



## Negligence-Contracts-Breach of Warranty Products Liability-Breach of Warranty

**Type:** Settlement

**Amount:** \$300,000

**State:** Texas

**Venue:** Gray County

**Court:** Gray County District Court, 223rd, TX

**Case Type:**

- *Negligence*
- *Contracts - Breach of Warranty*
- *Products Liability - Breach of Warranty*

**Case Name:** James Kirk Douglass & Bobbi Lynn Douglass, Ind. & a/n/f of Jimmy Douglass, a minor, and Kim Lewis Sewell vs. Atlas Energy Corporation d/b/a Energas Company; Layne Clark, No.

**Date:** September 15, 1997

**Plaintiff(s):**

- Kim Lewis Sewell (Female, 38 Years)
- James Kirk Douglass (Male, 41 Years)
- James Kirk Douglass & Bobbi Lynn Douglass, Ind. & a/n/f of Jimmy Douglass, a minor (Male, 7 Years)

**Plaintiff Attorney(s):**

- David Matthews; Abraham, Watkins, Nichols, Ballard & Friend; Houston TX for James Kirk Douglass
- Michael A. Warner; Warner, Finney & Warner; Pampa TX for James Kirk Douglass
- Matt Martindale; ; for James Kirk Douglass

**Plaintiff Expert(s):**

- Judd Clayton Jr.,; Insurance; Houston, TX called by:

**Defendant(s):**

- Atlas Energy Corporation d/b/a Energas Company; Layne Clark

**Defense  
Attorney(s):**

- W. C. Bratcher; Crenshaw, Dupree & Milam; Lubbock, TX for Atlas Energy Corporation d/b/a Energas Company; Layne Clark
- David Holt; Waters, Holt & Fields; Pampa, TX for Atlas Energy Corporation d/b/a Energas Company; Layne Clark

**Injury:**

Kirk Douglass and Kim Sewell were burned in a house fire on 12-11-93. They were sitting in the kitchen drinking when an explosion occurred. It apparently originated at a T-connection where gas came into the house. One end went to the stove, the other was closed by a valve. The valve somehow was open and had filled the room with gas. In any case Kirk, 41, and Kim Lewis Sewell, 38, a friend of Kirk's, suffered multiple burns. Kirk had \$57,540 in medical, Kim \$18,844 in medical. Both were unemployed at the time, but were scheduled to begin work in two days. Kirk claimed \$45,000 in lost wages, Kim \$30,000 as a pipe welder. Bobbi Douglass, Kirk's wife, and Jimmy Douglass, 7, their son, were in bed at the time. They had claims for mental anguish. Energas had turned the gas on seven days prior to the explosion. Plts alleged negligence for not capping or plugging the end of the connection controlled by the valve. They also claimed the gas did not have an adequate quantity of mecaptain, an odorizer. The Douglass' were renting the home from Layne Clark. Plts claimed he failed to warn of a dangerous condition. Defs argued contributory negligence said both men were so thoroughly intoxicated they couldn't have smelled gas no matter the level of odorizer. It was unknown as to how the valve came to be open Defs opined it may have been knocked to the open position by a child or the family dog.

**Result:**

Settled in mediation: \$7,500 to Jimmy Douglass. \$112,500 to Kirk Douglass. \$80,000 to Kim Sewell. \$100,000 attorneys' fees. \$300,000 Total Settlement. Pre-mediation demand: \$975,000; Pre-mediation offer: None

**Trial Information:**

**Writer**

## Real Property-

**Type:** Verdict-Plaintiff

**Amount:** \$32,873

**State:** Texas

**Venue:** Gray County

**Court:** Gray County District Court, 223rd, TX

**Case Type:**

- *Real Property*

**Case Name:** Clarence Anderson, et al. vs. Makar Production Company, No.

**Date:** March 30, 1998

**Plaintiff(s):**

- Clarence Anderson, et al. (Female)

**Plaintiff Attorney(s):**

- James Douglas Ray; Gammage, Hampton, Marcin & Ray; Austin TX for Clarence Anderson, et al.

