

Family settles fatal collision case for \$1.6M

Plaintiffs argued single mother's academic pursuit supported higher lost wages claim

Anne C. Vitale

The family of a 25-year-old single mother killed in a head-on collision with a crane truck has reached a \$1.6 million settlement of their Platte County case against the truck driver and his employer.

D Ette Morro was driving a 1996 Ford Explorer east on Missouri Highway 273 in rural Platte County on July 9, 2007. She was alone in the car at 5:38 p.m. on her way to attend a class at National American University.

Chad C. Cline, an employee of Marlatt Construction Co., was driving a mobile crane truck westbound. The two-lane highway was narrow, winding and in poor repair. It was raining.

The speed limit was 55 mph with posted speed recommendation of 45 mph around certain bends in the highway. Around one of these bends the crane truck collided with Morro's SUV.

Morro survived the accident for nearly an hour. An unrelated passerby who was a registered nurse tended to Morro at the collision scene.

Emergency responders and the Missouri State Highway Patrol Major Crash Investigation Unit arrived at the scene. The crash unit concluded that the collision occurred when the crane truck crossed the centerline and struck Morro's Explorer head-on. It also found that Morro was driving about 32 mph at impact and was attempting to avoid the accident by moving her car to the shoulder. The unit determined Cline was driving at least 50 mph on the wet surface.

The plaintiffs' accident reconstruction experts confirmed that the crash unit's conclusions regarding Cline's negligence were consistent with the evidence.

The defense presented an alternate scenario supported by Cline and a defense expert. The defense contended that Morro was in the wrong lane of traffic and heading directly at the crane truck before Cline took evasive action.

Morro was the primary caregiver for two small children. According to plaintiffs' attorney Quint Shafer, Missouri's wrongful death statute has a provision that creates a rebuttable presumption of damages in cases in which the deceased was not employed full-time and was also at least 50 percent responsible for the care of one or more minors. The presumed damages in such cases are equal to 110 percent of the state average weekly wage.

The plaintiffs' economist said the statutory economic loss would be in the range of \$724,000 to \$775,000. The plaintiffs argued that those damages should be rebutted by a higher damage amount because of Morro's aptitude and success in working toward a nursing degree. The plaintiffs' economist and vocational rehabilitation experts supported this argument and plaintiffs' claim for \$945,906 in lost wages

The plaintiffs also sought damages for Morro's conscious pain and suffering during the hour she survived after the collision. The passerby who tended to Morro at the scene testified in support of this claim.

In addition, plaintiffs sought damages for aggravating circumstances. They claimed the crane truck weighed about 99,000 pounds, and Marlatt did not have a valid overweight permit from the Missouri Department of Transportation. They cited an admission from Cline's co-worker, who had been following Cline in a separate truck, that a safer alternate route would have bypassed the narrow and winding rural road where the collision occurred. They also argued that Cline had at least two convictions for speeding in the three-year period before the accident, coupled with no oversight or action by Marlatt.

The plaintiffs further supported their aggravating circumstances claim with testimony from an independent witness that Cline was speeding during poor weather conditions. Another witness testified that the crane truck was being operated recklessly just moments before the collision when it forced the witness to take evasive action by driving off the road and onto the gravel shoulder to avoid a collision with the crane truck.

Following mediation, Marlatt and Cline agreed to pay \$1.6 million to settle the wrongful death claims brought by Morro's family. Marlatt also agreed to dismiss a counterclaim against Morro for personal property loss.

The plaintiffs reserved claims against the Missouri Highway & Transportation Commission for failing to properly maintain the highway where the collision occurred. Those claims are pending.

William A. Larson, Topeka, Kan., attorney for Cline and Marlatt, declined to comment on the settlement.

Facts of the Case

Type of Action: Wrongful death

Court: Platte County Circuit Court

Case Number/Date: 07AE-CV02416/Feb. 9, 2009

Judge: Owens Lee Hull Jr.

Verdict or Settlement: \$1.6 million settlement

Plaintiffs' Experts: G.Q. Billings, Lee's Summit (accident reconstruction); Michael J. Dreiling, Prairie Village, Kan. (vocational rehabilitation); Robert S. McKinzie, Olathe, Kan. (accident reconstruction); Gerald L. Miller, Kansas City (economist); Bruno Schmidt, Springfield (accident reconstruction)

Defendants' Expert: William K. Kennedy, Wichita, Kan. (accident reconstruction)

Special Damages: \$9,579 funeral expenses; \$9,025 medical expenses; \$945, 906 lost wages

Insurance Carrier: Liberty Mutual Group (formerly known as Ohio Casualty Insurance Co.)

Caption: Carol J. Morro and Ethan P. Morro v. Marlatt Construction Company Inc., Chad C. Cline, Estate of D Ete Morro and Missouri Highways & Transportation Commission

Plaintiffs' Attorneys: Quint Shafer and Jared Welch, Shafer Law Office, Weston

Defendants' Attorneys: William A. Larson, Larson & Blumreich, Topeka, Kan., for Cline and Marlatt Construction Co.; Larry R. Eaton, Law Offices of Cozen O'Connor, Chicago, for Marlatt Construction Co. on counterclaim against decedent for personal property loss