

**IN THE DISTRICT COURT OF APPEAL
STATE OF FLORIDA
THIRD DISTRICT**

APPEAL CASE NO.:

L.T. CASE NO. 2022-002251-CA-01

JOHN J. JERUE TRUCK
BROKER, INC., a Florida
Corporation,

Petitioner,

v.

ALEC PRIETO, as Personal
Representative of the Estate of
ALFRED PRIETO, deceased, for
the benefit of surviving children,
ALEC PRIETO and ROBERTO
PRIETO, JOSEPH IOVINE, as
Personal Representative of the
Estate of DANIELLE PRIETO,
deceased for the benefit of surviving
child, ROBERTO PRIETO, and
JOSEPH IOVINE, as Personal
Representative of the estate of
ANTONIO J. PRIETO, deceased,

Respondents.

APPENDIX TO EMERGENCY MOTION FOR REVIEW OF STAY ORDER

**LUKS, SANTANIELLO, PETRILLO,
COHEN & PETERFRIEND**
Attorneys for Appellant/Defendant

150 W. Flagler Street, Suite 2600
Miami, FL 33130
Telephone: (305) 377-8900
Facsimile: (305) 377-8901
EDGARDO FERREYRA, JR.
Florida Bar No.: 685623
LUIS MENENDEZ-APONTE
Florida Bar No.: 772771
LuksMia-Pleadings@LS-Law.com

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Certificate of Service

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via Electronic Mail, to all counsel of record on the Service List on this 27th day of April 2024.

**LUKS, SANTANIELLO, PETRILLO,
COHEN & PETERFRIEND**

Attorneys for Appellant/Defendant
150 W. Flagler Street, Suite 2600
Miami, FL 33130
Telephone: (305) 377-8900
Facsimile: (305) 377-8901

By: /s/ Edgardo Ferreyra

EDGARDO FERREYRA, JR.
Florida Bar No.: 685623
LUIS MENENDEZ-APONTE
Florida Bar No.: 772771

LuksMia-Pleadings@LS-Law.com

SERVICE LIST

Attorneys for Plaintiff

Todd D. Rosen, Esq.
The Law Office of Todd D. Rosen, P.A.
2 So. Biscayne Blvd., Suite 2450
Miami, FL 33131
Pleadings@toddrosenlaw.com

Matthew E. Wright, Esq.
The Law Firm for Truck Safety, LLP
840 Crescent Drive, Suite 310
Franklin, TN 37067
matt@truckaccidents.com
traci@truckaccidents.com

Joshua Leizman, Esq.
The Law Firm for Truck Safety, LLP
3232 Executive Parkway, Suite 106
Toledo, OH 43606
Joshua@truckaccidents.com

*Attorneys for 24 Hour on Time
Cargo, Guillermo Monzan Campo,
and Zonia Guerra Hernandez*
Christopher Wadsworth, Esq.
Wadsworth Magrey & Dixon, LLP
261 N.E. 1st Street, 5th Floor
Miami, FL 33132
Pleadings@WMD-Law.com
CW@WMD-Law.com
TCarter@WMD-Law.com

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2022-002251-CA-01

SECTION: CA21

JUDGE: David C. Miller

ALEC PRIETO (PR) et al

Plaintiff(s)

vs.

Guillermo Monzon Campo et al

Defendant(s)

**ORDER DENYING DEFENDANT JOHN J. JERUE TRUCK BROKER, INC.'S MOTION
FOR FINAL SUMMARY JUDGMENT REGARDING PREEMPTION PURSUANT TO 49
U.S.C. § 14501(C)(1)**

THIS CAUSE came before the Court for consideration on March 8, 2024 on Defendant John J. Jerue Truck Broker, Inc.'s Motion for Final Summary Judgment Regarding Preemption Pursuant to 49 U.S.C. § 14501(c)(1). The Court having reviewed the motions, pleadings, and the submissions of the parties, and having heard arguments of counsel, it is

ORDERED AND ADJUDGED:

1. Defendant John J. Jerue Truck Broker, Inc.'s Motion for Final Summary Judgment Regarding Preemption Pursuant to 49 U.S.C. § 14501(c)(1) is denied.
2. The Court concludes that the Federal Aviation Administration Authorization Act of 1994 (FAAAA) preempts the Plaintiffs' negligent selection claims, but the FAAAA's safety exception—the FAAAA “shall not restrict the safety regulatory authority of a State with respect to motor vehicles,” 49 U.S.C. § 14501(c)(2)(A)—saves the Plaintiffs' negligent selection claims from preemption.
3. The Defendant's *ore tenus* motion for stay to allow the Defendant to pursue a writ of

prohibition is denied.

