

Plaintiffs: Improperly set crane led to daughter's death

April 27, 2023

Amount:	\$860,012,006	Type:	Verdict-Mixed
Court:	Dallas County Court at Law No. 2, TX		
Case Name:	Mason Flores, Antonio Griffin, Tyra Lee, Tonian Marshall, and Tierney Rattler, Individually, And As Next Friend of [redacted] v. Bigge Crane and Rigging, Greystar Development & Construction, LP, Gabriella Tower, LLC, Gabriella Nationwide, LLC, and Meeks + Partners, Co., No. CC-19-04006-B		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Jason Itkin; Arnold & Itkin LLP; Houston TX for Michele Williams,, Estate of Kiersten Smith• Cory Itkin; Arnold & Itkin LLP; Houston TX for Michele Williams,, Estate of Kiersten Smith• Michael P. Lyons; Lyons & Simmons, LLP; Dallas TX for Michele Williams,, Estate of Kiersten Smith• Jonathon C. Clark; Glasheen, Valles & Inderman; Austin TX for Patrick Kirkland		
Defense Attorney(s):	<ul style="list-style-type: none">• Dana Alden Fox; Lewis Brisbois Bisgaard & Smith LLP; Los Angeles, CA for Greystar Development & Construction, L.P., Gabriella Tower, LLC, Gabriella Nationwide, LLC, Greystar Development & Construction, L.P.--Gabriella Tower Contractor Series• Christopher White; Lewis Brisbois Bisgaard & Smith LLP; Dallas, TX for Greystar Development & Construction, L.P., Gabriella Tower, LLC, Gabriella Nationwide, LLC, Greystar Development & Construction, L.P.--Gabriella Tower Contractor Series• Katherine Compton; Lewis Brisbois Bisgaard & Smith LLP; Dallas, TX for Greystar Development & Construction, L.P., Gabriella Tower, LLC, Gabriella Nationwide, LLC, Greystar Development & Construction, L.P.--Gabriella Tower Contractor Series• Darrell L. Barger; Hartline Barger LLP; Corpus Christi, TX for Bigge Crane and Rigging• Clayton J. Callen; Bowman and Brooke LLP; Austin, TX for Bigge Crane and Rigging		
Facts:	<p>On June 9, 2019, plaintiffs' decedent Kiersten Smith, 29, was a resident of Elan City Lights, an apartment building in Dallas. During heavy winds, a construction tower crane in an adjacent block toppled over onto Smith's building, causing several floors to collapse. Many people were injured, and Smith was killed. She was survived by her parents, plaintiff Michele Williams and plaintiff James Kirkwood. The crane was owned and operated by Bigge Crane and Rigging Co., and the construction site was owned by Gabriella Tower, LLC., a subsidiary of Greystar Development and Construction L.P. The general contractor was Greystar Development and Construction L.P./Gabriella Tower Contractor Series.</p> <p>Smith's parents sued the Greystar/Gabriella entities and Bigge. The lawsuit alleged that the companies were negligent. However, at trial, the plaintiffs sought liability findings against the Greystar/Gabriella entities only. Also, architecture firm Meeks + Partners Co. was originally a defendant, but was no longer in the case at the time of trial.</p> <p>The case was originally filed by other plaintiffs, and many other cases were consolidated into it. The claims of Smith's parents were the first ones to go to trial.</p> <p>Plaintiffs' counsel argued that the Greystar/Gabriella defendants negligently failed to set the crane, which was more than 200 feet tall, to "weathervane," or turned so that it pointed into the wind.</p> <p>Plaintiffs' counsel sought comparative responsibility of 60 percent on Greystar Development & Construction LP; 30 percent on Greystar Development & Construction LP/Gabriella Tower Contractor Series; and 10 percent on Gabriella Tower, LLC. Plaintiffs' counsel sought a no-negligence finding as to Bigge.</p> <p>Bigge argued that the Greystar/Gabriella entities alone were responsible; that Bigge's crane operator Robert Hilty was a borrowed servant of Greystar at all relevant times; and that Bigge did not retain any control over Hilty's work.</p> <p>The Greystar/Gabriella entities denied liability. They further argued that Bigge paid Hilty's salary and was responsible for providing a qualified operator.</p>		

Injury: Plaintiffs' decedent, Kiersten Smith, 29, was killed. She was survived by her parents, plaintiff Michele Williams and plaintiff James Kirkwood.

Williams sought \$560 million for actual damages, consisting of past and future loss of companionship and society and past and future mental anguish.

Kirkwood sought \$140 million for actual damages, consisting of the same elements.

Against the Greystar/Gabriella entities only, the plaintiffs also sought findings of gross negligence and punitive damages. Plaintiffs' counsel asked for \$12,006 in punitives, because Smith's apartment number was 12006.

The jury charge also included a question on Smith's pain and mental anguish, but plaintiffs' counsel asked the jury not to award anything for that element.

Result: The jury found the Greystar/Gabriella entities liable, but not Bigge.

The jury found negligence and comparative responsibility of 55 percent on Greystar Development & Construction L.P.; 35 percent on Greystar Development & Construction L.P./Gabriella Tower Contractor Series; and 10 percent on Gabriella Tower, LLC.

The jury also found gross negligence as to Greystar Development & Construction L.P. and Greystar Development & Construction L.P./Gabriella Tower Contractor Series, but not Gabriella Tower, LLC.

The jury determined that the plaintiffs damages totaled \$860,012,006, including \$300 million in punitive damages against Greystar Development & Construction L.P. and \$200 million in punitive damages against Greystar Development & Construction L.P./Gabriella Tower Contractor Series.

The findings of negligence, gross negligence and punitive damages were unanimous.

The jury apportioned 80 percent of the punitives to the estate and 10 percent to each of the parents.

The jury also found that, on the occasion in question, the three Greystar entities, including Gabriella Towers, were engaged in a joint enterprise with each other.

In addition, the jury found that Hilty was acting as an employee of Greystar Development & Construction, LP/Gabriella Tower Contractor Series.

The jury did not find that Bigge's negligence, if any, proximately caused Smith's death. Thus, the plaintiffs took nothing against Bigge.

Judge: Melissa J. Bellan

Trial Length: 2 weeks

Woman accused of murdering her boyfriend

September 23, 2022

Amount:	\$206,000,000	Type:	Verdict-Plaintiff
Court:	Dallas County Court at Law No. 3, TX		
Case Name:	John R. Crews and Pamela S. Crews, Individually and as Representatives of the Estate of their deceased child, Jonathan Michael Crews v. Brenda Lazaro a/k/a Brenda Lazaro Kelly, No. CC-16-00441-C		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Thomas E. Shaw; The Law Offices of Thomas E. Shaw, P.C.; Dallas TX for John R. Crews,, Pamela S. Crews,, Jonathan Michael Crews• J. Taylor Shaw; The Law Offices of Thomas E. Shaw, P.C.; Dallas TX for John R. Crews,, Pamela S. Crews,, Jonathan Michael Crews		
Defense Attorney(s):	<ul style="list-style-type: none">• Andrew Jee; Jee Law, PLLC; Dallas, TX for Brenda Lazaro		
Facts:	<p>On Feb. 2, 2014, plaintiffs' decedent Jonathan Crews, 27, an operations director for a healthcare company, died of a contact gunshot to the torso. The incident occurred at Crews' apartment, in Coppell. Crews and his girlfriend, Brenda Lazaro, were the only people there. Crews and Lazaro had been dating since November 2013. They had met through Crews' younger sister, Lazaro's best friend.</p> <p>The gun from which the fatal bullet was fired was a Sig Sauer P226 that belonged to Crews. He was shot a single time, with the bullet entering through his right side and passing through his heart.</p> <p>Crews' parents and estate sued Lazaro. The lawsuit alleged assault, aggravated assault, negligence, gross negligence and malice. The plaintiffs claimed that Lazaro murdered Crews.</p> <p>The plaintiffs alleged that Lazaro was intensely, irrationally jealous. Crews was good friends with another couple and, while on a double date, Crews hugged the other woman. The plaintiffs claimed that Lazaro became very upset and eventually started harassing the woman. Friends and family of Crews testified that Crews ultimately decided to break up with Lazaro. The plaintiffs alleged that, when he tried to do so, Lazaro killed him.</p> <p>The plaintiffs disputed the defense contention that Crews accidentally or intentionally shot himself. The plaintiffs argued that, even in good health, Crews could not have shot himself where he was shot. The plaintiffs noted that Crews had problems with his dominant right shoulder.</p> <p>The plaintiffs acknowledged that the autopsy report said it could not be determined whether Crews' death was accidental, suicide or homicide. However, they argued that the medical examiner was unaware of Lazaro's jealousy and Crews' decision to break up with her.</p> <p>Lazaro took the Fifth Amendment on every question. Defense counsel argued that Crews shot himself, either on purpose or by accident, and there was no evidence of jealousy on the part of Lazaro. According to the defense, Crews was jealous of Lazaro and, before pulling the trigger, told her, "I'll show you how much I love you."</p>		
Injury:	<p>Crews died of a contact gunshot, which the plaintiffs claimed Lazaro inflicted. The bullet went through his heart. Crews was survived by his parents, plaintiffs John R. Crews and Pamela S. Crews, who were empty-nesters, and his adult brother and sister.</p> <p>Crews and his parents were very close. His father sought \$5 million for past loss of companionship and society, \$7,729,750 for past mental anguish and \$10 million in punitive damages. His mother sought \$10 million for past loss of companionship and society, \$15,459,500 for past mental anguish and \$20 million in punitive damages.</p> <p>The estate sought \$1 million for Crews' pain and mental anguish.</p>		
Result:	<p>The jury found that Lazaro was liable for the incident. Specifically, the jury found assault, aggravated assault, negligence and gross negligence or malice, as well as proximate cause. The jury determined that the plaintiffs' damages totaled \$206 million.</p> <p>Plaintiffs' counsel cited private investigators Sheila Wysocki and Danielle Burch, both of Nashville, Tenn., as critical to the plaintiffs' success in this case.</p>		
Judge:	Sally Lundberg Montgomery		
Trial Length:	4 days		

Plaintiffs: Defendant fell asleep at wheel, causing fatal crash

February 23, 2022

Amount: \$120,000,000 **Type:** Verdict-Plaintiff

Court: Reagan County District Court, 112th, TX

Case Name: Laura Sanchez, Individually and as Representative of the Estate of Oscar Sanchez, Jr., Deceased, Cristian Sanchez, Haley Sanchez, Marlee Sanchez, and Jaden Sanchez v. Helmerich & Payne International Drilling Co., Albert Denzell Barnes, Dynasty Wireline Services, LLC, and Arthur Goodloe, No. CV02251

Plaintiff Attorney(s):

- Jon J. Bailey; The Bailey Law Firm; San Angelo TX for Estate of Oscar Sanchez, Jr., Laura Sanchez,, Christian Sanchez,, Haley Sanchez,, Marlee Sanchez,, Jaden Sanchez
- Jeff Befort; Befort Law Firm, P.C.; Houston TX for Estate of Oscar Sanchez, Jr., Laura Sanchez,, Christian Sanchez,, Haley Sanchez,, Marlee Sanchez,, Jaden Sanchez
- Charles Miller 'Chad' Elkins; Elkins Law Firm; San Angelo TX for Estate of Oscar Sanchez, Jr., Laura Sanchez,, Christian Sanchez,, Haley Sanchez,, Marlee Sanchez,, Jaden Sanchez
- Russell S. Post; Beck Redden LLP; Houston TX for Estate of Oscar Sanchez, Jr., Laura Sanchez,, Christian Sanchez,, Haley Sanchez,, Marlee Sanchez,, Jaden Sanchez
- Joshua S. Smith; Beck Redden LLP; Houston TX for Estate of Oscar Sanchez, Jr., Laura Sanchez,, Christian Sanchez,, Haley Sanchez,, Marlee Sanchez,, Jaden Sanchez

Defense Attorney(s):

- Randy G. Donato; Donato Brown Pool & Moehlmann PLLC; Houston, TX for Helmerich & Payne International Drilling Co.
- Mark Stradley; The Stradley Law Firm; Dallas, TX for Albert Denzell Barnes
- Michelle Hartmann; Baker McKenzie; Dallas, TX for Helmerich & Payne International Drilling Co.
- Chaz D. Klaes; Donato Brown Pool & Moehlmann PLLC; Houston, TX for Helmerich & Payne International Drilling Co.
- Jon Mark Hogg; Jackson Walker; San Angelo, TX for Helmerich & Payne International Drilling Co.
- R. Russell Hollenbeck; Wright Close & Barger; Houston, TX for Helmerich & Payne International Drilling Co.
- Amanda N. Crouch; Jackson Walker; San Antonio, TX for Helmerich & Payne International Drilling Co.
- Meghan E. Hausler; Baker McKenzie; Dallas, TX for Helmerich & Payne International Drilling Co.
- William R. Moyer; Thompson, Coe, Cousins & Irons, LLP; Houston, TX for Dynasty Wireline Services LLC, Arthur Goodloe
- Stephanie M. Krueger; Thompson, Coe, Cousins & Irons, LLP; Houston, TX for Dynasty Wireline Services LLC, Arthur Goodloe

Facts:

On May 12, 2018, plaintiffs' decedent Oscar Sanchez Jr., 44, an oil and gas production foreman, was a passenger in a pickup truck operated by Arthur Goodloe on northbound State Highway 137 in Reagan County. Albert Barnes, traveling south in a pickup, fell asleep at the wheel, crossed the center line and continued south in the northbound lane. Goodloe saw Barnes' vehicle and took evasive action. Goodloe first steered right, onto the outside shoulder, and then steered left, toward the southbound lane. Barnes struck Goodloe's passenger side. Sanchez was killed. He was survived by his wife, plaintiff Laura Sanchez, about 43, a hairstylist; his son plaintiff Christian Sanchez, about 23, an oil and gas worker; his son plaintiff Jaden Sanchez, about 15, a high school student; his daughter plaintiff Marlee Sanchez, about 17, a high school student; and his daughter plaintiff Haley Sanchez, about 19, a college student.

Barnes worked for Helmerich & Payne International Drilling Co., and Goodloe worked for Dynasty Wireline Services LLC.

The plaintiffs sued Barnes, Helmerich & Payne, Goodloe and Dynasty. The lawsuit alleged that the drivers were negligent in the operation of their vehicles and that the companies were liable under respondeat superior. The plaintiffs settled with Goodloe and Dynasty the week before trial for an undisclosed amount.

The court ruled as a matter of law that Barnes' negligence proximately caused Sanchez's death. At trial, plaintiffs' counsel argued that Barnes was acting in the course and scope of his employment with Helmerich & Payne or on a special mission or otherwise performing a service in furtherance of the company's business with its express or implied approval. Barnes was traveling to a Helmerich & Payne job site at the time of the accident, and the plaintiffs alleged that Barnes and his supervisor had talked on the phone at some point during the trip.

The jury charge also included the question of whether Goodloe's negligence, if any, proximately caused the accident. Plaintiffs' counsel argued that the jury should find "no" on that question.

Barnes' counsel argued that Goodloe took faulty evasive action and that the jury should find him 30 percent responsible.

