

# Employer Grossly Negligent in Worker's Deadly Fall

BY MANDY BROWN

When Juan Perez's employers at I&R Trucking ordered him to repair a skylight at a company building in San Patricio County, Texas, he climbed a ladder and began working on the roof without safety equipment or any warning of the roof's rotting, dangerous condition. While Perez worked, the unsound structure collapsed beneath his feet, and he fell onto a concrete floor. Perez died from his catastrophic injuries, leaving behind his wife, Denise Marez. They were married only seven months.

Marez sued I&R Trucking and the company's owners for Perez's wrongful death, bringing negligence, premises

**Marez v. I&R Trucking**  
No. S-17-5182-CV-B  
(Tex. Dist. Ct. San Patricio Cty.  
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firm in various ways. For example, the firm's managing partner, John Martinez, conducted voir dire, ultimately getting several jurors familiar with OSHA regulations impaneled.

That proved invaluable as Duff and Hilliard presented evidence that the defendants knew about the roof's unsafe condition but failed to address it or do anything to protect workers.

While attempting to minimize safety violations, the defendants also claimed that Perez was trespassing at the time of the incident and that they had no idea he was on the property because he was not an employee. This position, however, contradicted years of records detailing Perez's longstanding employment, as well as sheriff department recordings of interviews with witnesses immediately after Perez's fall—all saying that they saw Perez openly walking around inside the building and talking to other workers and management.

And for the first time at trial, the defendants argued that Perez was not an employee because he failed a drug test and had been fired a month before

One critical fact was that OSHA had issued a citation to I&R Trucking after Perez's fall for unlawfully failing to install screens or fixed railings around any of the roof's skylights.

"On direct, the defense counsel asked what an OSHA citation is, and the witness tried to downplay what the agency does and the relevance of its findings," Hilliard explained. "But several jurors knew what an OSHA citation indicates and how serious it is, which meant they saw right through the witness's mischaracterization."

his fall, a claim not made in any pretrial deposition. "Quite frankly, that strategy was bewildering," said Duff. "One by one, the defense witnesses got up and went through the same story about Perez's drug test and termination, but then, one by one, they were impeached on cross as we referenced their previous testimony."

From speaking to jurors after the trial, Duff and Hilliard know that this pattern of impeachment was a significant factor during deliberations. "The moral compass in a conservative area

such as San Patricio County is aligned around respect for responsibility, rules, and consequences," said Duff. "Jurors were sympathetic to a case involving a violation of safety rules, and their belief systems were repeatedly offended as defense witnesses seemed to be lying to try to avoid accountability. The more this deception occurred, the more enraged the jurors got."


In their closing, Duff and Hilliard emphasized evidence showing the defendants' misconduct and carefully framed how it warranted significant damages. "We didn't focus on assessing damages to 'send a message' to the defendants because we knew that might be off-putting to our panel," Duff said. "Instead, we emphasized that an employee's life should matter. Employers should treat workers with respect, ensure their safety, and certainly not lie to protect themselves when things go wrong."

Finding the defendants grossly negligent, the jury awarded \$18 million, including \$6 million for the plaintiff's past and future mental anguish and \$10 million in punitive damages. Duff and Hilliard say it's the largest punitive damages award in a wrongful death case in San Patricio County's history.

The defendants have filed a motion requesting judgment notwithstanding the verdict or a motion for a new trial, raising for the first time new defenses such as a "Chapter 95 defense," which, under the state's Civil Practice and Remedies Code, offers premises owners broad protections from negligence claims brought by independent contractors who worked on their property.

Reflecting on the trial, Duff and Hilliard shared how meaningful it was to watch Marez hear the verdict read—especially knowing that she was in the same courtroom where she and Perez had been married.

"As we described to jurors, the damages weren't a windfall or about giving our client something," Hilliard said. "The focus stayed on what was taken from her and what the defendants' actions—and inaction—cost her. Nothing

can ever compensate her for the loss of her husband, and this trial was about seeking the only available remedy and trying to prevent misconduct like the defendants' from happening in the future." 

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liability, and gross negligence claims individually and on behalf of her husband's estate. Her attorneys—John Duff and Alex Hilliard of Corpus Christi, Texas—tried the case, sitting first and second chair for the first time in their careers.

Although mock trial experience and extensive preparation helped them anticipate challenges, Duff and Hilliard said nothing prepared them for the responsibility they felt representing a grieving client at trial. They strategically sought support from their



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