



Teenage pedestrian fatally struck by turning vehicle

Type: Verdict-Plaintiff

Amount: \$10,750,000

State: California

Venue: San Diego County

Court: Superior Court of San Diego County, San Diego, CA

Injury Type(s):

- *other* - death; loss of society; multiple trauma
- *mental/psychological* - emotional distress

Case Type:

- *Wrongful Death*
- *Motor Vehicle* - Crosswalk; Pedestrian; Intersection; Question of Lights

Case Name: Luz Mendez, Salvador Mendez and Elias Mendez v. City of San Diego, Cristian Alejandro Salinas Munoz, Jose Alberto Grimaldo Lopez, Transportes Grimaldo Montes, BCS Produce Company, Inc. and Prime Time International, No. 37-2014-00037263-CU-PA-CTL

Date: February 08, 2017

Plaintiff(s):

- Luz Mendez (Female)
- Elias Mendez (Male, 19 Years)
- Salvador Mendez (Male)
- Estate of Noemi Mendez (Female, 15 Years)

Plaintiff Attorney(s):

- C. Michael Alder; AlderLaw, P.C.; Los Angeles CA for Estate of Noemi Mendez, Luz Mendez, Salvador Mendez, Elias Mendez
- Laura F. Sedrish; AlderLaw, P.C.; Los Angeles CA for Estate of Noemi Mendez, Luz Mendez, Salvador Mendez, Elias Mendez
- Mohammad R. Kazerouni; Kazerouni Law Group, APC; Costa Mesa CA for Estate of Noemi Mendez, Luz Mendez, Salvador Mendez, Elias Mendez

Plaintiff Expert(s):

- V. Paul Herbert C.P.S.A.; Truck Industry Policy & Procedures; Quincy, CA called by: C. Michael Alder, Laura F. Sedrish, Mohammad R. Kazerouni
- David J. King P.E.; Accident Reconstruction; Los Angeles, CA called by: C. Michael Alder, Laura F. Sedrish, Mohammad R. Kazerouni
- Alison G. Vredenburgh Ph.D.; Ergonomics/Human Factors; San Diego, CA called by: C. Michael Alder, Laura F. Sedrish, Mohammad R. Kazerouni

Defendant(s):

- City of San Diego
- State of California
- Prime Time International
- BCS Produce Company, Inc.
- Agricola La Mision SA De CV
- Jose Alberto Grimaldo Lopez
- Transportes Grimaldo Montes
- Mario Alberto Garcia Murillo
- Cristian Alejandro Salinas Munoz

Defense Attorney(s):

- Paul R. Fine; Daniels, Fine, Israel, Schonbuch & Lebovits, LLP; Los Angeles, CA for Cristian Alejandro Salinas Munoz, Jose Alberto Grimaldo Lopez, Transportes Grimaldo Montes
- None reported; Los Angeles, CA for City of San Diego, BCS Produce Company, Inc., Prime Time International, Agricola La Mision SA De CV, Mario Alberto Garcia Murillo, State of California

Defendant Expert(s):

- Larry E. Miller; Trucking Industry; La Verne, CA called by: for Paul R. Fine
- Edward C. Fatzinger, Jr. M.S., P.E.; Accident Reconstruction; Torrance, CA called by: for Paul R. Fine
- Joseph Cohen Ph.D.; Ergonomics/Human Factors; San Diego, CA called by: for Paul R. Fine

Facts:

On Jan. 29, 2014, plaintiffs' decedent Noemi Mendez, 15, a high school student, was walking home from school, in San Diego, with her older brother, plaintiff Elias Mendez, 19. When Noemi attempted to cross a road within a crosswalk, she was run over by a vehicle operated by Cristian Salinas Munoz. Noemi died at the scene. Her brother, Elias Mendez, witnessed the events, as he was right next to his sister at the time of the incident.

Based on eyewitness testimony, the police report listed Noemi as being at fault for the accident due to entering a crosswalk on a red, blinking pedestrian sign and being on her cellphone.

Noemi's parents, Luz Mendez and Salvador Mendez, and her brother, Elias Mendez, sued Salinas Munoz; Salinas Munoz's employer, Transportes Grimaldo Montes; the owner of Transportes Grimaldo Montes, Jose Grimaldo Lopez; the maintainer of the intersection, the city of San Diego; the company that hired Transportes Grimaldo Montes, Prime Time International; and the owner of the cooling facility where Salinas Munoz was heading, BCS Produce Co. Inc. The Mendez family alleged that Salinas Munoz was negligent in the operation of his vehicle. It was determined that Prime Time International hired Transportes Grimaldo Montes to deliver bell peppers from Mexico to a cooling facility owned by BCS Produce Co. Inc. The parties also agreed that Munoz was in the course and

scope of his employment with Transportes Grimaldo Montes at the time of the accident. Thus, the Mendez family alleged that the Lopez and the defendant companies were liable for Salinas' Munoz's actions.

