

18-wheeler carrying illegal immigrants was in fatal wreck**Mixed Verdict:** \$2,710,400.00**Case Type:** Center Line, Motor Vehicle - Tractor-Trailer, Motor Vehicle - Truck, Motor Vehicle - Passenger, Wrongful Death - Survival Damages, Motor Vehicle - Multiple Vehicle, Motor Vehicle - Multiple Impact, Immigration Law, Motor Vehicle - Head-On**Case:** Hortencia Maravilla Gonzalez, Individually and as Next Friend of Aritze Camacho Maravilla, Jose Marcos Camacho Maravilla, and Alberto Camacho Maravilla, Minor Children; Hortencia Maravilla Gonzalez, as the Personal Representative of the Estate of Marcos Camacho Rosas v. Norman Crawford, Carolyn A. Hood, Individually and on Behalf of Candy Apple Trucking; Shirley Bradberry, Individually and d/b/a Bradberry Trucking; Elaine Bradberry, Individually and d/b/a Bradberry Trucking; David Munson, as the Administrator of the Estate of Melinda O'Brien, No. 06-04-18507-CVR**Venue:** Reeves County District Court, 143rd, TX**Judge:** Jay Gibson**Date:** 05-14-2007**PLAINTIFF(S)****Attorney:**

- Gregory H. Herrman; Herrman & Herrman; Corpus Christi, TX, for Hortencia Maravilla Gonzalez, Aritze Camacho Maravilla, Jose Marcos Camacho Maravilla, Alberto Camacho Maravilla, estate of Marcos Camacho Rosas
- Douglas P. Peterson; Anthony, Peterson & Purnell LLP; Corpus Christi, TX, for Hortencia Maravilla Gonzalez, Aritze Camacho Maravilla, Jose Marcos Camacho Maravilla, Alberto Camacho Maravilla, estate of Marcos Camacho Rosas
- Simon B. Purnell; Anthony, Peterson & Purnell LLP; Corpus Christi, TX, for Hortencia Maravilla Gonzalez, Aritze Camacho Maravilla, Jose Marcos Camacho Maravilla, Alberto Camacho Maravilla, estate of Marcos Camacho Rosas
- Scott Staha; Herrman & Herrman; Corpus Christi, TX, for Hortencia Maravilla Gonzalez, Aritze Camacho Maravilla, Jose Marcos Camacho Maravilla, Alberto Camacho Maravilla, estate of Marcos Camacho Rosas

Expert:

- Curtis Flynn; Accident Reconstruction; El Paso, TX called by: Douglas Peterson, Simon Purnell, Gregory Herrman, Scott Staha
[VIEW EXPERT'S CASES](#)
- Aleksander Milovanovic M.D.; Pathology; Lubbock, TX called by: Douglas Peterson, Simon Purnell, Gregory Herrman, Scott Staha
- Ronald Backer Ph.D.; Toxicology; Midland, TX called by: Douglas Peterson, Simon Purnell, Gregory Herrman, Scott Staha
[VIEW EXPERT'S CASES](#)
- Dennis Hambrick; Chemistry; Midland, TX called by: Douglas Peterson, Simon Purnell, Gregory Herrman, Scott Staha

DEFENDANT(S)**Attorney:**

- Carlos Rincon; Rincon Mounts P.C.; El Paso, TX, for Carolyn A. Hood, Norman Crawford

- Dick R. Holland; Clifton & Holland P.C.; Midland, TX, for Elaine Bradberry, Shirley Bradberry
- Miles R. Nelson; Shafer, Davis, O'Leary & Stoker P.C.; Odessa, TX, for David Munson
- Ruben Duarte; Rincon Mounts P.C.; El Paso, TX, for Carolyn A. Hood, Norman Crawford

Expert:

- Juan Herrera Ph.D.; Accident Reconstruction; El Paso, TX called by: Ruben Duarte, Carlos Rincon
[VIEW EXPERT'S CASES](#)
- Adelino Yung; Biomechanical; Houston, TX called by: Carlos Rincon, Ruben Duarte
[VIEW EXPERT'S CASES](#)
- Eugene Nini Ph.D.; Economics; Odessa, TX called by: Miles Nelson
[VIEW EXPERT'S CASES](#)

INSURERS:

- Home State County Mutual for the Bradberrys and the O'Brien estate
- Great West Insurance Co. for Crawford, Hood and Candy Apple

FACTS:

In the early morning of April 5, 2004, plaintiffs' decedent Marcos Camacho Rosas, about 34, a laborer from Mexico, was riding with several other undocumented aliens in the passenger compartment of a northbound tractor-trailer on F.M. 285 in Reeves County, with Melinda O'Brien driving. It was raining. The truck was owned by O'Brien's employer, Bradberry Trucking.

O'Brien crossed the center line, hit another tractor-trailer head-on and overturned. Shortly thereafter, a northbound tractor-trailer operated by Norman Crawford hit the incapacitated Bradberry truck. O'Brien, Camacho and four other occupants of the Bradberry truck died in the accident, but it was not clear which impact was fatal, or whether they were all killed by the same impact.

Crawford was in the course and scope of employment with Candy Apple Trucking.

The coroner determined that O'Brien had methamphetamine in her system. She was also carrying half a gram of it.

About three months after the accident, the insurer for O'Brien's estate and Bradberry (Home State County Mutual) interpleaded its policy limit of \$1 million in federal court. This money was then divided among multiple claimants, including Camacho's family.