Helmerich & Payne's counsel argued that Barnes alone was responsible for the accident, but that he was not working for Helmerich & Payne at the time.

Helmerich & Payne argued that Barnes' job was "two weeks on, two weeks off" at his "home rig" and did not require driving; that he sometimes voluntarily took on jobs at other Helmerich & Payne rigs to earn extra money during his time off; and that the accident happened while he was on his way to one of these voluntary jobs. Helmerich & Payne maintained that the "coming and going" rule applied and that Barnes was therefore not in the course and scope of his employment.

Barnes took the Fifth Amendment at trial.

Injury:

Sanchez was killed on impact. He was survived by his wife and four children. The plaintiffs all lived in Big Lake except for Haley, who lived in San Angelo and was in college there.

For the widow, plaintiffs' counsel sought \$10 million for past loss of companionship and society; \$10 million for future loss of companionship and society; \$10 million for past mental anguish; and \$10 million for future mental anguish, a total of \$40 million.

For each of the four children, plaintiffs' counsel sought \$20 million, consisting of \$5 million for past loss of companionship and society; \$5 million for future loss of companionship and society; \$5 million for past mental anguish; and \$5 million for future mental anguish.

The charge included a question on Sanchez's pain and mental anguish, but the evidence showed he was killed instantly, and plaintiffs' counsel told the jury not to award anything to the estate.

Helmerich & Payne's counsel suggested the jury award the plaintiffs a total of \$7 million. Barnes' counsel suggested something less than \$7 million, but did not give a firm amount.

Result:

The case went to trial on the claims against Barnes and Helmerich & Payne only.

The court had already found that Barnes was liable for the accident, and the jury found that Barnes and Helmerich & Payne were liable, as well. Specifically, the jury found that Barnes was acting in the course and scope of his employment with Helmerich & Payne. The jury also found that Barnes was on a special mission for Helmerich & Payne or otherwise performing a service in furtherance of Helmerich & Payne's business with the company's express or implied approval.

The jury determined that the plaintiffs' damages totaled \$120 million.

The jury did not find that Goodloe's negligence, if any, proximately caused the accident.

Judge:

Pedro "Pete" Gomez Jr.

Trial Length:

0

Plaintiffs: Defendant fatally shot neighbor during dispute

May 25, 2022

Amount:	\$70,000,000	Type:	Verdict-Plaintiff
Court:	Harris County District Court, 269th, TX		
Case Name:	Scottie Weed, Individually and as Personal Representative of the Estate of Ana Weed, Deceased, Chris Dudley, and Virginia Montalvo v. Hector Arturo Campos, No. 2017-19225		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Bill Ogden; Farrar & Ball LLP; Houston TX for Scottie Weed,, Estate of Ana Weed,, Chris Dudley,, Virginia Montalvo		
Defense Attorney(s):	<ul style="list-style-type: none">• Clay M. White; White-Shaver, PC; Houston, TX for Hector Arturo Campos		
Insurers:	<ul style="list-style-type: none">• Farmers Insurance Group of Cos.		
Facts:	<p>On Jan. 24, 2017, plaintiffs' decedent Ana Weed, 53, a homemaker, was shot by her next-door neighbor Hector Arturo Campos, in Spring. Weed was survived by her husband, plaintiff Scottie Weed, unemployed; her mother, plaintiff Virginia Montalvo; and her only child, plaintiff Chris Dudley, 39. Campos was arrested, charged and released on bond.</p>		

Weed's estate and family sued Campos. The lawsuit alleged that he was negligent for recklessly engaging in conduct that places another in imminent danger of serious bodily harm, as well as for recklessly discharging a firearm inside the corporate limits of a municipality having a population of 100,000 or more.

The plaintiffs acknowledged that Weed and Campos had had a contentious relationship for the previous five months, ever since Weed had helped Campos' wife and child leave him and return to the wife's family in Mexico.

The plaintiffs claimed that, on the day of the incident, Weed was in her garage wrapping late Christmas presents for her nephews. Her husband was sick in bed. Their miniature schnauzer got into Campos' front yard, and Weed and Campos exchanged verbal hostilities. Weed retrieved the dog and was on her side of the property line when Campos fired a single shot from his 9-millimeter handgun. Campos and Weed were about 3 feet apart, and he was on his side of the property line. The plaintiffs claimed that Weed was crouched and holding her dog by the collar. The bullet struck Weed's upper chest and exited her back.

The plaintiffs maintained that Campos had no reason to feel threatened by Weed or her barking dog at the time of the incident. They claimed that Campos was on the opposite side of his property when the encounter began and that he crossed the entire property before firing. Also, Weed had recently undergone a three-level cervical fusion and was wearing a cervical collar over a spinal stimulator. The bullet passed through the collar and stimulator.

A neighbor across the street, Travis Hoppas, said he saw Campos fire the gun and that Weed was not posing any threat to Campos. Hoppas, who had training as an emergency medical technician, went to assist Weed, taking along his own gun. He tried to stop Weed's bleeding and held Campos at gunpoint until police arrived.

Plaintiffs' counsel noted a statement made by Campos on the Dr. Phil show, that he would not have done anything differently in hindsight.

Campos took the Fifth Amendment throughout his testimony.

The defense contended there was "more to the story" than the plaintiffs claimed. The defense argued that the hostility between Campos and Weed was mutual and had resulted in police involvement on prior occasions, and that Campos at times had feared for his own life. The defense noted that Hoppas could not hear what words were exchanged before the shot was fired. The defense also suggested that Weed was moving aggressively toward Campos when he fired.

Injury:	<p>Weed was shot in the upper chest. She was transported by ambulance to an emergency room and declared dead soon after. Plaintiffs' counsel argued that she survived for about 45 minutes.</p> <p>Weed was survived by her husband, mother and son. Weed and her husband had been married about 22 years.</p> <p>The mother lived around the block. She had lived with her daughter for about 11 years, until shortly before the shooting. Weed was the oldest of six children and very close to her mother.</p> <p>The son lived in Colorado. At the time of shooting, the Weeds were preparing to sell their home and move to Colorado to be near their grandchildren.</p> <p>The plaintiffs sought a total of \$50 million.</p> <p>The estate sought \$5 million for pain and mental anguish. Each of the three survivors sought \$15 million, consisting of \$2 million for past pecuniary loss; \$2 million for future pecuniary loss; \$2.5 million for past loss of companionship and society; \$2.5 million for future loss of companionship and society; \$5 million for past mental anguish; and \$1 million for future mental anguish.</p> <p>The defense noted that, according to the ambulance records, Weed was unresponsive when the ambulance arrived, less than 10 minutes after the shooting.</p>
Result:	<p>The jury found that Campos was liable for the occurrence in question. Specifically, the jury found negligence and proximate cause as to Campos, and it did not find them as to Weed. The jury determined that the plaintiffs' damages totaled \$70 million.</p> <p>Campos' homeowners' insurance carrier defended the case on a reservation of rights.</p> <p>Campos' criminal case was still pending at the time of the civil trial.</p>
Judge:	Cory Don Sepolio
Trial Length:	2 days

Driver drifted into shoulder lane, leading to fatal hit, plaintiffs claimed

April 11, 2024

Amount: \$37,500,000 **Type:** Verdict-Plaintiff

Actual Award: \$31,500,000

Court: Dallas County District Court, 160th, TX

Case Name: Baldish Kaur in her own right and on behalf of Simran Kaur and Parmvir Singh Sarkaria (minor children); and Pushpinder Kaur; Individually and as Personal Representative of the Estate of Shamsher Singh, Deceased v. Oncor Electric Delivery Company NTU LLC, Oncor Electric Delivery Company LLC, Oncor Electric Delivery Administrative Corp, and Joseph Collin Pederson, No. DC-21-12096

Plaintiff Attorney(s):

- Matt Greenberg; Zehl & Associates; Houston TX for Estate of Shamsher Singh,, Baldish Kaur,, Simran Kaur,, Parmvir Singh Sarkarkia,, Pushpinder Kaur
- Ryan Zehl; Zehl & Associates; Houston TX for Estate of Shamsher Singh,, Baldish Kaur,, Simran Kaur,, Parmvir Singh Sarkarkia,, Pushpinder Kaur
- Mike Streich; Zehl & Associates; Houston TX for Estate of Shamsher Singh,, Baldish Kaur,, Simran Kaur,, Parmvir Singh Sarkarkia,, Pushpinder Kaur
- Michael P. Lyons; Lyons & Simmons, LLP; Dallas TX for Estate of Shamsher Singh,, Baldish Kaur,, Simran Kaur,, Parmvir Singh Sarkarkia,, Pushpinder Kaur

Defense Attorney(s):

- Deron L. Wade; Dykema; Dallas, TX for Oncor Electric Delivery Company NTU LLC, Oncor Electric Delivery Company LLC, Oncor Electric Delivery Administrative Corp., Joseph Collin Pedersen
- E. Leon Carter; Carter Arnett Bennett & Perez; Dallas, TX for Oncor Electric Delivery Company NTU LLC, Oncor Electric Delivery Company LLC, Oncor Electric Delivery Administrative Corp., Joseph Collin Pedersen
- Clay A. Cosse; Dykema; Dallas, TX for Oncor Electric Delivery Company NTU LLC, Oncor Electric Delivery Company LLC, Oncor Electric Delivery Administrative Corp., Joseph Collin Pedersen
- Christopher D. Kratovil; Dykema; Dallas, TX for Oncor Electric Delivery Company NTU LLC, Oncor Electric Delivery Company LLC, Oncor Electric Delivery Administrative Corp., Joseph Collin Pedersen
- Prescott W. Smith; Dykema; Dallas, TX for Oncor Electric Delivery Company NTU LLC, Oncor Electric Delivery Company LLC, Oncor Electric Delivery Administrative Corp., Joseph Collin Pedersen

Facts: Plaintiff counsel for the family of a truck driver crushed on Aug. 7, 2021, when an Oncor Electric bucket truck rear-ended his 18-wheeler used toll road video to show the jury how the accident happened.

The wrongful death lawsuit in Baldish Kaur et al. v. Oncor Electric Delivery Co. NTU LLC came to a conclusion after a nine-day trial in the 160th District Court of Texas Judge Aiesha Redmond.

The deceased, Shamsher Singh, was a videographer in Italy who relocated his family to the United States in 2016 to pursue the American dream, plaintiff attorney Matt Greenberg of Zehl & Associates said.

To support his family, Singh became a long-haul truck driver. Baldish Kaur, his widow, filed suit Aug. 31, 2021 on behalf of her late husband's estate, herself and their three children.

Greenberg described Singh as a loving and caring father who was 52 when he was killed by Oncor driver and co-defendant Collin Pedersen.

Greenberg said the expert witnesses included an accident reconstructionist who pieced together the circumstances of the crash, and an emergency medical doctor who explained the physical and physiological suffering Singh experienced during the last 15 to 20 minutes of his life.

Greenberg said the most important evidence was the highway video that captured the events leading up to and after the crash, and the testimony of an eyewitness passerby who stopped to render aid.

"He was a good Samaritan in his 50s, a former Tarrant County volunteer firefighter who held Mr. Singh in his arms for 15 minutes while he died," Greenberg said.

The incident began when Singh's truck experienced a malfunction and he pulled over between the right shoulder and outside lane, leaving 2 feet of space between the shoulder and a concrete barrier so he could scoot out of the cabin to examine the truck. The tractor and trailer occupied 2 feet of the outside lane of travel.

According to the video evidence, within 48 seconds of Singh exiting the cabin, Pedersen drifted onto the shoulder and struck the trailer, pinning Singh between the trailer and the concrete barrier, Greenberg said.

Greenberg claimed the defense team tried to shift the blame to Singh, alleging he created a hazardous situation by parking his truck 2 feet into the right traffic lane.

Greenberg said video evidence, however, showed that other vehicles were able to avoid the truck, including an Oncor driver that was in front of the driver defendant—Oncor vehicles were driving in a caravan.

Plaintiff counsel argued the video showed Pedersen made no attempt to take evasive action. They also alleged Pedersen was distracted, possibly by his cell phone, and never noticed the danger.

“I’ve been saying this trial was a race to credibility, and the defendants never got out of the gate, that Oncor must take full accountability for this crash and that Oncor will say this driver was distracted,” Greenberg said.

“Oncor stood up and they did not say that. They never admitted the driver was distracted. They tried to spin a tale that their driver did everything he could to avoid the 18-wheeler,” Greenberg said.

The defense scenario of the accident, he continued, was that Pedersen was about to switch lanes and looked in his rearview mirror, but there was an oncoming car. When he looked forward, it was too late.

Greenberg noted that Pedersen made three attempts to call Oncor before he made a 911 call to first responders. His fifth call was to the Oncor driver that was in front of him and the first words out of his mouth, Greenberg said, were allegedly “I fucked up.”

That admission was presented to the jury from video depositions of both drivers, Greenberg said.

Deron Wade, of Dykema, lead counsel for the defendants, said that Oncor long ago acknowledged that its driver could have avoided the collision and that Pedersen and Oncor were therefore partly responsible. However, the defense denied that Pedersen was using his cell phone at the time of the collision. The defense emphasized that he voluntarily answered questions from the numerous police officers and surrendered his cell phone to them at the scene. Also, the police report said nothing about Pedersen being on his phone, and he was not issued a citation, the defense noted.

The defense argued that Singh was at fault for not getting his tractor-trailer completely off the highway and not setting up emergency triangles to alert other drivers of his presence on the roadway. The defense also argued that Pedersen tried to take evasive action.

The jury in its verdict found Singh 16 percent responsible.

However, there is also \$5 million in accrued pre-judgment interest, Greenberg said. After deducting the proportionate liability and adding the interest, he estimates final judgment will be about \$36.5 million.

Singh’s dream was for his family to become naturalized citizens, Greenberg added. The wife and children made it to their naturalization ceremony after his death.

“They told me they were very grateful during that ceremony,” Greenberg said. “But that they felt the loss of the person that started this journey for the family, and did not get to realize it himself.”

Injury: Singh was pinned between his truck and the concrete barrier. He remained conscious and died 15 to 20 minutes later from his injuries. An emergency medical doctor explained the physical and physiological suffering Singh experienced during the last 15 to 20 minutes of his life, plaintiffs’ counsel said. An eyewitness passerby who stopped to render aid also testified.

Singh’s estate sought damages for his pain and mental anguish.

Singh’s widow, minor child and two adult children sought damages for their past and future loss of companionship and society and past and future mental anguish. Witnesses described Singh as a loving and caring father.

The plaintiffs sought actual damages totaling little less than \$80 million.

The plaintiffs also sought a finding of gross negligence, as a predicate for a potential second phase of trial, on punitive damages.

Result: The jury found negligence and comparative responsibility of 84 percent on Pedersen and 16 percent on Singh. It determined that the plaintiffs’ damages totaled \$37,500,000, but the comparative negligence reduction produced net damages of \$31,500,000.

The jury did not find gross negligence.

