W.2d 743, 750 (Tex. 1980)
- *Anderson v. Durant*, 550 S.W.3d 605, 620 & n.66 (Tex. 2018)
- *Maritime Overseas Corp. v. Ellis*, 971 S.W.2d 402, 406 (Tex. 1998)
- *Gregory v. Chohan*, 670 S.W.3d 546, 550 (Tex. 2023) (plurality op.)
- *Bennett v. Grant*, 525 S.W.3d 642, 648 (Tex. 2017)
- *Hancock v. Variyam*, 400 S.W.3d 59, 68 (Tex. 2013)
- *SCI Tex. Funeral Servs., Inc. v. Nelson*, 540 S.W.3d 539, 544 (Tex. 2018)
- *Dawson v. Briggs*, 107 S.W.3d 739, 752 (Tex. App.—Fort Worth 2003, no pet.)
- *Goldman v. Torres*, 341 S.W.2d 154, 160 (Tex. 1960)