

REUBEN LOREDO, and J. FRANK WOOD, JR., as Guardian ad Litem of STACEY JAZMINE LOREDO, and THOMAS BERKAU, as Administrator of the Estate of HENRY LOREDO, minor/deceased, and AMELIA TORRES, Administratrix of the Estate of VICTORIA TORRES, Plaintiffs v. CSX TRANSPORTATION, INC., NORFOLK SOUTHERN CORPORATION, NORFOLK SOUTHERN RAILWAY COMPANY, and D.A. GILBERT, Defendants/Third-Party Plaintiffs v. AMELIA TORRES, as Administratrix of the Estate of VICTORIA TORRES, FAMILY HOME & GARDEN, INC. (f/k/a FAMILY FARM SUPPLY, INC.), WALTER B. HORNE and wife, JANET G. HORNE, individually and d/b/a FAMILY EGG MARKET, Third-Party Defendants

No. 297A05

FILED: 3 MARCH 2006

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 169 N.C. App. 508, 610 S.E.2d 225 (2005), affirming an order granting summary judgment for defendants entered on 26 June 2003 by Judge Henry W. Hight, Jr. in Superior Court, Wake County. Heard in the Supreme Court 13 February 2006.

*Mast, Schulz, Mast, Mills, Johnson & Wells, P.A., by Charles D. Mast, George B. Mast, David F. Mills, and T. Marie Mobley, for plaintiff-appellants Loredo, Wood, and Berkau, and Ward & Smith, P.A., by W.L. Allen III, for plaintiff-appellant Torres.*

*Millberg, Gordon & Stewart, by Frank J. Gordon, for defendant-appellee CSX Transportation, Inc.*

*Bode, Call & Stroupe, L.L.P., by Odes L. Stroupe, Jr. and John S. Byrd, II, for defendant-appellees Norfolk Southern Corporation, Norfolk Southern Railway Company, and D.A. Gilbert.*

*John J. Korzen counsel for the North Carolina Academy of Trial Lawyers, amicus curiae.*

PER CURIAM.

AFFIRMED.

Justice MARTIN did not participate in the consideration or decision of this case.