**Defendant(s):**

- Makar Production Company

**Defense Attorney(s):**

- Gene Martindale; Martindale & Martindale; Pampa, TX for Makar Production Company

**Injury:** The eight Plaintiffs owned land in fee simple. There is a reservoir on the property. The Defendant, Makar Production Company, has an oil and gas lease on the land. The Railroad Commission granted a temporary permit to the Makar allowing it to dump into the reservoir over the landowners' objections. The legal question of who owns the rights to make a reservoir into a commercial disposal well was put before the judge.

**Result:** Bench trial, Court ruled for Plaintiff, awarded: \$1,573.24 actual damages. \$31,300.00 attorney's fees. \$32,873.24 Total Award.

**Trial Information:**

**Judge:** Lee Waters

**Trial Length:** 0

**Writer**

## Motor Vehicle-Negligence-Negligent Entrustment

**Type:** Settlement

**Amount:** \$27,500

**State:** Texas

**Venue:** Gray County

**Court:** Gray County District Court, 223rd, TX

**Case Type:**

- *Motor Vehicle*
- *Negligence - Negligent Entrustment*

**Case Name:** Leslie Weatherly and Billie Weatherly vs. Mindy Michelle Stowers and Melinda Stowers, No.

**Date:** September 27, 1999

**Plaintiff(s):**

- Billie Weatherly (Female)
- Leslie Weatherly (Male)

**Plaintiff Attorney(s):**

- Jay Harvey; ; Austin TX for Leslie Weatherly

**Defendant(s):**

- Mindy Michelle Stowers and Melinda Stowers

**Defense Attorney(s):**

- Daniel W. Burrows; Peterson, Farris, Doores & Jones; Amarillo, TX for Mindy Michelle Stowers and Melinda Stowers
- David Holt; Pampa, TX for Mindy Michelle Stowers and Melinda Stowers

**Insurers:**

- Trinity Insurance

**Injury:**

Leslie Weatherly was riding his motorcycle eastbound on 18th street in Pampa. Mindy Stowers was at the stop sign on Grape street at 18th. Mindy pulled out to turn right and did so in front of the motorcycle. To avoid hitting her, the Plaintiff laid his motorcycle down. He did not collide with Defendant's car. Plaintiffs alleged that the Defendant driver was negligent in her failure to keep a proper lookout and her failure to observe traffic signs or drive defensively. Plaintiff accused the Defendant driver with driving a motor vehicle unlawfully and without a license. The Plaintiff contended that the mother, Melinda Stowers negligently entrusted the vehicle with her unlicensed daughter. Defendants claimed Mr. Weatherly was guilty of contributory negligence because of the way the street is constructed and the vegetation growth that made it impossible for the two to see each other; argued he was riding too for conditions, i.e. limited visibility.

Leslie Weatherly - soft tissue neck and shoulder injury requiring epidural injections. His treatment also included chiropractic care. His medical specials totaled approximately \$7,100 with \$5,100 of it being chiropractic care. Defendants contended Mr. Weatherly was not as injured as he claimed - he was photographed jogging shortly after the accident. Billie Weatherly - had a claim for loss of consortium.

**Result:**

Case settled prior to trial for \$27,500. The \$25K policy limit was paid by the insurance carrier and the final \$2,500 was paid by the father of the Defendant driver. Carrier: Trinity Insurance

**Trial Information:****Judge:**

Lee Waters

**Writer**

## Wrongful Death-Medical Malpractice-

**Type:** Settlement

**Amount:** \$20,000

**State:** Texas

**Venue:** Gray County

**Court:** Gray County District Court, 223rd, TX

**Case Type:**

- *Wrongful Death*
- *Medical Malpractice*

**Case Name:** Michael and Stephanie Bradshaw, Individually, and o/b/o The Estate of Chelby Vonne Bradshaw, Deceased vs. Hugh Ker Thompson, M.D. and Columbia Medical Center of Pampa, No.

