

**JUANA GONZALEZ, as Personal Representative of the
Estate of MARIA JIMENEZ, deceased,
Plaintiffs,
vs.
COMMERCIAL CONTRACTOR
and EMPLOYEE DRIVER, Defendants**

One Car Accident: Careless Driving: Negligent Entrustment: Vicarious Liability: Punitive Damages: Wrongful Death Action --- Florida. Case resolved in 2009. This case involved a motor vehicle fatality in a rural section of Florida. The Defendant, a commercial contractor, allowed an employee to take one of its pick-up trucks home, but claimed that the employee was only permitted to use the vehicle to, from, and during work. After work hours, while the employee was driving with 6 passengers, the vehicle went off the road at a high rate of speed, flipping and killing a passenger. The employee's blood alcohol level (BAL) post-accident was reported to be .13. Liability was complicated by a second passenger's statement to police that another vehicle had run them off the road. Liability was further complicated based on the Medical Examiners' Report that the deceased's BAL was .08, which the defense alleged was a causative factor in the deceased's failure to wear an available seatbelt. Counsel for the Plaintiff showed that the circumstances surrounding this incident provided clear evidence that any failure to wear a seatbelt by the decedent was not unreasonable due to the fact that allegedly intoxicated employee denied access to the seatbelt by forcing her into the vehicle under threat of leaving with her infant son. Evidence showed that the deceased's blood for BAL purposes was not drawn until 60 hours post-death. Counsel for Plaintiff retained a Post-Mortem Blood Alcohol Analysis Expert who provided evidence that the deceased's blood alcohol level was below the legal limit when the accident occurred and rose to the .08 level during the long post-mortem delay. Counsel for Plaintiff also advanced a punitive damages theory arguing that the driver was punitively liable for driving while intoxicated and the employer was punitively liable for entrusting the vehicle to him in light of his prior driving and criminal record.

The parties settled at mediation for a total amount of \$1.825 Million Dollars for release of all Plaintiffs' claims. As part of the settlement, plaintiff agreed to maintain the names of the defendants and all other aspects of the settlement other than as contained herein confidential.

Plaintiffs' Counsel -- Joseph P. D'Ambrosio and Sean L. Wilson of The Law Firm of D'Ambrosio & Wilson, Delray Beach, Florida.