Texas jury has found a bus company and its driver liable for $124.5 million, all in actual damages, to seven passengers injured or killed while riding in a van in a state where it was not licensed to operate.

A collection of small firm attorneys from various firms representing individual passengers and their families tried the case together.

Much of the four-day trial focused on whether the driver, who the passengers testified was eating and speeding on snowy roads, was an employee or agent of the bus company.

According to the plaintiffs’ attorneys, the high mental anguish damages – which for some plaintiffs far exceeded what their lawyers requested – were awarded because the passengers sensed something bad was about to happen to them.

“Most people who are in an accident, it just happens, and they don’t have much appreciation there’s going to be an accident. These people were so upset because they realized the driver was driving too fast for the conditions, and they were clamoring to find their seatbelts at the moment of the accident,” said Dennis L. Richard, a San Antonio, Texas attorney who represented the family of 63-year-old Ascencion Ramirez Caraveo. Caraveo was half-ejected from the van.

But defense attorney Mannie Kalman of the Law Offices of Mannie Kalman in El Paso, Texas said the verdict resulted from a jury “run amok,” and he will appeal.

“In effect, what you had was an angry jury. At the end of the day, this case will be reversed and remanded for a new trial. Texas has a very conservative supreme court and they don’t like runaway juries,” Kalman said.

The passengers boarded a bus operated by Los Paisanos (“The Compatriots”) in El Paso, Texas which took them to Denver, Colo. In Denver, they boarded an unmarked white van that seated 15 people.

No more than 15 minutes into the trip, the van rolled over on Interstate Highway 76, ejecting some passengers. Two were killed, while others were injured.

Two threshold legal battles were establishing whether the van was a motor carrier under federal regulations and whether the driver was an employee or agent of the bus company.

“Once we established the owner was acting as a motor carrier, he was subject to a higher standard of care – a ‘high degree of care’ in transporting passengers – as opposed to an ordinary prudent person standard,” said Steven Pastrana, an Austin solo practitioner.
Los Paisanos was not licensed to operate in Nebraska, and according to the plaintiffs the defense presented a complicated story of how the van came to be transporting passengers into that state.

Los Paisanos owner Uriel Chavira claimed that because of the storm the passengers missed their connecting bus in Denver, so a friend who rode as a passenger from El Paso to Denver volunteered to drive the others from Denver to Greeley, Colo., where the passengers were supposed to get off and board a non-Los Paisanos bus that would take them to Nebraska.

The only problem with that story, the plaintiffs’ attorneys argued, was the bus wasn’t headed toward Greeley, but was en route to Nebraska.

At trial, the plaintiffs’ attorneys enlarged a map showing the van was headed north toward Nebraska on Highway 76 and had already overshot the exit for Highway 85 toward Greeley by several miles.

Another inconsistency with the defense story was that the passengers’ tickets indicated they were bound for Nebraska and they testified that no one said anything about changing buses again in Greeley.

Chavira denied that the driver was his employee, but a trooper at the scene testified that the driver told him he was an employee of Los Paisanos and an investigator for the coroner’s office testified that the Los Paisanos terminal operator in Denver told her the driver was an employee.

The trial judge directed a verdict in favor of the plaintiffs on the issues of Los Paisanos’ status as a motor carrier and whether the owner was engaged in interstate commerce.

**AT-A-GLANCE**

**Verdict:** $124.5 million in compensatory damages

**State:** Texas

**Type of case:** Negligence

**Status:** Motion for new trial planned

**Case name:** Pacheco v. Chavira

**Date:** Dec. 3, 2010

**Plaintiff’s attorneys:** Craig Sico of Sico, White, Hoelscher & Braugh in Corpus Christi, Texas; Dennis Richard of Wigington Rumley Dunn in Corpus Christi; Steven Pastrana of Pastrana Law Firm in Austin; Joseph Isaac of Scherr & Legate in El Paso, Texas

**Defense attorneys:** Mannie Kalman of The Law Office of Mannie Kalman in El Paso, Texas

As it turned out, they had nothing to worry about.

Richard asked the jury to consider the value of life in a society where an actress or athlete is paid $20 million for a single movie or season of sports.

His clients, including five surviving children, were awarded over $29 million.

**Pastrana’s client:** Roberto Pacheco, received the largest award. While his wife testified about how he used to be the pillar of the family but now needs help shaving and bathing.

**Questions or comments can be directed to the writer at:** sylvia.hsieh@lawyersusaonline.com

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