**Date:** October 11, 1999

**Plaintiff(s):**

- Michael and Stephanie Bradshaw, Individually (Female)
- Michael and Stephanie Bradshaw, o/b/o The Estate of Chelby Vonne Bradshaw, Deceased (Female)

**Plaintiff Attorney(s):**

- David P. Matthews; Abraham, Watkins. Nichols, Sorrels, Matthews & Friend; Houston TX for Michael and Stephanie Bradshaw, Individually
- Michael A. Warner; Michael A. Warner, P.C.; Amarillo TX for Michael and Stephanie Bradshaw, Individually

**Defendant(s):**

- Hugh Ker Thompson, M.D. and Columbia Medical Center of Pampa

**Defense Attorney(s):**

- Terri S. Harris; Ewbank & Byrom, P.C.; Austin, TX for Hugh Ker Thompson, M.D. and Columbia Medical Center of Pampa
- Jim Ewbank II; Ewbank & Byrom, P.C.; Austin, TX for Hugh Ker Thompson, M.D. and Columbia Medical Center of Pampa

**Insurers:**

- Physicians Exchange

**Injury:**

On September 12, 1996, decedent's parents, Michael and Stephanie Bradshaw, presented their four-month-old, prematurely born child to Columbia Medical Center in Pampa. On call was a contract doctor from Houston, Dr. Hugh Ker Thompson, who suspected the child had an upper respiratory condition. He released her to go back home that afternoon. Later that evening (about 7:30 p.m.), the parents brought their child back to the doctor because her condition was not improving - she kept crying and had swelling under her chin. The doctor examined her again and again released the infant to her parents. The next morning, at approximately 2:30 a.m., the parents brought their child in again, but this time she wasn't breathing. The doctor pronounced the child dead. The autopsy would later reveal that the child had died from meningitis. Plaintiffs alleged that the doctor and the hospital were negligent in failing to perform a spinal tap that would reveal possible indications of meningitis. Plaintiffs also claimed that when the doctor saw the child a second time and she wasn't improving and the presence of swelling was obvious, he should have exercised the ordinary standard of care and hospitalized the child. Defendants denied any fault. Dr. Thompson testified he felt the child was only suffering from an upper respiratory condition. Death.

**Result:**

Case settled prior to trial for \$20,000. Carrier: Physicians Exchange

**Trial Information:****Judge:**

Lee Waters

**Writer**



## Trailer hit from behind at intersection

**Type:** Verdict-Plaintiff

**Amount:** \$19,500

**State:** Texas

**Venue:** Gray County

**Court:** Gray County District Court, 223rd, TX

**Injury Type(s):**

- *back* - bulging disc
- *head* - headaches
- *neck* - bulging disc

**Case Type:**

- *Motor Vehicle* - Rear-ender

**Case Name:** Eldon Rodney Donaldson v. Richard William Conner, No. 33,305

**Date:** February 08, 2005

**Plaintiff(s):**

- Eldon Rodney Donaldson (Male, 41 Years)

**Plaintiff Attorney(s):**

- Jesse L. Quackenbush; Quackenbush Law Firm; Amarillo TX for Eldon Rodney Donaldson

**Defendant(s):**

- Richard William Conner

**Defense Attorney(s):**

- Dusty J. Stockard; Courtney, Countiss, Brian & Bailey; Amarillo, TX for Richard William Conner

**Insurers:**

- Allstate Insurance Co.

**Facts:** On Aug. 27, 2003, plaintiff Eldon Donaldson, 39, an owner of a carpentry business, was towing a trailer on Duncan Street in Pampa. When he stopped at the intersection with 23rd Street for a red light, a vehicle driven by Richard Conner collided with the back of his trailer.

Donaldson sued Conner for negligence. He alleged that Conner failed to exercise reasonable care and was traveling too fast.

Conner contended that he could not react in time to avoid the collision and that it could have happened to anyone.

**Injury:** Donaldson declined an ambulance at the scene of the accident. He sustained three bulging lumbar discs. He suffers neck pain, back pain and headaches. He required treatment by a chiropractor including a full soft-tissue workup at all levels of vertebrae.

Donaldson sought damages in the amount of \$9,000 for past and future medical expenses. He also argued that he could not accept several contracts for carpentry work because of his injury. He sought damages for lost wages in the amount of \$15,000. He also alleged that the injuries caused him a great deal of pain and sought damages of an unspecified amount for pain and suffering.

