

**CASE INFORMATION SHEET**  
**FLORIDA LEGAL PERIODICALS, INC.**  
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**COUNTY and COURT:** Hillsborough

**NAME OF CASE** [complete style]: John Lanfranchi and Marea Lanfranchi v. Highway Safety Devices, Inc.

**CASE/DOCKET NO.:** 06-CA-000739 **JUDGE:** Hon. Charles E. Bergmann

**PLAINTIFF(S) ATTORNEY(S)/TRIAL COUNSEL** [full names, firm and city]:

Walter Burnside, Esquire, Tampa, Florida.

**DEFENDANT(S) ATTORNEY(S)/TRIAL COUNSEL** [full names, firm and city]:

J. Gregory Giannuzzi, Esquire and Wendy L. Pepper, Esquire, Rissman, Barrett, Hurt, Donahue & McLain, Tampa.

**AGE/SEX/OCCUPATION OF PLAINTIFF or DECEDENT** [at time of accident or occurrence]:

John Lanfranchi, 56, physical therapist assistant; Marea Lanfranchi, 50, unemployed and on Social Security Disability.

**For WRONGFUL DEATH cases, please give age and relationship of survivors:**

**DATE, TIME, and PLACE OF ACCIDENT or OCCURRENCE:**

September 6, 2004 at the intersection of Klosterman Road and U.S. Hwy. 19 in Pinellas County.

**CAUSE OF INJURY** [factual description including allegations and defenses on liability]:

Plaintiff, John Lanfranchi, was a passenger in a vehicle being operated by his 18-year-old son, Roger. Roger had a learners permit at the time, and the facts show that he did not have a significant amount of driving experience. On this specific occasion Roger was driving his father to a drugstore, with Roger along to obtain additional experience.

Defendant is Highway Safety Devices, Inc. (Highway Safety), a company that installs and maintains traffic signals. The subject intersection at Klosterman and U.S. Hwy. 19 was under

construction, and Highway Safety was a subcontractor performing work at the intersection.

Roger was traveling southbound on U.S. Hwy. 19. He was stopped in the left-hand turn lane. He and his father testified that all of the lights southbound were not operating, which was a disputed issue. It was undisputed that the left-hand turn lane light was dark. For whatever reason Roger was making a u-turn and did not see a vehicle coming in the opposite direction traveling approximately 50-55 miles per hour. There was a violent T-bone collision.

The accident happened hours after Hurricane Francis had gone through the area. Various traffic lights were out. Plaintiff's theory was that Roger thought that all the lights were out and anticipated that any vehicles traveling in the opposite direction would stop at the intersection. Thus, as Plaintiff argued, the Defendant laid a "trap" for Plaintiff.

Another of Plaintiff's theories was that on that specific day, on two prior occasions, including within a half hour before the accident, Highway Safety crews were performing repair work at that intersection. A former employee testified that the wiring was "crap." Plaintiff stated that because of the condition of the wiring Highway Safety did not properly repair the light before it left a half hour earlier, or alternatively, did not previously replace all the wiring.

**NATURE OF INJURY** [please be specific concerning injuries, treatment, and medical testimony]:

John Lanfranchi suffered significant injuries. They included numerous fractures to his pelvis, sacrum, lumbar area, and other parts of his body. He also then went on Social Security Disability, and claimed that he could no longer work as a physical therapist assistant. The prior medical lien was about \$74,000. Plaintiff claimed lost wages based upon his making between \$23,000 and \$45,000 a year (depending upon what evidence the jury accepted), and future medicals.

His wife, Marea, also made a claim for loss of consortium.

**PLAINTIFF'S EXPERT WITNESSES** [include full name, degree, specialty and city]:

Ralph Aronberg, P.E. (Traffic Signal Expert).

**DEFENDANT'S EXPERT WITNESSES** [include full name, degree, specialty, and city]:

- 1) Donald Fournier, Jr., P.E. (Accident Reconstructionist)
- 2) Andy Johnson (Meteorologist)
- 3) Daniel E. Murphy, M.D. (Orthopedist)

4) Gerri Pennachio, Ph.D. (Vocational Rehabilitation)

**CHECK APPROPRIATE SPACE :**  X  Verdict

**DATE OF VERDICT:** November 29, 2007

**VERDICT/SETTLEMENT AMOUNT** [provide components of itemized verdict/settlement]:

Defense verdict.

