CAUSE NO. DC-22-01998

GLORIA MYERS	§	IN THE DISTRICT COURT
	§	
VS.	§	DALLAS COUNTY, TEXAS
	§	
JOHN ANDREW VILLARREAL and	§	
GALEN WADE HUDSON	§	134TH JUDICIAL DISTRICT

DEFENDANT HUDSON'S MOTION FOR JUDGMENT NONWITHSTANDING THE VERDICT

Defendant Galen Wade Hudson comes now and files this Motion for Judgment Notwithstanding the Verdict, and would respectfully show the Court the following:

I. BACKGROUND

This matter was called for trial on November 4, 2024. Twelve jurors were empaneled and the case proceeded to trial. At the conclusion of evidence, all matters of fact and things in controversy were submitted to the jury. The jury found that the negligence of Defendant Villareal proximately caused the accident in question and that Defendant Hudson negligently entrusted his vehicle to Defendant Villareal because he did not first ascertain whether Defendant Villareal had a valid drivers license.

II. MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT

A. Legal Standard

A trial court may grant a judgment notwithstanding the jury verdict upon motion and reasonable notice to the court. TEX. R. CIV. P. 301; *Tiller v. McLure*, 121 S.W.3d 709, 713 (Tex. 2003). A directed verdict or "JNOV," is proper where there is no evidence of an element of a plaintiff's claim. *See Great Atl. & Pac. Tea Co. v. Giles*, 354 S.W.2d 410, 412 (Tex. Civ. App.–Dallas, writ ref'd n.r.e. 1962). A court may also disregard where some other legal principle prevents a party from prevailing on its claims. *Richardson v. Wal-Mart Stores, Inc.*, 963 S.W.2d

162, 164 (Tex. App.–Texarkana 1998, no pet.); *Purina Mills, Inc. v. Odell*, 948 S.W.2d at 932; *Atlantic Richfield Co. v. Misty Products, Inc.*, 820 S.W.2d 414, 420-21 (Tex. App.–Houston [14th Dist.] 1991, writ denied). Judgment notwithstanding the verdict "is proper when the evidence is conclusive and one party is entitled to prevail as a matter of law, or when a legal principle precludes recovery." *Autry v. Dearman*, 933 S.W.2d 182, 190 (Tex. App.–Houston [14th Dist.] 1996, writ denied).

Judgment without or against a jury verdict is proper at any course of the proceedings when the law does not permit reasonable jurors to decide otherwise. *City of Keller v. Wilson*, 168 S.W.3d 802, 823 (Tex. 2005). Accordingly, the test for legal sufficiency is the same for summary judgments, directed verdicts, judgments notwithstanding the verdict, and appellate no-evidence review. *Id.*; *Envtl. Procedures, Inc. v. Guidry*, 282 S.W.3d 602, 626 (Tex. App.–Houston [14th Dist.] 2009, pet. denied). A judgment notwithstanding the verdict is proper here for the reasons described herein.

B. Plaintiff Failed to Prove that the Same Risk that Caused Hudson's Entrustment to be Negligent Also Caused the Accident at Issue.

To prevail on her negligent entrustment claim, in addition to proving that Hudson knowingly entrusted his vehicle to an unlicensed, reckless, or incompetent driver, Plaintiff was required to prove that the same risk that caused the entrustment or hiring to be negligent also caused the accident at issue. *Magee v. G & H Towing Co.*, 388 S.W.3d 711, 717 (Tex. App.—Houston [1st Dist.] 2012, no pet.) (citing *Schneider*, 744 S.W.2d at 597 (Tex. 1987)).

In *Schneider*, Esperanza, an oil field pipeline service company, provided its employee, Havelka, a pick-up truck for work and personal uses. 744 S.W.2d at 595. Upon leaving a dance, Havelka stated he had too much to drink and asked a friend to drive the pick-up. *Id.* When doing

so, the friend collided into the rear of a vehicle occupied by Schneider. *Id.* Schneider argued that Esperanza's entrustment to Havelka was negligent because of Havelka's driving record, and therefore Esperanza was liable for Schneider's injuries. *Id.* at 596. However, the court noted that Havelka's driving record did not cause the accident, his friend's driving did. *Id.* Additionally, there was no evidence that Esperanza had a reason to know that Havelka would exercise poor judgment in allowing someone else to drive the pick-up. *Id.* The court held that because the risk that caused Esperanza's entrustment to Havelka to be negligent did not cause the collision, proximate cause was not established, and Esperanza could not be liable as a matter of law. *Id.* at 596.

In this case, Plaintiff argued that Hudson's entrustment to Villareal was negligent because Villareal was unlicensed, and therefore Hudson should be held liable for Plaintiff's injuries. However, as the *Schneider* case demonstrates, this argument skips a step. None of the evidence introduced at trial showed that Villareal's lack of a current driver's license caused the Plaintiff's injuries. Instead, the evidence showed that Villareal's driving while intoxicated caused Plaintiff's injuries. Just as in *Schneider*, the risk that caused Hudson's entrustment to Villareal to be negligent did not cause the collision. *Id.* Given that it was not established that Hudson's entrustment was negligent because he should have known that Villareal would drive while intoxicated, Hudson's entrustment cannot be said to be the proximate cause of Plaintiff's injuries. Therefore, because a legal principle prevents the Plaintiff's recovery from Defendant Hudson, judgment notwithstanding the verdict is proper. *Autry v. Dearman*, 933 S.W.2d at 190.

