

**MOTOR VEHICLE****Gross Negligence****Tractor-trailer plowed into passenger car****VERDICT(P)** **\$2,251,200.00**

CASE Kimberly Rice a/n/f of Kara Garrett;
Gala Rice, Ind. Kourtney Martin, Ind.
vs. Tri-State Exploration &
Production, Inc. Tri-State Well
Services, Inc. James Stuart Tri-State
Pipe & Equipment, Inc. Jame

COURT Harrison County District Court, 71st,
TX

JUDGE Bonnie Leggat

DATE 05/26/1997

PLAINTIFF
ATTORNEY(S) **James B. Lewis**, Glover, Anderson,
Chandler & Uzick, Houston, TX (Gala
Rice, Ind. Kourtney Martin, Ind.)
Matthew J. M. Prebeg, Glover,
Anderson, Chandler & Uzick,
Houston, TX (Gala Rice, Ind.
Kourtney Martin, Ind.)

DEFENSE
ATTORNEY(S) **Dean A. Searle**, Marshall, TX
(Tri-State Exploration & Production
Inc., Tri-State Well Services Inc.,
James Stuart, Tri-State Pipe &
Equipment Inc., James Tellgren)
J. Gene Bailey, Longview, TX
(Tri-State Exploration & Production
Inc., Tri-State Well Services Inc.,
James Stuart, Tri-State Pipe &
Equipment Inc., James Tellgren)

Jack M. Sanders Jr., Marshall, TX
(Tri-State Exploration & Production
Inc., Tri-State Well Services Inc.,
James Stuart, Tri-State Pipe &
Equipment Inc., James Tellgren)
Jennifer Doan, Patton, Haltom,
Roberts, McWilliams & Greer,
Texarkana, TX (Kourtney Martin,
Ind.)

Scott Rectenwald, Marshall, TX
(Tri-State Exploration & Production
Inc., Tri-State Well Services Inc.,
James Stuart, Tri-State Pipe &
Equipment Inc., James Tellgren)

FACTS & ALLEGATIONS The plaintiffs were heading northbound on Highway 59 in Marshall, approaching Highway 43 with a green light. The defendant's tractor-trailer, driven by James Tellgren, westbound on Highway 43, ran the red light smashing into the plaintiff's Nissan Maxima driven by Gala Rice. Her daughter, Kourtney Martin, and granddaughter, Kara Garrett, were passengers. The tractor-trailer was owned by Tri-State Exploration & Production Inc. and leased to Tri-State Pipe & Equipment Inc. and Tri-State Well Services Inc. Tri-State Well Services Inc. employed James Tellgren. James Stuart is the President and sole owner of all three corporations.

The plaintiffs alleged that the three corporations were engaged in a joint enterprise and that James Stuart was acting as vice-principal for all three corporations at all times material to the accident. They also claimed the trailer's brakes were not functional

at the time of the accident. Plaintiffs claimed that the defense knew there wasn't a proper brake connect between the tractor and trailer; it was incompatible.

The plaintiffs alleged that the actions/omissions of the defendants were the sole cause of the accident.

James Tellgren testified that he had reservations about driving the truck knowing there had been problems with the brakes. His supervisor allegedly insisted that he drive the vehicle anyway.

The defense denied liability and contended Gala Rice was more than 50% responsible for the accident. The defense also claimed that Gala was stopped at the intersection and proceeded when it was unsafe to do so and further alleged that Ms. Rice was negligent in failing to keep a proper lookout, failing to timely apply her brakes, failing to take evasive action and entering an intersection when it was unsafe to do so.

All defendants filed counterclaims against Gala Rice for contribution. Tri-State Exploration & Production Inc. and Tri-State Well Services sued for property damage to the Mack truck (\$14,000 to \$19,000).

INJURIES/DAMAGES Gala Rice will require several surgeries in the future, including hip and knee replacements. Her total medicals were \$41,594.52. She has not been able to return to work.

Kourtney Martin received a hangman's fracture in one of the bones in her neck. She was required to wear a halo device for approximately three months. The fracture has healed properly, but the plaintiffs claimed that Kourtney had disc-space narrowing and may require surgery in the future. Her total past medicals were \$14,069.

Kara Garrett, two years old at the time, was in a child safety seat and suffered only minor cuts, scrapes and bruises in addition to general and physical mental trauma. Her total medical expenses were approximately \$1,200.

RESULT The jury found defendants negligent and grossly negligent and apportioned liability as follows: 50% James Stuart & Tri-State Pipe & Equipment; 30% James Tellgren & Tri-State Well Services; 20% Tri-State Exploration Services.

James Stuart was acting as vice-principal for all three corporations at the time of the accident and

all three corporate defendants were engaged in a joint enterprise. The jury awarded \$2,000,000 past and future damages to Gala; \$200,000 past and future damages to Kourtney; \$51,200 past and future damages to Kimberly; and \$0 punitives. The award totaled \$2,251,200 plus prejudgment interest of approximately \$450,000.

DEMAND	\$500,000 minimum required limit for commercial vehicles \$95,000 for all plaintiffs
OFFER	\$95,000 to settle all claims (Southern County Mutual)
INSURER	Southern County Mutual
TRIAL DETAILS	Trial Length: 6 days Jury Poll: 12 0
PLAINTIFF EXPERT(S)	David Baskin , Neurological Surgery Richard Buch , Orthopedic Surgery Carl Hansen , vocational rehabilitation Tim Kane , Economics David Lewis , Law enforcement
DEFENSE EXPERT(S)	Dick Turner , Traffic Accident Analysis

There was an insurance coverage dispute that resulted in several lawsuits. \$150,000 was initially paid after the judgement. Of those amounts \$56,500 went to reimburse expenses and the rest of the proceeds went to the client. Thereafter, the parties ultimately settled the insurance coverage dispute. The total attorney's fees were \$145,000 and the total expenses were \$95,000.