

**MOTOR VEHICLE****Wrongful Death, Survival****Death Of Driver Brings \$3.8 Million Settlement****SETTLEMENT** **\$3,800,000.00**

CASE Sylvia Azzam, Individually and as Representative of the Estate of Safwan Azzam and as Next Friend of Suzanna Azzam and Sabrina Azzam, Minors, et al v. Venture Transport, Inc., Edward Choda, and Ruben and Manuela Ramirez. Hayel Amin Azzam and Smira Azzam as Intervenors, No. 308,537-401

COURT Harris County Probate Court No. 1, TX

JUDGE Russell Austin

DATE 05/17/2001

PLAINTIFF

ATTORNEY(S) **James B. Lewis**, Glover, Miller, Lewis & Prebeg, P.C., Houston, TX (Sylvia Azzam, Safwan Azzam, Suzanna Azzam, Sabrina Azzam)
Victor N. Makris, Makris Legal Group, Houston, TX (Hayel Amin Azzam, Smira Azzam, intervening plaintiffs)
Michael Makris, Makris Legal Group, Houston, TX, (Hayel Amin Azzam, Smira Azzam, intervening plaintiffs)
Michael D. Miller, Glover, Miller, Lewis & Prebeg, P.C., Houston, TX (Sylvia Azzam, Safwan Azzam, Suzanna Azzam, Sabrina Azzam)

Matthew J.M. Prebeg, Glover, Miller, Lewis & Prebeg, P.C., Houston, TX (Sylvia Azzam, Safwan Azzam, Suzanna Azzam, Sabrina Azzam)

**GUARDIAN
AD LITEM**

Darlene Payne Smith, Crain, Caton & James, Houston, TX (Suzanna Azzam, Sabrina Azzam)

**DEFENSE
ATTORNEY(S)**

Courtland Maddux, Hope & Causey, P.C., Conroe, TX (Edward Choda)

Francis I. Spagnoletti, Spagnoletti & Associates, Houston, TX (Venture Transport, Inc., Edward Choda, Ruben Ramirez)

Frank H. Newton, Fulbright & Jaworski, L.L.P., Houston, TX (Edward Choda)

M. Frost Haenchen, Spagnoletti & Associates, Houston, TX (Venture Transport, Inc., Edward Choda, Ruben Ramirez)

Otway B. Denny, Jr., Fulbright & Jaworski, L.L.P., Houston, TX (Edward Choda)

Stephen M. Fernelius, Fulbright & Jaworski, L.L.P., Houston, TX (Edward Choda)

Susan D. Noe, Spagnoletti & Associates, Houston, TX (Venture Transport Inc., Edward Choda, Ruben Ramirez)

Tracie Lohmann-Bender, Spagnoletti & Associates, Houston, TX (Venture Transport Inc., Edward Choda, Ruben Ramirez)

W. Timothy Bowersox, Hope & Causey, P.C., Conroe, TX (Venture Transport Inc.)

William Book, Tekell, Book, Matthews & Limmer, L.L.P., Houston, TX (Edward Choda)

FACTS & ALLEGATIONS Safwan Azzam, 31, suffered immediate fatal injuries on May 29, 1998, when he collided with a tractor trailer driven by Edward Choda under the authority of Venture Transport. Azzam was traveling westbound on Wallisville Road when the rig, owned by Ruben and Manuela Ramirez, turned left in front of him. Azzam was unable to stop in time to avoid a collision.

The speed limit on Wallisville Road is 40 mph and reports from police and the defense indicated that Azzam was speeding. Officer R.E. Tallent's report estimated that Azzam was going 57 mph. Defense experts estimated his speed at 64 or 65 mph before Azzam began braking. Witnesses estimated Azzam was traveling between 45 mph and 60 mph.

The impact caused Azzam's vehicle to become airborne, flip over and land upside down. Azzam died instantly.

the defendants contended that Azzam caused the wreck by speeding and failing to keep a proper lookout.

The plaintiffs and intervenors contended that the negligence and malicious conduct of the defendants were the cause of the accident. Plaintiffs alleged Choda was a reckless and incompetent driver and that he caused the wreck by turning left into the far right lane, failing to yield the right-of-way, and proceeding when it was unsafe to do so.

The defendants denied the plaintiffs' allegations.

INJURIES/DAMAGES The plaintiffs brought wrongful death actions on behalf of Azzam's surviving wife, Sylvia Azzam, and his surviving daughters, Suzanna, 13, and Sabrina, age 8. The plaintiffs also brought a survival cause of action on behalf of the estate for recovery of burial expenses. The surviving parents of Azzam as intervenors, brought wrongful death actions.

The estate sought lost-wages based on his yearly salary. Azzam's personal income tax returns showed that in his best year, he earned just over \$26,000 and he never earned over \$20,000 a year except that one year.

RESULT The parties settled in mediation. Before a hearing on pending motions, the parties entered into a settlement with the defendants agreeing to pay \$3.8 million. This followed a May 16 mediation before Ronald Wardell, who facilitated a resolution of the dispute on the morning of May 17. The defendants are to pay all taxable costs of court.

EXPERT(S) None reported

Attorney's Fees \$1,136,000

Expenses \$110,000

The remaining \$2,554,000 was paid to the client and medical providers, if any.