Judge: Aiesha Redmond

Trial Length: 9 days

Bus driver fatally overlooked missing rider, plaintiffs claimed

December 11, 2019

Amount:	\$20,000,000	Type:	Verdict-Plaintiff
Actual Award:	\$18,000,000		
Court:	Dallas County District Court, 298th, TX		
Case Name:	Paula Becker and Barron Brown, Individually and on behalf of the Estate of Hunter Brown v. Greyhound Lines Inc., No. DC-17-16588		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Charla G. Aldous; Aldous \ Walker LLP; Dallas TX for Estate of Hunter Brown, Paula Becker, Barron Brown• Brent Walker; Aldous \ Walker LLP; Dallas TX for Estate of Hunter Brown, Paula Becker, Barron Brown• Caleb Miller; Aldous \ Walker LLP; Dallas TX for Estate of Hunter Brown, Paula Becker, Barron Brown• Jane Paulson; Paulson Coletti Trial Attorneys PC; Portland OR for Estate of Hunter Brown, Paula Becker, Barron Brown		
Defense Attorney(s):	<ul style="list-style-type: none">• Christopher White; Lewis Brisbois Bisgaard & Smith LLP; Dallas, TX for Greyhound Lines Inc.• Katherine Compton; Lewis Brisbois Bisgaard & Smith LLP; Dallas, TX for Greyhound Lines Inc.• Jessica Barger; Wright, Close & Barger; Dallas, TX for Greyhound Lines Inc.		
Facts:	<p>On June 29, 2017, plaintiffs' decedent Hunter Brown, 25, was riding a Greyhound bus in Oregon. It was late at night when the bus pulled into a truck stop in Central Point, Ore., so passengers could use the restroom and purchase food. Brown had not yet returned to the bus when it started to leave the rest stop. As the bus was exiting the parking lot, Brown chased the bus and banged on the door to get the driver's attention. The bus' right front tire rolled over Brown and killed him.</p> <p>Brown's parents, Barron Brown and Paula Becker, acting individually and in behalf of their son's estate, sued the bus's operator, Dallas-based Greyhound Lines Inc. They alleged that the driver was negligent and grossly negligent in the operation of the bus.</p> <p>Plaintiffs' counsel claimed that the driver failed to perform a head count as required by Greyhound policy before leaving the rest stop. They noted that Hunter Brown's book bag was still on the bus. Any reasonable person would have acted as Brown did when he saw the bus start to leave without him, plaintiffs' counsel argued.</p> <p>Plaintiffs' counsel had two main themes on liability at trial: "do your job" and inevitability. Given the driver's failure to perform a head count, something like this was bound to happen to someone eventually, plaintiffs' counsel argued.</p> <p>The defense contended that Brown alone was responsible for the incident because he ran into the road and cut off the bus' right turn. The defense argued that, when Brown started chasing the bus, the driver started to turn the steering wheel counterclockwise to abort the turn, and that Brown ran across three lanes before the bus hit him. The defense argued that he either should have stayed on the sidewalk or should have returned to the gas station and notify Greyhound that he had been left behind. The defense also noted that Hunter had a heroin addiction, was carrying drug paraphernalia and tested positive for heroin at the time of the incident.</p>		
Injury:	<p>The tire first ran over Brown's right foot, causing a degloving injury. It then ran over his back and, fatally, his head.</p> <p>Brown and his parents lived in Seattle. He lived in his parents' house until seven years before the accident. For the seven years before the accident, they let him live with them only when he was recovering from his addiction, which was sporadic. However, at the time of the incident, he was taking the bus to California because he was relocating.</p> <p>For actual damages, plaintiffs' counsel suggested an award of \$20 million to \$50 million, according to defense counsel. The actual damages submitted were Brown's pain and mental anguish and, for each parent, past and future loss of companionship and society and past and future mental anguish.</p> <p>Plaintiffs' counsel also asked the jury to award punitive damages.</p> <p>The defense suggested that Brown's parents had already lost him to heroin addiction, even before his death. This argument was based in part on a book that Brown's mother had written called "The House on Stilts: Mothering in the Age of Opioid Addiction," in which she wrote about her son's addiction and her resultant struggles as a mother.</p> <p>Defense counsel suggested an award of \$2.5 million in actual damages.</p>		
Result:	<p>The jury found negligence and comparative responsibility of 90 percent on Greyhound and 10 percent on Brown. It awarded the plaintiffs \$20 million, but the comparative-negligence reduction produced net damages of \$18 million.</p> <p>The jury did not find gross negligence.</p>		
Judge:	Emily G. Tobolowsky		

Plaintiffs: Property manager at fault for plumbers' electrocutions

April 08, 2022

Amount:	\$15,681,000	Type:	Verdict-Plaintiff
Actual Award:	\$7,840,500		
Court:	Grayson County District Court, 59th, TX		
Case Name:	Jackson Wells and Devin Schares v. Monticello Asset Management, Inc., No. CV-18-0027		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Jason B. Stephens; Stephens Law; Fort Worth TX for K. R., Z. R., Elizabeth Russell Miller• Bill Kennedy; Bill Kennedy Law PLLC; Denison TX for Jackson Wells,, Devin Schares• Joan Ballard; Bill Kennedy Law PLLC; Denison TX for Jackson Wells,, Devin Schares		
Defense Attorney(s):	<ul style="list-style-type: none">• Stew Schmella; Lanza Law Firm; Houston, TX for Monticello Asset Management Inc.• Jessica Platt; Lanza Law Firm; Houston, TX for Monticello Asset Management Inc.		
Insurers:	<ul style="list-style-type: none">• Great American Insurance Group• Rockhill Insurance Co.		

Facts: On May 3, 2017, plaintiffs' decedent Kiley Russell, 27, a journeyman plumber; plaintiff Devin Schares, 21, an apprentice plumber; and plaintiff Jackson Wells, 25, an apprentice plumber, were at an apartment complex in Sherman. They were repairing an underground water main at the request of the property manager, Monticello Asset Management Inc. Russell was the crew leader. All three men were employees of Red River Plumbing. Red River was owned by Russell's two older brothers, who were master plumbers.

The crew concluded that a flagpole had to be moved in order to access the water main. While they were attempting to move the flagpole, it came in contact with a high-voltage power line overhead. All three men received severe electrical shocks, and Russell was electrocuted. Russell was survived by his wife, plaintiff Elizabeth Russell, and his two sons, who were also plaintiffs. The boys were 10 months old and 3 years old.

Wells and Schares sued Monticello, and Russell's widow and sons intervened as plaintiffs. The lawsuit alleged that Monticello was negligent under a theory of premises liability. The plaintiffs claimed that Monticello was negligent for creating an unreasonably dangerous condition and failing to warn Red River and the injured plaintiffs that the flagpole was close to the power lines. The plaintiffs further claimed that the flagpole had to be moved in order for the crew to access the water main.

Monticello had begun managing the property in 2014. In the fall of 2016, the flagpole was relocated close to the power lines and water main, in connection with Monticello's enlargement and redesign of the entrance. Some months later, it became necessary to fix the water main.

Plaintiffs' counsel argued that Monticello was told by a potential contractor that the flagpole would have to be moved. Later, one of Russell's brothers went to the apartment complex and submitted a lower bid on behalf of Red River, which got the job. According to the plaintiffs, no one at Red River was aware that the flagpole would have to be moved until Russell, Wells and Schares started digging on May 3, 2017. None of the plaintiffs had been on the property before the incident. Plaintiffs' counsel also argued that the plumbers were not aware that the flagpole was close to the power lines.

In response to Monticello's argument that Red River and the injured plaintiffs violated OSHA by working near power lines without de-energizing them, plaintiffs' counsel argued that Monticello committed the same violation when it moved the flagpole in 2016.

Plaintiffs' counsel acknowledged some responsibility on the plumbing company and suggested 10 percent, but argued that the rest of the responsibility for the incident lay with Monticello.

The defense denied negligence and denied that the flagpole had to be moved for the plumbers to do their work. The Red River owner who had submitted the bid testified in deposition that he inspected the site and concluded that the flagpole did not need to be moved. Monticello further contended that the flagpole's proximity to the power lines was open and obvious; that it was dangerous for the plaintiffs to try to move the flagpole because it was so long and heavy; and that only Russell, Wells, Schares and Red River were negligent. The defense used an OSHA expert, who testified that Red River and the injured plaintiffs were negligent and violated OSHA by, among other things, working near power lines without de-energizing them. Monticello designated Red River as a responsible third party.

Injury: Russell was electrocuted. He was survived by his wife and his two young sons.

Wells and Schares sustained severe electrical shocks, but survived. The shocks caused severe burns to the soles and sides of their feet.

The Russell plaintiffs' counsel argued that, although the widow remarried, she continues to suffer greatly from Russell's death. She remarried about three years after he died.

The Russell plaintiffs' counsel asked the jury for \$10 million to \$15 million for each of the children. For the widow, he sought \$5 million for past loss of companionship and society; \$5 million for past mental anguish; and unspecified damages for future loss of companionship and society and future mental anguish. The estate did not seek damages at trial.

Wells and Schares underwent multiple skin grafts. They both eventually returned to work.

Wells had played Division I college baseball and played in a competitive recreational men's league several days a week. After the incident, he could play only once a week, in a casual, coed softball league, he said.

Wells sought \$63,000 for past medical expenses; unspecified future medical expenses; \$31,000 for past lost earnings; and unspecified damages for past and future physical pain and mental anguish and past and future physical impairment.

Schares sought \$177,000 for past medical expenses; unspecified future medical expenses; \$10,000 for past lost earnings; and unspecified damages for past and future physical pain and mental anguish and past and future physical impairment.

The defense argued that the widow has remarried and "moved on" from Russell's death.

Result: The jury found negligence and comparative responsibility of 50 percent on Monticello; 25 percent on Russell; 21 percent on the plumbing company; 2 percent on Wells; and 2 percent on Schares. The jury determined that the plaintiffs' damages totaled \$15,681,000, but the comparative-negligence reduction produced net damages of \$7,840,500.

With prejudgment interest and costs, the judgment is expected to be a little less than \$9 million.

Judge: Larry Phillips

Trial Length: 3 days

Plaintiffs: Trucker's failure to obey stop sign led to fatal crash

October 01, 2020

Amount:	\$6,976,304	Type:	Settlement
Court:	Nueces County Court at Law No. 2, TX		
Case Name:	Michelle George, Individually and as Representative of the Estate of Dalton George, and Tamara Watson v. Willoughby Trucking Inc., Flawless Leasing LLC and Alexis Serrano, No. 2020CCV-60279-2		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Hank Stout; Sutliff & Stout, PLLC; Houston TX for Michelle George, Estate of Dalton George, Tamara Watson, Gale George• Graham E. Sutliff; Sutliff & Stout, PLLC; Houston TX for Michelle George, Estate of Dalton George, Tamara Watson, Gale George		
Defense Attorney(s):	<ul style="list-style-type: none">• Robert L. Ramey; Ramey, Chandler, Quinn & Zito, P.C.; Houston, TX for Alexis Serrano, Flawless Leasing LLC, Willoughby Trucking Inc.		
Insurers:	<ul style="list-style-type: none">• Great West Casualty Co.• Hallmark Insurance• GuideOne Insurance		
Facts:	<p>At about 6 a.m. on Feb. 9, 2020, plaintiffs' decedent Dalton George, 25, an oil field worker, was driving west on Texas 18, in Ward County. Upon entering a "T" intersection, his car collided with the third axle on the passenger side of an 18-wheeler driven by Alexis Serrano. Serrano, who was making a left turn, had entered the intersection from Texas Loop 464, and was subject to a stop sign. Police faulted Serrano for the accident, based on a failure to yield the right of way. George died from injuries suffered in the crash.</p> <p>George's estate and family sued Serrano, Willoughby Trucking Inc. and Flawless Leasing LLC. At the time of the accident, Serrano was a statutory employee of Willoughby and Flawless, and he was in the course and scope of his employment. It was Serrano's first day on the job with Willoughby, and a trainer was riding with him. The lawsuit alleged that Serrano was negligent in the operation of his vehicle and that the corporate defendants were also liable for negligent training and supervision.</p> <p>The plaintiffs' accident-reconstruction expert opined that Serrano did not come to a complete stop at the stop sign. The expert's opinion was based, in part, on the data download from the 18-wheeler. A witness testified that he was behind Serrano's truck and that Serrano rolled through the stop sign. The witness was not mentioned on the police report, but plaintiffs' counsel argued that a police body camera showed the witness talking to a sheriff's deputy at the scene.</p> <p>Plaintiffs' counsel also claimed that Serrano had driven for 14 consecutive days without a mandatory 34-hour reset. They asserted that Serrano's log stated that he was off duty the day before the accident, but that he was in fact on duty, and was driving from Florence to Monahans.</p> <p>Serrano maintained that he came to a complete stop at the stop sign prior to entering the intersection. The defense contended that George took faulty evasive action and failed to keep a proper lookout.</p>		
Injury:	<p>Extracting George from his vehicle took 30 to 40 minutes, during which he was screaming in agony. Police body cameras recorded audio and video of the entire extraction.</p> <p>George suffered multiple trauma in the accident, and he died either on the way to the hospital or shortly after arrival. He was survived by his wife, plaintiff Tamara Watson, and his parents, plaintiffs Michelle George and Gale George.</p> <p>The estate was seeking damages for Dalton George's conscious physical pain and mental anguish, as well as about \$26,000 in medical expenses and approximately \$13,000 in funeral and burial expenses.</p> <p>George's parents and widow were seeking damages for past and future loss of companionship and society, and past and future mental anguish. The widow was also seeking damages for past and future pecuniary loss. The plaintiffs' economics expert opined that George's earnings would have been \$3,086,347 after deducting consumption.</p> <p>The defense noted that Watson and George had been married only since July 2019 and did not live together. They had met online, and she lived in Jamaica. George lived in Utah at the time, but he had moved to Texas for work by the time of the accident. He had grown up in Utah, and his parents still lived there.</p>		
Result:	The parties settled prior to trial for \$6,976,304.11, which was the coverage available after payment of property damage claims. The policy limit was \$7 million.		
Judge:	Lisa Gonzales		

