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Fatal collision in Texas leads to \$30M verdict against FedEx Freight

FedEx and XPO trucks collided head-on in the rain on four-lane highway with no divider



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John Kingston • Tuesday, October 19, 2021



Photo: Jim Allen/FreightWaves

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FedEx Freight, the LTL division of the FedEx parent corporation, has been hit with a \$30 million verdict in a Texas court for a deadly head-on collision in 2018.

A jury in Harris County — where Houston is located — handed down the award Friday.

The driver of a FedEx Freight truck, David Forehand, was held 49% responsible for the crash that took the life of Joseph Cargal, who was driving for XPO Logistics ([NYSE: XPO](#)) at the time. FedEx ([NYSE: FDX](#)) was held 51% responsible due to what the jury said was its negligence in training and supervising Forehand.

Devin McNulty, a partner with the firm of Chandler McNulty, which represented family members who sued FedEx, said he did not believe the size of the award constituted a nuclear verdict — generally considered a jury award in excess of \$10 million. “I don’t know what a nuclear verdict is,” McNulty said in an email to FreightWaves. “Possibly nine figures and above.”

Cargal’s widow had settled with XPO and its insurance carriers separately, McNulty said. Jack and Andrew Cargal, the plaintiffs in the current case, are his sons.

According to the original complaint filed in the suit, the FedEx Freight truck driven by Forehand was headed south on U.S. highway 59 near the small east Texas town of Tenaha. Cargal was headed north.

The collision occurred at approximately 1:30 a.m. in the rain. "Under the dark of night, on wet roads, in a pouring rain, and while carrying a combined gross vehicle weight rate in excess of 135,000 pounds, Defendant ... was traveling at an excessive speed and failed to maintain its own lane," the complaint stated. The highway at that point is a four-lane road with no median or divider.

"Without warning and while failing to drive as a reasonably prudent commercial driver under the same or similar circumstances, Forehand veered into the oncoming northbound lanes of traffic and hit Cargal head-on," the complaint said. Cargal suffered severe burns and was declared dead at the scene. He also had blunt force trauma of the head and torso.

Despite the earlier settlement with Cargal's widow, McNulty said the recent case "only went to verdict because the risk was miscalculated by FedEx Freight."

"The evidence was there all along," McNulty wrote in his email. "Most of our large trucking cases settle well before a jury sees the evidence."

The jury vote was unanimous after a nine-day trial. A lawyer for FedEx declined comment.

McNulty said the FedEx Freight truck had outward-facing cameras. He said a state trooper and a crash reconstructionist "were able to easily calculate [Forehand's] speed from the time and distance traveled shown."

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