

# SOUTH CAROLINA Lawyers Weekly



**FIRST INDEMNITY**  
INSURANCE GROUP  
*Your defense is our focus.*

Your direct source for  
lawyers professional liability  
**800.982.1151**

## Trucking company, driver hit with \$17M verdict for fatal crash

By: Phillip Bantz    May 15, 2018

A federal jury in Charleston has awarded \$17 million to the relatives of a Canadian family killed in a fiery crash with a tractor trailer, marking the apparent end of nearly three years of litigation and hundreds of motions.

The truck driver, Timothy Groshans, had the cruise control set at 70 mph when his semitrailer barreled past signs warning of slowed traffic for an upcoming construction zone on Interstate 95 near Florence in 2015. The 40,000-pound 18-wheeler smashed into the back of a Honda CR-V carrying Jeremiah Cross, 34, Crystal Cross, 32, and their 7-month-old son, Graysen, back from a vacation in Florida.

The impact launched Graysen, still strapped into his car seat, from the Honda and he tumbled some 175 feet down the roadway. Crystal who had been sitting in the backseat with her son, died instantly. Jeremiah survived for several seconds inside the burning vehicle, according to Melissa Mosier of McWhirter, Bellinger & Associates.

Mosier, who practices in Columbia and Lexington, represented Crystal's parents in a suit against Groshans, the trucking company that he was driving for during the crash, XPO Express, and its holding company, XPO Logistics. XPO is among the world's largest trucking and logistics companies.

Mosier described Express as a shell company created to shield Logistics from liability — an assertion that XPO adamantly denied. She said her primary role was to keep Logistics in the case, which she did, in part, by poring over thousands of pages of discovery that the company dumped on the plaintiffs. In looking at the documents, she said she noticed that many of the driver logs featured XPO Logistics' name, not Express.

She later discovered that the speed-monitoring equipment on Groshans' truck, which XPO leased, was licensed to Logistics — and that, she said, "showed control directly by the parent company over safety."

Mosier also said XPO had argued, unsuccessfully, that it was not responsible for Groshans' actions because his truck's trailer was empty during the crash, which the company asserted meant that he wasn't acting in the course and scope of his employment.

"All along they tried to get out of this and hang their driver out to dry," Mosier said.

Mark Joye of the Joye Law Firm in North Charleston, who represented the estate of Jeremiah and Graysen, argued at trial that Groshans had been drinking — a bottle of liquor was found in the wrecked truck's cab and the co-driver, who was resting when the crash occurred, testified that he'd removed a second booze bottle from the semi.

But whether Groshans had alcohol in his system remains a mystery. He was taken to a nearby hospital and given a drug test, but not an alcohol test as required under federal law. Mosier and Joye argued that Groshans refused to take the test.

But attorneys for XPO, T. David Rheney and Bill Young of Gallivan, White & Boyd in Greenville, contended that a hospital staffer failed to order the test. They also stressed that the bottle in the cab was zipped up inside a duffel bag and that law enforcement officers at the crash site testified that they did not suspect that alcohol played a role in the crash.

“There is zero evidence in this case that he [Groshans] had a drop of alcohol in his system,” Rheney said. “It was brought into this case solely to prejudice the jury and the jury did not believe it.”

He made that assertion based on the jury’s decision that the conduct of Groshans and XPO was not wilful, wanton or reckless and that punitive damages were not warranted. The jury found the defendants’ negligence to be a proximate cause of the Cross family’s death.

In the midst of trial, XPO had offered to settle the case for \$13 million, according to Joye. In his closing argument, Joye asked for an award of \$75 million, Rheney said. He declined to confirm the \$13 million settlement offer, saying it was confidential.

After deliberating over the course of two days, the jury found that Groshans was 70 percent at fault and split the remaining blame equally between Express and Logistics. The jury awarded \$12 million to the estate of Jeremiah and Graysen and \$5 million to Crystal’s estate.

“We think the verdict was in the area where we thought it would be going into trial,” Rheney said. “Our position was we simply asked the jury to do what they thought was fair. It’s impossible for any lawyer to stand up there and tell a jury what would fairly compensate these people ... for the loss of their family members.”

The crash also claimed the lives of two other people who were riding in a Jeep Liberty in front of the Cross family. One of their suits has settled for a confidential amount and the other is slated for trial in the fall, according to Mosier.

Groshans received a speeding ticket in connection with the crash and still has his commercial driver’s license, Mosier said. But she added that he reportedly no longer drives trucks for a living and instead has a job installing storm doors.

*Follow Phillip Bantz on Twitter @SCLWBantz*

## VERDICT REPORT – WRONGFUL DEATH

**Amount:** \$17 million

**Highest offer:** \$13 million

**Case name:** *Jeremiah J. Cross, deceased, by and through his Personal Rep, Valerie Steele, v. XPO Express, Inc. f/k/a Express 1, Inc., et al.*

**Court:** U.S. District Court for the District of South Carolina

**Case No.:** 2:15-cv-02480-BHH

**Judge:** Bruce Hendricks

**Date of verdict:** May 3

**Most helpful experts:** Thomas Langley, accident reconstructionist in Woodstock, Georgia, and Mike Napier Sr., trucking safety expert in Macon, Georgia

**Attorneys for plaintiff:** Mark Joye and Mark Bringardner of the Joye Law Firm in Charleston for Jeremiah Cross; Melissa Mosier and Lisa McPherson of McWhirter Bellinger & Associates in Lexington for Crystal Cross

**Attorneys for defendant:** T. David Rheney and William Young III of Gallivan, White & Boyd in Greenville, and Mark Barrow and Martin Driggers of Sweeny, Wingate & Barrow in Columbia

9/20/2020

Trucking company, driver hit with \$17M verdict for fatal crash – South Carolina Lawyers Weekly

Charlotte, NC 28204  
(800) 876-5297