The defense contended that Donaldson's injuries could not have been caused by the collision as there was little property damage to the vehicles.

**Result:** The jury found for Donaldson and awarded him \$19,500 in damages.

### **Eldon Rodney Donaldson**

\$9,000 Personal Injury: medical expenses

\$5,000 Personal Injury: physical pain and mental anguish

\$5,500 Personal Injury: lost wages

### **Trial Information:**

**Judge:** Lee Waters

**Demand:** \$25,000

**Offer:** \$6,100

**Trial Length:** 2 days

**Jury  
Composition:** 6 male, 6 female

**Editor's  
Comment:** Defense counsel did not respond to a faxed draft of this report or a phone call.

**Writer** Peter Scoolidge

## Motor Vehicle-Truck

**Type:** Verdict-Plaintiff

**Amount:** \$11,964

**State:** Texas

**Venue:** Gray County

**Court:** Gray County District Court, 223rd, TX

**Case Type:**

- *Motor Vehicle - Truck*

**Case Name:** Albert Schroeder, Othel Schroeder vs. Albert Wade Helton, No.

**Date:** July 21, 1997

**Plaintiff(s):**

- Othel Schroeder (Female)
- Albert Schroeder (Male, 43 Years)

**Plaintiff Attorney(s):**

- Ed J. McConnell; Smith, Storrs, Wilson & McConnell; Amarillo TX for Othel Schroeder

**Plaintiff Expert (s):**

- Neil Veggeberg; Psychiatry; Amarillo, TX called by:
- Barry Duman Ph.D.; Economics; Canyon, TX called by:
- Charles Rimmer; Neurological Surgery; Amarillo, TX called by:

**Defendant(s):**

- Albert Wade Helton

**Defense Attorney(s):**

- John B. Board; Board, Wilmarth & Barela; Amarillo, TX for Albert Wade Helton

**Defendant Expert(s):**

- Michael Brandl PhD; Economics; West Texas A&M, TX called by: for

**Insurers:**

- Progressive (\$50,000 policy)

**Injury:**

Mr. Helton, 43, was northbound in his pickup on Hwy 152 in Gray County on 10-26-94. He testified he stopped at the sign controlling the T-intersection with Hwy 60 - two eye-witnesses said he didn't stop - pulled out intending to make a left turn, and collided with a Halliburton truck driven by Mr. Schroeder. Schroeder testified he was eastbound at about 55 mph, the speed limit. The impact, which was at the second set of wheels on the cab of the Halliburton truck, combined with Schroeder's swerve to avoid the collision, caused the vehicle to roll one complete time. The intersection is about five miles east of Pampa. There were no traffic controls for the Halliburton truck.

Albert - non-op bulging discs at C4-5 and C5-6. He had \$7,765 in medical, claimed \$55,000 in lost overtime. Def. contested Othel - loss of consortium.

**Result:**

Mrs. Schroeder non-suited her claim the day of trial. Tried on damages only, jury awarded: \$11,934.33 actual damages. 12 - 0 (3 day trial) Pre-trial demand: \$80,000; Asked of jury: No specific amount; Pre-trial offer: \$50,000 Carrier: Progressive

**Trial Information:**

**Judge:** Lee Waters

**Writer**

## Premises Liability-

**Type:** Verdict-Defendant

**Amount:** \$0

**State:** Texas

**Venue:** Gray County

**Court:** Gray County District Court, 223rd, TX

**Case Type:**

- *Premises Liability*

**Case Name:** Anthony Wayne Doss, Deborah Elaine Doss vs. Wal-Mart Stores, Inc., No.

**Date:** February 03, 1997

**Plaintiff(s):**

- Anthony Wayne Doss, Deborah Elaine Doss (Female)

**Plaintiff Attorney(s):**

- John W. Warner; Warner, Finney & Warner; Pampa TX for Anthony Wayne Doss, Deborah Elaine Doss
- Michael A. Warner; Warner, Finney & Warner; Pampa TX for Anthony Wayne Doss, Deborah Elaine Doss

**Plaintiff Expert (s):**

- Curt Beck; Engineering; Pampa, TX called by:
- Robert Philips; Osteopathy; Amarillo, TX called by:

**Defendant(s):**

- Wal-Mart Stores, Inc.