C. **Plaintiff Failed to Prove that Villareal Driving's While Intoxicated was a Natural and Probable Result of the Entrustment.**

For entrustment to be a proximate cause, the defendant entrustor should be shown to be reasonably able to anticipate that an injury would result as a natural and probable consequence of

the entrustment. *Allways Auto Group, Ltd. v. Walters*, 530 S.W.3d 147, 148 (Tex. 2017). Where such a showing is not made, the entrustor cannot be held liable for the Plaintiff's injuries as a matter of law. *Id.* at 149.

In *Always*, Heyden purchased a vehicle from Allways that broke down two days after the purchase. *Id.* at 148. Allways towed the vehicle back to the dealership for repairs. *Id.* In the meantime, Allways gave Heyden a loaner truck to drive until the repairs were complete. *Id.* The Allways salesman knew that Heyden did not have a valid driver's license. *Id.* Additionally, Heyden was drunk when he picked up the loaner, but the salesman said that he did not seem impaired. *Id.* Days later, when the repairs had still not been completed and after Heyden lost his job, "he bought a fifth of whiskey and a twelve-pack of beer and drank both while driving around aimlessly" until he crossed the center line and ran the loaner truck into another vehicle. *Id.* Heyden was an alcoholic with a history of drinking and driving. *Id.* Because he refused a breathalyzer after a prior accident, Heyden surrendered his Texas license about a month before the accident in the Allways loaner. *Id.*

The court relied on the rule in *Schneider* that for "entrustment to be a proximate cause, the defendant entrustor should be shown to be reasonably able to anticipate that an injury would result as a natural and probable consequence of the entrustment." 744 S.W.2d at 596. Because Allways could not have foreseen that Heyden would get drunk eighteen days later, their providing Heyden the loaner was not a proximate cause of the Plaintiff's injuries. 530 S.W.3d at 149. In other words, because Allways' conduct did "no more than furnish the condition that makes the plaintiff's injury possible," … "the connection between the defendant and the plaintiff's injuries was too attenuated to constitute legal cause." *Id.*

The facts proved by the Plaintiff at trial showed that Defendant Hudson entrusted his vehicle to Defendant Villareal so that he could respond to a family emergency, and instead of

doing so Defendant Villareal later became intoxicated and caused the accident the next day. Plaintiff made no showing that Defendant Hudson could have foreseen that Defendant Villareal would drive while intoxicated, instead, their arguments focused entirely on the licensure issue. Therefore, because Hudson had no reason to believe that Villareal would later drive while intoxicated, Hudson could not have reasonably anticipated that "an injury would result as a natural and probable consequence of the entrustment." *Id.* Therefore, because the Plaintiff failed to establish that Defendant Hudson could have anticipated that Defendant Villareal would drive while intoxicated, Defendant Hudson's entrustment of the vehicle was not shown to be a proximate cause of the Plaintiff's injuries. *Id.* Instead, the facts at trial established that Defendant Hudson did no more than "furnish the condition that made the Plaintiff's injury possible," and therefore hs entrustment was not shown to have proximately caused Plaintiff's injuries. *Id.* As such, a legal principle prevents the Plaintiff's recovery from Defendant Hudson and judgment notwithstanding the verdict is proper. *Autry v. Dearman*, 933 S.W.2d at 190.

III. CONCLUSION AND REQUEST FOR RELIEF

As set forth herein, Plaintiff's evidence at trial skipped a step in establishing proximate cause because the because Plaintiff failed to show that the same risk that caused Defendant Hudson's entrustment to be negligent also caused the accident. Further, Plaintiff's evidence at trial did not establish that Defendant Hudson could have anticipated that an injury would occur as a natural and probable consequence of the entrustment, and instead showed that Defendant Hudson "did no more than furnish the condition" that made Plaintiff's injury possible. Therefore, Plaintiff cannot recover from Defendant Hudson as a matter of law. *Allways*, 530 S.W.3d at 149; *Schneider*, 744 S.W.2d at 596. Because a legal principle prevents Plaintiff from recovering from Defendant

Hudson, judgment notwithstanding the verdict is proper. The Court should enter a judgment, if any, that reflects the objections raised by Defendant Hudson in this Motion.

FOR THESE REASONS, Defendant Galen Wade Hudson respectfully requests that the Court grant Defendant's Motion for Judgment Notwithstanding the Verdict and enter a judgment reflecting the objections raised in this motion, and for such other and further relief to which Defendant may be justly entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been served on all parties of record, in compliance with Rule 21a of the Texas Rules of Civil Procedure on November 12, 2024.

CARLOS A. BALIDO

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