

FedEx Freight Hit With \$30M Verdict For Fatal Truck Crash

By **Mike Curley**

Law360 (October 18, 2021, 7:42 PM EDT) -- A Houston jury has hit FedEx Freight Inc. with a \$30 million verdict in a wrongful death suit filed by the sons of a man who died in a collision involving one of the company's truck drivers.

Attorney Devin McNulty of Chandler McNulty LLP, who represents Jack and Andrew Cargal, said the jury came back with the verdict on the 10th day of trial, awarding each of them \$15 million for the death of their father, Joseph Cargal.

According to the petition, Joseph Cargal had been driving a doubles tractor-trailer for XPO Logistics in the early morning hours of Sept. 8, 2018, when the FedEx truck driven by David Forehand, going in the opposite direction, swerved to avoid either a fallen tree or a branch and went into the oncoming lane, hitting Cargal head-on.

Cargal died at the scene, and the Texas Department of Public Safety state trooper who arrived on the scene blamed the crash on the "faulty evasive action" of the FedEx truck driver, according to McNulty. Jack and Andrew Cargal sued the company, arguing Forehand should have either continued straight or gone right, rather than left into oncoming traffic.

McNulty said Monday that dashcam video from both Forehand's and Joseph Cargal's videos showed that Forehand had been going 65 mph in a 55-mph zone, while it was raining in the early morning hours and there was low visibility, and Joseph Cargal had been going 47 mph and complying with trucking rules for extreme caution driving.

Jack and Andrew Cargal's mother, Bonnie Cargal, had also sued as administrator of her husband's estate but settled claims in 2019, McNulty said.

By the time the case had reached trial, only the wrongful death claims remained, McNulty said. The jury went into deliberations after nine days of trial and returned with a unanimous verdict the next day, finding that Forehand had been negligent in driving, and FedEx had been negligent in training and supervision. The jury assessed that Forehand was 49% at fault and FedEx 51%.

McNulty said Joseph Cargal's family had expected and hoped to enjoy a long lifetime with him, describing the relationship between him and his children and grandchildren as close.

"Andy and Jack testified that when FedEx killed their father it made them orphans because they have no relationship with their mom," McNulty said. "Plaintiffs argued they had 30 years left with their dad who had just bought an RV so he could travel out of state to visit one of his sons who lives in Utah with his three grandkids."

Representatives for FedEx could not immediately be reached for comment Monday.

Jack and Andrew Cargal are represented by Troy Chandler and Devin McNulty of Chandler McNulty LLP.

FedEx and Forehand are represented by William Chamblee and Matt Loving of Chamblee Ryan PC.

The case is Cargal et al. v. FedEx Freight Inc. et al., case number 2018-80520, in the District Court of Harris County, Texas.

--Editing by Janice Carter Brown.