

## Tony Sbarra and Mackenzie Brockmyre Obtain Summary Judgment for Western Star Truck Sales, Inc. in Taunton Superior Court

### RELATED ATTORNEYS

Mackenzie L. Brockmyre

Anthony J. Sbarra, Jr.

By Mackenzie L. Brockmyre, Anthony J. Sbarra, Jr. on April 13, 2022

National Director **Tony Sbarra**, a shareholder at Hermes Netburn and **Mackenzie Brockmyre**, an associate, recently obtained summary judgment for Western Star Truck Sales, Inc. in Taunton Superior Court. The case, *N.E. Bridge Contractors, Inc. v. Aspen Aerials, Inc., et al.*, C.A. No.: 1873CV00708, involved product liability claims against the defendants stemming from a truck accident that occurred in 2018 in Alaska. Western Star assembled a cab and chassis which was purchased by the plaintiff, N.E. Bridge, who shipped it to Minnesota where the co-defendant, Aspen Aerials, installed a bridge inspecting crane on it. The fully assembled vehicle had been used without incident for bridge inspections throughout the country for approximately 30,000 miles before the accident. The vehicle was totaled, and N.E. Bridge claimed economic damages of over \$1,500,000 as a consequence of the unit being unavailable to it for previously scheduled jobs. N.E. Bridge brought product liability claims against both Aspen Aerials and Western Star for negligent design, failure to warn and breach of express and implied warranties.

Inspection by N.E. Bridge's insurers following the accident determined that the steering of the struck malfunctioned due to the front suspension giving way, which was caused by Aspen Aerial's improper torqueing of its suspension bolts. N.E. Bridge answered interrogatories propounded by Aspen Aerials and attributed fault for the accident solely to it. N.E. Bridge also retained engineer Craig Sylvester of Jensen Hughes, who confirmed that the accident resulted directly from Aspen Aerial's improper installation of its bridge inspection crane. N.E. Bridge's president, and corporate designee, testified that Western Star was not at fault for the accident. Western Star moved for summary judgment on this record, arguing that N.E. Bridge had offered no evidence, testimonial, expert or otherwise, to support its claims against it. N.E. Bridge opposed, arguing that Western Star negligently designed its cab and chassis in a manner that allowed Aspen Aerials to improperly install its bridge inspection crane and, further, that it failed to warn of the dangers of doing so.

The Court, Squires-Lee, J., agreed with Western Star that expert testimony was required, at the summary judgment stage, to support N.E. Bridge's theories. The Court also agreed that Western Star was under no duty to warn either Aspen Aerials or N.E. Bridge because both were sophisticated users under Massachusetts law, but that Western Star had sufficiently warned despite the lack of a duty to do so. As a result, The Court granted the motion for summary judgment.

*\*This content was originally posted in DRI's March 2022 edition of The Voice.*