

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CAROL ROZHON, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 09 C 4755
)	
GTL TRUCK LINES, INC., et al.,)	
)	
Defendants.)	

MEMORANDUM

During this morning's motion call this Court granted the motion of GTL Truck Lines, Inc. to dismiss Count II of the Complaint in this action in reliance on the on-all-fours opinion in Gant v. L.U. Transp., Inc., 331 Ill.App.3d 924, 770 N.E.2d 1155 (1st Dist. 2002). This Court did so over the objection of plaintiffs' counsel, who argued that nearly two decades earlier the Illinois Supreme Court had assertedly held in Lockett v. Bi-State Transit Auth., 94 Ill.2d 66, 445 N.E.2d 310 (1983) that the still-earlier Appellate Court decision in Neff v. Davenport Packing Co., 131 Ill.App.2d 791, 268 N.E.2d 574 (3d Dist. 1971)-- a decision on whose continued viability Gant relied--should not be read in an overly broad way. Although this Court had not then had the opportunity to read Lockett, it expressed grave doubt that the First District panel would have, by writing as it did in Gant, effectively thumbed its collective nose at controlling authority to the contrary emanating from the state's highest court.

This memorandum is issued to confirm that this Court's subsequent reading of Lockett has more than validated the doubt referred to in the preceding paragraph. Lockett did not at all cast any doubt on the propriety of the Neff holding--on the contrary, that case simply held that the conceptual analysis was necessarily different where the asserted misconduct of an employer was wilful and wanton entrustment rather than negligent entrustment (the latter being the nature of the claims common to Neff, Gant and this case). Accordingly this Court reconfirms its oral ruling that granted the motion to dismiss Complaint Count II.



Milton I. Shadur
Senior United States District Judge

Date: September 24, 2009