Summary of SC100702, *D.J., by and through His Next Friend, R.J. v. First Student Inc.*
Appeal from the St. Louis circuit court, Judge Rex Burlison
Argued and submitted January 9, 2025; opinion issued February 28, 2025

Attorneys: The bus company was represented by Justin L. Assouad, Kathleen Schlef Hamilton and Emily D. Roman of HeplerBroom LLC in St. Louis, (314) 241-6160. D.J. was represented by Jeremy A. Gogel of The Gogel Law Firm in St. Louis, (314) 370-8173.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A school bus company appeals from a judgment entered in favor of a student who was hit by a passing vehicle that failed to stop for the school bus. In a 5-2 decision written by Judge Zel. M. Fischer, the Supreme Court of Missouri vacates the judgment and remands (sends back) the case. The bus company was entitled to judgment notwithstanding the verdict. Because the hit-and-run driver's criminal actions broke the causal chain between the bus company's actions and the student's injuries, the student could not establish proximate cause.

Judge Paul C. Wilson dissents. He would find the school bus company could be held liable for the student's injuries because the risk of a student getting hit by a passing vehicle while crossing lanes of traffic was foreseeable. He believes there was sufficient evidence of proximate cause in this case; therefore, this issue was properly before the jury to decide.

Facts: In 2019, fourth-grader D.J. attended KIPP Victory Academy, which contracted with First Student Inc. to transport children to and from school. In that role, First Student planned all bus routes, stops, and schedules. First Student was required to provide each driver with updated route sheets and student lists before any route. At the start of the 2019-2020 school year, First Student's route sheet directed its bus drivers to drop D.J. off at the northwest corner of the intersection of Goodfellow and Lalite. One afternoon in October 2019, however, a substitute bus driver dropped D.J. off at the southeast corner of Goodfellow and Lalite. In doing do, the substitute driver extended the bus's stop arm and activated the its flashing lights. D.J. then exited the bus. As he crossed Goodfellow in front of the bus, the vehicle stopped directly behind the bus maneuvered around the left side of the bus. The substitute bus driver honked her horn and yelled at the driver, but the driver accelerated, struck D.J., ran through a stop sign, and sped away from the scene. The collision fractured D.J.'s left ankle and sprained his right ankle. The hit-and-run driver was never identified. Through his mother, D.J. sued First Student and the substitute bus driver, alleging First Student, acting through the substitute bus driver, negligently dropped D.J. off at an unreasonably safe location. Additionally, D.J. alleged First Student had negligently failed to provide the substitute bus driver with a route sheet, advise the substitute bus driver of what the route sheet said, and tell the substitute bus driver where D.J.'s house was located. Following a trial, the jury found in favor of First Student and the bus driver as to D.J.'s claim that he was negligently dropped off at an unreasonably safe location. But the jury returned a verdict in favor of D.J. on his claim that First Student negligently failed to provide the substitute bus driver with the route sheet, awarding him $1.3 million in damages. The circuit court

overruled First Student's motions for judgment notwithstanding the verdict and a new trial. First Student appeals.

VACATED AND REMANDED.

Court en banc holds: First Student was entitled to judgment notwithstanding the verdict because D.J. did not prove First Student's failure to provide the substitute bus driver with the route information was the proximate cause of his injuries. The criminal acts of third parties are rarely foreseeable. In this case, the hit-and-run driver's criminal actions broke the causal chain. The hit-and-run driver's sudden, unexpected decision to violate state law by maneuvering past a stopped school bus to strike a child crossing the street is the type of surprising, unexpected, or freakish third-party action exceeding the natural and probable consequences of First Student's failure to provide the route sheet to its substitute driver.

Dissenting opinion of Judge Wilson: The author would find First Student's negligence in dropping D.J. off at the wrong street corner and failing to provide the route sheet to the substitute bus driver proximately caused D.J.'s injuries because the risk of D.J. being hit while crossing the street was reasonably foreseeable and the very reason the route called for D.J. to be dropped off at the northwest corner. The author further believes there was sufficient evidence from which a reasonable juror could find First Student's acts or omissions directly contributed to cause D.J.'s injuries; therefore, the issue of proximate cause was one for the jury, not for this Court, to decide.