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida on this 24th day of April, 2024.


2022-002251-CA-01 04-24-2024 7:19 PM

2022-002251-CA-01 04-24-2024 7:19 PM

Hon. David C. Miller

CIRCUIT COURT JUDGE

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

Electronically Served:

Christopher W Wadsworth, cw@wmd-law.org
Christopher W Wadsworth, tcarter@wmd-law.org
Christopher W Wadsworth, pleadings@wmd-law.org
Daniel L. Margrey, dm@wmd-law.org
Daniel L. Margrey, beauu@wmd-law.org
Daniel L. Margrey, jhh@wm-law.org
Luis Menendez-Aponte, LUKSMIA-PLEADINGS@ls-law.com
Luis Menendez-Aponte, colivera@insurancedefense.net
Luis Menendez-Aponte, LMenendez-Aponte@ls-law.com
Matthew E Wright, matt@truckaccidents.com
Matthew E Wright, traci@truckaccidents.com
Matthew E. Wright, Esq., Matt@truckaccidents.com
Matthew E. Wright, Esq., traci@truckaccidents.com
Rena Leizerman, rena@truckaccidents.com
Todd D Rosen, pleadings@toddrozenlaw.com
Todd D Rosen, todd@toddrozenlaw.com
Traci Hannah, traci@truckaccidents.com

Physically Served:

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2022-002251-CA-01

SECTION: CA21

JUDGE: David C. Miller

ALEC PRIETO (PR) et al

Plaintiff(s)

vs.

Guillermo Monzon Campo et al

Defendant(s)

_____ /

**ORDER DENYING JOHN J. JERUE TRUCK BROKER, INC.'S MOTION FOR STAY
PENDING APPEAL**

This case came up for review and the Court having considered JOHN J. JERUE TRUCK
BROKER, INC.'S MOTION FOR STAY PENDING APPEAL and finding the case need not be
stayed as discovery can take place without undue inconvenience to the Parties, it is;

Ordered and Adjudged that the Motion is **Denied**.

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida on this 30th day of June,
2023.


2022-0630251-CA-01 06-30-2023 7:00 AM

2022-002251-CA-01 06-30-2023 7:00 AM

Hon. David C. Miller

CIRCUIT COURT JUDGE

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

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Electronically Served:

Christopher W Wadsworth, cw@wmd-law.org

Christopher W Wadsworth, tcarter@wmd-law.org
Christopher W Wadsworth, pleadings@wmd-law.org
Daniel L. Margrey, dm@wmd-law.org
Daniel L. Margrey, beauu@wmd-law.org
Daniel L. Margrey, jhh@wm-law.org
Luis Menendez-Aponte, LUKSMIA-PLEADINGS@ls-law.com
Luis Menendez-Aponte, colivera@insurancedefense.net
Luis Menendez-Aponte, LMenendez-Aponte@ls-law.com
Matthew E Wright, matt@truckaccidents.com
Matthew E Wright, traci@truckaccidents.com
Matthew E. Wright, Esq., Matt@truckaccidents.com
Matthew E. Wright, Esq., traci@truckaccidents.com
Nicholas J. Molina, nicholas.molina@csklegal.com
Nicholas J. Molina, juan.merino@csklegal.com
Samuel E Basch, samuel.basch@csklegal.com
Samuel E Basch, linn.signori@csklegal.com
Todd D Rosen, pleadings@toddrosenlaw.com
Todd D Rosen, todd@toddrosenlaw.com
jodi leisure, docservice@careyandleisure.com

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**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2022-002251-CA-01

SECTION: CA21

JUDGE: David C. Miller

ALEC PRIETO (PR) et al

Plaintiff(s)

vs.

