

# FLORIDA WRONGFUL DEATH



**LUKS, SANTANIELLO  
PETRILLO, COHEN & PETERFRIEND**  
— OUR VERDICTS TELL THE STORY —

This matter involved a wrongful death cause of action brought by the Estate of the Candido Manzanares stemming from an automobile accident that occurred within the construction zone of FDOT's roadway expansion project along Krome Avenue in Miami-Dade County, FL. On the date of the incident, just prior to the time the workers were to be dismissed for the day, co-Defendants Perez Camejo and Roversys Hernandez entered their personal vehicles and took it upon themselves to engage in a dangerous, high-speed drag race within the construction zone. During the race, both drivers lost control of their vehicles, with Camejo's car striking Mr. Manzanares as he was standing next to his vehicle which was parked within the construction zone.

The Plaintiff's alleged that FDOT had a duty to maintain the roadways in a reasonably safe condition and to learn and discover any dangerous issues on the roadways and to prevent any such dangerous conditions from existing on the roadways. This included having the necessary personnel controlling traffic, training all on-site personnel about how to properly and safely move vehicles, and maintaining appropriate traffic control devices, signals, and signs. FDOT purportedly breached these duties by failing to: (a) ensure that the job site was safe; (b) have appropriate personnel directing, supervising, and/or controlling traffic; (c) comply with all applicable codes, regulations, statutes and any other governing authority regarding roadways and traffic; (d) warn of the hazardous conditions of the roadways of the job site; (e) provide proper warnings and signage; (f) train employees and other persons on the job site of the proper way to move and drive vehicles; (g) maintain and enforce safety protocols; (h) make necessary changes to the roadways; and (i) properly create, execute and/or implement relevant designs at and for the job site.

FDOT moved for Summary Judgment on account that: 1) Plaintiff failed to comply with a condition precedent to filing suit; 2) Plaintiff's claim was barred under doctrine of sovereign immunity; 3) FDOT cannot be held liable for the death of an independent contractor b/c FDOT neither directed nor controlled the means or methods of the independent contractor on the construction site; 4) the actions of Camejo and Hernandez were intervening superceding criminal acts breaking the chain of any causation; and 5) the Plaintiff cannot demonstrate a duty or breach of duty.

Notably, FDOT had previously served the Plaintiff with a Proposal for Settlement, which had expired based upon Plaintiff's failure to accept. Accordingly, Plaintiff was facing the fee-shifting exposure if the Court granted FDOT's Motion for Final Summary Judgment. Thirty minutes prior to the special set hearing on the motion for final summary judgment, Plaintiff's counsel contacted defense counsel seeking to dismiss the claims against FDOT with prejudice, so long as FDOT agreed to not pursue recovery of fees and costs in light of Plaintiff's failure to accept the Proposal for Settlement. The Defense agreed and Plaintiff proceeded to dismiss the cause of action against FDOT with prejudice.



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