



LITIGATION UPDATE: Actual Responsibility and Substantial Factor Causation In the Wake of *Werner v. Blake*: A Win for Commercial Drivers and Their Employers

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On June 27, 2025, the Texas Supreme Court issued an opinion in *Werner Enterprises Inc. v. Blake*, -- S.W.3d (Tex. 2025), 2024 WL 7043877, reversing the trial court's \$90 million nuclear verdict. The Court held that Werner Enterprises and its driver were not liable when the Werner truck collided with a pickup truck that careened across the icy road. The court found that “the rule of proximate causation does not permit a factfinder to search for other, subordinate actors in the causal chain and assign liability to them.” *Id.* The Court determined that the Defendant’s possible negligence was “too attenuated to qualify as the substantial factor necessary for proximate causation.” *Id.*

The decision indicates a shift from allowing Plaintiffs to rely heavily on “but-for causation” to establish proximate causation and liability, to requiring Plaintiffs to prove the Defendants’ negligence played a **substantial** role in causing the accident.

The Facts

On December 30, 2014, Trey Salinas drove Jennifer Blake and her three children eastbound on I-20 in Odessa. Salinas hit black ice and lost control of his pickup truck. The pickup truck spun across the 42-foot-wide median of the highway into the westbound lanes. Shira A. Ali, a trainee for Werner Enterprises, was driving an 18-wheeler westbound on I-20 when the pickup truck careened in front of him. Ali applied the brakes but could not stop in time. The Werner vehicle struck the pickup truck containing the Blake family. The collision killed seven-year-old Zachery Blake, left twelve-year-old Brianna Blake paralyzed, and left Nathan Blake (14 years old) and Jennifer Blake (mom) with traumatic brain injuries.

In 2018, a Houston jury found Werner and Ali liable for the accident. The jury apportioned 70% of the responsibility to Werner, 14% to Ali and 16% to Salinas. The jury awarded \$16,500,000 to Jennifer Blake, \$5,000,000 to Nathan Blake, and \$68,187,994 to Brianna Blake.

Werner appealed the verdict challenging the legal and factual sufficiency of the jury's negligence findings. In addition, the Defendants challenged the apportionment of damages, evidentiary issues, and the award of future medical expenses. In October 2018, the 14th Court of Appeals issued a divided 5-4 decision affirming the district court's judgment. The first dissent argued that the district court erred in submitting the "direct" theory of Werner's liability to the jury. Meanwhile, the second dissent advocated for a take-nothing judgment on the derivative theories of liability against Werner based on the "Admission Rule," under which Defendants who admit that an employee was acting in the course and scope of employment need not also defend against other derivative theories of negligence.

The Supreme Court Decision

On June 27, 2025, the Texas Supreme Court reversed the appellate court's decision and rendered judgment for the Defendants. The Court held that Ali's negligence, if any, was not the proximate cause of the Plaintiffs' injuries. The Court stated: "This awful accident happened because an out-of-control vehicle suddenly skidded across a wide median and struck the defendant's truck, before he had time to react, as he drove below the speed limit in his proper lane of traffic. That singular and robustly explanatory fact fully explains why the accident happened and who is responsible for the resulting injuries." The Court elaborated that Ali's presence on the highway, combined with his speed (traveling below the speed limit at 50 mph but in icy conditions) "furnished the condition that made the injuries possible, but it did not proximately cause the injuries." *Id.* at 3.

Importance of the Werner Decision

This decision requires Plaintiffs to prove both components of cause in fact: (1) "but-for" causation **and** "substantial-factor" causation. *Id.* at 9-10. Proving that the harm would not have occurred had the actor not been negligent is not enough. *Id.* at 10. The Plaintiff must also prove that "the [negligent] act or omission was a substantial factor in bringing about the injury." *Id.*, citing *Rogers v. Zanetti*, 518 S.W. 3d 394, 402 (Tex. 2017). The Court utilized a "common sense" and "practical matter analysis" to determine whether the Defendants should be held liable for an accident they could not prevent. The Court stated, "we normally would not blame the driver who stayed in his lane and was struck, before he had time to react, by an out-of-control vehicle careening unexpectedly across a wide median into oncoming traffic." *Id.* at 24. The Court rejected the Plaintiffs' argument.

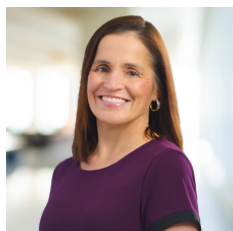
The decision also highlights the importance expert testimony may play in commercial motor vehicle accident cases. The Court explained that a key fact in the case was the reaction time available to the driver traveling in his correct lane. *Id.* at 22, 23. Werner had an accident reconstruction, expert, Andy Irwin, testify regarding its driver's reaction time, supporting the determination that there was nothing Werner's driver could have done to prevent the accident. Indeed, the Plaintiffs' expert agreed with this argument and testified that Ali's split-second reaction time to the oncoming vehicle "was appropriate to the conditions that he saw coming up ahead of him." *Id.* at 5.

The decision is also important because the Court expressly stated that it would not recognize negligent training or supervision as independent theories of liability. It explained that in the analogous situation of negligent hiring, “any such claim requires negligence by two separate parties: the employer’s negligence in hiring the employee and the employee’s subsequent negligent act or omission.” *Id.*, citing *Endeavor Energy Res., L.P. v. Cuevas*, 593 S.W.3d 307, 311 (Tex. 2019). As in the case of negligent hiring, which is derivative of driver negligence, the Court held that “because Ali’s driving was not a proximate cause of the accident, there can be no derivative liability imposed on Werner for its failure to adequately train or supervise him.” *Id.* at 27. The Court went a step further and concluded that the Plaintiffs’ direct theory of negligence (that Werner created an unreasonable risk for other drivers by putting an inexperienced trainee driver on the road during an ice storm) failed because it was predicated on the question of Ali’s responsibility for the accident. *Id.*

Practice Tips

- Draft the jury charge such that it distinguishes between but-for causation and substantial-factor causation and requires the jury to find **both**.
- The Court did not need to reach the question of applicability of the “Admission Rule” in Texas. Consider use of Chapter 72 of the Texas Civil Practice and Remedies Code in defending against derivative/direct negligence theories in cases in which there is a stipulation of course and scope and acceptance that respondeat superior applies.

About the Author



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Catalina is an experienced litigation attorney with substantial experience in transportation law and trial work, including nine years as in-house counsel for Union Pacific and over six years as an Assistant District Attorney in Harris County, Texas.

As a former prosecutor and in-house trial lawyer for a major railroad, Catalina has tried over 50 cases to jury in civil and criminal court. Catalina has experience managing complex litigation matters ranging from personal injuries to toxic torts and property damage cases. She also worked on largescale corporate compliance programs involving the Federal Corrupt Practices Act, electronic discovery and Medicare. As part of her compliance work, Catalina conducted corporate investigations. This experience in the corporate world enhances her ability to understand and address the competing demands corporate clients face.

Catalina's practice now focuses on emergency response. She leads a team of attorneys that responds to catastrophic incidents across a wide range of industries, including trucking, oil and gas, and construction. Catalina and her team employ a multi-disciplinary approach to evidence preservation and forensic investigation that helps clients mitigate risk. Catalina partners with experienced litigators and her team takes pride in handling cases from the accident scene to the courtroom.