Guillermo Monzon Campo et al

Defendant(s)

**ORDER DENYING DEFENDANT'S VERIFIED MOTION FOR CONTINUANCE OF
TRIAL**

THIS CAUSE having come before the Court on April 5, 2024, upon Defendant John J. Jerue Truck Broker, Inc.'s Verified Motion for Continuance of Trial and SUPPLEMENT TO DEFENDANT'S VERIFIED MOTION FOR CONTINUANCE OF TRIAL (both filed 4/5/24) and the Court having heard the arguments of counsel and considered the motion, it is;

ORDERED and ADJUDGED that the Motion for Continuance is **Denied**.

This case is now 798 days old. A brief history of the trial settings in relation to the progress of this case is in order.

Then first scheduling Order was entered on **June 14, 2022** and provided for a trial ready date in **April 3, 2023**. The Court denied an effort to extend the trial date on **January 24, 2023** and entered a trial Order for **April 10, 2023**.

A new party was added to the case on **February 14, 2023**. That party appeared in the case on **March 16, 2023**. An second Case Scheduling Plan was submitted on **April 10, 2023** requesting a trial readiness date of **August 26, 2024** but this was rejected as the case would not be brought to conclusion before the presumptively reasonable time set by the Florida Supreme Court. A Trial Order was entered on **May 8, 2023** for a trial period beginning on **August 7, 2023** but the case was not technically "at issue". The case became "at issue" on **July 20, 2023** and a new Trial Order was entered on **August 7,**

2023 for a trial period beginning on **April 29, 2024 - the present trial date.**

None of the parties brought any discovery or readiness concerns to the Court's attention by way of any Motions or requests for hearing throughout the life of the case. The Court, sua sponte, set a Case Management hearing for April 5, 2024.

The experts were timely disclosed and but none of the attorneys in the case set their own or their opponents experts for deposition in a timely and orderly fashion. Instead, the attorneys appeared a Case Management Conference assuming they would be given a continuance (without having a Motion for Continuance).

The Court, after hearing up to ten experts "needed" to be deposed, set an aggressive schedule to try and get the attorneys some of the "discovery" they now, for the first time, claimed was "needed". In dealing with the scheduling concerns of all counsel, the Court has ordered that the depositions of the experts can take place while counsel for Guillermo Monzon Campo, Zonia Guerra Hernandez and 24 Hours On Time Cargo, Inc. may be in a different trial set as back-up case for the week of April 15, 2024. The Court has overruled counsel for Guillermo Monzon Campo, Zonia Guerra Hernandez and 24 Hours On Time Cargo, Inc.'s objections to the expert discovery being conducted during said counsel's possible trial conflict finding he waited until it was too late in the proceedings to be in a position to have the late scheduled depositions set to accommodate his schedule.

The Court finds the parties simply waited too long to accommodate all concerns. Mr. Monzon Campo has now filed a Motion to Withdraw which the Court has rescheduled for the first day of the trial period but is very unlikely he will have clients to represent as it has been represented that his clients have left the country. It is highly likely he will not be representing anyone by April 29, 2024 the day the parties and counsel have been ordered to appear, live and in-person, for the possible start of the trial.

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida on this 12th day of April, 2024.


2022-002251-CA-01 04-12-2024 5:29 PM

2022-002251-CA-01 04-12-2024 5:29 PM

Hon. David C. Miller

CIRCUIT COURT JUDGE

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

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Electronically Served:

Christopher W Wadsworth, cw@wmd-law.org
Christopher W Wadsworth, tcarter@wmd-law.org
Christopher W Wadsworth, pleadings@wmd-law.org
Daniel L. Margrey, dm@wmd-law.org
Daniel L. Margrey, beauu@wmd-law.org
Daniel L. Margrey, jhh@wm-law.org
Luis Menendez-Aponte, LUKSMIA-PLEADINGS@ls-law.com
Luis Menendez-Aponte, colivera@insurancedefense.net
Luis Menendez-Aponte, LMenendez-Aponte@ls-law.com
Matthew E Wright, matt@truckaccidents.com
Matthew E Wright, traci@truckaccidents.com
Matthew E. Wright, Esq., Matt@truckaccidents.com
Matthew E. Wright, Esq., traci@truckaccidents.com
Nicholas J. Molina, nicholas.molina@csklegal.com
Nicholas J. Molina, silvia.navarrete@csklegal.com
Samuel E. Basch, samuel.basch@csklegal.com
Samuel E. Basch, linn.signori@csklegal.com
Todd D Rosen, pleadings@toddrosenlaw.com
Todd D Rosen, todd@toddrosenlaw.com

Physically Served: