



Trucker Who Suffered Leg Amputation After Accident Wins \$4.2M Settlement



CLIENT PINNED UNDER A TIRE: Richard Winograd and Michael Gallardo represented a truck driver who suffered serious injuries when his truck turned on its side and he was ejected from the cab.

A truck driver who lost a leg allegedly as a result of a collision agreed on Oct. 18 to a \$4.2 million settlement of his Essex County suit, *Martinez v. Inter-City Tire and Auto Center*.

According to the complaint, Gadiel Martinez was driving an 18-wheel truck west on Tyler Street in Newark on June 8, 2006, when another 18-wheeler, headed east, made a left turn in his path. When Martinez swerved to avoid impact, his truck turned on its side and the driver's door flew open. Martinez was ejected from the cab and was pinned under one of the truck's

tires. His injuries required an amputation of his left leg at the hip.

The oncoming truck was driven by Pierre Cazeault and owned by his employer, Ironbound Express of Newark. Cazeault was at the head of a line of trucks parked along the shoulder of Tyler Street as they awaited entry into the Port Newark Container Terminal, which leases the facility from the Port Authority of New York and New Jersey.

A dispatcher waved Cazeault to pull in just as Martinez approached from the opposite direction. Martinez was driving 35 to 40 mph in a 25 mph zone in rainy conditions. He was driving a truck owned by his

father, Francisco Mejia. Its driver-side seat belt and the latch to the driver's door were both broken at the time of the crash, and an investigation by Port Authority police found the truck's brakes were improperly adjusted, says one of Martinez's lawyers, **Michael Gallardo**.

Martinez sued Inter-City Tire and Auto Center of Elizabeth, which had serviced his truck's brakes shortly before the accident. He also named Mejia, Cazeault and Ironbound Express, the Port Newark Container Terminal, and the Port Authority. He claimed the latter two were liable because the layout of the container terminal routinely resulted in a lineup of trucks on the shoulder of Taylor Street, which in turn created a hazard since they had to cross four lanes of oncoming traffic to enter the facility.

The defendants countered that the plaintiff was driving too fast and not wearing a seat belt, says Gallardo, of Ginarte, O'Dwyer, Gonzalez, Gallardo & Winograd in Newark, who together with **Richard Winograd** of the same firm, handled this case.

Inter-City, Mejia, Ironbound Express, Port Newark Container Terminal and the Port Authority agreed to pay a total of \$4,095,000 to Martinez and \$125,000 to his wife per quod. Gallardo says that all the defendants paid into the settlement but that he can't reveal the allocation.

Inter-City's lawyer, Raymond Connell of Dwyer, Connell & Lisbona in Fairfield, confirms the settlement and says his client's share was \$300,000.

The other defense lawyers did not return calls. They are David Kostus of Segal, McCambridge, Singer & Mahoney in Jersey City, for Port Authority; John Karpousis of Freehill, Hogan & Mahar in Jersey City, for Port Newark Container Terminal; James Kane of Carroll, McNulty & Kull in Basking Ridge, for Ironbound Express and Cazeault; and Marco DiFlorio of Salmon, Ricchezza, Singer & Turchi in Philadelphia, for Mejia.

— **By Charles Toutant**