



Defense Lawyers
Association

November 2017 Verdict

Submitted By	Gregory L Biehler Lewis Brisbois greg.biehler@lewisbrisbois.com (505) 828-3600
Court	State Court
County	Lea County
Judge	Judge William Shoobridge
Defense Counsel	Gregory L Biehler
Plaintiff Counsel	James Klipstine
Trier	12 Person Jury
Style	D'Anne Vidaurri as Personal Representative of the Estate of Montana Jones v. Ron Schaap dba Southern Draw Dairy, D-506-CV-2016-00842
Statement of Facts	Montana Jones, a 28 year old employee of Southern Draw Dairy, was slowly crushed to death by a loader after being pinned between the loader and a hay trailer. The death occurred on April 21, 2014. Two days earlier, Mr. Jones had worked on the loader after the parking brake had failed. Plaintiff asserted that Defendant failed to provide a safe work place for his employee and introduced an OSHA citation for the fatality. The defense focused on the failure of Mr. Jones to follow basic safety rules in his use of the loader. Plaintiff claimed both compensatory and punitive damages. This case was tried for four days from November 6 through November 9, 2017, in Lovington.
Verdict	Plaintiff
Comments	Jury verdict was for Plaintiff in the amount of 1.2 million dollars, assessing 98% fault to Jones and 1% to Defendant and 1% to a non party. The net verdict was \$12,000. A prior offer of settlement under Rule 68 was made for \$150,000. Post offer costs exceeded \$20,000. Plaintiff introduced evidence of damages for lost wages and hedonics in excess of eight million dollars. The last settlement demand during trial was for \$6,000,000.
Experts	Plaintiff called Stan Smith as an economist to testify regarding wage lost and hedonic damages. Plaintiff attempted to have Smith testify regarding the value to beneficiaries of services of Jones ("accompaniment and companionship") as well as a specific value for the life of Jones. Judge Shoobridge denied such evidence, but permitted Smith to testify to a range for hedonic value (4.5 to 7.5 million).
