

BRANDI BLAIR AND JOHN MASTERSON OBTAIN UNANIMOUS DEFENSE VERDICT IN FEDERAL COURT IN WRONGFUL DEATH AND PERSONAL INJURY CASE

December 19, 2019 | Case Summaries



Jamien Rae Jensen, et al., v. EXC Incorporated, et al. – A two-week jury trial in the

United States District Court for the District of Arizona culminated in a defense verdict for Jones, Skelton & Hochuli attorneys [Brandi Blair](#) and [John Masterson](#). On September 21, 2004, an automobile driven by Butch Corey Johnson collided into a tour bus driven by Russell Conlon that was headed to the Grand Canyon. The accident occurred on U.S. Highway 160 near Kayenta, Arizona within the exterior boundaries of the Navajo Nation. Johnson died from his injuries. Johnson's girlfriend at the time, Jamien Rae Jensen, and their young son were in the vehicle as well. Both survived the collision.

Jensen, Johnson's family members, and others ("Plaintiffs") initially filed suit against Conlon, insurance companies covering Conlon, and for-profit corporations involved with the tour ("Defendants") in the Navajo Nation Tribal Courts. However, the Ninth Circuit Court of Appeals affirmed an order terminating the action in the District Court of the Navajo Nation due to a lack of jurisdiction since the accident had unfolded on an Arizona state highway.

Once in the U.S. District Court for the District of Arizona, Plaintiffs argued that Defendants were liable for Johnson's death and the injuries to the other two passengers because Conlon had been negligent. Plaintiffs claimed that because the tour bus had been in the left lane, not the right lane, Conlon had created a dangerous condition that caused the collision. In their closing, Plaintiffs asserted that they were entitled to at least 4.3 million dollars in economic damages for the combined loss of earnings for Johnson and Jensen. This amount excluded the punitive damages and other forms of compensatory damages Plaintiffs were also requesting, such as loss of love and affection and pain and suffering experienced.

The defense argued that Defendants were not at fault because it was Johnson who had suddenly veered out of his lane and drove head on into the bus. The defense asserted that this was supported by physical evidence showing that the tour bus was well within its own lane of travel. Defendants further argued that punitive damages to punish bad conduct were unnecessary, pointing out that Conlon had been driving under the speed limit.

The jury agreed with the defense. On December 19, 2019, only hours after being provided with the final jury instructions, the jury found that the Defendants were not responsible for the death of Johnson or for the injuries suffered by Jensen and their son. Therefore, the Plaintiffs were not entitled to any damages. The defense verdict was a unanimous one.

[Brandi Blair](#) practices in the areas of dram shop liability, premises liability, wrongful death, personal injury, professional liability, and Section 1983 defense.

[John Masterson](#) practices in the areas of civil rights law, government and constitutional law, police defense, prison matters, insurance defense, wrongful death, personal injury, general civil litigation, and appeals.