

denied the motions on July 18, 2017, and the defense filed notice of appeal on July 20.

EDITOR'S NOTE This report is based on information that was provided by plaintiffs' and defense counsel and gleaned from court documents.

—John Schneider

FIFTY-ONE

MOTOR VEHICLE

Tractor-Trailer — Worker/Workplace Negligence — Negligent Training

Truck driver lost control on icy road, led to fatal crashes

VERDICT \$38,978,670

CASE Jaswinder Chohan, Individually and as Next Friend and Natural Mother of GKD, HSD and AD, Minors and as Representative of The Estate of Bhupinder Singh Deol, Darshan Singh Deol and Jagtar Kaur Deol v. Guillermo Vasquez, Sarah Gregory, New Prime, Inc., d/b/a Prime, Inc., Orlando Santiago Ferrer, Pablo Diaz d/b/a P & O Transport, M.C. Van Kampen Trucking, Inc. and Cindy L. Erving, No. CC-15-02925-E

COURT JUDGE Dallas County Court at Law No. 5, TX Mark Greenberg

DATE 11/16/2017

PLAINTIFF ATTORNEY(S) Michael H. Bassett, The Bassett Firm, Dallas, TX (Alma J. Perales, Elijah Perales, Estate of Alma Belinda Vasquez, Estate of Hector Perales, Gregory Vasquez, Guillermo Vasquez, Noah Perales, William Vasquez) J. J. Burns, Dollar, Burns & Becker, L.C., Kansas City, MO (Alma J. Perales, Elijah Perales, Estate of Alma Belinda Vasquez, Estate of Hector Perales, Gregory Vasquez, Guillermo Vasquez, Noah Perales, William Vasquez) Micky N. Das, Tyler & Das, Houston, TX (Aashish Deol, Darshan Deol, Estate of Bhupinder Singh Deol, Guneet Kaur Deol, Harshjot Singh Deol, Jagtar Deol, Jaswinder Chohan)

Tim Dollar, Dollar, Burns & Becker, L.C., Kansas City, MO (Alma J. Perales, Elijah Perales, Estate of Alma Belinda Vasquez, Estate of Hector Perales, Gregory Vasquez, Guillermo Vasquez, Noah Perales, William Vasquez)

Greg Marks, Guajardo & Marks LLP, Dallas, TX (Brett Jones, Clayton Ireton, Estate of Tracy Jones, Guy Jones, Myles Buss, Nancy Buss, Steve Buss) Tim Tate, Tate Law Offices PC, Dallas, TX (Aashish Deol, Darshan Deol, Estate of Bhupinder Singh Deol, Guneet Kaur Deol, Harshjot Singh Deol, Jagtar Deol, Jaswinder Chohan)

DEFENSE

ATTORNEY(S) Alex J. Bell, Fletcher, Farley, Shipman & Salinas LLP, Dallas, TX (New Prime Inc., Sarah Gregory) Michael L. Hurst, Hermes Law P.C., Dallas, TX (Cindy L. Erving, M.C. Van Kampen Trucking Inc.) Drew T. Peters, Fee Smith Sharp & Vitullo LLP, Dallas, TX (DOD Reynolds LLC, Ondre Orlando Reynolds) Steven A. Springer, Fletcher, Farley, Shipman & Salinas LLP, Dallas, TX (New Prime Inc., Sarah Gregory) Roy L. Stacy, Stacy Conder Allen LLP, Dallas, TX (Pablo Diaz, Orlando Santiago Ferrer)

FACTS & ALLEGATIONS On Nov. 22, 2013, plaintiff Guillermo Vasquez, 75, a retired school administrator was driving a van with plaintiff's decedent Alma B. Vasquez, 74, retired, his wife; and plaintiff's decedent Hector Perales, 47, a school teacher, his passenger. Plaintiffs' decedent Bhupinder Deol was driving a tractor-trailer owned by Maryland Trucking Inc. and plaintiff Guy Jones was driving a 2013 Toyota Prius with his mother, plaintiffs' decedent Tracy Jones as a passenger. Plaintiff Clayton Ireton was a passenger in the Jones vehicle. They were heading east on Interstate 40 in Oldham County along with Sarah Gregory, in a tractor-trailer owned by New Prime Inc.; Orlando Ferrer in an 18-wheeler owned by P&O Transport Inc.; Cindy Erving, in a tractor-trailer owned by M.C. Van Kampen Trucking Inc.; and Ondre Reynolds in a tractor-trailer owned by DOD Reynolds LLC. The road was icy, and it was about 11:15 p.m.