Plaintiff: Company's policy led to crash with multiple fatalities

May 07, 2021

Amount:	\$5,800,000	Type:	Verdict-Plaintiff
Court:	Midland County District Court, 385th, TX		
Case Name:	Neva Rogers, Individually, as Wrongful Death Beneficiary and Personal Representative of the Estates of Kristian Hires, Kaleb Hires, and Alexander Hires, and as Next Friend of Elizabeth Hires, a Minor and Wrongful Death Beneficiary of Kantrell Hires v. Luis Rangel, Jr., No. CV54482		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Michael P. Lyons; Lyons & Simmons, LLP; Dallas TX for Neva Rogers,, Estate of Kristian Hires,, Estate of Kaleb Hires,, Estate of Alexander Hires,, Elizabeth Hires• Christopher J. Simmons; Lyons & Simmons, LLP; Dallas TX for Neva Rogers,, Estate of Kristian Hires,, Estate of Kaleb Hires,, Estate of Alexander Hires,, Elizabeth Hires• Christopher W. Carr; Lyons & Simmons, LLP; Dallas TX for Neva Rogers,, Estate of Kristian Hires,, Estate of Kaleb Hires,, Estate of Alexander Hires,, Elizabeth Hires• Stephen L. Higdon; Lyons & Simmons, LLP; Dallas TX for Neva Rogers,, Estate of Kristian Hires,, Estate of Kaleb Hires,, Estate of Alexander Hires,, Elizabeth Hires• Denis Dennis; Rush, Kelly, Morgan, Dennis, Corzine & Hansen, PC; Odessa TX for Neva Rogers,, Estate of Kristian Hires,, Estate of Kaleb Hires,, Estate of Alexander Hires		
Defense Attorney(s):	<ul style="list-style-type: none">• R. Brent Cooper; Cooper & Scully PC; Dallas, TX for DanCar Energy Construction LLC• Eric W. Hines; Cooper & Scully PC; Dallas, TX for DanCar Energy Construction LLC• Dick R. Holland; Shafer, Davis, O'Leary & Stoker; Odessa, TX for DanCar Energy Construction LLC• Charles F. Russell; Crenshaw Dupree & Milam, L.L.P.; Lubbock, TX for Luis Rangel Jr.		
Insurers:	<ul style="list-style-type: none">• Liberty Mutual Insurance Co.• Progressive Casualty Insurance Co.• Navigators Group Inc.		
Facts:	<p>On Jan. 14, 2017, plaintiffs' decedent Kantrell Hires, 36, was driving a sedan in the right westbound lane of State Highway 158, southeast of Midland, with three of his children as passengers. The children were plaintiff Kristian Hires, 16; plaintiff Kaleb Hires, 14; and plaintiff Alexander Hires, 12. Luis Rangel Jr. was in the eastbound lanes in a full-size pickup truck. It was about 6 a.m. and raining hard. Rangel lost control of his vehicle and slid into the westbound lanes, hitting the Hires' vehicle head on. The impact was severe, and Hires and the three children sustained fatal injuries.</p> <p>Plaintiff Neva Rogers, 41, was the children's mother. She and Hires had divorced about 1.5 years before the accident. Hires was the custodial parent for Kristian, Kaleb and Alexander, and Rogers was the custodial parent for her youngest child, plaintiff Elizabeth Hires. Rogers lived in Alabama, and Hires, who was in the Coast Guard, lived in the Corpus Christi area. Hires had remarried and, at the time of the accident, was on his way to Midland, where his wife lived.</p> <p>Rangel was an employee of DanCar Energy Construction LLC, which had contracted to build a gas processing facility about 30 minutes outside of Midland. At the time of the accident, Rangel was on his way from his Midland apartment to the job site.</p> <p>The plaintiffs sued Rangel and DanCar. The lawsuit alleged that Rangel was negligent in the operation of his vehicle and that DanCar was liable on theories of negligent supervision, undertaking and training. The plaintiffs had asserted respondeat superior, but dropped that claim before trial.</p> <p>Elizabeth Hires' wrongful-death claim was resolved long before trial.</p> <p>The claim against DanCar was based mostly on the company's policy that, in order to be paid for an inclement-weather day, employees had to show up at the job site and sign in. Plaintiffs' safety expert opined that this policy was negligent. According to plaintiffs' counsel, the company implemented the policy expressly to reverse what it considered the undesirable practice of employees' deciding for themselves to stay home if the weather was bad. Counsel also argued that Rangel was speeding to the job site to sign in before the site was shut down for bad weather.</p> <p>The investigating officer, a state trooper, testified that the highway was in very bad condition due to the weather, with standing water, sleet, slick spots and the possibility of ice on the road. Rangel testified that there was ice on the road.</p> <p>Plaintiffs' counsel suggested that DanCar was 70 percent responsible for the accident.</p> <p>DanCar contended that only Rangel was negligent or, in the alternative, that he was at least 90 percent responsible. DanCar also denied that there was ice on the road.</p> <p>The jury was given a spoliation instruction, which stated in part that DanCar "intentionally destroyed multiple banker's boxes of documents that contained information related this case after this case was filed."</p>		

Injury: Kaleb and Alexander were declared dead at the scene. Alexander's death was from traumatic asphyxiation. Kristian sustained severe head trauma. The investigating officer testified that he detected a slight pulse for Kristian and heard her moan and saw her move. She died in surgery the same day.

Each child's funeral and burial expenses and Kristian's medical expenses were stipulated and typed into the jury charge before deliberations. Kristian's medical expenses were \$54,634, and her funeral and burial expenses were \$4,781. Alexander's funeral and burial expenses were \$4,621, and so were Kaleb's.

Each estate also sought damages for future loss of earning capacity. The range sought for each child was between \$1 million and \$1.5 million, depending on the child.

Kristian's and Alexander's estates also sought damages for conscious pain and suffering.

There was also a blank for Kaleb's conscious pain and mental anguish, but plaintiffs' counsel did not present evidence to support such damages, and he asked the jury to put a zero.

Rogers sought damages for past and future loss of companionship and society and past and future mental anguish resulting from Kristian's, Kaleb's and Alexander's deaths. Defense counsel said the ranges given by plaintiffs' counsel for each child were in the millions of dollars.

According to DanCar's counsel, they did not strongly dispute the amounts for future loss of earning capacity. For each child's wrongful death, DanCar's counsel suggested \$200,000.

Result: The jury found negligence and comparative responsibility of 85 percent on Rangel and 15 percent on DanCar. It awarded the plaintiffs \$5.8 million. With the stipulated medical expenses and funeral burial expenses, the total damages were \$5,868,657.

The damages for Alexander's wrongful death were \$125,000 for each element, a total of \$500,000.

The damages for Kaleb's wrongful death were \$125,000 for each element, a total of \$500,000.

The damages for Kristian's wrongful death were \$125,000 for each element, a total of \$500,000.

Alexander's survival damages found by the jury were \$500,000 for conscious pain and mental anguish and \$1 million for future loss of earning capacity.

Kaleb's survival damages found by the jury were \$1 million for future loss of earning capacity.

Kristian's survival damages found by the jury were \$800,000 for conscious pain and mental anguish and \$1 million for future loss of earning capacity.

Judge: Robin Malone Darr

Trial Length: 5 days

Estate claimed roadwork caused hazard, fatal accident

August 20, 2021

Amount: \$5,490,000 **Type:** Verdict-Plaintiff

Actual Award: \$5,494,000

Court: Bell County District Court, 146th, TX

Case Name: Ola Pennington, Individually and as Representative of the Estate of Markeith Stokes, Deceased; Markeith Pleasant; Micha Pleasant; Malik Pleasant; Malcolm Stokes; and Andrew Stokes v. Texas Department of Transportation; Troy Kirk; Progressive Transportation, LLC; Progressive Transportation, LLC in its assumed or common name; Superior Trailer Leasing Co.; Superior Trailer Leasing Co. in its assumed or common name; Primoris Services Corp.; and Primoris Services Corp. in its assumed or common name, No. 292,807-B

Plaintiff Attorney(s):

- Rob Ammons; The Ammons Law Firm, LLP; Houston TX for Micha Pleasant,, Estate of Markeith Stokes,, Malik Pleasant,, Mark Pleasant,, Andrew Stokes,, Malcom Stokes,, Markieth Hobson,, Ola Pennington
- John Gsanger; The Ammons Law Firm, LLP; Houston TX for Micha Pleasant,, Estate of Markeith Stokes,, Malik Pleasant,, Mark Pleasant,, Andrew Stokes,, Malcom Stokes,, Markieth Hobson,, Ola Pennington
- April Strahan; The Ammons Law Firm, LLP; Houston TX for Micha Pleasant,, Estate of Markeith Stokes,, Malik Pleasant,, Mark Pleasant,, Andrew Stokes,, Malcom Stokes,, Markieth Hobson,, Ola Pennington
- Justin Burrow; The Ammons Law Firm, LLP; Houston TX for Micha Pleasant,, Estate of Markeith Stokes,, Malik Pleasant,, Mark Pleasant,, Andrew Stokes,, Malcom Stokes,, Markieth Hobson,, Ola Pennington

Defense Attorney(s):

- David Strain; Attorney General's Office; Austin, TX for Texas Department of Transportation
- Taylor Graham; Attorney General's Office; Austin, TX for Texas Department of Transportation
- Rudy Cano; Taunton, Snyder & Parish, P.C.; Houston, TX for James Construction Group LLC
- Adam B. Reed; Reed Carter, P.L.L.C.; Dallas, TX for Progressive Transportation, LLC, Troy Kirk
- Christopher C. Carter; Reed Carter, P.L.L.C.; Dallas, TX for Progressive Transportation, LLC, Troy Kirk
- None reported for Superior Trailer Leasing Co., Primoris Services Corp.

Insurers:

- Liberty Mutual Insurance Co.
- Great West Casualty Co.

Facts: At about 2:40 a.m. on Feb. 23, 2016, plaintiffs' decedent Markeith Stokes, 47, was driving on Interstate 35, in Troy. His vehicle spun in rainwater that had accumulated on the roadway, and it came to rest perpendicular to traffic. A moment later, it was struck by a tractor-trailer that was being driven by Troy Kirk. Stokes suffered a fatal injury.

Stokes' children and mother, Ola Pennington, who was acting individually and as representative of Stokes' estate, sued Kirk; Kirk's employer, Progressive Transportation LLC; and a company that was believed to be the owner of Kirk's rig, Superior Trailer Leasing Co. The plaintiffs also sued the highway's maintainer, the Texas Department of Transportation; a contractor that the Texas Department of Transportation had hired to widen the highway in the area in which the accident occurred, James Construction Group LLC; and another contractor believed to be involved in the roadwork project, Primoris Services Corp. The lawsuit alleged that Kirk was negligent in the operation of his vehicle, that Superior Trailer Leasing was vicariously liable for Kirk's actions, and that Kirk's employer was liable because the accident occurred during Kirk's performance of his job's duties. The lawsuit further alleged that the remaining defendants negligently created a dangerous condition that contributed to the accident.

Pennington died after the lawsuit had been filed. One of her daughters, Micha Pleasant, became representative of Markeith Stokes' estate.

Plaintiffs' counsel discontinued the claims against Primoris Services and Superior Trailer Leasing. Plaintiffs' counsel also negotiated pretrial settlements of the claims against Kirk, Progressive Transportation and James Construction Group. James Construction Group's insurer agreed to pay \$1.7 million, and the insurer of Kirk and Progressive Transportation agreed to pay \$500,000. The matter proceeded to a trial against the Texas Department of Transportation.

Plaintiffs' counsel contended that the Texas Department of Transportation allowed concrete barriers to be placed over highway drains during the roadwork project, thereby causing water to pool in low-lying areas of the highway. Plaintiffs' counsel suggested that the Texas Department of Transportation was 67 percent liable for the accident and that James Construction Group was 33 percent liable.

The Texas Department of Transportation's counsel contended that the only party responsible for the accident was James Construction Group, for placing the barriers over the drains.

Injury: Stokes, 47, was killed on impact. He was survived by his mother and six children: Micha Pleasant, 26, Malik Pleasant, 23, Mark Pleasant 28, Andrew Stokes, 26, Malcom Stokes, 29, and Markeith Hobson, 32. None of them were dependent upon him for financial support, and they did not seek economic damages.

The estate sought recovery of wrongful-death damages that included damages for past and future pecuniary loss, mental anguish, and loss of companionship and society.

Result: The jury found that the Texas Department of Transportation was 60 percent liable for the accident, and James Construction Group, which had agreed to a pretrial settlement, was assigned 40 percent of the liability.

The jury determined that the plaintiffs' damages totaled \$5.49 million. After an offset of James Construction Group's share of the liability and the addition of the money recovered via the pretrial settlements, the plaintiffs' recovery totaled \$5,494,000.

Judge: Jack Jones

Trial Length: 3 days

Trailer in roadway led to fatal injuries, plaintiffs claimed

September 28, 2022

Amount:	\$4,500,000	Type:	Verdict-Plaintiff
Court:	United States District Court, Southern District, Laredo, TX		
Case Name:	Valentin and Maria Isela Vallina, Individually and on Behalf of the Estate of Ivan Vallina v. Maria Cristina Cepeda Huerta d/b/a Transportes Cepeda, No. 5:20cv94		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Carole Novak Harrod; Bandas Law Firm, P.C.; Corpus Christi TX for Estate of Ivan Vallina,, Valentin Vallina,, Maria Isela Vallina		
Defense Attorney(s):	<ul style="list-style-type: none">• Chaz D. Klaes; Donato Brown Pool & Moehlmann PLLC; Houston, TX for Maria Cristina Cepeda Huerta, Daniel Guerrero Espinosa• Daniela Saybe; Donato Brown Pool & Moehlmann PLLC; Houston, TX for Maria Cristina Cepeda Huerta, Daniel Guerrero Espinosa		
Insurers:	<ul style="list-style-type: none">• New Horizon		
Facts:	<p>On Jan. 10, 2020, plaintiffs' decedent Ivan Vallina, 23, a mechanic, was driving on the access road of a highway in Webb County. A large pickup truck with a flat trailer attached to it was stopped on the left shoulder, and the trailer was partly in the left lane of travel. The driver of the pickup was Daniel Guerrero Espinosa. Vallina struck the right rear corner of the trailer and sustained fatal injuries. He was survived by his parents, plaintiff Maria Isela Vallina and plaintiff Valentin Vallina.</p> <p>The accident occurred in the daytime, on a straight stretch of the access road. Espinosa had not placed any warning triangles behind his vehicle.</p> <p>Espinosa was in the course and scope of his employment with Maria Cristina Cepeda Huerta, who did business as Transportes Cepeda, a delivery service based in Mexico. Huerta owned the pickup and the trailer. She had bought the pickup used, about a month before the accident.</p> <p>Vallina's estate and parents sued Espinosa and Huerta. The lawsuit alleged that Espinosa was negligent in his operation of the pickup and that, if the pickup was disabled as Espinosa claimed, then Huerta had negligently maintained it.</p> <p>Plaintiffs' counsel argued that Vallina should have pulled all the way onto the shoulder before stopping and that he was required by statute to place warning triangles behind the trailer as soon as possible. The pickup's electronic data recorder indicated that, in the seconds before the impact, the pickup's engine was running, its foot brake was engaged and Espinosa's seat belt was buckled.</p> <p>Plaintiffs' counsel further argued that Huerta had no documentation of any inspection, maintenance or repairs of the pickup. The pickup was purportedly registered in Mexico, but plaintiffs' counsel questioned whether the truck in the accident was the truck identified on the registration.</p> <p>Vallina's parents, Espinosa and a co-owner of Transportes Cepeda testified through a Spanish-language interpreter. Huerta did not attend trial and did not testify.</p> <p>Espinosa testified that the pickup's engine had died before he could move the pickup all the way onto the shoulder. He also said that, when the accident happened, he was unbuckling his seat belt and getting out of the vehicle to put out the warning triangles.</p> <p>The defense argued that the statute in question required warning triangles to be put out within 10 minutes. Salinas testified that he had been trying to restart the engine and that only a few minutes had elapsed when the accident occurred. He also testified that his hazard lights were on.</p> <p>Defense counsel argued that the defendants were not negligent, and that Vallina was negligent for not seeing and avoiding the trailer.</p>		
Injury:	Vallina sustained fatal injuries. He was declared dead upon the arrival of emergency medical personnel, about 20 minutes after the accident. He was survived by his parents, with whom he lived.		
	The court dismissed the estate's claim for Vallina's pain and suffering.		
	Vallina's parents sought damages for past and future loss of companionship and society and past and future mental anguish.		
Result:	The jury found negligence and comparative responsibility of 50 percent on Huerta; 45 percent on Vallina; and 5 percent on Espinosa. It determined that the plaintiffs' damages totaled \$4.5 million, but the comparative negligence reduction produced net damages of \$2,475,000.		
Judge:	John Kazen		

