

United States District Court
Southern District of Texas

ENTERED

September 20, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

KAREN YVONNE ROLLINS, <i>et al.</i> ,	§	
	§	
Plaintiffs,	§	
VS.	§	CIVIL ACTION NO. 1:17-CV-244
	§	
FRANCISCO JAVIER CALDERON, <i>et al.</i> ,	§	
	§	
Defendants.	§	

ORDER ON REPORT AND RECOMMENDATION

When Defendant Francisco Javier Calderon missed a turn while driving a tractor-trailer and chose to back up, he collided into a vehicle driven by Plaintiff Karen Rollins, with Plaintiff Marco Salazar as a passenger. Both Rollins and Salazar brought suit against Calderon and his employer, C.R. England, Inc., based on causes of action that include gross negligence.

Defendants moved for summary judgment as to the gross negligence claim. (Doc. 44) The Magistrate Judge issued a Report and Recommendation (Doc. 84) recommending summary dismissal of the claim because under the clear and convincing standard applicable to the cause of action, no genuine issue of material fact exists that Calderon's actions created an extreme risk of serious injury that rose above mere carelessness.

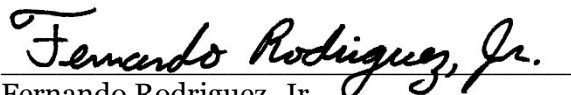
Plaintiff Rollins timely filed objections to the Report and Recommendation (Doc. 88), re-asserting the arguments she made in response to the summary-judgment motion, and arguing that the Report and Recommendation reaches an erroneous conclusion under applicable law.

The Court has reviewed the Report and Recommendation, Plaintiff Rollins' objections, and the relevant record. The Court concludes that the Report and Recommendation correctly applied Texas law. Accordingly, the Court **ADOPTS** the Report and Recommendation. (Doc. 84)

It is **ORDERED** that Defendants' Motion for Summary Judgment on Gross Negligence is **GRANTED** as to Plaintiff Karen Yvonne Rollins.

The Court notes that Plaintiff Salazar passed away in September 2018 and remains unrepresented by counsel in this matter. (Report and Recommendation, Doc. 84, 1) Thus, the Court will defer ruling on the motion for summary judgment as to Plaintiff Salazar.

SIGNED this 20th day of September, 2019.



Fernando Rodriguez, Jr.
United States District Judge