**Defense Attorney(s):**

- Vance E. Ivy; Gibson, Ochsner & Adkins, L.L.P.; Amarillo, TX for Wal-Mart Stores, Inc.

**Insurers:**

- self-insured (\$5 million)

**Injury:**

Mrs. Doss slipped and fell on an ice-covered ramp. She alleged improper maintenance, i.e. not salted, sanded or inspected, and negligent construction in that there were no handrails, the ramp wasn't covered, and it was too steep. Wal-Mart argued open and obvious and that Plt. could have stepped off the curb. Also contended the ramp was not covered by federal regulations.

Deborah - comminuted fracture of her right (dominant) wrist, closed reduction. She was in a brace for five or six months, has a 6% permanent disability. Anthony - loss of consortium.

**Result:**

Jury found Plt 80%, Def 20% negligent. (3 day trial) Pre-trial demand: \$50,000; Asked of jury: \$75,000; Pre-trial offer: None Carrier: self-insured

**Trial Information:****Judge:**

Lee Waters

**Writer**

## Gallstones migrated to lung after spillage during surgery

<b>Type:</b>	Verdict-Defendant
<b>Amount:</b>	\$0
<b>State:</b>	Texas
<b>Venue:</b>	Gray County
<b>Court:</b>	Gray County District Court, 223rd, TX
<b>Case Type:</b>	<ul style="list-style-type: none"><li>• <i>Medical Malpractice</i> - Gallbladder; Negligent Treatment; Post-Operative Care</li></ul>
<b>Case Name:</b>	Carroll Clark and Danita Clark v. Vijay Mohan, MD and Laxman Bhatia, MD, No. No. 32997
<b>Date:</b>	January 05, 2005
<b>Plaintiff(s):</b>	<ul style="list-style-type: none"><li>• Danita Clark (Male, 70 Years)</li><li>• Carroll Clark (Male, 71 Years)</li></ul>
<b>Plaintiff Attorney(s):</b>	<ul style="list-style-type: none"><li>• David W. Starnes; David W. Starnes, Attorney at Law; Beaumont TX for Carroll Clark, Danita Clark</li><li>• Brian P Heinrich; Templeton, Smithee, Hayes, Fields, Heinrich &amp; Russel; Amarillo TX for Carroll Clark, Danita Clark</li></ul>
<b>Plaintiff Expert(s):</b>	<ul style="list-style-type: none"><li>• Bruce B. McDonald; General Surgery; Amarillo, TX called by: David W. Starnes, Brian P Heinrich</li></ul>
<b>Defendant(s):</b>	<ul style="list-style-type: none"><li>• Vijay Mohan, M.D.</li><li>• Laxman Bhatta, M.D.</li></ul>
<b>Defense Attorney(s):</b>	<ul style="list-style-type: none"><li>• James A. Besselman; Underwood Wilson Berry Stein &amp; Johnson; Amarillo, TX for Vijay Mohan, M.D., Laxman Bhatta, M.D.</li></ul>
<b>Defendant Expert(s):</b>	<ul style="list-style-type: none"><li>• Douglas Wyatt M.D.; General Surgery; Amarillo, TX called by: for James A. Besselman</li></ul>



**Insurers:**                   • Texas Medical Liability Trust

**Facts:**                   On April 5, 2001, Carroll Clark, 71, presented to the office of defendant Laxman Bhatia, M.D., in Pampa. Clark complained of nausea and abdominal pain, for which Bhatia ordered a sonogram of the gallbladder. The sonogram was positive for the presence of gallstones.

On April 17, Vijay Mohan, M.D., performed a laparoscopic cholecystectomy on Clark, during which some of the gallstones were inadvertently spilled into Clark's abdominal cavity. After experiencing some months of discomfort, he underwent exploratory surgery which showed that some of the gallstones had migrated to the lung, necessitating removal of a small portion of pulmonary tissue.

Clark sued Bhatia and Mohan for medical malpractice, alleging that their failure to perform the operation correctly and to remove all of the gallstones was a failure to follow the standard of care. Clark further alleged that their failure to monitor him after the surgery was a failure to follow the standard of care.