**COMPARATIVE NEGLIGENCE** [if applicable]:

NA

**JUDGMENT:**

A Judgment was entered on December 14, 2007. Plaintiff has filed post-trial Motions which have not been heard.

**DATE OF JUDGMENT:**

December 14, 2007.

**DEFENDANT'S OFFER:**

\$40,000

**PLAINTIFF'S DEMAND:**

\$320,000

**ATTORNEY'S COMMENTS:**

The core of the defense was that the accident was caused by Roger Lanfranchi. He was 18, had a learner's permit, and was out on this occasion to obtain additional driving experience. He did not make a good witness. He was joined as an additional defendant, then when his father settled with him, was added as a **Fabre** defendant.

There were numerous witnesses who provided interesting pieces of information. The car that was traveling in the opposite direction of Roger was being operated by a gentleman who had his family in the vehicle. He made an excellent witness. He testified that he was going about 50-55 miles per hour, and for no reason Roger pulled directly in front of him. That was supported by another witness.

As for Plaintiff's argument that a "trap" was created by Roger believing all the lights were out, the evidence clearly showed that in the direction he was traveling, all the lights were operational other than the turn lane. It is worth noting as well that in addition to both he and his father/Plaintiff testifying that all the lights were out, the wife of the Plaintiff who arrived upon the scene afterward further stated that she looked and observed that the through lights were dark. Their credibility was seriously undermined when two witnesses testified. The first was a witness traveling in the same direction as Roger. She stated that she stopped at the traffic light at the intersection because it was red. That was the same traffic light that governed Roger.

Additionally, the Community Service Officer who investigated this accident had a clear recollection of the matter. She testified that she recalled the accident, and that all the lights were operational other than the left hand turn lane light.

Defendant also used a meteorologist to show the path of this mammoth hurricane, and that it had gone through hours earlier. That evidence was needed for many reasons, one of which was to show that the work being done by Highway Safety on that day was emergency in nature. Additionally, there needed to be an explanation as to why the light was out within a half hour after defendant's crews left. The meteorologist testified as to the high winds and wind gusts (three seconds of sustained winds), which still existed in the area. From other evidence at trial it was shown that wind can certainly affect a traffic signal.

Numerous negligence **per se** jury charges were given. That included a negligence **per se** for Roger failing to properly operate his vehicle in a scenario when a traffic light was operational, failing to yield the right-of-way to others who had entered the intersection, making a u-turn without interfering with other traffic, and not having his turn signal on. The jury was advised that violations of those statutes was evidence of negligence.

The former employee who testified that the wiring was "crap" was actually quite helpful. Rough in manner, he had the jury laughing at times, and clearly demonstrated that he was well experienced in traffic signals. He stated that there could be a multitude of reasons why the left turn light was out 30 minutes after he left. He ultimately did state that his use of the word "crap" in describing the wiring at his deposition was merely his manner of talking. He spoke in grand terms. He also indicated that had the wiring been deteriorated and decaying, he would have been shocked while working on it. He was not. In addition, Defendant offered the testimony of a Traffic Operation Supervisor for Pinellas

County, and their records showed that the wiring at the intersection was in good condition.

It should also be noted that defendant was able to strike the opinion testimony of Plaintiff's traffic expert. Plaintiff took the expert's deposition for use at trial. He had two theories as to what possibly may have happened. Because he was equivocal, the court agreed that his opinions were inadmissible. Thus, the Plaintiff's expert was limited via his videotaped trial testimony to offering an explanation as to traffic lights in general, though he could not offer any opinions. The court thus permitted Plaintiff to only play certain portions of his deposition for the jury.

Plaintiff has filed an appeal.

Defendant has also filed a Motion for Costs and Attorney's Fees pursuant to a Proposal for Settlement.

Submitted By: J. Gregory Giannuzzi                      Date: February 25, 2008

Firm: Rissman, Barrett, Hurt,  
Donahue & McLain, P.A.

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