Trial Length:

3 days

Plaintiff claimed negligence after son killed in car crash

September 01, 2022

Amount:	\$3,797,105	Type:	Settlement
Court:	Webb County District Court, 49th, TX		
Case Name:	Jerry Zurita, individually and as heir of the Estate of JLZ v. Hunter Express Ltd., Hunter Express U.S. Inc., Eshauq Asif and Vanessa L. Rodriguez, No. 2021CVA000744D1		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• William H. Stout; Sutliff & Stout; Houston TX for Vanessa Rodriguez,, Estate of J. L. Z., K. H.• Graham Sutliff; Sutliff & Stout; Austin TX for Vanessa Rodriguez,, Estate of J. L. Z., K. H.• Rick DeHoyos; Law Offices of Rick DeHoyos; San Angelo TX for Jerry Zurita,, Estate of J. L. Z.		
Defense Attorney(s):	<ul style="list-style-type: none">• Owen H. Ellington; Ellington & Associates; Sugar Land, TX for Hunter Express Ltd., Eshauq Asif• Lisa Yerger; Cox PLLC; Dallas, TX for Hunter Express U.S. Inc.• Rahul Malhotra; Ketterman, Rowland & Westlund; Odessa, TX for Hunter Express U.S. Holdings Inc.		
Insurers:	<ul style="list-style-type: none">• Cherokee Insurance Company Canada Branch		
Facts:	<p>On Dec. 14, 2020, plaintiff Vanessa Rodriguez, 29, was driving on a highway in Fayette County, taking her two sons, ages 6 and 9, to school. The boys were asleep in the back seat. Several miles ahead, Eshauq Asif was operating a tractor-trailer. Asif stopped on the highway, just past the crest of a hill. Rodriguez crested the hill and saw the tractor-trailer. She took evasive action, but struck the back left of the trailer. Rodriguez and her sons were injured, the younger son fatally. The father of the deceased boy was plaintiff Jerry Zurita.</p> <p>Asif was in the course and scope of his employment with Hunter Express Ltd., Hunter Express U.S. Inc. or Hunter Express U.S. Holdings Inc.</p> <p>Zurita, for himself and his son, sued Asif, the Hunter Express entities and Rodriguez. Rodriguez, for herself and both her sons, cross-claimed against her co-defendants. Rodriguez and Zurita claimed that Asif was negligent in the operation of his vehicle. They alleged that he stopped in the middle of the highway, just past the crest of a hill, for no reason.</p> <p>The defendants denied the allegations. Asif testified that he stopped because one of his trailer lights was out. He said he pulled over as far as he could onto the narrow, soft shoulder and exited the truck. He fixed the light and had just gotten back in the truck when the collision occurred, he said.</p> <p>Injury: Rodriguez's younger son was killed. The older one sustained a laceration to his right cheek. He was taken to a hospital and was treated and released. He underwent no subsequent treatment.</p> <p>Rodriguez sustained lacerations of her spleen, liver and left kidney. She was hospitalized for four days and underwent surgery.</p> <p>Rodriguez and Zurita claimed past and future loss of companionship and society and past and future mental anguish from the loss of their son.</p> <p>Rodriguez also sought physical pain and mental anguish, physical impairment and medical expenses for her own bodily injuries. Her gross medical expenses were \$218,519.88, of which Medicaid paid \$186,739.36.</p> <p>On behalf of the older child, Rodriguez sought damages for physical pain and mental anguish and medical expenses. His gross medical expenses were \$10,142, of which Medicaid paid \$9,850.18.</p> <p>On behalf of the younger child, the one who died, Rodriguez and Zurita sought damages for the boy's physical pain and mental anguish.</p> <p>Result: The parties settled for \$3,797,105, prior to trial. The settlement was paid by the insurance carrier for Asif and Hunter Express Ltd. The policy limit was C\$5 million, or US\$3,797,105.</p> <p>The other Hunter Express defendants did not have insurance coverage.</p> <p>Judge: Joe Lopez</p> <p>Trial Length: 0</p>		

Plaintiffs alleged OSHA rules violated in fatal trench accident

January 31, 2020

Amount:	\$3,420,000	Type:	Verdict-Plaintiff
Court:	Hidalgo County District Court, 92nd, TX		
Case Name:	Maria Inez Arriaga Tovar, Individually and as Representative of the Estate of Rigoberto Tovar, Francisca Tovar and Israel Tovar v. M Construction, Ltd., a Texas limited partnership, No. C-715-10-A		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Michael R. Cowen; Cowen Rodriguez Peacock; Brownsville TX for Maria Inez Arriaga Tovar, Estate of Rigoberto Tovar• Malorie J. Peacock; Cowen Rodriguez Peacock; San Antonio TX for Maria Inez Arriaga Tovar, Estate of Rigoberto Tovar• None reported; ; Brownsville TX for Israel Tovar, Francisca Tovar		
Defense Attorney(s):	<ul style="list-style-type: none">• Gil P. Peralez; Peralez Franz; McAllen, TX for M Construction Ltd.• Carlos Yzaguirre; Yzaguirre Law Firm; McAllen, TX for M Construction Ltd.		
Insurers:	<ul style="list-style-type: none">• Texas Mutual Insurance Co.		
Facts:	<p>On March 5, 2010, plaintiffs' decedent Rigoberto Tovar, a laborer in his mid-20s, was digging in a trench at a work site. The project was to replace a large underground pipe. The trench had a 9-foot-deep area where the pipe was fully uncovered and a shallower area. Tovar was in the deeper section and was removing dirt from beneath the pipe. The sides of the trench collapsed, and the force of the collapse pushed Tovar into the pipe. He died from blunt-force trauma.</p> <p>Tovar's parents and his widow, Maria Inez Arriaga Tovar, who was acting individually and as administrator of her husband's estate, sued Tovar's employer, M Construction Ltd. The lawsuit alleged general negligence, including negligent training and gross negligence.</p> <p>Plaintiffs' counsel withdrew from representing Tovar's parents. They were pro se at the time of trial and did not attend trial, and no claims by them were submitted to the jury.</p> <p>According to the plaintiffs' workplace-safety expert, M Construction violated OSHA regulations requiring trench protection, such as a trench box used in trenches more than 5-feet deep. Plaintiff's counsel argued that Tovar was instructed to dig in the deeper section, which had no trench box or other protection from collapse. Plaintiff's counsel also alleged that M Construction negligently failed to train its employees about trench safety.</p> <p>M Construction's sole owner testified that Tovar had been told to stay away from the deep area of the trench because a collapse would most likely take place there and to confine his digging to the shallower part, where the pipe was not yet uncovered. The defense argued that Tovar's negligence was the sole proximate cause of the incident.</p>		
Injury:	<p>Tovar died from blunt-force trauma. The only claims submitted to the jury were those of his widow. She testified that, though they had been married for only nine days, they had started dating about one and a half years earlier and moved in together soon afterward. She had a daughter from a prior relationship, and she testified that Tovar and the daughter were close.</p> <p>Plaintiff's counsel said that the amount sought from the jury in closing was around \$50 million for past and future pecuniary loss, past and future loss of companionship and society, and past and future mental anguish.</p> <p>The defense disputed the claimed damages, arguing that Tovar and his wife married because they thought it would facilitate his gaining legal immigration status. Tovar was an undocumented immigrant and was working under the name of a different person, the defense noted.</p> <p>Defense counsel suggested that, if the jury reached damages, it should award about \$600,000, which the defense said was about how much Tovar would have earned, at \$9 an hour for 40 hours a week until retirement.</p>		
Result:	The jury found M Construction liable under both general negligence and premises liability. It awarded the widow \$3.42 million. The jury did not find gross negligence.		
Judge:	Luis M. Singleterry		
Trial Length:	5 days		

Plaintiffs: Driver was drunk during crash that killed passenger

November 10, 2022

Amount:	\$3,000,000	Type:	Verdict-Plaintiff
Court:	Montgomery County District Court, 284th, TX		
Case Name:	David Bradley and Teresa Bradley, Individually and on Behalf of the Estate of Jacob Bradley v. Spencer Morris Levine and Caffè Di Fiore, LLC, No. 20-04-04990		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Van Shaw; Law Offices of Van Shaw; Dallas TX for David Bradley,, Teresa Bradley,, Estate of Jacob Bradley• Daniel K. Hagood; Law Offices of Van Shaw; Dallas TX for David Bradley,, Teresa Bradley,, Estate of Jacob Bradley• Jeremy B. ("Beau") Powell; Law Offices of Van Shaw; Dallas TX for David Bradley,, Teresa Bradley,, Estate of Jacob Bradley		
Defense Attorney(s):	<ul style="list-style-type: none">• Chaz D. Klaes; Donato Brown Pool & Moehlmann PLLC; Houston, TX for Spencer Morris Levine• Lisa Wright; Wright Close & Barger; Houston, TX for Spencer Morris Levine		
Facts:	<p>On Aug. 22, 2019, plaintiffs' decedent Jacob Bradley, 20, was a passenger in a sport utility vehicle driven by his friend Spencer Morris Levine, also 20. Two other friends of theirs were also passengers. The SUV was in a single-vehicle rollover accident in the gated community of Carlton Woods, in Montgomery County. Bradley, the only non-restrained occupant, was ejected and killed. He was survived by his parents, plaintiff David Bradley and plaintiff Teresa Bradley. Levine was charged with intoxication manslaughter and manslaughter.</p> <p>The four friends had been to Caffè Di Fiori, a bar and restaurant in The Woodlands. At the time of the accident, they were going back to Bradley's parents' house. The speed limit was 25 mph where the accident occurred, and Levine was going 93 mph.</p> <p>Bradley's parents and estate sued Levine. The lawsuit alleged that Levine was negligent and grossly negligent in the operation of his vehicle. The plaintiffs also sued Caffè Di Fiori, but it was granted a summary judgment before trial.</p> <p>The plaintiffs claimed that Levine was drunk and that his reckless driving caused Bradley's ejection, injuries and death. Because the SUV rolled 3.5 times, plaintiffs' counsel argued, Bradley likely would have been ejected even if he had been wearing a seat belt.</p> <p>Plaintiffs' counsel argued that Levine and Bradley were 90 percent and 10 percent responsible, respectively, for Bradley's injuries and death.</p> <p>Levine invoked his Fifth Amendment rights and did not testify about the incident.</p> <p>The defense did not dispute Levine's negligence, but argued that the plaintiffs did not meet their burden on the issue of gross negligence. The defense argued that Levine did not realize he was going as fast as he was.</p> <p>The defense also argued that Bradley, as an unrestrained passenger, was two-thirds responsible for his own injuries and death. The other three occupants were wearing seat belts and were not ejected or killed, the defense emphasized.</p> <p>Injury: Bradley was killed in the accident. He was survived by his parents. The evidence showed he had a very close and loving relationship with them.</p> <p>The estate sought \$5 million for Bradley's pain and mental anguish. Levine stipulated that Bradley's medical expenses were \$1,043.20 and that his funeral expenses were \$14,936.73, and those elements were not submitted to the jury.</p> <p>For wrongful death, Bradley's parents sought \$5 million each. That amount consisted of \$1.25 million for past loss of companionship and society; \$1.25 million for future loss of companionship and society; \$1.25 million for past mental anguish; and \$1.25 million for future mental anguish.</p> <p>The plaintiffs also sought \$10 million in punitive damages.</p> <p>The defense argued that, if the jury reached the damages questions, it should award \$250,000 to \$500,000 to each parent for wrongful death. For pain and mental anguish, the defense suggested zero, on the grounds that Bradley was unaware of the impending accident and was killed instantly.</p> <p>Result: The jury found negligence and comparative responsibility of 60 percent on Levine and 40 percent on Bradley. It awarded the plaintiffs \$3 million, but the comparative-negligence reduction reduced that amount to \$1.8 million. The stipulated medical and funeral expenses of \$15,979.93 were reduced by the same percentage, to \$9,586.96.</p> <p>The jury did not find gross negligence.</p> <p>Judge: Kristin Bays</p>		

Trial Length:

4 days

Widow claimed salvage yard responsible for husband's death

August 31, 2022

Amount:	\$1,947,815	Type:	Verdict-Plaintiff
Actual Award:	\$993,386		
Court:	Galveston County District Court, 212th, TX		
Case Name:	Mary Lou Jaramillo, Individually and as Heir of Bernardo Jaramillo Carrillo, Deceased v. Marty's City Auto, Inc., No. 18-CV-0819		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Frank A. Robertson; Jim S. Adler & Associates; Houston TX for Mary Lou Jaramillo,, Estate of Bernardo Jaramillo Carrillo• Andrew J. McClendon; Jim S. Adler & Associates; Houston TX for Mary Lou Jaramillo,, Estate of Bernardo Jaramillo Carrillo		
Defense Attorney(s):	<ul style="list-style-type: none">• Joseph A. Callier; Callier Law Group; Houston, TX for Marty's City Auto Inc.• Pro se for Reginald Davis		
Facts:	<p>On May 9, 2018, plaintiff Bernardo Jaramillo Carrillo, 46, a mechanic, was at his workplace, Marty's City Auto Inc., a salvage yard in Galveston. Carrillo wanted to strip a part from underneath a sport utility vehicle for his personal use, and he asked his supervisor to lift up the SUV, using a front-end loader outfitted with forklift forks. The supervisor did so and then joined Carrillo under the SUV, leaving his cell phone in the loader. The supervisor then asked another employee, Reginald Davis, to get in the loader and lift the SUV up higher, which he did. The supervisor's cell phone then rang. While Davis was handing the phone to the supervisor, Davis bumped the loader's controls, dropping the SUV onto Carrillo and crushing him. Carrillo died within a few minutes. Security cameras recorded the incident. Carrillo was survived by his wife, plaintiff Mary Lou Jaramillo, 49.</p> <p>Marty's City Auto was cited by OSHA and paid a fine.</p> <p>Carrillo's widow, for herself and the decedent, sued Marty's City Auto and Davis. The lawsuit alleged that Davis was negligent in his operation of the loader; that he was in the course and scope of his employment at the time of the incident; and that Marty's City Auto was negligent in entrusting the loader to Davis and in hiring, retaining, training and supervising Davis. Davis acknowledged that he did not know how to lock out the loader's controls, and the supervisor testified that he had been letting Davis operate it off and on for years. The plaintiff also introduced the fact of the OSHA citation and fine.</p> <p>Plaintiff's counsel suggested the jury find responsibility of 80 percent on Marty's City Auto and 20 percent on Davis.</p> <p>The defendants acknowledged that Davis was partly responsible for the incident. However, Marty's City Auto maintained that Carrillo was stealing a part and that none of the people involved in the incident were in the course and scope of their employment. The company also contended that its owner was unaware that Davis had been operating the loader.</p> <p>Counsel for Marty's City Auto asked the jury to find the decedent 75 to 80 percent responsible and Davis 20 to 25 percent responsible.</p> <p>Davis was pro se at trial.</p>		
Injury:	<p>Carrillo was crushed by the SUV, and he died within a few minutes. He was survived by his wife of more than seven years. She had remarried by the time of trial.</p> <p>The widow sought a total of \$13 million. Specifically, she sought damages for her own past and future pecuniary loss, past and future loss of companionship and society and past and future mental anguish, as well as damages for her late husband's pain and mental anguish and \$7,815 for his medical expenses.</p> <p>The defense argued that Carrillo did not suffer long.</p>		
Result:	<p>The jury found that Davis was acting in the course and scope of his employment with Marty's City Auto.</p> <p>The jury found negligence and comparative responsibility of 49 percent on Marty's City Auto; 49 percent on Carrillo; and 2 percent on Davis. It determined that the plaintiffs' damages totaled \$1,947,815.00, but the 49 percent reduction for Carrillo's comparative responsibility produced net damages of \$993,385.65.</p> <p>There is an insurance coverage dispute. The policy whose coverage is disputed has a limit of \$500,000.</p>		
Judge:	Patricia Grady		
Trial Length:	3 days		

