

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 12-14242

D.C. Docket No. 1:10-cv-23548-MGC

HUMBERTO REYES,

Plaintiff - Appellant,

versus

AQUA LIFE CORP.,

Defendant - Appellee.

Appeal from the United States District Court
for the Southern District of Florida

(June 13, 2013)

Before BARKETT and MARCUS, Circuit Judges, and CONWAY,* District Judge.

PER CURIAM:

* Honorable Anne C. Conway, Chief Judge, United States District Court for the Middle District of Florida, sitting by designation.

Humberto Reyes appeals the district court's order granting judgment as a matter of law in favor of Appellee Aqua Life Corp. A *de novo* review of the record leads us to conclude that Reyes' testimony created a material dispute as to which truck Reyes primarily drove in the course of his employment with Aqua Life and how much each truck weighed. Viewing the evidence in a light most favorable to Reyes, it was improper to grant judgment as a matter of law when a reasonable jury could have decided in his favor on this issue.

Accordingly, we **REVERSE** and **REMAND** for further proceedings consistent with this opinion.