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## Legal Trade

A blog about lawyering with **Mary Flood**.[« ET AL. - B&G appointment, V&E in Mid East and H&W poaching | Main | Modern art in a stodgy courthouse »](#)

August 18, 2008

### Bus crash lawsuit filed in probate court

Houston plaintiff's lawyer **Rob Ammons** today filed what is likely the first wrongful death lawsuit stemming from the **tragic Sherman bus crash**. He filed it not in a civil trial court but in a Harris County probate court.

Ammons, who last week filed an injury lawsuit in civil court, said this suit was filed in probate court in part to try to get to trial a few months faster than in civil court.

The Monday probate suit was filed on behalf of the estate of Cham Nguyen, an elderly woman who was traveling with her daughter and died when the bus crashed August 8 on the way from Houston to Missouri for a religious festival. The lawsuit Ammons filed last week **was on behalf of Nguyen's son-in-law Lau Pham**, who was not on the bus, but who sued over injuries to his wife. Ammons said he is working on these cases with attorney Tammy Tran, who knew some of the victims in the Vietnamese community.

He first filed to probate the estate of Nguyen, giving the probate court jurisdiction to hear the wrongful death case.

Houston plaintiff's lawyer **Richard Mithoff** said he's handled several cases that way in the past. He said Texas law allows wrongful death cases to be tried in probate court when the probate court already has jurisdiction for the estate.

Mithoff said having the first case to go to trial in a tragedy like this is only an advantage if the lawyer has worked the case well and has the facts on his side. "Being first doesn't matter that much. The most important thing is developing the case," Mithoff said. He also noted that Harris County district civil courts sometimes are so fast now a trial can happen within a year of filing a lawsuit just like in probate courts.

Plaintiffs lawyers around Texas have been looking at whether the inevitable lawsuits to develop from this tragedy will really reap much financial compensation for the injured and the families of those killed.

While the federal investigators look at the case and the federal and state prosecutors contemplate whether to charge any one, there has been much speculation in the civil bar about whether a \$5 million insurance policy possibly held by the bus company would go very far and whether there will be other defendants with deep

enough pockets and any liability.

Investigators have said a retreaded front tire blew out, and the bus smashed through a guardrail, plunged from a bridge and rolled down an embankment into a ravine. Twelve people died there, and five others died in nearby hospitals and dozens were injured.

In both the civil injury suit and the probate death case, Ammons named defendants Angel de la Torre and his bus firms Angel Tours Inc., Iguala BusMex Inc., Iguala Bus Ltd. Co. It also names Barrett Wayne Broussard, who was behind the wheel at the time of the deadly crash, and Motor Coach Industries Inc., the bus manufacturer.

Posted by Mary Flood at August 18, 2008 06:27 PM

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**Comments**

Like the BP explosion and the FEMA trailer debacle, this is another tragedy that could have been avoided with unobtrusive but effective regulation.

Despite our tort laws in Texas, needless deaths like these continue to occur. Perhaps the voters of Texas at some point will realize that, despite their distaste for lawsuits and lawyers, regulation and lawsuits are necessary for the protection of ordinary citizens. (As a former Marine, I can remember when, in Oceanside California, the public despised us Marines there, but now that there is a war ongoing, the public seems to love service people, especially Marines who put themselves in harm's way).

The bus crash that occurred in Sherman and the resulting deaths is a situation where the law mandated insurance is simply not enough to help the families left behind. The real victims of this tragedy, in addition to those who died, are those left behind, who relied on those who died for support. Now, the attorneys hired to help are forced to look for other entities and individuals who have fault. The situation is a bad one, period.

Mary, as this case progresses, I hope you will focus on the insurance defense attorney tactics as they take up the defense of this case, which is truly indefensible. As a veteran of many cases like this one, I already know what these insurance defense attorneys are going to do to defend this case. Their tactics are transparent, but effective in front of juries conditioned by the insurance lobby to believe that those who bring lawsuits want something for nothing. These attorneys, and the lobbyists and insurance companies who pay them, could care less about the victims' families or the egregiousness of the wrong that caused the deaths. They only care about the bottom line--money.

The public hears constantly about frivolous plaintiffs' cases; but, the truth is, the most frivolity occurs when insurance defense attorneys defend cases on behalf of insurance companies that should be settled. The only

individuals who win are the defense attorneys. You will never hear their names, because, for the most part, they are truly "nobodies". They are not the best of the bar; they didn't do the best in law school; the only thing they have going for them is that they charge the lowest rates, and they know the best places in town to wine and dine their insurance clients. Their conduct is despicable. They will attack the victims, try to minimize the losses, and hide behind the draconian laws passed by our Republican legislature.

Please shed some light on those attorneys in the defense bar who pad their pockets handsomely to the detriment of the victims. It's about time someone did.

Posted by: Tony Buzbee at August 19, 2008 06:26 PM

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Good grief Mr. Buzbee. I know plenty of sleazy Plaintiff's lawyers who did not attend Yale or Harvard law school. Since when did Plaintiff's attorneys stop caring about their 1/3? Truth is both sides care about money. If money wasn't involved, Plaintiff attorneys would never file suit. After all, you have bills to pay like all of us. Take a few deep breaths and get over yourself. You aren't that special.

Posted by: truetexanfan at August 19, 2008 10:36 PM

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Maybe they should sue Mexico, then run the mexican owned bus companies out of the U.S. How can they be allowed to run those unregistered, uninspected rattletraps on U.S. roadways when our buses have to go through rigorous inspections and serious fines for bad maintenance? Why aren't they pulled over and taken off the road? And why isn't anything being done about all those bad trucks coming into the states from Mexico and South America and crashing into everyone with their bald tires and bad brakes, while our truckers get pulled over for going 9 miles over the speed limit?

Posted by: Joe at August 20, 2008 12:52 PM

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I actually agree with Buzbee.

Posted by: republicanot at August 20, 2008 01:49 PM

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Mr. Buzbee,

Seeing as insurance defense attorneys are so inferior to you, I'm sure it is a done-deal that you will win every case you ever try against such inferior opponents. Done-deal.

Posted by: matthew brown at August 21, 2008 11:53 AM

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