

# TRIALS DIGEST®

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AUGUST 29, 2011

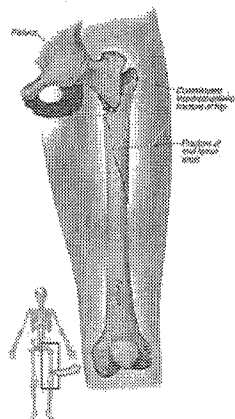
Vol. 14 No. 35

*Notable Cases in This Week's Issue...*

	Result	TR#
<b>Pest control inspector crushed to death by tractor-trailer</b>	<b>\$3,297,464</b>	31
Employee claims termination based on sexual orientation	Defense	10
Woman develops tardive dyskinesia from taking Zyprexa	\$850,000	18
Bartender trips over protruding valve in hotel parking lot	\$595,000	23
Roll-up door of rental truck crushes driver's spine	Defense	19
Mother, daughter killed by driver reaching for cellphone	\$300,000	30
Children allege mother's breast cancer not timely treated	\$525,000	17
Patient alleges obstructed ureter after hysterectomy	Defense	15
Three minors allege abuse at Juvenile Detention Facility	\$220,000	2

**Market display topples onto customer, causing femur fracture: \$550,000**

Trial Report No.: 20  
Detailed Illustration: Page 4



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**CLAIMED DAMAGES**

Not reported.

**SETTLEMENT DISCUSSIONS**

According to plaintiff: Demand: \$300,000 policy limits.  
Offer: \$300,000.

**EXPERTS**

None.

**COMMENTS**

According to plaintiff: The insurance carrier was GEICO;  
the adjuster was Theresa McCormack.

**35 TD 14TH 31****Pest control inspector crushed to death by tractor-trailer****VEHICLE NEGLIGENCE**

Pedestrian/Truck

**PRODUCTS LIABILITY**

Safety Equipment

**WRONGFUL DEATH**

Adult

**ORANGE COUNTY SUPERIOR COURT**

*Perez v. Northern Refrigerated Transportation Inc.*, Docket number: 30201000352035. Judge: Gail A. Andler. Trial type: Jury; Not reported. Verdict/Judgment date: 5/18/2011.

**VERDICT: \$3,297,464**

\$1,997,464 special damages; \$1,300,000 general damages.  
Vote: Not reported. Deliberations: Not reported.

**COUNSEL**

Plaintiff: Matthew McNicholas, McNicholas & McNicholas, Los Angeles. Juan Victoria, McNicholas & McNicholas, Los Angeles. Rahul Ravipudi, Panish, Shea & Boyle, Los Angeles.

Defendant: Raymond McElfish, McElfish Law Firm, W. Hollywood. Jasmine Gevorkyan, McElfish Law Firm, W. Hollywood. Mark Buehler, Law Offices of James M. Fraser, Santa Ana.

**FACTS/CONTENTIONS**

According to plaintiff: On November 17, 2008, decedent Erik Karl Sanchez was a 40-year-old pest control worker for KillCo Pest Company. One of his clients was VersaCold, a company that runs cold storage warehouses throughout North America. VersaCold hired decedent to do the pest control at its Anaheim facility. When plaintiff arrived at the Anaheim facility to do some work in anticipation of a soon-to-be inspection, he was attending to a rodent trap

that was against a loading dock wall, where he was crushed to death by a tractor-trailer that backed into the loading dock. The tractor-trailer was a "refer" unit, which meant it had a refrigeration unit attached to the trailer to keep the contents cold. The refer unit was on and operating at all times with the trailer doors open, adding to the ambient noise. Additionally, the 90 Freeway was less than 100 feet away, also adding substantially to the ambient noise. The tractor-trailer had no backup alarm system.

Plaintiffs Celina Perez, Noah S., Chloe S., Raymond S. and Desirae S., through their Guardian ad Litem, Valerie Aguilar, alleged that the trucking company, defendant Northern Refrigerated Transportation Inc. and defendant VersaCold facility both had an obligation under Cal-OSHA regulations to ensure the tractor-trailer had a backup warning alarm or some other equivalent means to make the backing operation safe.

Defendant trucking company argued that it had no obligation under any law, federal or state, to have a backup alarm and it was VersaCold's responsibility alone to ensure compliance with the applicable Cal-OSHA requirements as it was their facility and they were supposed to be in control of the facility.

VersaCold argued that it gave no direction to the trucks that arrived at its facility, gave them no direction at any time during the backing process, and they were therefore not negligent for the death of decedent. VersaCold also argued that any Cal-OSHA requirement for safe backing fell only on the trucking entity.

**CLAIMED INJURIES**

According to plaintiff: Death.

**CLAIMED DAMAGES**

Not reported.

**SETTLEMENT DISCUSSIONS**

Not reported.

**EXPERTS**

Plaintiff: John L. Bobis, Ph.D., safety engineer, Cal-OSHA, Rancho Murieta (916) 355-2688. Peter Formuzis, Ph.D., economist, Formuzis, Pickersgill & Hunt Inc., Santa Ana (714) 542-8853. John G. Perry, Ph.D., biomechanical engineer, Northridge (818) 360-0942. Carl A. Beels, human factors expert, Beels & Associates Inc., Escondido (760) 751-8554. John L. Riggins, trucking consultant, Covina (626) 966-0139. Alvin Lowi, III, P.E., accident reconstructionist, Vollmer-Gray Laboratories Inc., El Segundo (310) 414-0449.

Defendant: Anthony C. Stein, Ph.D., human factors expert, Safety Research Associates, La Canada (818) 952-1500. James R. Hinson, P.E., safety engineer, Make-It-Safe Services Inc., Foster City (800) 544-6766. Timothy J. Long, accident reconstructionist, Valencia (661) 257-8189. Stephen P. Andrew, P.E., physical engineer, Exponents Failure Analysis