

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 92-7429
Summary Calendar

ANNIE C. BUCKHALTER, Individually and as natural
mother and next friend of CHARLIE C. BUCKHALTER, JR.,

Plaintiff-Appellant,

VERSUS

BURLINGTON NORTHERN RAILROAD,

Defendant-Appellee.

Appeal from the United States District Court
For the Northern District of Mississippi

CA EC90 139 D D

(May 6, 1993)

Before HIGGINBOTHAM, SMITH, and DeMOSS, Circuit Judges.

PER CURIAM:*

We have carefully reviewed the briefs, the reply brief, the record excerpts, and all of the testimony presented by appellant on the issues upon which the district court granted judgment as a matter of law for the appellee at the conclusion of appellant's

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

testimony; and we have concluded that the evidence presented by the appellant was of "such quality and weight that reasonable and fair-minded men in the exercise of impartial judgment might reach different conclusions" (see, Boeing Company v. Shipman, 411 F.2d 365 at 374), and that the district court should have denied the appellee's motion for judgment as a matter of law.

We therefore REVERSE the judgment of the district court and REMAND this case for a new trial.