



Tow truck operator standing on highway shoulder fatally struck

Type: Verdict-Plaintiff

Amount: \$6,209,597

State: Texas

Venue: Federal

Court: United States District Court, Northern District, Dallas, TX

Injury Type(s): • *other - death*

Case Type: • *Wrongful Death*
• *Motor Vehicle - Pedestrian; Tractor-Trailer*

Case Name: Cynthia Wooten individually, as representative of the Estate of Billy Wayne Wooten Jr. and as next friend of A.M.W. a minor, Billy Wayne Wooten Sr. and Frankie Wooten v. Relco Systems Inc. and Edward J. Congdon, No. 3:12-cv-03905-P

Date: November 21, 2014

Plaintiff(s):

- A. M. W. (Female, 12 Years)
- Cynthia Wooten (Female, 41 Years)
- Frankie Wooten (Female, 65 Years)
- Billy Wayne Wooten, Sr. (Male, 68 Years)
- Estate of Billy Wayne Wooten (Male, 43 Years)

Plaintiff Attorney(s):

- Robert D. Crain; Crain Lewis; Dallas TX for Estate of Billy Wayne Wooten, Cynthia Wooten, A. M. W., Billy Wayne Wooten, Sr., Frankie Wooten

Plaintiff Expert(s):

- David A. Stopper; Trucking Industry; Southlake, TX called by: Robert D. Crain
- Kelly Danny Horton; Tow Trucks; Austin, TX called by: Robert D. Crain
- Andrew D. Irwin; Accident Reconstruction; Dallas, TX called by: Robert D. Crain
- Kenneth G. McCain Ph.D.; Economics; Houston, TX called by: Robert D. Crain

Defendant(s):

- Edward J. Congdon
- Relco Systems Inc.

**Defense
Attorney(s):**

- Paul A. Bezney; Adkerson, Hauder & Bezney, PC; Dallas, TX for Relco Systems Inc., Edward J. Congdon
- J. Kevin Kindred; Adkerson Hauder & Bezney; Dallas, TX for Relco Systems Inc., Edward J. Congdon

**Defendant
Expert(s):**

- Eric D. Moody Ph.D., P.E.; Accident Reconstruction; Austin, TX called by: for Paul A. Bezney, J. Kevin Kindred
- Helen Reynolds Ph.D.; Economics; Dallas, TX called by: for Paul A. Bezney, J. Kevin Kindred
- Terry John Abejuela; Tow Trucks; Los Angeles, CA called by: for Paul A. Bezney, J. Kevin Kindred
- Patricia B. Rosen M.D.; Drug Toxicology; Austin, TX called by: for Paul A. Bezney, J. Kevin Kindred

Insurers:

- National Insurance Co. Ltd. (\$2,000,000 policy)

Facts:

On July 17, 2012, plaintiff's decedent Billy Wooten Jr., 43, a tow truck operator working in his parent's business, was loading a vehicle onto a tow truck on the south shoulder of eastbound Interstate 30 in Greenville when he was struck by a tractor-trailer owned by Relco Systems, a New York-based corporation, and driven by Relco employee Edward Congdon. Wooten died at the scene.

Wooten's wife, individually and on behalf of his estate and minor daughter, along with Wooten's parents sued Relco and Congdon for motor vehicle negligence.

The plaintiffs' accident reconstruction expert testified that Wooten was standing safely on the shoulder when Congdon, acting in his capacity as an employee of Relco, crossed onto the shoulder and struck him.

The plaintiffs' towing expert testified that Wooten had the lights on his truck flashing and had exercised all standard safety measures, and plaintiffs' counsel maintained the lights would have been easily visible to eastbound traffic.

The plaintiffs' trucking expert testified that industry practices would have called for Congdon to slow down and change lanes after seeing the tow truck and that Congdon was driving too close to the shoulder's fog line.

Defense counsel denied Congdon crossed onto the shoulder.

The defense towing expert testified that Wooten could have taken greater safety measures, including putting out flares and cones, using the controls on the passenger side of the tow truck and driving the vehicle to be towed to a safer location.

The defense accident reconstructionist testified that Wooten had parked the truck too close to the fog line and was standing in an unsafe location between the truck and the fog line.

The defense toxicology expert testified that marijuana was in Wooten's bloodstream after the collision and that this would have sufficiently impaired him such that he would bear comparative liability.

Injury:

Wooten sustained massive head and torso injuries and was declared dead on the scene. He leaves a wife, a 12-year-old daughter and his parents.

Plaintiffs' counsel maintained that Wooten had just received a state insurance broker's license and had planned to become a catastrophic insurance adjuster in addition to his towing job, and the plaintiffs' economic expert testified he would have received higher earnings.

The family sought an unspecified amount for past and future mental anguish and lost income, plus punitive damages.

The defense economic expert testified that the plaintiff's claims of increased future earnings were purely speculative.

Result:

The jury found Congdon and Relco negligent and awarded the plaintiffs \$6,209,597.

A. M. W.

\$500,000 Wrongful Death: Past Loss Of Society Companionship

\$500,000 Wrongful Death: Future Loss Of Society Companionship

\$40,312 Wrongful Death: Past Loss Of Pecuniary Contribution

\$257,938 Wrongful Death: Future Loss Of Pecuniary Contribution

\$375,000 Wrongful Death: Past Mental Anguish

\$125,000 Wrongful Death: Future Mental Anguish

Billy Wayne Wooten, Sr.

\$125,000 Wrongful Death: Past Loss Of Society Companionship

\$125,000 Wrongful Death: Future Loss Of Society Companionship

\$562,500 Wrongful Death: Past Mental Anguish

\$187,500 Wrongful Death: Future Mental Anguish

Cynthia Wooten

\$250,000 Wrongful Death: Past Loss Of Society Companionship

\$250,000 Wrongful Death: Future Loss Of Society Companionship

\$120,937 Wrongful Death: Past Loss Of Pecuniary Contribution

\$773,813 Wrongful Death: Future Loss Of Pecuniary Contribution

\$750,000 Wrongful Death: Past Mental Anguish

\$250,000 Wrongful Death: Future Mental Anguish

Frankie Wooten

\$125,000 Wrongful Death: Past Loss Of Society Companionship

\$125,000 Wrongful Death: Future Loss Of Society Companionship

\$562,500 Wrongful Death: Past Mental Anguish

\$187,500 Wrongful Death: Future Mental Anguish

Trial Information:**Judge:** Jorge A Solis**Demand:** \$2,000,000**Offer:** \$50,000**Trial Length:** 5 days**Trial
Deliberations:** 4.5 hours**Jury
Composition:** 3 male 5 female**Editor's
Comment:** This report is based on information that was gleaned from court documents and an interview with plaintiff's counsel. Defense counsel did not respond to calls for comment.**Writer** Rick Archer