

**NOT RECOMMENDED FOR FULL-TEXT PUBLICATION**

**File Name: 07a0054n.06**

**Filed: January 23, 2007**

**No. 05-5973**

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

BEATY CHEVROLET COMPANY, )  
) )  
**Plaintiff-Appellant,** )  
) )  
HYB, INC.; HARPER VEHICLES, LLC, )  
) )  
**Plaintiffs,** )  
v. )  
) )  
NORFOLK SOUTHERN RAILWAY COMPANY, )  
) )  
**Defendant-Appellee.**

**ON APPEAL FROM THE  
UNITED STATES DISTRICT  
COURT FOR THE EASTERN  
DISTRICT OF TENNESSEE**

**MEMORANDUM  
OPINION**

**BEFORE: MARTIN, NORRIS, AND GIBBONS, Circuit Judges.**

**PER CURIAM.** Beaty Chevrolet Company appeals from a grant of summary judgment to defendant Norfolk Southern Railway Company. Jurisdiction is grounded upon diversity of citizenship. Plaintiff contended that a chemical spill from defendant’s railroad equipment approximately five miles distant damaged its property. However, as the district court properly noted, plaintiff’s evidence at best pointed to the *possibility* that defendant’s conduct caused the damage, and that was insufficient to prove causation under Tennessee law.

Having had the benefit of oral argument and having carefully considered the record on appeal, the briefs of the parties, and the applicable law, we are not persuaded that the district court erred in granting summary judgment to defendant. Because the reasoning which supports judgment for defendant has been articulated by the district court, the issuance of a detailed written opinion by

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this court would be duplicative and serve no useful purpose.

The district court is **AFFIRMED** upon the reasoning employed by that court in its Memorandum Opinion filed on May 18, 2005.