Gregory lost control and her truck came to rest blocking more than half of the eastbound lanes. Deol pulled over onto the shoulder and exited his truck. Vasquez and Jones slowed down, but struck Gregory's truck. Ferrer struck Gregory's truck, Vasquez's van and Jones' car, and Vasquez's van was pushed into Deol, killing him.

Deol was survived by his wife, plaintiff Jaswinder Chohan; his mother, plaintiff Jagtar Kaur Deol; his father, plaintiff

Darshan Singh Deol; and his three minor children, who were also plaintiffs.

Besides Guy Jones, other survivors of Tracy Jones were her minor child, who was a plaintiff and was also in the accident; another adult child, plaintiff Myles Buss; her mother, plaintiff Nancy Buss; and her father, plaintiff Steve Buss.

Besides Guillermo Vasquez, other survivors of Alma Vasquez were her daughter, plaintiff Alma J. Perales, who was also Hector's wife and was also in the accident; her son plaintiff William Vasquez, 51, an auto mechanic, who was also in the accident; and her son plaintiff Gregory Vasquez.

Besides his wife, Hector Perales was also survived by his minor sons, plaintiff Elijah Perales and plaintiff Noah Perales. Noah was also in the accident.

The lawsuit was filed initially by Deol's estate and family. They sued Vasquez; Gregory and New Prime; Ferrer and Pablo Diaz, doing business as P&O Transport Inc.; and Erving and M.C. Van Kampen Trucking. Reynolds and DOD Reynolds were later added as defendants.

The Joneses, the Busses and Ireton intervened as plaintiffs. Later, the Peraleses and the Vasquezes intervened.

Cross-claims, counterclaims and third-party claims were filed, as well.

The case went to trial on only the claims of Chohan, the Deols, the Peraleses and the Vasquezes against Gregory and New Prime.

At trial, the plaintiffs maintained that Gregory was negligent and grossly negligent for failing to maintain control of her vehicle, failing to keep a proper lookout, failing to control her speed, driving too fast, failing to turn on her hazard lights after blocking the interstate and failing to call 911 or other authorities, and that New Prime was negligent and grossly negligent both for entrusting the vehicle to her and in her training and supervision. Gregory was in the course and scope of her employment with New Prime.

Regarding why Deol pulled over and exited his vehicle, the plaintiffs' position was that Deol stopped to render aid after Gregory's truck jackknifed.

For comparative responsibility, plaintiffs' counsel asked the jury to find percentages totaling 85 percent against Gregory and New Prime and to find 15 percent against Ferrer.

Gregory and New Prime denied negligence, contending that Gregory was confronted with black ice. They also argued that Vasquez negligently failed to keep a proper lookout and failed to control his speed and that Deol negligently exited his vehicle and failed to keep a proper lookout.

The jury charge included a "sudden emergency" instruction.

INJURIES/DAMAGES *brain, internal bleeding; death; foot; fracture, ankle; fracture, back; fracture, neck; fracture, rib; fracture, shoulder; fracture, toe; fracture, vertebra; head; laceration; leg; lung, puncture*

Deol died at the scene from blunt force trauma, as did Hector Perales. Alma Vasquez died nine days later from her injuries, which included bleeding in the brain and fractures of the neck, mid-back, shoulder and ribs. Guillermo Vasquez lost a large portion of his leg. William Vasquez sustained

soft-tissue injuries. Alma Perales sustained a fractured ankle and three fractured toes. Noah Perales sustained a punctured lung and a severe laceration on the left side of his scalp.

The decedents' estates sought damages for pain and mental anguish. Deol's widow, parents and three minor children claimed past and future pecuniary loss, past and future loss of companionship and society and past and future mental anguish. Hector's widow and two minor sons sought the same, as did Alma Vasquez's husband, daughter and two sons.

Guillermo Vasquez's past medical bills were stipulated at about \$174,000, and the issue of his past medical treatment was not submitted to the jury. For his bodily injuries, he asked the jury for future medical bills, past and future physical pain and mental anguish, past and future physical impairment and past and future disfigurement.

