



VERDICTSEARCH

TEXAS

MOTOR VEHICLE

Rear Ender — Tractor Trailer

Estate of 4-year-old blamed trucking co. for accident

VERDICT (P) \$1,207,422

CASE Brad Alan Wilson, Individually and a/n/f of Braden Nicole Wilson, A Minor, and as Representative of the Estate of Tanner Jack Wilson vs. Bishop Gas Corporation, Enderby Gas, Inc. d/b/a Bishop Energy, Bishop Enderby Corporation, James J. Bishop and Larry Bernard Sandmann; David Earl Wallace and D&A Roof and Floor Trusses, Inc., No. 97-3729-3;

COURT McLennan County, 74th District Court
DATE 12/07/1998

JUDGE Alan Mayfield

PLAINTIFF
ATTORNEY Joe B. Stephens, Stephens & Stephens, Houston, TX
Bill Vannatta, Waco, TX

DEFENSE
ATTORNEY Jerry P. Campbell & Nick R. Bray, Naman, Howell, Smith & Lee, P.C., Waco, TX (Bishop Gas Corporation, Enderby Gas, Inc. d/b/a Bishop Energy, Bishop Enderby Corporation, James J. Bishop and Larry Bernard Sandmann).
Sherwin A. Winniford, Fulbright, Winniford, Bice & Marable, Waco, TX (David Earl Wallace and D&A Roof and Floor Trusses, Inc.)

FACTS & ALLEGATIONS Plaintiff Brad Wilson, driving southbound on US 77 in his 1993 Ford Explorer was approaching the town of Robinson, when a one-ton

pickup pulling a 40-foot flatbed trailer driven by David Wallace pulled across his right-of-way, forcing him to stop. An 18-wheeler containing liquefied propane gas, driven by Larry Sandmann, who was driving for the defendant Bishop Energy, collided with the rear-end of Mr. Wilson's Explorer which had stopped, knocking it underneath the Wallace trailer. The collision killed Wilson's four-year-old boy, Tanner Jack, and caused injuries to himself and his three-year-old daughter, Braden Nicole Wilson.

Wilson sued Wallace for blocking the right-of-way. and brought a claim under the wrongful death and survival act for the death of his son. He also sued Sandmann for driving at an excessive speed, failing to keep a proper lookout, and failing to timely apply his brakes.

Wilson claimed Sandmann was driving 60 mph in a 45-mph zone. Further, he asserted that Bishop Energy, an interstate carrier which transports liquefied propane, was grossly negligent. The Bishop Energy truck driver's logs showed he was over the allowable DOT hours nine times during the month of the incident, but not at the time of the incident. However, by the time he returned to Gainesville he would have been over. Further, Bishop Energy had consistently failed to conduct an annual review of Sandmann's driving record during the 13 years he had been employed there. Wilson contended that this conduct was dangerous and inexcusable, especially since the company paid the drivers 25% of the monies collected from each load. Wilson argued that this policy encouraged their drivers to speed and work excessive hours. Despite the obvious damages of this type of pay program, the company chose not to audit its driver's logs.

INJURIES/DAMAGES Tanner Jack Wilson was killed. He died on the highway as his dad watched the paramedics

work on him. Brad Wilson incurred soft-tissue damage to his shoulder, and a possible bone chip to his neck. He was treated by a chiropractor and his injuries eventually resolved. He had \$5,220.05 in medical. He also incurred \$4,565 in funeral expenses. Braden Wilson was treated and released on the date of the incident. She had \$1,088 in medicals.

RESULT The jury found Wallace 40% at fault and Sandmann- Bishop 60% at fault. Including prejudgment interest of \$16,549 the total award was \$1,207,422, but the statutory cap will reduce punitives to \$200,000 each for Brad and Braden.

BRAD WILSON \$225,000 love, companionship, and grief
 \$10,000.00 pain and suffering
 \$5,220 medical costs
 \$4,565 funeral expenses
 \$450,000 punitives against Bishop Energy
\$10,000 punitives against Sandman
 \$704,785

BRADEN WILSON \$25,000.00 physical pain and mental anguish
 \$1,088 medical costs
 \$450,000 punitives against Bishop Energy
\$10,000 punitives against Sandman
 \$486,088 Sub-Total

TRIAL DETAILS Trial Length: 7 days
 Jury Vote: 12-0
 Jury Deliberations: 7 hours

INSURER(S) **Texas Farm Bureau** for David Wallace
Reliance for Bishop Energy-Larry Sandman

POST TRIAL On 12-28-98, Bishop Energy's motion for JNOV was granted. Also, Plaintiff's motion for new trial was granted. A settlement was reached where Bishop Energy would pay "X" amount and Wallace would kick in \$105,000 to Brad Wilson and \$10,000 to the minor, Nicole Wilson.

PLAINTIFF**EXPERT(S)**

Bill Hewitt, fleet safety, Phoenix, AZ
Jim Moore, accident reconstruction, Heath, TX

DEFENSE**EXPERT(S)**

None reported

EDITOR'S NOTE Tanner Wilson, was sitting in the back seat of the Explorer and was not wearing a seat belt. This evidence did not get to the jury per statute and Supreme Court's ruling in wrongful death cases.