

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

FAITH GOLDSMITH SUMNER,
INDIVIDUALLY, AND ON BEHALF OF
THE DECEDENT, TIMOTHY W.
SUMNER, SR., AND AS NATURAL
TUTRIX OF THEIR MINOR CHILDREN,
DIANNE SUMNER, TIMOTHY W.
SUMNER, JR., TREMAIN MAJOR
SUMNER, TIMBERLY GOLDSMITH, MR.
TRINITY SUMNER, SEVENTH LUV
SUMNER, ZALYLA SUMNER AND
BABY RENEE SUMNER

NO. 2013 CW 0487

VERSUS

CANADIAN NATIONAL RAILWAY COMPANY,
ILLINOIS CENTRAL RAILROAD COMPANY,
TOWN OF WALKER, LOUISIANA, LIVINGSTON
ECONOMIC DEVELOPMENT COUNCIL,
INC., LIVINGSTON PARISH COUNCIL
AND THE STATE OF LOUISIANA, THROUGH
THE DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT

MAY 08 2013

In Re: Livingston Economic Development Council, Inc.,
applying for supervisory writs, 21st Judicial
District Court, Parish of Livingston, No.
124,207.

BEFORE: PARRO, WELCH AND DRAKE, JJ.

WRIT DENIED. Genuine issues of material fact remain as to whether defendant Livingston Economic Development Council, Inc. owed a legal duty with respect to the location of the spur track and the cross buck sign located on the northwest side of the spur track. Accordingly, we hereby deny the writ application.

JEW

EGD

Parro, J., dissents. Because I would grant summary judgment in favor of defendant, Livingston Economic Development Council, Inc., and against the plaintiffs regarding the issue of causation in the companion writ application docketed as 2013 CW 0486, I would not consider this writ application. But for the failure to yield and/or stop by the decedent, Timothy Sumner, Sr., as statutorily mandated by La. R.S. 32:171(E), the accident could have been avoided. Thus, I conclude that the issue of duty as raised in this writ application is moot.

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DEPUTY CLERK OF COURT

FOR THE COURT