William Vasquez sought past and future physical pain and mental anguish for his bodily injuries.

Alma Perales' past medical bills were stipulated at \$14,000, and the issue of her past medical treatment was not submitted to the jury. For her bodily injuries, she asked the jury for past and future physical pain and mental anguish.

Hector Perales' son sought past and future physical pain and mental anguish for his bodily injuries.

RESULT The jury found negligence and comparative responsibility of 55 percent on Gregory, 30 percent on New Prime and 15 percent on Ferrer and awarded the plaintiffs \$38,978,670.

Gregory and New Prime were liable for 100 percent of the damages; Gregory's 55 percent responsibility, which made her liable for 100 percent, is also attributed to New Prime as her employer.

The jury did not reach the questions on gross negligence.

JASWINDER

CHOHAN \$350,000 past loss of society companionship
\$2,625,000 future loss of society companionship
\$91,200 past loss of pecuniary contribution
\$684,000 future loss of pecuniary contribution
\$525,000 past mental anguish
\$3,937,500 future mental anguish
\$8,212,700

AASHISH DEOL \$160,000 past loss of society companionship
\$1,200,000 future loss of society companionship
\$18,000 past loss of pecuniary contribution
\$123,000 future loss of pecuniary contribution
\$160,000 past mental anguish
\$925,000 future mental anguish
\$2,586,000

DARSHAN DEOL \$160,000 past loss of society companionship
 \$160,000 future loss of society companionship
 \$600 past loss of pecuniary contribution
 \$600 future loss of pecuniary contribution
 \$160,000 past mental anguish
\$160,000 future mental anguish
 \$641,200

**ESTATE OF
 BHUPINDER
 SINGH DEOL**

\$500,000 pain and mental anguish

**GUNEET
 KAUR DEOL**

\$160,000 past loss of society companionship
 \$1,200,000 future loss of society companionship
 \$18,000 past loss of pecuniary contribution
 \$127,800 future loss of pecuniary contribution
 \$5,000 past mental anguish
\$92,500 future mental anguish
 \$1,603,300

**HARSHJOT
 SINGH DEOL**

\$160,000 past loss of society companionship
 \$1,200,000 future loss of society companionship
 \$18,000 past loss of pecuniary contribution
 \$121,800 future loss of pecuniary contribution
 \$160,000 past mental anguish
\$925,000 future mental anguish
 \$2,584,800

JAGTAR DEOL \$160,000 past loss of society companionship
 \$160,000 future loss of society companionship
 \$600 past loss of pecuniary contribution
 \$600 future loss of pecuniary contribution
 \$160,000 past mental anguish
\$160,000 future mental anguish
 \$641,200

**ALMA J.
 PERALES**

\$1,000 past physical pain and mental anguish from her bodily injuries
 \$1,322,400 damages for death of mother, Belinda Vasquez
\$8,093,700 damages for death of husband, Hector Perales
 \$9,417,100

ELIJAH PERALES \$160,000 past loss of society companionship
 \$1,200,000 future loss of society companionship
 \$18,000 past loss of pecuniary contribution
 \$117,000 future loss of pecuniary contribution
 \$160,000 past mental anguish
\$925,000 future mental anguish
 \$2,580,000

**ESTATE OF
 HECTOR
 PERALES**

\$50,000 pain and mental anguish

NOAH PERALES \$3,000 past physical pain and mental anguish from his bodily injuries
 \$160,000 past loss of society companionship
 \$1,200,000 future loss of society companionship
 \$18,000 past loss of pecuniary contribution
 \$119,400 future loss of pecuniary contribution
 \$180,000 past mental anguish from death of his father, Hector Perales
\$1,040,625 future mental anguish from death of his father, Hector Perales
 \$2,721,025

**ESTATE OF ALMA
 BELINDA**

VASQUEZ \$500,000 pain and mental anguish

**GREGORY
 VASQUEZ**

\$160,000 past loss of society companionship
 \$480,000 future loss of society companionship
 \$25,000 past loss of pecuniary contribution
 \$75,000 future loss of pecuniary contribution
 \$160,000 past mental anguish
\$480,000 future mental anguish
 \$1,380,000

