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Trucking Company Settles in Accident Caused by Subcontractor's Drivers

By Natalie White

A California family won a \$2.68 million settlement from a trucking company in May after a 39-year-old man was killed when a semi-truck hit his vehicle.

In an unusual twist, the trucking company, Mountain Valley Express, agreed to settle the case even though the driver of the semi-truck was not technically one of its employees.

Edwin Torrey died March 8, when a semi-truck and trailer crossed the Ventura Freeway and collided with Torrey's Ford Ranger pick-up. The semi-truck's driver, Pablo Solorio of Los Angeles, faces misdemeanor vehicular manslaughter charges in Ventura County.

The defendant, Mountain Valley Express, had fired Solorio three months before the accident because he had three accidents while driving for the company. However, at the time of the accident he was working for one of the defendants subcontractors. He was driving the semi-truck for Red Wing Transport and was pulling a Mountain Valley Express trailer.

Torrey's family, which includes his widow Loree and 6 and 9-year-old sons, filed a wrongful death suit against Mountain Valley claiming the company knew Solorio had a bad driving record.

The family's attorney, Mark Hiepler, argued that the subcontractor and its drivers worked almost exclusively for Mountain Valley Express essentially making them employees of Mountain Valley Express.

"What's interesting here is that we believe Mountain Valley had non-delegable duties even if he was qualified as a subcontractor," Hiepler says.

He claims that if Solorio's driving record was not good enough for Mountain Valley Express he likewise should not have been allowed to drive for the subcontractor.

"What we uncovered was an insurance scam to move liability around. What they had done was allow the subcontractor to drive the cab and the cabs are typically underinsured. Most of the insurance is with the trailers," Hiepler says. "Mountain Valley knowingly allowed a guy to pull their trailer, a guy they just fired."

Robert Salley, attorney for Mountain Valley Express, scoffs at Hiepler's theory.

"This wasn't about insurance. There was no insurance scam whatsoever or anything improper with regard to insurance," says Salley.

But Salley decided to settle even though he contends that Mountain Valley had no control over the subcontractor.

"There are no big mysteries here," Salley says. "It was a tragic accident. This was about compensation for the Torreys' loss. This was a settlement where people came to an agreement on how to resolve this dispute. No one can bring back Mr. Torrey but this is the system we have in place as a way of compensating people. Whenever anyone loses a life it is tragic."

He says the company felt the settlement was fair.

"Mr. Torrey was a relatively young man who had a decent career going and the prospect of earning until the time of his retirement in excess of a million dollars. Then you have the intangibles such as the loss of comfort, guidance, education, companionship. In this case, you have three plaintiffs each of whom has their own separate losses," Salley says.

He says Mountain Valley did not consider Mr. Torrey an unsafe driver.

"Mountain Valley had an internal criteria for employment of drivers that is fairly rigorous. If a driver were to even be involved in three incidents involving minor property damage he cannot be employed as a driver," Salley says. "He was terminated when he bumped into an

overhang. He was not an unsafe driver simply because he bumped into an overhang. The other accidents were also minor."

Furthermore, he says Mountain Valley does not have control over its subcontractors' hiring standards.

"The subcontractor was free to hire any qualified driver. This was a qualified driver under all federal and state guidelines," Salley says.

Torrey was driving home from an overnight shift at Proctor & Gable in Oxnard when the accident occurred during a rainstorm. Solorio had just dropped off a shipment of produce in San Luis Obispo. He lost control of his vehicle on the slick roadway on Ventura Freeway in Oxnard. He crossed the freeway divider, the semi-truck and trailer slid sideways into Torrey's pick up.

Torrey, who was decapitated in the accident, died at the scene, Hiepler says.

He says focus groups conducted by the plaintiffs found in their favor.

"We did a lot of focus groups on this. We found that in this case we had an anger factor because they knew he was dangerous. I think they settled because they felt that there was too much at risk here because of that anger factor," Hiepler says.

Hiepler says the settlement is the largest in a trailer-truck accident wrongful death suit in Ventura County.

However, Salley says the settlement is comparable to similar cases in California.

"We feel it was appropriate compared to other verdicts in California and Ventura County involving wrongful death," says Salley.

Plaintiffs' attorney: Mark O. Hiepler of the Law Offices of Hiepler & Hiepler in Oxnard, Calif.

Defendant's attorney: Robert B. Salley of Tharpe & Howell in Sherman Oaks, Calif.

The case: *Torrey v. Mountain Valley Trucking Company*, Ventura County Superior Court, Judge Hintz. **LWUSA**

Questions or comments can be directed to the editor at bibelle@lawyersweekly.com