The city of San Diego, Prime Time, and BCS Produce all settled out of the case. In addition, Agricola La Mision SA De CV, Mario Garcia Murillo (who was doing business as M. Garcia and Garcia Trucking), and the state of California were added as defendants and then ultimately dismissed from the case. Thus, the matter continued against Salinas Munoz, Lopez, and Transportes Grimaldo Montes only.

Elias Mendez continuously maintained that he and his sister were rightfully within a crosswalk on a green, pedestrian "Walk" sign well before the tragedy unfolded.

Plaintiffs' counsel contended that Salinas Munoz was negligent for failing to yield to the pedestrians, Noemi and Elias Mendez, who had a green light at the intersection and were already in the crosswalk. Counsel noted that there was surveillance video from a corner gas station 7-11 store that showed that Noemi and her brother arrived at the intersection 30 to 40 seconds before Salinas Munoz and that there was a white van in front of Salinas Munoz. The video also showed Noemi and her brother in the intersection for 10 to 11 seconds before Noemi was struck.

Both the plaintiffs' and defense accident reconstruction experts put Noemi and her brother in the intersection on a green light at the time of the accident. Plaintiff's counsel argued that although the police had the video, they based their decision, as stated in the police report, on alleged eyewitness testimony. According to plaintiff's counsel, the defense's human factors expert reluctantly agreed that Noemi and her brother did nothing wrong.

Salinas Munoz claimed that his vehicle reached the intersection first and that he entered it on a green light. He also claimed that he saw Noemi on her cellphone, looking toward him, not crossing, and that he did not see Noemi or her brother in the roadway at the time he reached the intersection. Salinas Munoz further claimed that since Noemi and her brother had a blinking, red pedestrian light and were not crossing when he reached the intersection, he believed it was safe to make his turn.

Thus, defense counsel argued that Noemi and her brother were negligent for entering the intersection on a flashing, red pedestrian light and that Noemi failed to keep a proper lookout, as she stepped into the roadway while on her cellphone.

Injury:

Noemi was ran her over, during which the back wheel of the vehicle rolled over her head. Noemi subsequently sustained multiple traumatic injuries and died.

According to plaintiff's counsel, the accident involved a very gruesome death and that what Elias Mendez saw was very graphic. Counsel noted that the jury was shown one picture of the accident for 10 seconds before it was removed and that Elias Mendez is still haunted by the accident. Plaintiff's counsel contended that, to this day, Noemi's brother has insomnia and major depression. Counsel also contended that Elias Mendez received some counseling in the past, but that due to financial constraints, is not undergoing treatment currently.

Plaintiff's counsel argued that although the parents were divorced, the family was still tight-knit. All of the family members are U.S. citizens and that at the time of the accident, the family, including Noemi (the youngest) and Elias Mendez's older sister, lived in San Diego. However, counsel argued that after the accident, Noemi's mother had a difficult time and stopped working, causing her to move to Tijuana with her son, Elias Mendez, to make ends meet. According to plaintiff's counsel, Elias Mendez now supports his mother.

Thus, Noemi's parents sought recovery of wrongful death damages due to the loss of their youngest daughter, Noemi. Noemi's brother, Elias Mendez, presented a Dillion v. Legg claim, seeking recovery for his emotional distress as a result of witnessing the accident.

Result:

The jury found that Munoz was negligent and that his negligence was a substantial factor in causing harm to the plaintiffs. It also found that there was no contributory negligence on the part of Noemi. The jury determined that the plaintiffs' damages totaled \$10.75 million, including \$3.25 million to Noemi's father, Salvador Mendez; \$3.5 million to Noemi's mother, Luz Mendez; and \$4 million to Noemi's brother, Elias Mendez.

Trial Information:

Judge: Ronald L. Styn

Trial Length: 7 days

**Trial
Deliberations:** 1.5 days

**Editor's
Comment:** This report is based on information that was provided by plaintiffs' counsel. Defense counsel did not respond to the reporter's phone calls.

Writer Priya Idiculla