# Whaley v. CSX Transportation, Inc., 609 S.E.2d 286 (S.C. 2005)

Attorneys Danny White and Ron Wray obtained a favorable decision on behalf of CSX Transportation, Inc., when the South Carolina Supreme Court reversed a $1 million verdict on behalf of the plaintiff in a FELA case, holding that the trial court erred in allowing the case to proceed in an improper venue.

Plaintiff filed his complaint in Hampton County, a county well-known for its favorable treatment of plaintiffs and large verdicts. The defense argued that venue was improper in Hampton County because CSX did not "reside" in Hampton County, as required by South Carolina's venue statute. The trial judge found that CSX resided in Hampton County because it "owned property and transacted business" there; CSX owns railroad tracks that run through the county.

The Supreme Court reversed the trial judge, holding that the expansive definition of residence applied by the trial court was no longer a viable test because the statute upon which it was based had been substantially rewritten years earlier. Moreover, the court found that the test had been improperly created in the first place by reading two statutes, in tandem, that addressed the separate and distinct concepts of jurisdiction and venue. The court adopted the defense's argument that, for venue purposes, "a defendant corporation resides [and can be sued] in any county where it (1) maintains its principal place of business or (2) maintains an office and agent for the transaction of business."

This decision is a major victory for defendant corporations across South Carolina who had previously been subjected to abusive venue shopping. It is particularly noteworthy because the South Carolina Supreme Court reversed 80 years of precedent on the law of venue in the state. The court said that venue for corporations must be in a county where the defendant resides and that residence is any county where the corporation has an office and agent located. The court rejected the additional venue test that had been used for many years which allowed a corporation to be sued in a county just because it owned property and transacted business there. The second test had been used to justify venue in counties just because CSX had railroad tracks in that county. CSX had been subjected to dozens of cases through the years venued to Hampton County. As a result of the ruling, more than 125 lawsuits against CSX are now being transferred to counties where CSX has offices and not just railroad tracks. The case is also noteworthy because the court made it clear that lawsuits should not remain in a county that has nothing to do with the lawsuit. Trial courts must transfer venue to counties where it is more convenient for the witnesses and where there is a nexus to the claim.