

Personal Injury
Auto v. Truck
Rear-End Collision

SETTLEMENT: \$1,500,000

Case Name/Number: Estate of Ana Rosa Gutierrez v. Kem-Iron
Transport, Inc. Bc 335 640

Court/Date: Los Angeles Superior Central /April 1, 2007

Judge: Honorable Jane Johnson

Attorneys: Plaintiffs - Michael H. Whitehill, (Kussman &
Whitehill, Los Angeles)

Defendants - Kevin Smith and Lisa Boswell (Wood, Smith,
Henning and Burman) for Kemiron Trans Inc., and Daniel Curriston

FACTS: Plaintiffs were Spanish speaking parents of 28 year old
daughter Ana Rosa Gutierrez who was killed in an automobile
accident on February 28, 2005. The Gutierrezs had five children
three of whom still lived at home. The decedent had lived out of
the home for 10 years and was unemployed and unmarried.

On February 28, 2005 Ms. Gutierrez was driving her Toyota
Corolla on the I-15 freeway and behind her in the slow lane was
co-Defendant Daniel Curriston driving a tractor trailer in the
course and scope of his employment for co-Defendant KemIron
Transport. The slow lane was slowing due to traffic congestion
on the Foothill Blvd. off-ramp. Curriston failed to stop and his

tractor trailer impacted the rear of Ms. Gutierrez's vehicle.

Plaintiffs contended that Curriston was negligent and had been involved in prior driving citations and accidents. KemIron acted with malice in retaining Curriston as an employee given his prior driving record.

Defendants argued that decedent abruptly stopped on the freeway and could have pulled much farther forward before stopping. Curriston was attempting to change into an adjacent lane and was cut-off by another driver and thus could not have avoided hitting at least one vehicle. Defendant argued that Ms. Gutierrez died instantaneously and therefore could not pursue a claim for punitive damages.

DAMAGES: The death of a 28 year old daughter.

SPECIALS: None.

SETTLEMENT DISCUSSIONS: Plaintiffs' initial demand was \$3 million dollars. Defendant's initial offer was \$300,000. Various offers and counteroffers were made until the case was eventually settled for \$1.5 million.