Bhatia and Mohan, who was the main surgeon in the initial gallstone removal, answered that they had not failed to follow the standard of care. Mohan argued the prevailing and accepted opinion was that the body's natural defenses were capable of dealing with some small amount of gallstones in the body and that the damage caused by exploratory surgery to find a small number of them after a spillage like the one that occurred with Clark did more harm than good. They further argued that migration of the stones into pulmonary tissue was very rare. Mohan testified that he only knew of two other cases in which it had happened.

**Injury:**                   Clark had to undergo a second operation to remove the gallstones from his pulmonary tissue. He claimed damages for past and future pain and suffering; past and future medical costs; past and future mental anguish, and past and future disfigurement and physical impairment. He maintained that he would have trouble breathing for the rest of his life.

His wife, Danita, claimed damages for loss of care, maintenance and society as well as loss of consortium.

**Result:**                   Before trial, the case against Bhatia was dismissed on a motion. A jury then returned a verdict in favor of Mohan and no damages were awarded.

**Trial Information:**

**Judge:**                   Lee Waters, Lee Waters

**Demand:**               Policy limits of \$300,000

**Offer:**                   None

**Trial Length:** 4 days

**Trial  
Deliberations:** 2 hours

**Jury  
Composition:** 6 male, 6 female

**Writer** Terence Kindlon

## Contracts-Breach of Contract

**Type:** Verdict-Defendant

**Amount:** \$0

**State:** Texas

**Venue:** Gray County

**Court:** Gray County District Court, 223rd, TX

**Case Type:**

- *Contracts - Breach of Contract*

**Case Name:** J. Evetts Haley, et al. v. GPM Gas Corporation, No.

**Date:** February 19, 2001

**Plaintiff(s):**

- J. Evetts Haley, et al. (Female)

**Plaintiff Attorney(s):**

- Michael A. Short; Canon, Short & Gaston, A P.C.,; Midland TX for J. Evetts Haley, et al.
- Kenneth W. Fields; Waters, Holt & Fields; Pampa TX for J. Evetts Haley, et al.

**Defendant(s):**

- GPM Gas Corporation

**Defense Attorney(s):**

- Michael G. Smith; Gibson, Ochsner & Adkins; Amarillo, TX for GPM Gas Corporation

**Injury:**

Plaintiffs owned a ranch that was the subject of a surface lease executed in 1956 between the Plaintiffs' predecessor, the previous owners of the ranch, and the Defendant's predecessor, Phillips Petroleum. The lease provided that Phillips Petroleum could use the leased premises for any lawful purpose in connection with the erection, maintenance or repair of a gas booster station and other occurrences and facilities useful or proper in connection with gas pipelines, as long as they paid \$250 a year in lease payments. In reliance on that lease, Phillips Petroleum, GPM's predecessor, constructed a radio repeater tower on the premises to relay information to a repeater tower in Borger, Texas, concerning the amount of gas going into Phillips gas lines. Plaintiff alleged that the repeater tower was not allowed under the terms of the lease. Plaintiff also claimed the lease did not contain a definite term and, therefore, was a tenancy at will. Plaintiff also claimed that leases in perpetuity were against public policy. Defendants alleged that the repeater tower was allowed by contract, and that the lease was for perpetuity as long as its actions were lawful and in connection with gas pipelines. It also claimed the term of the lease was one year with successive one-year options.

Defense counsel guesstimated that Plaintiffs' damages might be as little as \$500 a month.

**Result:**

Judge granted Defendant's motion for a partial summary judgment in 1998, saying the lease was clear and unambiguous and that GPM had the right to renew it in perpetuity by paying \$250 a year. Jury found that the tower facility was useful and proper in connection with the gas pipeline. 10 - 2 (2 day trial) Verdict Date: 02-20-2001 No pre-trial settlement negotiations.