Decedent claimed fatal hit was caused by delivery driver

March 24, 2021

Amount:	\$1,738,321	Type:	Decision-Plaintiff
Court:	Montgomery County District Court, 284th, TX		
Case Name:	Telina Wheaton, Individually and as Representative of the Estate of Bobby Joe Nathan Johnson v. Mingrun, Inc. d/b/a Golden Chopsticks, No. 20-02-02017		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Brent Phelps; PMR Law; Houston TX for Telina Wheaton,, Estate of Bobby Joe Nathan Johnson• Benjamin Ruemke; PMR Law; Houston TX for Telina Wheaton,, Estate of Bobby Joe Nathan Johnson		
Defense Attorney(s):	<ul style="list-style-type: none">• Bernard Kwan; Kwan & Associates; Houston, TX for Mingrun Inc.• Alan Kwan; Kwan & Associates; Houston, TX for Mingrun Inc.		
Facts:	<p>On April 2, 2019, plaintiffs' decedent Bobby Joe Nathan Johnson, 27, left the apartment he shared with his mother, plaintiff Telina Wheaton, on the south side of Farm to Market Road 1488, in Conroe. It was about 8:30 p.m. Johnson walked across 1488 to a gas station and bought cookies. The road had two eastbound and two westbound lanes, a center turn lane and two outside shoulders. As Johnson was walking back across the street, he was hit by a car traveling east. The car was a black 2015 Nissan Altima, and the driver was in the course and scope of his employment as a delivery driver for Golden Chopsticks, a restaurant in The Woodlands. Johnson sustained severe injuries and was transported to a hospital by ambulance, where he died two days later. He was survived by his mother. The investigating officer concluded that Johnson alone was at fault, for failing to yield right of way. Before filing suit, the plaintiffs settled their claims against the driver for his \$30,000 policy limit. The plaintiffs sued Mingrun Inc., doing business as Golden Chopsticks. The lawsuit alleged that the driver was negligent in the operation of his vehicle and that his employer was also liable for negligent hiring, training, supervision and retention. Plaintiffs' counsel argued that the driver was traveling on the south shoulder, not in a lane of traffic, when Johnson was struck. The cookies, Johnson's shoe and his phone were found on the shoulder. Plaintiffs' counsel further argued that the driver did not have his headlights on. In footage from the gas station's security camera, Johnson's white shopping bag is visible as he walks across 1488. When the bag disappears, indicating Johnson has been struck, no headlights are visible in his immediate vicinity, plaintiffs' counsel argued. Plaintiffs' counsel further noted that the driver's blood test was positive for THC. Although the driver testified that, on the day of the accident, he had not used marijuana, he had previously testified that he could not remember one way or the other. Plaintiffs' counsel argued that the driver should have seen Johnson in time to avoid hitting him. Although the area was fairly dark, there was a significant amount of light coming from the gas station, counsel said. Plaintiffs' counsel also argued that Johnson was crossing at a normal speed rather than taking an undue amount of time. Although Johnson had spina bifida and walked with a limp, he could walk at a normal speed when he chose, his mother said. She added that Johnson had crossed 1488 many times before and knew how to do so safely. In addition, plaintiffs' counsel argued that Mingrun conducted no criminal background checks, driving-history checks or drug tests on its drivers and that it provided no driver training. A corporate representative acknowledged that, although drivers were asked about any criminal history, driving history or drug use, the company did not verify their answers. The defense denied that the driver was negligent. The driver testified that he was in the right lane, not on the shoulder, when the accident happened; that he was going a little less than the speed limit of 55 mph; that his headlights were on; and that Johnson suddenly appeared in front of him. At trial, he also denied that he had used marijuana on the day of the accident. Defense counsel argued that it was reasonable for the driver not to have seen Johnson sooner. Johnson was not in a crosswalk and was dressed in dark clothing, and the driver testified that the area was very dark. The defense also noted Johnson's spina bifida and argued that his slow gait caused or contributed to the incident. Regarding the direct negligence claims against the company, the defense argued that its drivers all had valid driver's licenses and that it had no duty to provide further training. The case was tried to the bench, via Zoom.</p>		
Injury:	<p>Johnson sustained severe blunt-force trauma. According to the medical records, he was unconscious at the scene, and the impact separated his spinal cord from his brain. He died in the hospital two days later without having regained consciousness. He had lived with his mother all his life, and they were very close, she said. She also had a daughter, who did not live with them. Plaintiffs' economist opined that Johnson's future lost earnings, less expenditures for consumption and care for his spina bifida, were \$760,000. Johnson's mother testified that, although her son was not enrolled in school at the time of the accident, he had been working toward an associates' degree in information technology and would have continued doing so. Plaintiffs' counsel asked the court to award Wheaton about \$1.6 million on her individual claims and \$784,000 on the estate's claims. Individually, Wheaton's alleged damages included past and future mental anguish, past and future loss of companionship and society and past and future loss of household services. The estate's claimed damages were primarily future lost earning capacity, but also included medical expenses, funeral and burial expenses of \$2,250 and conscious physical pain and mental anguish. The defense argued that the earnings claim was too speculative and that the economist's opinions were not tailored specifically enough to this particular decedent. In addition, the defense argued that, without input from a vocational or medical expert, the economist's predictions of Johnson's expenditures and earnings were unreliable.</p>		
Result:	The court found that Mingrun was liable for the accident. It awarded the plaintiffs \$1,738,321.45, consisting of \$1,601,997.60 for Wheaton individually and \$136,323.85 for the estate.		
Judge:	Kristin Bays		
Trial Length:	1 days		

Witnesses said driver was not speeding when teen was killed

November 21, 2019

Amount:	\$0	Type:	Verdict-Defendant
Court:	Dallas County Court at Law No. 2, TX		
Case Name:	Angel Flores Lugo and Sarahi Cruz, Individually and as Representatives of the Estate of Angel Armando Flores v. Wade Aubel, No. CC-16-03585-B		
Plaintiff Attorney(s):	<ul style="list-style-type: none">Louis S. Hakim; John R. Salazar, P.C.; Dallas TX for Angel Flores Lugo, Sarahi Cruz, Angel Armando Flores		
Defense Attorney(s):	<ul style="list-style-type: none">Malcolm G. Renwick; Renwick & Associates; Plano, TX for Wade Aubel		
Facts:	<p>On Oct. 28, 2015, plaintiffs' decedent Angel Armando Flores, 14, a high school student, was walking from his apartment complex across North O'Connor Road to his school in Irving. It was before dawn and flashing lights that alerted motorists to a school zone had not been activated yet. Angel was on his way to his first basketball practice of the school year. Angel crossed the two southbound lanes, the center-turn lane and the inside northbound lane. He was crossing the outside northbound lane when a vehicle driven by Wade Aubel struck him. Angel sustained multiple trauma and died within a few days. He was survived by his parents and a younger sister.</p> <p>Flores' parents, for themselves and on behalf of their son's estate, sued Aubel. The lawsuit alleged that Aubel was negligent in the operation of his vehicle.</p> <p>Flores' counsel argued that Aubel failed to keep a proper lookout and took faulty evasive action and that Angel was not negligent. Counsel noted that a lower standard of care applies to a child than to an adult.</p> <p>Flores' counsel also maintained that schoolchildren crossed at the location all the time, and that Aubel commuted to work daily on the same route and should have been more aware of his surroundings.</p> <p>Defense counsel argued that only Angel was negligent. Aubel testified that he was keeping a proper lookout and that he only had time to slam on his brakes. In addition, the evidence showed that Angel was crossing in the middle of the block, where there was no crosswalk. Also, two eyewitnesses testified that Aubel was not speeding and that Angel was running across the street. Aubel also claimed he was within the speed limit. The evidence also showed that Angel was not wearing any reflective clothing.</p> <p>In addition, the investigating officer, who was trained in accident reconstruction, opined that Angel was at fault for the accident and that he failed to yield the right of way.</p>		
Injury:	<p>Angel sustained multiple trauma. He was taken to a hospital and died within a few days. He never regained consciousness after the accident.</p> <p>His parents sought damages for past and future loss of companionship and society and past and future mental anguish.</p>		
Result:	The jury rendered a defense verdict. Specifically, it found negligence and comparative responsibility of 90 percent on Angel and 10 percent on Aubel. It did not reach the damages question.		
Judge:	Melissa Bellan		
Trial Length:	2 days		

Defense: Pedestrian wasn't in walkway prior to fatal hit

July 21, 2023

Amount:	\$0	Type:	Verdict-Defendant
Court:	Dallas County District Court, 95th, TX		
Case Name:	Crystal Chapa Individually and as Personal Representative of the Estate of Alfonso Maurice Morillo Deceased, and as Next Friend of A.M. and M.M. Minors v. Michael Alexander Nuncio and Ingrid Jaschok, No. DC-18-11665		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• David Stone; Fanaff, Baldwin, Gonzales & Cunningham; Dallas TX for Crystal Chapa,, Estate of Alfonso Maurice Morillo,, M. M.,, A. M.• Lucas Lafitte; Law Office of L.S. Lafitte; Garland TX for Crystal Chapa,, Estate of Alfonso Maurice Morillo,, M. M.,, A. M.		
Defense Attorney(s):	<ul style="list-style-type: none">• Dan D. McClain; Fanaff, Baldwin, Gonzales & Cunningham; Irving, TX for Michael Alexander Nuncio		
Insurers:	<ul style="list-style-type: none">• Farmers Insurance Group of Cos.		
Facts:	<p>On Dec. 22, 2017, plaintiffs' decedent Alfonso Maurice Morillo, 30, unemployed, was hit by a pickup truck while a pedestrian in Dallas. The driver was defendant Michael Alexander Nuncio. Morillo died about 10 days later from his injuries and was survived by his sons, who were about 6 and 10 years old at the time.</p> <p>The accident occurred early morning, when it was still dark. It was also raining, and Morillo, who was short and slight of build, was in dark clothing. The accident occurred at a T-intersection, and because there was no crosswalk, the investigating officer concluded that Morillo failed to yield the right of way. Plaintiff's counsel argued that a crosswalk was implied. Nuncio said Morillo was just standing in the road, 15 feet ahead, when Nuncio first saw him.</p> <p>The parties disputed whether Morillo was keeping a proper lookout and driving at a safe speed for the conditions. Each side had an accident reconstruction expert, and the defense called the investigating officer by video deposition.</p> <p>Nuncio was allowed to leave the scene for two hours, during which two key cycles occurred, clearing his data before the police accident investigator arrived. Plaintiff's counsel suggested that Nuncio, an auto mechanic, intentionally cleared the data because it would have shown he was speeding.</p> <p>Defendant Ingrid Jaschok, the alleged owner of the Nuncio vehicle, was granted summary judgment before trial.</p>		
Injury:	Morillo died of massive internal injuries. He was survived by his sons, who lived with their mother.		
Result:	The minor plaintiffs claimed past and future pecuniary loss, past and future loss of companionship and society and past and future mental anguish. Morillo's estate alleged conscious pain and suffering.		
Judge:	Monica Purdy		
Trial Length:	5 days		

Defense: Patient failed to follow up with doctor prior to fatal embolism

March 14, 2022

Amount:	\$0	Type:	Verdict-Defendant
Court:	Nueces County Court at Law No. 4, TX		
Case Name:	Delfina Gonzalez, Individually and as Administrator of the Estate of Juan Munoz and Mark Anthony Gonzalez, Bonnie Marie Gonzalez, Luis Alberto Munoz, Jacob Manuel Munoz, As Children of Juan Munoz, Deceased v. Amar Sunkari, MD, and Deobrat C. Mallick, MD, No. 2018CCV-60888-4		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Josh Hopkins; Herrman & Herrman; Corpus Christi TX for Delifina Gonzalez,, Estate of Juan Munoz,, Mark Anthony Gonzalez,, Bonnie Marie Gonzalez,, Luis Alberto Munoz,, Jacob Manuel Munoz• Cary Toland; Herrman & Herrman; Corpus Christi TX for Delifina Gonzalez,, Estate of Juan Munoz,, Mark Anthony Gonzalez,, Bonnie Marie Gonzalez,, Luis Alberto Munoz,, Jacob Manuel Munoz		
Defense Attorney(s):	<ul style="list-style-type: none">• Bruce E. Anderson; Plunkett, Griesenbeck & Mimari Inc.; San Antonio, TX for Deobrat C. Mallick M.D.• Brett Pattillo; Plunkett, Griesenbeck & Mimari Inc.; San Antonio, TX for Deobrat C. Mallick M.D.		
Insurers:	<ul style="list-style-type: none">• Coverys		
Facts:	<p>On April 16, 2017, plaintiffs' decedent Juan Munoz, about 47, owner of a car window-tinting business, presented to a hospital in Corpus Christi with symptoms that included shortness of breath and chest pain. The hospitalist on duty was Dr. Amar Sunkari, who admitted him. The next day, the hospitalist on duty was Dr. Deobrat C. Mallick. A cardiology workup was performed, and Munoz was diagnosed with left ventricular hypertrophy, probably from chronic hypertension. Mallick discharged Munoz on April 18, 2017, with instructions to follow up with his primary care doctor for hypertension. Two days later, Munoz lost consciousness and collapsed at home. His son tried unsuccessfully to resuscitate him and then took him back to the hospital, where Munoz was declared dead. An autopsy showed a massive pulmonary embolism as the cause of death. Munoz was survived by his wife, plaintiff Delfina Gonzalez, and four children, all adults: plaintiff Mark Anthony Munoz, plaintiff Bonnie Marie Gonzalez, plaintiff Luis Alberto Munoz and plaintiff Jacob Manuel Munoz.</p> <p>The plaintiffs sued Mallick. The lawsuit alleged medical malpractice, claiming that Mallick failed to diagnose a developing pulmonary embolism. The plaintiffs also sued Sunkari, but nonsuited him shortly after his deposition.</p> <p>The plaintiffs' pulmonology expert opined that Mallick should have known that ventricular hypertrophy was not an adequate explanation for Munoz's complaints and test results; and that further investigation would have revealed a developing embolism.</p> <p>The defense argued that Munoz presented with what appeared initially to be acute coronary syndrome. He had exertion-related shortness of breath, which did not suggest a pulmonary embolism, the defense argued. He also had a mildly abnormal EKG. The defense argued that his symptoms at the hospital were caused by ventricular hypertrophy and that it was reasonable to discharge him on that basis.</p> <p>The defense further argued that the embolism almost certainly did not develop until after Munoz was discharged from the hospital. While at the hospital, he was kept on a complete anticoagulant protocol and showed no sign of deep-vein thrombosis, the defense argued.</p> <p>The defense also noted that, after being discharged, Munoz did not follow up with his primary care doctor and mostly rested instead of keeping active.</p>		
Injury:	<p>Munoz died of a pulmonary embolism. He was survived by his wife and four children.</p> <p>Munoz had done window-tinting for a long time, sometimes self-employed and sometimes working for others. The plaintiffs acknowledged that this business had been declining, but they attributed it to the declining local economy. They maintained that it would have bounced back eventually.</p> <p>The widow sought \$500,000 for past pecuniary loss; \$1 million for future pecuniary loss; \$500,000 for past loss of companionship and society; \$1 million for future loss of companionship and society; \$500,000 for past mental anguish; and \$1 million for future mental anguish.</p> <p>For pecuniary loss, the four children sought a combined \$200,954 in the past and \$243,649 in the future. Each child also sought \$250,000 for past loss of companionship and society; \$500,000 for future loss of companionship and society; \$150,000 for past mental anguish; and \$250,000 for future mental anguish.</p> <p>The plaintiffs sought a total of \$10.8 million.</p>		
Result:	The jury rendered a defense verdict. Specifically, it did not find that Mallick's negligence, if any, proximately caused Munoz's death.		
Judge:	Mark Woerner		
Trial Length:	6 days		

