

# Kentucky

Ward  
Hocker  
Thornton

## SUMMARY JUDGEMENT OBTAINED Construction Law and Wrongful Death Case



**Gregg Thornton**

Ward, Hocker, Thornton attorneys Gregg Thornton and Joshua Ellis obtained summary judgment on behalf of their client in a multi-defendant dispute before Judge Reynolds in the Fayette Circuit Court. This Construction Law and Wrongful Death action arises out of a tragic vehicular accident that occurred just outside a temporary construction entrance to the local airport in Lexington, Kentucky. At the time of the accident the client was performing duties as an electrical subcontractor on the Airport Construction Project.



**Joshua Ellis**

On the morning of February 28, 2017, the client ordered ten yards of flowable fill concrete from one of the co-defendants. This co-defendant responded and issued its employee, another co-defendant, a load ticket and dispatched him to the Project to fulfill the order. Around 8:00 a.m. that morning, traveling westbound on Versailles Road, the employee-defendant maneuvered his concrete mixer to a median and awaited four lanes of heavy, rush-hour traffic to stop and to permit him to execute a left turn into the temporary construction entrance. The three lanes closest to the median stopped and allowed him to cross. Unfortunately, at the same time, another driver was traveling in the fourth lane—the right turn lane. The vehicles collided. The driver suffered severe injuries, and died several weeks later as a result of the accident.

Plaintiff-husband, executor of the driver's estate, filed a negligence action against the concrete company and its employee. Subsequently, the concrete company filed a Third Party Complaint against WHT's client alleging the client was responsible for the operation, maintenance, and construction of the temporary entrance the employee was attempting to enter; that the client breached their duties with respect to the entrance; and that the client's breach was a substantial factor in causing the accident. After deposing the liability expert for the concrete company, Attorneys Gregg Thornton and Joshua Ellis filed a Motion for Summary Judgment. The Motion set forth the arguments that WHT's client did not owe Plaintiff a legal duty recognized in the Commonwealth of Kentucky; and that, assuming arguendo, the client owed Plaintiff a legal duty, the client's alleged negligent conduct (providing improper directions to a materials vendor) was too remote in the sequence of events to be the proximate cause of the accident. Judge Reynolds sustained the Motion for Summary Judgment. In so doing, the Court did not reach the merits of the client's proximate cause argument and held the client did not owe Plaintiff a legal duty. Plaintiff's case will proceed against the other remaining defendants. **WARD HOCKER THORNTON's client is dismissed from the case.**