**Trial Information:**

**Judge:** Lee Waters

**Writer**

## Under-trained lab tech died in chemical explosion

**Type:** Mediated Settlement

**Amount:** \$0

**State:** Texas

**Venue:** Gray County

**Court:** Gray County District Court, 223rd, TX

**Case Type:**

- *Negligence*
- *Worker/Workplace Negligence* - Negligent Training; Negligent Supervision

**Case Name:** Victor Ray Forsman, III, Individually and As Heir at Law of the Estate of Karen Standerfer, Deceased v. Titan Specialties, LTD. and Titan GP, L.L.C., No. 33865

**Date:** December 31, 2005

**Plaintiff(s):**

- Victor Ray Forsman, III (Male, 18 Years)

**Plaintiff Attorney(s):**

- Kevin W. Liles; Watts Law Firm LLP; Corpus Christi TX for Victor Ray Forsman, III
- Mikal C. Watts; Watts Law Firm, LLP; Corpus Christi TX for Victor Ray Forsman, III
- W. Harvey Barton; Law Offices of W. Harvey Barton; Pascagoula MS for Victor Ray Forsman, III

**Plaintiff Expert(s):**

- Randy A. McClay P.E., CSP, CSSM; Oil Field; Midland, TX called by: Kevin W. Liles, Mikal C. Watts, W. Harvey Barton

**Defendant(s):**

- Titan GP, LLC
- Titan Specialties Ltd.

**Defense Attorney(s):**

- Matt D. Matzner; Crenshaw, Dupree & Milam; Lubbock, TX for Titan Specialties Ltd.
- William J. Wade; Crenshaw, Dupree & Milam; Lubbock, TX for Titan Specialties Ltd.

**Insurers:**

- Texas Mutual Insurance Co.

**Facts:**

Plaintiffs' decedent, Karen Standerfer, 41, a lab technician, was responsible for mixing chemical components of magnesium, potassium perchlorate and pyrodex, on her job at Titan Specialties Ltd., Pampa. Titan is an oil field service provider that designed, manufactured and distributed products involved in the completion and renovation of oil and gas wells. Titan also manufactures explosive charges to set plugs in an oil well. Part of Standerfer's job was to mix the components to make secondary igniter charges, which are explosives or power charges to be used in the oil field. She had been doing the job for a little more than a year.

On July 6, 2004 Standerfer was using a grinding machine provided by her employer when an explosion occurred and she was engulfed in flames. She died instantly.

Standerfer's only child, Victor Ray Forsman III, 18, who lived out of state with his father, sued Titan Specialties Ltd. and Titan GP, LLC, alleging gross negligence in that Titan failed to adequately train his mother and her supervisor in the safe procedures to manufacture and/or handle materials with explosive properties. The plaintiff claimed that Standerfer had very little training, which was grossly insufficient considering the nature of the job.

Under the Texas Workers' Compensation Act, a deceased's estate does not have a claim.

The plaintiff alleged that Standerfer received training about a specific, written process for mixing the explosive materials, as did her co-employees. When pushed to make more of the product, Standerfer and a co-employee deviated from the written protocol, with approval by their supervisor, to perform a very dangerous process using improper and potentially dangerous mixing procedures and equipment for the explosive materials. Standerfer was using the deviated process and equipment when the explosion occurred.

Titan claimed that its training and/or supervision of Standerfer was adequate and did not expose her to an unreasonable risk of harm.

**Injury:**

Standerfer died instantly.

Forsman sought exemplary damages against Titan under the Texas Workers' Compensation Act.

Standerfer occasionally had sent Forsman money and promised him financial assistance in the future, such as buying him a vehicle for college and helping him with bills. After high school, Forsman entered the U.S. National Guard. Plaintiff counsel reported that they did not consider the lack of substantial specific economic damages would hinder a jury from awarding him damages if they held Titan responsible for his mother's death.

**Result:**

The case settled for a confidential amount before Titan was required to produce its expert reports about specifics of its defenses.

