

The Following (And Followed) Fleetwood

In one of the many wonderful songs she has written (with Gerry Goffin) and performed over a long and successful career, Carole King sings, “If you’re out on the road . . . I will follow where you lead.”

Although Ms. King was not speaking about Traffic (a band she was never in, nor the Cars, the Motors, the Cadillacs, REO Speedwagon, etc.), the driving rhythms of her music take us to this month’s selection from the legal jukebox: *Breaux v. Willis*, decided on March 5, 2008 by the Court of Appeal of Louisiana.

According to the Court, Trisha Willis was driving a 1979 Cadillac Fleetwood on West Congress Street in Lafayette, La. The Fleetwood was owned by Shannon Landry and insured by American Century Casualty Company. The car ahead of her was a Toyota Corolla driven by Agnes Breaux. The car behind her was an Oldsmobile Aurora driven by Kenneth Dennis.

After Breaux’s Corolla came to a stop because the traffic ahead of her had stopped moving, there occurred a three-car, chain collision during which Breaux was rear-ended by Willis’ Fleetwood and Willis was rear-ended by Dennis’ Aurora (the cause and sequence of the rear-endings was a matter of dispute among the parties). Breaux was injured and sued for damages.

Dennis and his insurer reached a pre-trial settlement with Breaux and were dismissed from the litigation. Breaux’s case against Willis, Landry, and American went to trial. The trial court weighed the conflicting testimony of the witnesses and determined that Willis was not responsible for Breaux’s damages. It therefore dismissed Breaux’s claims against Willis, Landry, and American. Breaux appealed.

The Court of Appeal affirmed the judgment for Willis, Landry, and American.

It noted that “[a]lthough Louisiana jurisprudence does provide a presumption of negligence to a following vehicle that rear-ends another, the presumption is rebuttable. . . . The presumption is derived from the statutory law that states that ‘[t]he driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the highway.’ . . . The driver of the following vehicle can overcome this presumption of fault by proving that she had her car under control, closely observed the preceding vehicle, and followed at a safe distance under the circumstances, or by proving that the driver of the lead car negligently created a hazard which the following motorist could not reasonably avoid.”

“The record reveals ample evidence to support the trial court’s conclusion that Ms. Willis was not at fault and that Mr. Dennis was the sole proximate cause of the rear-end collision, and hence, solely responsible for Ms. Breaux’s damages. It is unchallenged that Mr. Dennis — the driver of the last vehicle in the chain collision — rear-ended the second car in the chain (Ms. Willis) when he failed to keep a proper lookout or, apparently, a safe distance that would enable him to stop his car safely as needed. Consequently, this concession by Mr. Dennis left it only necessary that the trial court determine whether Ms. Willis’ car struck Ms. Breaux’s car with its own motive force before the accident with Mr. Dennis; whether it was propelled by the impact from the collision with Mr. Dennis’ car into Ms. Breaux’s; or whether both scenarios occurred.

“Mr. Dennis’ sole testimony is the only evidence that was offered to contradict Ms. Willis’ and Corporal Ridge’s [the Lafayette Police Department traffic officer who quickly arrived at the scene and investigated the accident] testimony that Mr. Dennis’ car set the chain collision in motion and caused the collision of the two cars ahead of him. He testified, without corroboration, that before he rear-ended Ms. Willis’ vehicle, he heard a loud bang that he ultimately attributed to a collision between the other two drivers. Ms. Willis emphatically denied that this happened and the plaintiff, Ms. Breaux, is unsure.

The trial court considered the conflicting testimony of Mr. Dennis and Ms. Willis and decided to give more weight to the testimony of the trained and experienced patrol officer to assist him in making his findings. Corporal Ridge viewed the scene and the position of the cars after the accident and obtained witness statements. He concluded that the cause for the plaintiff’s accident was Mr. Dennis’ inattention and subsequent collision with Ms. Willis. He testified that he had no reason to believe that Ms. Willis had operated her car negligently and was also at fault in causing the accident with Ms. Breaux.”

“In light of the evidence presented at trial, we cannot disturb these reasonable evaluations of credibility and inferences of fact simply because another result might be reasonable.”

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As the coda to this month’s release, we leave you with apt advice from the legendary Ms. King for those who follow via means of “Locomotion”: “Do it nice and easy now and don’t lose control”

Lawrence Savell (lsavell@chadbourne.com) is a litigator with the law firm Chadbourne & Parke LLP. This article provides general information and cannot substitute for consultation with an attorney; additional background is at www.lawrencesavell.com. Savell’s humorous original lawyer music CDs are available at www.LawTunes.com.