**GUILLERMO
 VASQUEZ**

\$193,000 past medical cost
 \$300,000 past physical impairment
 \$187,500 future physical impairment
 \$150,000 past disfigurement
 \$600,000 past physical pain and mental anguish from his bodily injuries
 \$375,000 future physical pain and mental anguish from his bodily injuries
 \$350,000 past loss of society companionship
 \$437,500 future loss of society companionship
 \$51,200 past loss of pecuniary contribution
 \$64,000 future loss of pecuniary contribution

FIFTY-TWO**PREMISES LIABILITY**

Negligent Repair and/or Maintenance — Dangerous Condition

Building's defect allowed visitor's paralyzing injury, suit alleged

VERDICT \$37,397,603
ACTUAL \$29,000,000

CASE Anastasia Klupchak v. First East Village Associates, Bernard McElhone, Susan Schenk, Tri-Star Equities, Inc. and Rod Feldman, No. 110617/09

COURT New York Supreme, NY
JUDGE Joan A. Madden
DATE 3/7/2017

PLAINTIFF ATTORNEY(S) Thomas A. Moore (lead), Kramer, Dillof, Livingston & Moore, New York, NY
 Matthew Gaier, Kramer, Dillof, Livingston & Moore, New York, NY

DEFENSE ATTORNEY(S) Peter C. Kopff (lead), Peter C. Kopff, LLC, Garden City, NY
 Eric Z. Leiter, of counsel, Mauro Lilling Naparty LLP, Woodbury, NY
 Mark D. Levi, Smith Mazure Director Wilkins Young & Yagerman, P.C., New York, NY

FACTS & ALLEGATIONS On Nov. 15, 2008, plaintiff Anastasia Klupchak, 22, a student, visited a fourth-floor apartment that was located at 82 Second Ave., in the East Village section of Manhattan. The apartment's tenant was conducting a party. During the course of the event, Klupchak exited onto a fire-escape landing that abutted one of the apartment's windows. She fell through a 34-inch-wide gap that allowed entrance to a lower ladder. She plummeted a distance of 12 feet, and she landed on the roof of the building's second story. She suffered a paralyzing injury.

Klupchak sued the premises' owner, First East Village Associates; the company's principals, Bernard McElhone and Susan Schenk; the premises' manager, Tri-Star Equities; and that company's principal, Rod Feldman. Klupchak alleged that the defendants were negligent in their maintenance of the premises. She further alleged that the defendants' negligence created a dangerous condition that caused the accident.

Schenk was dismissed, and the matter proceeded to a trial against the remaining defendants.

New York law specifies that fire-escape systems must have rail-protected stairways whose incline does not exceed 60

\$525,000 past mental anguish from death of his wife, Belinda Vasquez
\$656,250 future mental anguish from death of his wife, Belinda Vasquez
 \$3,889,450

WILLIAM VASQUEZ

\$5,000 past physical pain and mental anguish from his bodily injuries
 \$160,000 past loss of society companionship
 \$480,000 future loss of society companionship
 \$25,000 past loss of pecuniary contribution
 \$75,000 future loss of pecuniary contribution
 \$160,000 past mental anguish from death of his mother, Belinda Vasquez
\$480,000 future mental anguish from death of his mother, Belinda Vasquez
 \$1,385,000

DEMAND OFFER \$9,500,000 for all trial plaintiffs combined
 \$700,000

TRIAL DETAILS Trial Length: 12 days
 Trial Deliberations: 4 days
 Jury Composition: 2 male, 4 female

PLAINTIFF EXPERT(S) Brooke Liggett, CPA, accounting, Springfield, MO
 Whitney Morgan, trucking industry, Birmingham, AL
 Bryan Rappolt, weather conditions, Phoenix, AZ
 Nathan Rose, accident reconstruction, Greenwood Village, CO
 Alex Willingham, M.D., life care planning, San Antonio, TX

DEFENSE EXPERT(S) Helen Reynolds, Ph.D., economics, Dallas, TX
 Richard J. Schlueter, P.E., accident reconstruction, College Station, TX
 Scott Yates, M.D., internal medicine, Plano, TX

EDITOR'S NOTE This report is based on information that was provided by the Perales/Vasquez and Chohan/Deol plaintiffs' counsel. Gregory/New Prime's counsel and the Buss/Jones/Ireton plaintiffs' counsel did not respond to the reporter's phone calls. Erving/M.C. Van Kampen's counsel declined to contribute.

—John Schneider