Wrongful Death-Constitutional Law-Civil Rights-42 USC 1983

February 16, 2023

Amount: \$0 **Type:** Verdict-Defendant

Court: United States District Court, Eastern District, Beaumont, TX

Case Name: Frances Earline Sims, individually and as dependent administrator of, and on behalf of, the Estate of Steven Mitchell Qualls and Steven Mitchell Qualls' heir(s)-at-law v. City of Jasper, Texas, Toderick D. Griffin, Sterling Ramon Linebaugh, Heather Rene O'Dell, and Joshua L. Hadnot, No. 1:20-CV-00124

Plaintiff Attorney(s):

- T. Dean Malone; Law Offices of Dean Malone; Dallas TX for Frances Earline Sims., Estate of Steven Mitchell Qualls., L. H.
- Kristen L. Homyk; Law Offices of Dean Malone; Dallas TX for Frances Earline Sims., Estate of Steven Mitchell Qualls., L. H.
- Alexandra W. Payne; Law Offices of Dean Malone; Dallas TX for Frances Earline Sims., Estate of Steven Mitchell Qualls., L. H.
- Jennifer A. Kingaard; Law Offices of Dean Malone; Dallas TX for Frances Earline Sims., Estate of Steven Mitchell Qualls., L. H.

Defense Attorney(s):

- William S. Helfand; Lewis Brisbois Bisgaard & Smith; Houston, TX for City of Jasper, Texas, Toderick D. Griffin, Sterling Ramon Linebaugh, Heather Rene O'Dell
- Frank D. Calvert; Calvert Eaves Clarke & Stelly; Beaumont, TX for City of Jasper, Texas, Toderick D. Griffin, Sterling Ramon Linebaugh, Heather Rene O'Dell
- Norman Ray Giles; Lewis Brisbois Bisgaard & Smith; Houston, TX for City of Jasper, Texas, Toderick D. Griffin, Sterling Ramon Linebaugh, Heather Rene O'Dell

Facts: On Jan. 30, 2019, plaintiffs' decedent Steven Mitchell Qualls, 28, a pretrial detainee at the City of Jasper holding facility, was found nonresponsive in his cell at about 8:20 a.m. He was taken to a hospital, where he was declared dead. The cause of death was cardiac arrest, secondary to methamphetamine overdose. Qualls was survived by his mother, plaintiff Frances Earline Sims, 51, and his son, who was about 8.

Two days earlier, Qualls had been admitted to a hospital after overdosing on methamphetamine. After approximately four hours, the hospital discharged him, but Qualls refused to leave the hospital. Police charged Qualls with disorderly conduct and transported him to the holding facility.

Toderick D. Griffin was a supervising sergeant during the night shift, which ended at 6 a.m. on the morning of Qualls' death. Sterling Ramon Linebaugh, a patrol officer, and Heather Rene O'Dell, a civilian police dispatcher, were on duty until 6 a.m., as well.

Sims, on behalf of herself and Qualls' son and estate, sued the city, Griffin, Linebaugh and O'Dell. The lawsuit alleged that the defendants violated Qualls' constitutional rights under 42 USC section 1983 and that the city and Griffin failed to train and supervise holding facility personnel adequately. The plaintiffs further claimed that city policies, practices or customs caused a denial of or delay in urgently needed medical care for Qualls, and that the defendants were deliberately indifferent to the risk of serious harm to Qualls.

The plaintiffs alleged that Qualls was alternately crying out for help, sleeping for long periods and vomiting in the hours before his death. Plaintiffs' counsel argued that the defendants should have provided medical care for Qualls.

The defendants denied liability and contended that officers periodically monitored Qualls' condition and took precautions for his care. Also, both O'Dell and Griffin testified that they had observed Qualls' condition and behavior during Qualls' previous detentions for methamphetamine detoxification, and that his condition and behavior were generally the same as in the hours leading up to his death.

Injury: Qualls died of cardiac arrest, secondary to methamphetamine overdose. The plaintiffs claimed that Qualls died as a result of constitutional violations by the defendants. Qualls was survived by his mother and his son.

A psychologist examined Sims shortly after suit was filed and again before the first trial setting. He concluded that Sims had post-traumatic stress disorder as a result of her son's death.

For the estate, Sims sought unspecified damages for Qualls' conscious pain and suffering. For herself, she sought unspecified damages for past and future mental anguish and loss of companionship. For Qualls' son, she sought unspecified damages for loss of companionship.

The defense argued that Qualls and his mother were estranged. Sims had called police on Qualls numerous times over the years and had had him arrested on at least one occasion, the defense noted. Plaintiffs' counsel moved unsuccessfully to bifurcate the trial, arguing in part that this evidence would unduly prejudice the jury on liability.

The defense also denied that Qualls' death caused Sims to suffer PTSD. While acknowledging that the loss of a child is a psychological blow, the defense psychiatric expert noted that Sims had numerous other issues that could be causing her psychological problems, if any. He opined that it would be impossible to tease out how much of her mental anguish was caused by her son's death.

As to the minor, defense counsel said it was undisputed that Qualls never had any relationship with his son

Result: The jury rendered a defense verdict. It did not find that city policies, practices or customs existing in January 2019 were not reasonably related to a legitimate governmental objective and caused a denial of or delay in medical care for Qualls. It did not find that a subordinate of Griffin's violated Qualls' constitutional rights; that Griffin individually maintained a supervisory policy of failing to supervise his subordinates; that the adoption of this policy caused the violation of Qualls' rights; and that Griffin adopted the policy with deliberate indifference. It did not find that the individual defendants subjected Qualls to a substantial risk of serious harm by denying him urgently needed medical care; that they were deliberately indifferent to the risk; and that the deliberate indifference caused substantial harm to Qualls.

Judge: Michael Truncale

Trial Length: 9 days

Doctors not liable for patient's fatal bleed, defense argued

September 12, 2019

Amount: \$0 **Type:** Verdict-Defendant

Court: Tarrant County District Court, 236th, TX

Case Name: Angela Herrera, individually and on behalf of the estate of Walter Johnston v. James Vestal, M.D., Kory Jones, M.D., and Suraj Naik, M.D., No. 236-277619-15

Plaintiff Attorney(s):

- Mark L. Taylor; Powers Taylor LLP; Dallas TX for Estate of Walter Johnston, Angela Herrera
- Jennifer Birdsall; Powers Taylor LLP; Dallas TX for Estate of Walter Johnston, Angela Herrera

Defense Attorney(s):

- Ed Quillin; Quillin Law Firm, P.C.; Dallas, TX for James Vestal
- Stan Thiebaud; Thiebaud Remington Thornton Bailey LLP; Dallas, TX for Suraj Naik
- Stephen W. Johnson; Stephen W. Johnson & Associates, P.C.; Dallas, TX for Kory Jones
- Carrie T. Carter; Stephen W. Johnson & Associates, P.C.; Dallas, TX for Kory Jones

Insurers:

- Doctors Co.
- ProAssurance

Facts:	<p>On Sept. 16, 2013, plaintiffs' decedent Walter Johnston, 41, an employee of an aerospace and defense contractor, underwent a nephrectomy: surgical removal of a kidney, which had a benign but grapefruit-size tumor. The surgery was performed by a urologist, Dr. James Vestal.</p> <p>The next day, Johnston's blood pressure dropped. He was transferred to the intensive-care unit and administered fluids, and his blood pressure normalized.</p> <p>On Sept. 23, 2013, Johnston's hemoglobin and hematocrit levels, an indication of oxygen and red blood cells in the blood, dropped again. He underwent a transfusion. Three days later, the hemoglobin and hematocrit levels were low again. There also blood was in his stool. Doctors concluded that Johnston was bleeding internally. A gastroenterologist, Dr. Suraj Naik performed an esophagogastroduodenoscopy, which involves running a small tube into the body to view the body's organs. A fistula was discovered in the upper rear part of the stomach.</p> <p>Naik consulted a surgeon, Dr. Kory Jones, about a fistula repair. Jones saw the patient on Sept. 27, 2013, and, the next morning, she spoke on the phone with two senior doctors and asked their assistance in the operation. Neither was available until Sept. 30, 2013. The patient was stable, and Jones believed that the bleeding had stopped, so the surgery was postponed.</p> <p>On Sept. 28, 2013, Johnston bled to death. He had been stable until just a few minutes before his death. The medical examiner concluded that the fistula was the cause of Johnston's fatal bleed.</p> <p>Johnston's widow, Angela Herrera, acting individually and in behalf of her husband's estate, sued Vestal, Jones and Naik. The lawsuit alleged medical malpractice.</p> <p>The plaintiffs' pathology expert reviewed the autopsy records and photographs and agreed with the medical examiner in blaming the fistula for Johnston's death, and the plaintiffs' gastroenterology and general surgery experts testified that it was negligent to delay repairing the fistula.</p> <p>Plaintiffs' counsel argued that, though Vestal was out of town from Sept. 18 through Sept. 27, he was still Johnston's attending physician. Vestal knew of the fistula no later than Sept. 27, and, according to the plaintiffs' gastroenterology and general surgery experts, he should not have let the surgery be delayed until the following week. The experts opined that, if Jones was too inexperienced to perform the surgery and her partners were unavailable, another surgeon should have been found.</p> <p>The plaintiffs' gastroenterology expert also opined that Johnston had a bleeding gastric ulcer as early as Sept. 23 and that the defendants were negligent for failing to diagnose the internal bleeding for almost four days.</p> <p>Plaintiffs' counsel also argued that Naik knew on Sept. 26 that Johnston was bleeding internally, and the plaintiffs' gastroenterology expert testified that Naik should have performed the esophagogastroduodenoscopy then instead of waiting. Plaintiffs' counsel claimed that, on Sept. 26, Jones' partners would have been available to repair the fistula.</p> <p>Plaintiffs' counsel suggested that the jury find negligence and comparative responsibility of 50 percent on Naik, 30 percent on Vestal and 20 percent on Jones.</p> <p>Vestal denied that Johnston was bleeding internally during the day after the nephrectomy. He claimed that, after learning of the internal bleeding on Sept. 27, he flew back and saw Johnston that day. He also contended that it was not his place to second-guess the decision of Jones and her partners to delay the fistula repair.</p> <p>Vestal further noted that he had given Johnston the option of waiting a month to have the kidney removed because then Vestal would be able to be present in the weeks after the surgery, but that Johnston preferred not to wait.</p> <p>Jones' general surgery expert testified about the difficulty of a fistula repair and that waiting did not violate the standard of care. He also opined that Naik did not violate the standard of care and that when to operate was up to the surgeon, not Naik.</p> <p>The defense also questioned whether the fatal bleeding was from the fistula at all, in part because the blood loss was so great. They suggested that the fatal bleeding was related to the original surgery and that it was a known risk of that surgery.</p> <p>Naik denied that it was negligent to perform the esophagogastroduodenoscopy on Sept. 27 rather than Sept. 26, which was the only suggestion that he did anything wrong.</p> <p>Jones' radiology expert testified that the main risk of a gastric fistula is peritonitis, not internal bleeding. Peritonitis can result if gastric contents reach the peritoneal cavity, which this expert opined did not happen in this case because the gastric were emptying into the retroperitoneum, a space in the abdominal cavity.</p>
Injury:	<p>Johnston bled to death internally over the course of a few minutes. He was survived by his wife.</p> <p>Plaintiffs' counsel asked the jury to award the widow \$521,145 for past pecuniary loss, \$1,611,033 for future pecuniary loss, \$250,000 for past loss of companionship and society, nothing for future loss of companionship and society, \$250,000 for past mental anguish, and unspecified damages for future mental anguish. He also asked the jury to award unspecified damages for Johnston's pain and suffering.</p> <p>The defendants did not strongly dispute damages.</p> <p>Before trial, Jones and the plaintiffs entered into a high/low stipulation. The parameters were confidential.</p>
Result:	<p>The jury rendered a defense verdict. The plaintiffs therefore took nothing against Naik and Vestal, but as to Jones, the plaintiffs recovered the undisclosed "low" parameter of the high/low stipulation.</p> <p>Plaintiffs' counsel spoke with jurors after the verdict and said the jurors felt that it was not reasonably foreseeable that Johnston would bleed to death without warning and so soon after his vital signs were stable.</p>
Judge:	<p>Tom Lowe</p>

Trial Length:

3 weeks

Defense argued drug suspect resisted arrest before he died

February 12, 2020

Amount: \$0 **Type:** Verdict-Defendant

Court: United States District Court, Northern District, Fort Worth, TX

Case Name: Donneika Goodacre-Darden, Individually and as the surviving wife of Jermaine Darden, Eric C. Darden as the Administrator of the Estate of Jermaine Darden, Harriet A. Darden, Individually and as surviving parent of Jermaine Darden, Charles H. Darden, Individually and as surviving parent of Jermaine Darden, D.D.D. and D.N.D., Minors, By and Through Their Guardian Regina Crockett v. The City of Fort Worth, Texas, W.F. Snow and J. Romero, No. 4:15-CV-221

Plaintiff Attorney(s):

- Daryl K. Washington; Washington Law Firm P.C.; Dallas TX for Donneika Goodacre-Darden, Estate of Jermaine Darden, Harriet A. Darden, Charles H. Darden, Daylin Darden, Dashawn Darden, Regina Crockett
- Matthew J. Kita; ; Dallas TX for Donneika Goodacre-Darden, Estate of Jermaine Darden, Harriet A. Darden, Charles H. Darden, Daylin Darden, Dashawn Darden, Regina Crockett

Defense Attorney(s):

- Kenneth E. East; Fort Worth, TX for W.F. Snow
- D. Lee Thomas; Fort Worth, TX for J. Romero
- None reported; Fort Worth, TX for City of Fort Worth, Texas

Facts: On May 17, 2013, plaintiffs' decedent Jermaine Darden, 34, was at his Fort Worth home when a tactical team from the Fort Worth Police Department executed a "no knock," or "no announce," search warrant. The warrant was based in part on an affidavit from an undercover agent stating that he had made four drug buys from Darden at the house, including two for cocaine. About 12 adults, including Darden, and two minors were inside when the warrant was executed. A battering ram was used to gain entry. Two police cameras were recording. W.F. Snow, the first officer through the door, ordered everyone inside to get down on the floor. Snow used force on Darden, including two applications of a conducted energy device (CED). J. Romero, one of the officers stationed outside, entered and used force on Darden, including punching him once in the face, placing him face-down on the floor, putting his knee on Darden's back and handcuffing him. Darden was then placed in a sitting position and, at some point, he was noted to be nonresponsive. An ambulance arrived and took him to the hospital, where he was pronounced dead. Cocaine, heroin and marijuana were found in the house, but no weapons.

