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## Verdicts & Settlements

### Mecklenburg Truck Break - Down Results In \$775,000 Wrongful Death Verdict

**Brief statement of claim:** Wrongful death in motor vehicle collision

**Principal injuries (in order of severity):** Fatal blunt trauma

**Special damages:** \$12,229 stipulated as reasonable funeral expenses

#### ADVERTISEMENT

**Tried or settled:** Jury trial

**County where tried or settled:**  
Mecklenburg

**Case name and number:** *Charles G. Monnett III, Administrator of the Estate of Jasmin Melian v. The Observer Transportation Company and Larry Williams* (00 CvS 12927)

**Date concluded:** Verdict: Nov. 28, 2001; Judgment: Dec. 26, 2001

**Name of judge:** Claude S. Sitton

**Amount:** \$775,000, plus prejudgment interest from Aug. 24, 2000

**Insurance carrier:** Travelers

**Expert witnesses and areas of expertise:** No experts used

**Attorney for plaintiff:** Jay Trehy, Raleigh

**Other useful info:** The plaintiff's demand was \$200,000 in "new money," as there was a prior settlement for \$100,000. The defendant offered \$25,000 in "new money."

Around 1:30 a.m., Jasmin, Vicente and Johnathan Melian were on I-77 traveling through Charlotte on their way from Columbus, S.C. to Hickory in order to be there for the next day's baseball game.

A newspaper delivery truck owned by the Observer Transportation Company, and operated by its employee, Larry Williams, broke down. Mr. Williams failed to get the truck off the road, according to the plaintiff's counsel. There was also a factual dispute as to whether and what truck lights were on.

Mr. Williams exited the truck, leaving it in the middle lane of I-77, and made his way toward the shoulder while he called his supervisor on a cell phone. The Melian vehicle crashed into the back of the delivery truck, and Mr. and Mrs. Melian were killed. Johnathan Melian suffered personal injuries, and his claim is pending.

Shortly after the crash, Jackson Melian came upon the accident scene in the team bus.

Administrators were appointed for the estates of Jasmin and Vicente Melian. One action was brought by Jasmin Melian's estate against her husband's estate, and this case was entitled *Charles G. Monnett III, Administrator of the Estate of Jasmin Melian v. Edward G. Connette, Administrator of the Estate of Vicente Melian*. A separate action was brought against the Observer Transportation Company and its driver.

The suit against Vicente Melian's estate settled on the eve of trial for the available insurance coverage, \$100,000. The action against the Observer Transportation Company and its driver proceeded to trial with the understanding that these defendants would be entitled to a credit pursuant to *Brown v. Flowe*, 507 S.E.2d 894 (N.C. 1998).

The trial was relatively brief, with one day of testimony. The plaintiff called the investigating trooper to establish the scene, played portions of the videotaped deposition of the defendant driver, and called the two sons to testify through a Spanish interpreter. No economic damages were sought. No experts testified. The defense declined to put on any evidence, and thereby obtained the final closing argument, according to the plaintiff's counsel.

In closing, plaintiff's counsel argued that Mr. Williams failed to get his truck off the road when it was breaking down, and a highway hazard was created. Plaintiff's counsel conceded that Mr. Melian was also at fault, but argued that the defendants at trial were jointly and severally liable for concurring negligence.

According to the plaintiff's counsel, the defense argued that Mr. Williams did all he could in an emergency situation, and therefore he was not negligent. The defense also argued that if Mr. Williams were negligent, then the negligence of Mr. Melian, in failing to see the broken-down truck on a well-lit stretch of interstate highway, constituted insulating negligence.

The jury returned verdicts for the plaintiff on liability and for wrongful death damages for the surviving adult sons of Jasmin Melian.

At the time of this December 2001 case report, the verdict plus prejudgment interest is approximately \$858,000, and the defendants were entitled to a credit of approximately \$100,700, according to the plaintiff's counsel.

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