

**MOTOR VEHICLE****Wrongful Death****Tractor-Trailer jackknifed after overcorrecting, killing family****SETTLEMENT** **\$96,000,000**

CASE Betty A. Huff, Estate of Melvin Huff, Sr. and Melvin Huff, Jr., Janice Williams a/n/f of John Jamel Huff, et al. vs. Weiner's Stores, Inc.; Jay Lester Weiss, Linda Weiss vs. Weiner's Stores, Inc.; Mo

COURT Brazoria County District Court, 149th, TX

NEUTRAL Judge Ferguson

DATE 02/02/1998

PLAINTIFF

ATTORNEY(S) **Gregory Baumgartner**, Riddle & Baumgartner, Houston, TX (Bostrom Seating, Inc., Jay Lester & Linda Weiss)

Aldean E. Kainz, Small, Craig & Werkenthin, Austin, TX (Bostrom Seating, Inc., Weiner's)

Jimmy Phillips Jr., Angleton, TX (Bostrom Seating, Inc.)

Don R. Riddle, Riddle & Baumgartner, Houston, TX (Bostrom Seating, Inc., Jay Lester & Linda Weiss)

Joe B. Stephens, Stephens & Stephens, Houston, TX (Bostrom Seating, Inc.)

DEFENSE

ATTORNEY(S) **C. Robert Mace**, Fulbright & Jaworski, Houston, TX (Weiner's Stores, Inc., Jay Lester Weiss, Linda Weiss vs. Weiner's Stores, Inc., Motor Lease Corp., Indiana Mills Manufacturing, Navistar, Bostrom Seating, Inc., Weiner's)

Don Weiting, Weiting & Weiting, Houston, TX (Weiner's Stores, Inc., Jay Lester Weiss, Linda Weiss vs. Weiner's Stores, Inc., Motor Lease Corp., Indiana Mills Manufacturing, Navistar, Bostrom Seating, Inc., Weiner's)

G. Jerome Kacal, Dunn, Kacal, Pappas & Law, Houston, TX (Weiner's Stores, Inc., Jay Lester Weiss, Linda Weiss vs. Weiner's Stores, Inc., Motor Lease Corp., Indiana Mills Manufacturing, Navistar, Bostrom Seating, Inc., Weiss)

Kenneth Tekell, Tekell, Book, Matthews & Limmer, Houston, TX (Weiner's Stores, Inc., Jay Lester Weiss, Linda Weiss vs. Weiner's Stores, Inc., Motor Lease Corp., Indiana Mills Manufacturing, Navistar, Bostrom Seating, Inc., Indiana Mills)

Matthew Edquist, Patterson & Edquist, Angleton, TX (Weiner's Stores, Inc., Jay Lester Weiss, Linda Weiss vs. Weiner's Stores, Inc., Motor Lease Corp., Indiana Mills Manufacturing, Navistar, Bostrom Seating, Inc., Bostrom)

Richard E. Griffin, Jackson Walker, Houston, TX (Weiner's Stores, Inc., Jay Lester Weiss, Linda Weiss vs. Weiner's Stores, Inc., Motor Lease Corp., Indiana Mills Manufacturing, Navistar, Bostrom Seating, Inc., Motor Lease)

Robert Schick, Vinson & Elkins, Houston, TX (Weiner's Stores, Inc., Jay Lester Weiss, Linda Weiss vs. Weiner's Stores, Inc., Motor Lease Corp., Indiana Mills Manufacturing, Navistar, Bostrom Seating, Inc., Navistar)

W. Todd Barnett, Jackson Walker, Houston, TX (Weiner's Stores, Inc., Jay Lester Weiss, Linda Weiss vs. Weiner's Stores, Inc., Motor Lease Corp., Indiana Mills Manufacturing, Navistar, Bostrom Seating, Inc., Motor Lease)

FACTS & ALLEGATIONS On Aug. 11, 1995, plaintiff Melvin Huff was driving down Hwy 290 when Jay Weiss, driving an empty tractor-trailer also down Hwy 290, ran off the shoulder to the right. Weiss over-corrected back onto 290 and jackknifed into oncoming traffic, hitting Huff who had his teenage son, Melvin, as a passenger. Weiss' truck ended up 180 degrees from the direction he was originally going and hitting a bar ditch. Both Melvin Huff Sr. and Jr. were killed.

Jay Weiss contended he heard a loud bang in the right rear of the tractor and that was the last thing he remembered.

The plaintiffs sued Weiss and the truck fleet's owner, Weiner's Stores Inc., for negligent operation of a vehicle.

Weiss contended the tractor was defective, not that he was negligent. He filed a crossclaim against Motor Lease Inc., the contract maintenance facility for the truck fleet, for failure to maintain. The plaintiffs also claimed that the truck was improperly maintained. Inspection of the tractor showed the right rear brake drum was broken due to the lug nuts being over-tightened.

Motor Lease argued that the brake drum broke due to the truck hitting the ditch going 50 mph, not because it was improperly maintained.

Before his death, Weiss filed a WC non-subscriber claim against Weiner's alleging negligence for failure to provide a safe truck. Weiss contended the truck was improperly maintained and that the seat belt, which did not hold, and seat were defective and third-partied Indiana Mills, manufacturer of the seatbelt; Navistar, manufacturer of the trailer; and Bostrom Seating, manufacturer of the seat.

INJURIES/DAMAGES Melvin Huff Jr. and Sr. died in the crash. The plaintiffs sought wrongful death damages.

Weiss was rendered quadriplegic as a result of the accident and died three months before trial.

VERDICT INFORMATION The Court granted summary judgment in favor of Navistar, Indiana Mills and Bostrom Seating.

Weiner's settled with the Huffs for \$3,200,000. Motor Lease Corp. settled with John Jamel Huff for \$200,000; and with the family of Melvin Huff Sr. and Jr. for \$200,000. Weiner's settled with John Jamel Huff for \$250,000.

Weiner's ERISA Plan paid Weiss \$1,000,000 for medical and compensation benefits. Weiner's intervened for the \$1,000,000 in ERISA benefits paid. Weiss settled with Weiner's for \$3,150,000 plus waiver of a \$1,000,000 credit for ERISA benefits paid. Motor Lease Corp. settled with the Weisses for \$2,600,000.