

CASE INFORMATION SHEET
FLORIDA LEGAL PERIODICALS, INC.
P.O. Box 3370, Tallahassee, FL 32315 - 3730
(904) 224-6649/(800) 446-2998 * FAX (850) 222-6266

COUNTY AND COURT:

The 15th Judicial Circuit Court for Palm Beach County, Florida

NAME OF CASE:

TAMMY LYNN BUNTING, as Personal Representative of the Estate of
CODY M. BUNTING, deceased,

Plaintiff,

v.

URRA NURSERY, INC. a Florida for profit corporation and JUAN
FRANCISCO DELGADO,

Defendants.

CASE DOCKET NO.: 50-2016-CA-012629 XXXXX AB

JUDGE: Hon. Peter D. Blanc

PLAINTIFF(S) ATTORNEY(S)/TRIAL COUNSEL:

Scott B. Smith, Marci Ball Elordi and Jason McIntosh
Lytal, Reiter, Smith, Ivey & Fronrath
West Palm Beach, FL

DEFENDANT(S) ATTORNEY(S)/TRIAL COUNSEL:

Karissa L. Owens, Howard L. Citron and Julie A. Herzlich
Rissman, Barrett, Hurt,
Donahue, McLain & Mangan, P.A.
Fort Lauderdale, FL

AGE/SEX OCCUPATION OF PLAINTIFF OR DECEDENT:

The decedent, Cody M. Bunting, was a 23 year-old heavy equipment operator.

FOR WRONGFUL DEATH CASE, PLEASE GIVE AGE AND RELATIONSHIP OF SURVIVORS:

Mother, 53
Father, 51
Child, 19 months

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

The claim arose out of an automobile accident that occurred on August 29, 2016 on U.S. Highway 27, 12 miles west of South Bay, Florida in Palm Beach County.

CAUSE OF INJURY:

The defendant driver, Juan Delgado, was driving his employer, Urra Nursery, Inc.'s tractor-trailer southbound on a 4 lane divided highway in rain when a 1999 Ford F-150 driven by the 23 year-old decedent experienced a fracture within the truck's front suspension system. The fracture caused the left front wheel to separate and forced the truck off the road and across the center grass median into the southbound lanes.

The defendant driver admitted to seeing the F-150 out of control about 1/4 mile away while it was still in the northbound lanes, but did not react to it until it was coming out of the grass median in his direction. He was traveling 60 mph in a 65 mph zone, but had just passed an SUV that was traveling 35-45 mph due to the weather conditions.

Plaintiff alleged that the defendant driver was driving too fast for conditions (due to a statute in the Federal Motor Carrier Traffic Safety Regulations that requires commercial vehicle operators to reduce speed in the event of hazardous conditions, such as rain, that adversely affect visibility or traction), failed to take timely evasive action and failed to keep a vigilant lookout. Plaintiff's experts claimed that the defendant driver should have begun reacting when the F-150 exited the northbound lanes into the median and should have been driving slower, and if he had, the fatal accident would not have occurred.

According to FHP and Plaintiff's accident reconstruction expert, the tractor trailer was traveling at 63-64 miles per hour at the time of impact. The tractor trailer collided into the driver side of the F-150, which had come to rest in the southbound lanes. The impact caused the F-150's fuel tank to explode. The decedent died upon impact; however, he was badly burned and his family observed him at the scene. At the time of his death, the decedent's girlfriend was 3 months pregnant, so he was survived at the time of trial by a 19 month-old daughter and his parents.

NATURE OF INJURY:

There was no dispute that the decedent died upon impact.

PLAINTIFF'S EXPERT WITNESSES:

Daniel J. Melcher, P.E.
Focus Forensics
Jupiter, Florida

Mr. Melcher testified that the defendant driver, Mr. Delgado, should have appreciated the need to respond to the Bunting F-150 when it exited the northbound lanes of travel and entered the median and that if he had started braking then, he could have stopped in time to avoid the collision or he could have slowed and returned to the left lane to go around the F-150 when it landed in the right lane.

David Dorrity
Transportation Resources, Inc.
Greenville, South Carolina

Mr. Dorrity is a trucking safety expert. He testified that Mr. Delgado was driving too fast for conditions, failed to take evasive action and failed to keep a lookout to identify the Bunting F-150 emergency. Mr. Dorrity admitted that tractor-trailer drivers have better visibility than regular automobile drivers and that they are not affected by the back-spray of the semi-trucks (which explained why one eyewitness who was behind Mr. Delgado's tractor-trailer said she had limited visibility but Mr. Delgado did not).

DEFENDANT'S EXPERT WITNESSES:

Shawn Ray, P.E.
Forensic Engineering Technologies,
Lake Mary, Florida

Mr. Ray testified regarding the identity of the parts that failed on the F-150, and what was original equipment versus replacement parts. Overall, Mr. Ray's reconstruction of the accident was similar to that of Plaintiff's expert, Mr. Melcher in terms of times, distances and speeds.

However, Mr. Ray testified that the accident was unavoidable, because at the time when it would have been appropriate for Mr. Delgado to begin reacting to the F-150, there was not enough time to avoid the impact. Mr. Ray testified that it was very likely that had Mr. Delgado slammed on the brakes, his empty trailer would have jack-knifed.

Justin Morgan, Ph.D.
Forensic Engineering Technologies,
Lake Mary, Florida

Dr. Morgan testified that it would not have been appropriate for the defendant driver, to begin reacting to the F-150's emergency when it was out of control in the northbound travel lanes because at that time, the vehicle was not a threat to vehicles far off in the opposite lanes of travel.

Rather, Dr. Morgan opined that a normal driver would recognize and respond only once the F-150 was coming through the center of the median (when Mr. Delgado testified that he began to react). Dr. Morgan testified that the accident was unavoidable and Mr. Delgado reacted as a normal driver.

CHECK APPROPRIATE SPACE: X Verdict

DATE OF VERDICT:

November 8, 2018

VERDICT:

Defense Verdict

COMPARATIVE NEGLIGENCE:

N/A

JUDGMENT:

Pending

DATE OF JUDGMENT:

Pending

DEFENDANTS' OFFER:

Defendants served a Proposal for Settlement for \$210,000.

PLAINTIFF'S DEMAND:

Plaintiff served a Proposal for Settlement for \$2 million, which represented Defendants' policy limits. There was no specific monetary amount demanded in closing; rather, Plaintiff's counsel reminded the jury of the decedent's survivors, in particular his baby that will never know her father.

ATTORNEY'S COMMENTS:

The defense has agreed to waive its claim for attorney's fees and costs in exchange for Plaintiff's agreement not to pursue an appeal.

Submitted By: Julie A. Herzlich Date: January 9, 2019

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

Address: 6451 North Federal Highway
 Suite 400
 Fort Lauderdale, FL 33308

Telephone: (954) 526-5480

Fax: (954) 745-7258