Darden's family sued Snow, Romero and the city of Fort Worth. The lawsuit alleged that Snow and Romero violated Darden's civil rights under 42 USC § 1983 by using excessive force. The court granted a summary judgment for the city.

Darden was sitting on the couch when police entered and ordered everyone onto the floor. His family alleged that he raised his hands to surrender and Snow forced him onto the floor. Darden would not stay down, but the plaintiffs denied that he resisted or failed to comply. Rather, they said, he had asthma and was panicking because he could not breathe. He was just trying to find a position in which he could breathe, the plaintiffs claimed. Before and during the use of force on Darden, persons at the scene were telling the officers that Darden had asthma.

Also, the plaintiffs maintained that Darden, who was obese, was unable to breathe during the time that he was face-down on the floor with his hands pinned behind his back.

Counsel for Darden's family argued that he would not have died if officers had not used a CED on him and forced him onto his stomach.

The jury saw photos of Darden, who was black. The officers, who were white, attended trial in person. The court granted a motion in limine regarding race.

The defense denied excessive force and argued that Darden was the only person in the house who failed to comply with the order to get down on the floor. The defense argued that he resisted and fought with police up until the moment he was handcuffed. Even after the CED was used, he kept getting up, the defense argued. He was face-down when handcuffed but was placed almost immediately in a sitting position to avoid breathing problems, defense counsel said. According to the defense, only later was he observed to be nonresponsive. The defense also noted that Darden weighed about 340 pounds and that Snow weighed about 160.

The defense also emphasized the autopsy report and the supporting testimony of the Tarrant County Medical Examiner who signed it. The report concluded that Darden's manner of death was natural; that he had a severe underlying, undiagnosed cardiac condition but for which he would not have died in this incident. The cause of death was listed as a sudden cardiac failure. Also, the medical examiner testified that, based on the autopsy, Darden was not having an asthma attack when he died, and that the autopsy showed little to no evidence of chronic asthma. She also testified that a synthetic cannabinoid, a potential cardiotoxin, was found in Darden's system.

The jury charge included lengthy instructions for the jury to use in determining whether the injury resulted directly and only from a use of force that was clearly excessive, and in determining whether the excessiveness was clearly unreasonable.

Injury: Darden was pronounced dead at the hospital. Darden was survived by his wife, plaintiff Donneika Goodacre-Darden; his son, plaintiff Dashawn Darden, who was in his teens; his son, plaintiff Daylin Darden, who was a few years younger; his mother, plaintiff Harriet Darden; and his father, plaintiff Charles H. Darden. The minors were wards of their maternal grandmother, plaintiff Regina Crockett. Darden's father died before the trial.

The plaintiffs alleged that Darden's sons were happy and outgoing before their father's death and afterward became depressed.

Darden's widow, sons and mother sought damages for past and future pecuniary loss, past and future loss of companionship and society and past and future mental anguish.

The estate sought damages for funeral and burial expenses and Darden's physical pain and mental anguish, as well as punitive damages.

The defense disputed at least some of the damage allegations.

Result: The jury rendered a defense verdict. The jury did not find that the officers used excessive force.

Judge: John McBryde

Trial Length: 3 days

Defense claimed speeding driver caused fatal accident

February 21, 2020

Amount:	\$0	Type:	Verdict-Defendant
Court:	Brazos County District Court, 272nd, TX		
Case Name:	Mary Tello Individually, as as proposed administrator of the estate of Juan Francisco Morales, deceased, and Juan Manuel Morales Espinoza v. C.R. England and Benjamin Brown, No. 18-001327-CV-272		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Steven J. Kherkher; Kherkher Garcia Fass Hawley; Houston TX for Mary Tello, Estate of Juan Francisco Morales• Richard T. Fass; Kherkher Garcia Fass Hawley; Houston TX for Mary Tello, Estate of Juan Francisco Morales• Kevin C. Haynes; Kherkher Garcia Fass Hawley; Houston TX for Mary Tello, Estate of Juan Francisco Morales		
Defense Attorney(s):	<ul style="list-style-type: none">• Larry D. Warren; Naman, Howell, Smith & Lee; San Antonio, TX for Benjamin Brown, C.R. England• Georgina Buckley; Naman, Howell, Smith & Lee; San Antonio, TX for Benjamin Brown, C.R. England		
Facts:	<p>During the evening of Feb. 22, 2018, plaintiffs' decedent Juan Francisco Morales, a 27-year-old unemployed man, was driving a pickup truck north on North Texas Avenue, in Bryan. There were two lanes in each direction. Benjamin Brown, operating an 18-wheeler, exited a parking lot on Morales' right and intended to execute a left turn onto the southbound side of the roadway. Morales struck the left side of the trailer. Morales suffered a fatal injury. Brown was in the course and scope of his employment with a trucking company, C.R. England.</p> <p>Morales' parents and estate sued Brown and C.R. England. The lawsuit alleged that Brown was negligent in the operation of the tractor-trailer and that C.R. England was liable on theories of negligent hiring, training, supervision and entrustment, as well as respondeat superior.</p> <p>The estate's accident-reconstruction expert opined that Brown failed to yield the right of way and that he was blocking the northbound lanes for up to 30 seconds before the impact. The estate's counsel argued that Brown and C.R. England alone were negligent.</p> <p>The defense contended that the accident was caused by the negligence of Morales alone. The defense's accident-reconstruction expert opined that Morales was traveling at a high rate of speed, which he failed to control. Photos showed severe damage to Morales' vehicle. Also, synthetic cannabinoids were found in his system. The defense's toxicology expert testified about the impairment caused by such substances.</p>		
Injury:	<p>Morales sustained multiple trauma. He died without regaining consciousness. He was survived by his mother, plaintiff Mary Tello, 48, and his father, plaintiff Juan Manuel Morales Espinoza. He lived in Bryan with his mother, who sought damages for past and future pecuniary loss, past and future loss of companionship and society, and past and future mental anguish. She testified that they had a close relationship. The court entered a directed verdict against the father's claims.</p> <p>The estate sought damages for Morales' conscious pain and suffering and for funeral and burial expenses.</p> <p>Morales' parents and the estate's counsel asked the jury to award a total of \$6 million to \$7 million.</p> <p>The defense disputed the estate's claim of conscious pain and suffering and argued that Morales died instantly. The defense also questioned the closeness of his relationship with his mother and pointed to his criminal convictions and jail time.</p>		
Result:	The jury rendered a defense verdict. It did not find that the negligence, if any, of either Brown and C.R. England proximately caused the incident, and it found that Morales' negligence did.		
Judge:	Travis Bryan		
Trial Length:	1 weeks		

Defense: Workers' negligence led to fatal crushing by utility pole

April 14, 2022

Amount:	\$0	Type:	Verdict-Defendant
Court:	Burnet County District Court, 424th, TX		
Case Name:	Tina Sheesley, Individually and as Personal Representative of the Estate of Patrick Sheesley, and Burton Sheesley and Jessica Brooks a/n/f of R.S., a Minor, and Amanda Sheesley a/n/f of B.S., a Minor, and Sara Mobley, Individually, as Wrongful Death Beneficiaries of Patrick Sheesley, Deceased v. JRD, LLC d/b/a Maslonka Powerline Services and Pedernales Electric Cooperative, No. 50774		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Dax F. Garza; The Law Offices of Dax F. Garza; Houston TX for R. S., B. S., Sara Mobley• Graham Sutliff; Sutliff & Stout; Houston TX for Tina Sheesley,, Estate of Patrick Sheesley,, Burton Sheesley• Scott Sanes; Sanes & Larkin; Pearland TX for Garrett Weatherford,, Estate of Bryan Weatherford,, Raye Dawn Blackwood,, Kara Weatherford• Christopher Johns; Lapeze & Johns; Houston TX for Garrett Weatherford,, Estate of Bryan Weatherford,, Raye Dawn Blackwood,, Kara Weatherford		
Defense Attorney(s):	<ul style="list-style-type: none">• Chaz D. Klaes; Donato Brown Pool & Moehlmann PLLC; Houston, TX for JRD LLC• Tommy Gillaspie; Donato Brown Pool & Moehlmann PLLC; Houston, TX for JRD LLC• Jessica Z. Barger; Wright Close & Barger; Houston, TX for JRD LLC• Jonathan Lehrmann; Wright Close & Barger; Houston, TX for JRD LLC• Lisa Wright; Wright Close & Barger; Houston, TX for JRD LLC• Emily Freeman; Wright Close & Barger; Houston, TX for JRD LLC		
Facts:	<p>On June 1, 2019, plaintiffs' decedent Patrick Sheesley, 30, a lineman, and plaintiffs' decedent Bryan Weatherford, 49, a lineman, were at a job site when a 10,000-pound metal utility pole fell on them while being offloaded from a trailer. Both men were killed. Sheesley was survived by his wife, plaintiff Tina Sheesley; his two minor sons; and his parents, plaintiff Sara Mobley and plaintiff Burton Sheesley. Weatherford was survived by his wife, plaintiff Raye Dawn Blackwood, and his adult children, plaintiff Garrett Weatherford and plaintiff Kara Weatherford.</p> <p>Sheesley and Weatherford were employed by JRD LLC, doing business as Maslonka Powerline Services, which had workers' compensation insurance. Pedernales Electric Cooperative had hired Maslonka to install the utility pole.</p> <p>The estates and survivors sued Maslonka and Pedernales in Travis County, and the case was transferred to Burnet County. The lawsuit alleged that Maslonka was grossly negligent in its training and supervision of its employees and in failing to provide safe equipment. The claims against Pedernales settled for a confidential amount before trial. Also, Sheesley's parents were no longer in the case at the time of trial.</p> <p>Maslonka denied gross negligence and contended that Sheesley and Weatherford were the sole proximately causes of their own deaths. Maslonka argued that Sheesley and Weatherford were standing in the "bite," a pinch point, where they knew they were not supposed to be.</p>		
Injury:	Sheesley and Weatherford were killed. Against Maslonka, the widows, estates and children sought punitive damages only.		
Result:	The case went to trial against Maslonka only.		
	The jury rendered a defense verdict. Specifically, it did not find that Maslonka's negligence, if any, proximately caused the incident. The gross negligence question was not answered.		
Judge:	Evan Stubbs		
Trial Length:	0		

Defense: Doctor not liable for patient's death after prescribing Seroquel

March 15, 2023

Amount:	\$0	Type:	Verdict-Defendant
Court:	Harris County District Court, 215th, TX		
Case Name:	Sami Myers and Eric Gambol, Individually and as Heirs and Representatives of the Estate of Lilly Myers, Deceased v. Lawrence Gordon Root, M.D., No. 2016-09184		
Plaintiff Attorney(s):	<ul style="list-style-type: none">• Scott C. Lannie; Law Offices of Scott C. Lannie P.C.; Baytown TX for Sami Myers,, Eric Gambol,, Estate of Lilly Myers		
Defense Attorney(s):	<ul style="list-style-type: none">• James B. Edwards; Edwards & Garcia; Stafford, TX for Lawrence Gordon Root M.D.• Stacy T. Garcia; Edwards & Garcia; Stafford, TX for Lawrence Gordon Root M.D.		
Insurers:	<ul style="list-style-type: none">• The Doctors Co.		
Facts:	<p>In early March 2014, plaintiffs' decedent Lilly Myers, 50, unemployed, died at her Harris County apartment, where her body was found about 2.5 weeks later. Myers was bipolar and had been under the care of psychiatrist Dr. Lawrence Gordon Root off and on since 2003. Myers was survived by her son, plaintiff Eric Gambol, 18 or 19, and her daughter, plaintiff Sami Myers, mid-30s.</p> <p>An autopsy was performed, and Myers' cause of death was listed as Seroquel toxicity. Seroquel is a brand name for quetiapine fumarate, an antipsychotic. Root had prescribed Myers Seroquel as early as 2003 and as recently as December 2013. The most recent prescription was on Feb. 24, 2014, for 1,500 milligrams a day, and she apparently took the medication as prescribed. The dosage had been increased in December from 1,200 to 1,500 milligrams.</p> <p>The plaintiffs sued Root. The lawsuit alleged that he was negligent in his treatment of Myers. Root died in 2021, and the case proceeded against his estate.</p> <p>The plaintiffs claimed that Root was negligent in prescribing 1,500 milligrams of Seroquel a day, given that 800 milligrams was the maximum dosage recommended for treatment of bipolar disorder by the Physicians Desk Reference. According to the plaintiffs, Root prescribed the drug in increasingly large doses to Myers over the course of his treatment, eventually causing an overdose.</p> <p>The defense denied negligence. The defense expert, a psychiatrist, testified that psychiatrists are not confined to FDA maximum recommended dosages and are able to prescribe medications at a therapeutic level for each individual patient, and that Root was not negligent for doing so.</p> <p>The defense also argued that Myers was a longtime patient of Root's; that she had multiple comorbidities, including HIV, hepatitis C and a history of methamphetamine use, that affected her symptoms and treatment plan; that various doctors had increased her Seroquel dosage over the years, while monitoring it, to address her recurring symptoms and stabilize her condition; and that her dosage had exceeded the maximum for a long time without any complications.</p> <p>The defense also argued that, because of how long it took to discover her body, there was insufficient evidence to show that Myers' death resulted from Seroquel toxicity.</p> <p>Defense counsel also noted that, because of her financial difficulties, Myers went long stretches of time without seeing Root. Her financial condition also dictated what medications he could prescribe for her, the defense argued.</p>		
Injury:	<p>Myers died, and the autopsy doctor concluded that the cause of death was Seroquel toxicity. Myers was survived by her two children. They each sought damages for past and future loss of companionship and society and past and future mental anguish.</p> <p>Root testified in deposition that Myers appeared to be socially isolated.</p>		
Result:	The jury rendered a defense verdict. Specifically, it did not find that Root's negligence, if any, proximately caused Myers' death.		
Judge:	Elaine Palmer		
Trial Length:	3 days		