Camacho's widow and children sued Crawford; Carolyn A. Hood, individually and on behalf of Candy Apple Trucking; Shirley and Elaine Bradberry, individually and operating as Bradberry Trucking; and O'Brien's estate, arguing that each of the four groups of defendants was 25% at fault.

The plaintiffs claimed that O'Brien failed to stay in her lane, that her driving was impaired by the drug use; that Bradberry failed to supervise or drug test or monitor its drivers' locations adequately; that it should not have entrusted a vehicle to her; that Crawford was driving too fast for conditions and not keeping a proper lookout; and that Candy Apple failed to supervise and train its drivers properly. The plaintiffs further alleged respondeat superior against Bradberry and Candy Apple.

The plaintiffs' attorney said that Crawford hit the tractor portion of Bradberry's truck.

Crawford and Candy Apple denied negligence, arguing that O'Brien was at fault and that the first impact was the one that killed Camacho. Crawford's and Candy Apple's attorneys said Crawford "made contact with the undercarriage of the trailer that O'Brien was hauling and a portion of the O'Brien tractor."

Crawford and Candy Apple also asserted that Crawford could not have avoided the impact. They said he had been re-routed from a larger road because the rain had washed out a bridge, and that O'Brien's incapacitated truck was hard for Crawford to see, because the dark underside of the trailer was facing him.

O'Brien's estate and Bradberry argued that Crawford was at fault and that the second impact killed Camacho, not the first.

O'Brien's estate and Bradberry also disputed the coroner's drug findings, arguing that the sample was contaminated.

Bradberry denied negligence or knowledge of O'Brien's drug use. It also denied course and scope of employment, saying O'Brien was going the opposite direction from her assigned destination. The company noted that carrying passengers and using drugs were grounds for termination, and that O'Brien had had a negative drug screen in January 2004. She had been hired in November.

O'Brien's estate further contended that, because Camacho was entering the U.S. illegally, and his acts were "inextricably intertwined" with any negligence by O'Brien, the plaintiffs' claims were barred by the "illegal acts doctrine." The court rejected this argument.

The length of time between the impacts was unknown. Counsel for O'Brien's estate said that O'Brien had passed Crawford and not returned to the northbound lane. Counsel for Crawford and Candy Apple reported that it was undisputed that O'Brien's trailer was at rest when Crawford came upon it.

INJURY:

Camacho was survived by his widow, Hortencia, 36, his daughter, age 15, and his sons, ages 7 and 9. The family lived in Michoacan, Mexico. Camacho had worked in the U.S. once before while his family remained in Mexico. At that time, he was in the U.S. for about nine months. When in Mexico, he had worked as a driver and salesman for a large soft-drink company.

The plaintiffs' attorneys put on evidence of Camacho's income in Mexico and how much he sent home from the U.S. They also put on evidence that Camacho planned to build a new house for his family.

The widow testified about her own mental anguish and that of the sons. The daughter testified about her mental anguish and things she missed about her father.

The family sought \$24 million total. Each family member sought \$1 million for each of the following six elements of damages: past pecuniary loss, future pecuniary loss, past lost companionship and society, future lost companionship and society, past mental anguish, and future mental anguish.

The estate sought funeral expenses of \$2,000.

VERDICT INFORMATION:

The jury found no negligence by Crawford or Candy Apple and apportioned 75% fault to O'Brien and 25% to Bradberry Trucking. The plaintiffs' damages were determined to be \$2,710,400.

The jury found that O'Brien was not in the course and scope of her employment. O'Brien's estate and Bradberry are liable for their respective percentages, although they can offset \$178,000 that they paid the plaintiffs via interpleader.

The plaintiffs plan to argue that another million in coverage is still available from Home State. Counsel for O'Brien's estate and Bradberry indicated that they would dispute such a claim if made.

Hortencia Maravilla Gonzalez

\$30,000 Wrongful Death: Past Loss Of Society Companionship

\$125,000 Wrongful Death: Future Loss Of Society Companionship

\$7,200 Wrongful Death: Past Loss Of Pecuniary Contribution

\$194,400 Wrongful Death: Future Loss Of Pecuniary Contribution

\$250,000 Wrongful Death: Past Mental Anguish

Alberto Camacho Maravilla

\$50,000 Wrongful Death: Past Loss Of Society Companionship

\$125,000 Wrongful Death: Future Loss Of Society Companionship

\$7,200 Wrongful Death: Past Loss Of Pecuniary Contribution

\$26,400 Wrongful Death: Future Loss Of Pecuniary Contribution

\$250,000 Wrongful Death: Past Mental Anguish

\$250,000 Wrongful Death: Future Mental Anguish

Aritze Camacho Maravilla

\$50,000 Wrongful Death: Past Loss Of Society Companionship

\$125,000 Wrongful Death: Future Loss Of Society Companionship

\$7,200 Wrongful Death: Past Loss Of Pecuniary Contribution

\$7,200 Wrongful Death: Future Loss Of Pecuniary Contribution

\$250,000 Wrongful Death: Past Mental Anguish

\$250,000 Wrongful Death: Future Mental Anguish

Jose Marcos Camacho Maravilla

\$50,000 Wrongful Death: Past Loss Of Society Companionship

\$125,000 Wrongful Death: Future Loss Of Society Companionship

\$7,200 Wrongful Death: Past Loss Of Pecuniary Contribution

\$21,600 Wrongful Death: Future Loss Of Pecuniary Contribution

\$250,000 Wrongful Death: Past Mental Anguish

\$250,000 Wrongful Death: Future Mental Anguish

estate of Marcos Camacho Rosas

\$2,000 Wrongful Death: Funeral Burial Expense

EDITOR'S COMMENTS:
