

A Notable Louisiana Verdict (Involving a Kentucky Attorney)

Truck Negligence - The plaintiff's big rig was disabled by a tire blow-out – rather than exit the interstate, the plaintiff limped along at reduced speed of 35 mph – the defendant (also a trucker) clipped the plaintiff's truck as he passed, the collision leaving the plaintiff with multiple injuries including to both knees as well as a both neck and low-back fusion surgeries – while the plaintiff prevailed at trial (he was found 50% at fault), the verdict was far less than the incurred medical bills

Farrag v. Sindler Trucking, 14-3321
Plaintiff: Roderick "Rico" Alvendia and Kurt A. Offner, *Alvendia Kelly & Demarest*, New Orleans, Sean A. Blondell, *Rouzan Law*, New Orleans, Patrick R. Jackson, Bossier City and Bruce C. Bennett, *Manasseh Gill Knipe & Belanger*, Baton Rouge
Defense: Melissa T. Richardson, *WMR Defense*, Lexington, KY and Darrin M. O'Connor, *Porteous Hainkel & Johnson*, Covington
Verdict: \$350,000 for plaintiff less 50% comparative fault

Court: **Hammond, Louisiana
Tangipahoa Parish**

Judge: Robert M. Morrison

Date: 8-25-18

Hasam Farrag, then age 35, was operating a tractor-trailer on I-55 in Tangipahoa Parish near Hammond, LA. He blew a tire on his truck. Farrag first pulled to the shoulder of the highway to check the tire. He then made a decision to return to the roadway. Farrag didn't believe it would be safe to remain on the shoulder.

Farrag then began to proceed at a reduced speed of 35 mph on the interstate. He did so for some 20 minutes, there being proof he may have even passed at least one exit.

Against this backdrop, Tyrone Kilgore approached on I-55. He was driving a loaded tanker truck for Sindler Trucking.

Kilgore saw the slow-moving truck in front of him and made an effort to change lanes. He couldn't do so in time and clipped Farrag's trailer. It was a moderate impact.

Farrag did not report an injury at the scene and in fact did not start treating until two weeks after the wreck. He was initially identified as having suffered sprains of his neck, low back and knees.

Farrag treated back home in Tennessee for six months before being cleared to work. He then began a course of care in New Orleans (he would fly from Tennessee) and his course of care was significant.

Farrag underwent two knee arthroscopic surgeries, a neck fusion, a low-back fusion and an additional procedure to remove hardware – there were five surgeries in all. His treating physicians included Dr. Allen Johnson, Orthopedics, and Dr. Rand Voorhies, Neurosurgery. The physicians linked Farrag's injuries to this collision.

Farrag's incurred medical bills were \$510,000. A life care planner, Shelly Savant, calculated that Farrag's future medical treatment would cost \$330,000. Beyond Farrag's claim for damages, his wife, Yasmeen, presented a derivative consortium claim.

In this lawsuit Farrag blamed Kilgore for rear-ending him. Noting that it was a rear-end wreck and that Kilgore was cited for "careless operation", Farrag thought Kilgore was solely at fault. Farrag relied on an accident expert, Sal Fariello. As the case went to the jury, Farrag asked the jury for an award of \$2.4 to \$4.0 million.

Kilgore and Sindler Trucking (they are HDI Gerling America Insurance

insureds) first defended on fault. They implicated Farrag's negligence in several ways, he should have (1) stayed on the shoulder and waited for a service truck, (2) taken one of the exits he passed while disabled, or (3) called for an escort. The defense accident experts were Kelly Kennett, Biomechanics, David Curry, Human Factors and Larry Baareman, Transportation Expert.

The defense also contested damages. It agreed with Farrag's Tennessee physicians who initially treated Farrag and concluded his symptoms were resolved. The defense thought it important that Farrag's treatment in New Orleans (months after the crash) only happened after he hired Louisiana attorneys. A defense IME expert was Dr. Ralph Katz, Orthopedics.

This case began trial on a Monday and concluded the following Saturday afternoon. Deliberating 90 minutes, the jury was split on fault. It assessed that fault equally to the two drivers.

Then turning to damages, Farrag took \$250,000 of his medicals and both \$50,000 for pain and suffering and mental anguish. The jury rejected his wife's loss of consortium. The raw verdict totaled \$350,000 and presumably a judgment less comparative fault will be entered for Farrag in the sum of \$175,000. In January of 2018 the defendant made an offer of judgment in the sum of \$400,000.