**Trial Information:**

**Judge:** Leland W. Waters, Frank "Dirk" E. Murchison

**Writer** Don Maines

## **Jury: Driver of 18-Wheeler Not Negligent in Rear-End**

**Type:** Verdict-Defendant

**Amount:** \$0

**State:** Texas

**Venue:** Gray County

**Court:** Gray County District Court, 223rd, TX

**Injury Type(s):** • *head* - concussion

**Case Type:** • *Motor Vehicle* - Truck; Rear-ender; Tractor-Trailer

**Case Name:** Johnnie Whinery and Pam Whinery v. Mission Petroleum Carriers, Inc., and Myrl Dean Mann, No. 30500

**Date:** October 26, 2001

**Plaintiff(s):** • Pam Whinery (Female, 40 Years)  
• Johnnie Whinery (Male, 48 Years)

**Plaintiff Attorney(s):** • Dale Friend; Abraham, Watkins, Nichols, Sorrels, Matthews & Friend; Houston TX for Johnnie Whinery, Pam Whinery  
• John W. Warner; Law Office of John W. Warner; Pampa TX for Johnnie Whinery, Pam Whinery

**Plaintiff Expert (s):** • Kit Harrison Ph.D.; neuropsychology; Houston, TX called by: Dale Friend, John W. Warner  
• Jack Albracht D.C.; chiropractic; Pampa, TX called by: Dale Friend, John W. Warner  
• Craig Shaffer M.D.; family medicine; Pampa, TX called by: Dale Friend, John W. Warner  
• Grace Stringfellow M.D.; physical medicine; Amarillo, TX called by: Dale Friend, John W. Warner  
• Ralph B. Lilly M.D.; neuropsychology; Houston, TX called by: Dale Friend, John W. Warner



**Defendant(s):**

- Myrl Dean Mann
- Mission Petroleum Carriers Inc.

**Defense  
Attorney(s):**

- Billy R. Wolfe; Wolfe & Assoc.; Lubbock, TX for Mission Petroleum Carriers Inc.,  
Myrl Dean Mann

**Facts:**

A Gray County jury found that the driver of an 18-wheeler was not negligent for rear-ending a stationary pickup in light rain. He contended that the pickup's driver, a 48-year-old toolpusher who claimed permanent brain injury as a result of the accident, did not have his headlights or turn signal on.

The accident occurred during a light rain at 7:10 a.m. on April 10, 1995, on northbound North Price Road in Pampa. A tanker trailer driven by Myrl Dean Mann, an employee of Mission Petroleum Carriers Inc., rear-ended a Chevrolet pickup driven by Johnnie Whinery, who was waiting to make a left turn into a private drive.

Whinery and his wife sued Mann and the company for Mann's negligence in, among other things, failing to keep a proper lookout and failing to control speed. The investigating officer, according to the plaintiffs' lawyer John W. Warner, blamed the accident on Mann's distraction - "fiddling with" the defrost or wiper controls - and his failure to control speed. Also, argued Warner, if the defendant's lights were on, as Mann claimed they were, he should have seen them reflected in Whinery's tailgate.

Mann testified that he did not see the pickup in time to stop because it did not have its lights or its turn signal on. He denied that he was distracted or told the officer that he was.

Whinery maintained that he had his lights and his turn signal on. Independent witnesses testified that, after the accident, the lights were on.

**Injury:**

An ambulance transported Whinery to a hospital, where he was treated and released. In addition to a concussion, he suffered head lacerations requiring external and internal sutures. He claimed that his head knocked out the rear window and that he suffered a closed head injury with tinnitus and permanent brain damage, including short-term memory loss, irritability and difficulty concentrating. He did not undergo surgery. He also suffered a herniated lumbar disc, he alleged. One of his experts, Gracie Stringfellow, M.D., testified that he had 40% permanent impairment. His medical specials were about \$18,000, including about \$10,000 in chiropractic, said Warner. Whinery also claimed lost earnings and lost earning capacity. His wife claimed loss of consortium. Their attorneys argued for \$1.5 million total.

**Result:**

By a 10-2 vote, the six-man, six-woman jury found no negligence on either driver.

The defense reported that the jury did not credit the testimony of the plaintiffs' fact witnesses concerning the lights.

Warner said that the jury felt that there was no evidence of negligence. The plaintiffs are appealing the judgment.

**Demand** \$400,000

**Offer** \$100,000

**Trial Information:**

**Judge:** Lee Waters

**Trial Length:** 4 days

**Trial  
Deliberations:** 3 hours

**Writer**