

2nd Place Winner
Lowell Karr
Junior at Albuquerque Academy
Albuquerque

The known facts regarding the night in question are as follows: **Jeremy Deets** contacted Fielding's Limousine Service to make a reservation for the night of the Gold City Senior High School Prom. The limousine service anticipated a large number **of** reservations for prom night and had hired additional drivers to handle the expected increase in orders. One such additional driver was **Manuel Ortiz** who applied for a job a few weeks prior to the prom. Manuel was an illegal immigrant who the United States government deported to Mexico two years earlier for illegally crossing the US border. Fielding's Limousine Service requires that during the application process, the company photocopy the applicant's driver's license in order to insure the applicant's certification to drive, and the document's authenticity. The clerk who photocopied Manuel's license neglected to check for the watermark unique to all New Mexico drivers' licenses. In fact, Manuel had provided the clerk a forged license that was poorly manufactured.

On prom night the weather was poor. Light rain showers and patches of low-lying fog made it extremely difficult to see in certain parts of Gold City. Manuel Ortiz picked up Jeremy Deets, his date **Samantha Cnrthers**, his friend Tom Bernard, and his date **Marcia Waters** punctually at six o'clock. While they were enjoying dinner, Manuel Ortiz sat in the limousine outside the restaurant and sipped whiskey from a flask he had concealed inside his jacket pocket. Manuel became intoxicated while his clients were dining. During the drive from the restaurant to the prom, Manuel sped 20 **mph** over the speed limit. As the **limo** crested the top of a hill and descended into the fog below where the visibility was extremely low, it was almost impossible for Manuel to see the intersection at the bottom of the hill. Manuel failed to notice a tractor-trailer merge into his lane. He collided with the truck at 70 mph. Jeremy and Tom died instantly, while

Samantha and Marcia sustained critical injuries. Manuel, however, escaped unscathed and immediately fled the scene of the accident. A week later police apprehended him in Colorado.

Regarding the question of whether Deets et al. should file a claim for damages against either Fielding's Limousine Service or against their driver, Manuel Ortiz, it is apparent after reviewing the facts set forth above that the limousine service is more appropriately liable for damages than the driver. The limousine service hired the driver, Manuel Ortiz, and therefore they are liable for the damages he caused.

The question is made more complex because the driver, Mr. Ortiz, not only had prior legal problems, but was also criminally negligent in this matter. The evidence shows that two years prior to the Deets incident, the United States government deported Ortiz to Mexico for illegally crossing the United States border. Since Mr. Ortiz committed a felony and had previously entered the US illegally, he, himself, is also guilty of breaking New Mexico law. He committed a felony by driving under the influence of alcohol and subsequently killing two people, as well as seriously injuring two others and damaging the property of others. Regardless of Mr. Ortiz's criminal conduct, Fielding's Limousine Service is nevertheless liable for damages because they employed Mr. Ortiz without properly reviewing his background, legal status, citizenship, and driving authorization and certifications. This negligence results in the assignment of the liability for the damages associated with the Deets accident to Fielding's Limousine Service and not Manuel Ortiz.

I. THE EVIDENCE SHOWS THAT FIELDING'S LIMOUSINE SERVICE IS AT FAULT
FOR THE ACCIDENT AND LIABLE FOR ALL DAMAGES UNDER

NEW MEXICO LAW.

a. Upon examining the application process **Manuel Ortiz** completed to become a driver for Mr. Fielding, it is evident that it was seriously flawed. First, Mr. Ortiz falsified his application. Second, the clerk failed to verify Mr. Ortiz's driver's license for authenticity and overlooked the missing watermark unique to New Mexico drivers' licenses. **N.M. Stat. Ann. §41-2-1 (2005) §41-2-1** Death by wrongful act or neglect; liability in damages denotes that because Fielding's Limousine Service neglected to accurately check both the information on Mr. Ortiz's application as well as his license for authenticity, and they hired him, they are liable for any and all damages caused by their employee for acts he engaged in during the course of his employment. Further, there is also a basis for citing **N.M. Stat. Ann. § 41-2-1 (2005) §41-2-1** and finding Fielding's Limousine Service responsible for the payment of the damages caused by **Manuel Ortiz**. The statute assigns liability to the "corporation" employing the individual involved in causing the damages. Therefore, the state's evidence and existing legal precedent establish that Fielding's Limousine Service is liable for the deaths of **Jeremy Deets** and **Tom Bernard**, as well as the medical expenses of **Samantha Cruthers** and **Marcia Waters**. It is however also noted that under **N.M. Stat. Ann. § 66-5-41 (2005) § 66-5-41** it is possible that Fielding's Limousine Service may not be accountable for

any damages because they were unaware that **Manuel Ortiz** was an illegal immigrant. Conversely, under **N.M. Stat. Ann. § 41-2-1 (2005) §41-2-1** it is a matter of record that the limousine service neglected to confirm the information and authenticity of Manuel Ortiz's application materials as part of their **pre-employment** hiring process. Therefore, Fielding's Limousine Service is liable for the damages caused by Manuel Ortiz, despite Ortiz' criminal actions.

b. Manuel Ortiz may also be personally liable in this case. He was the driver of the vehicle and under **N. M. Stat. Ann. § 41-2-1 (1978)** a nonresident alien may be liable for damages that occurred while illegally present within the United States.

II. MANUEL ORTIZ IS CRIMINALLY RESPONSIBLE FOR THE DEATHS OF **JEREMY DEETS** AND TOM BERNARD, AS WELL AS RESPONSIBLE FOR THE INJURIES TO **SAMANTHA CRUTHERS** AND **MARCIA WATERS**, AND MAY BE PROSECUTED UNDER FEDERAL LAW.

a. 8 **U.S.C. § 1326(a)** stipulates that even though Manuel Ortiz is not a legal United States citizen, because he previously illegally entered the country and now has also committed a felony, he may be charged under Title 18 of the above reference, and could be imprisoned for a maximum of 20 years. After reviewing Fielding's Limousine Service's records for the night of the accident, the evidence shows that Mr. Ortiz and not another driver was responsible for the accident that resulted in the deaths and or injuries to the passengers in the **limo**. Also acknowledging that he knowingly

presented an altered ID during the application process, Mr. Ortiz may also be subject to additional charges. Therefore, Manuel Ortiz is criminally liable for the felony charges as a result of his actions, as well as for illegally entering the United States a second time. b. It is noted, however, that under 8 U.S.C. § 1326(a), an individual who commits a felony and has previously been deported for illegally entering the United States, can be fined and jailed. Therefore, there are also penalties for Manuel Ortiz in this case. CONCLUSION

After reviewing the aforementioned facts and considering applicable law and precedents, it is evident that Fielding's Limousine Service is liable for the damages that occurred when Manuel Ortiz crashed into a tractor-trailer killing two people and injuring two others. Since the limousine service failed to properly qualify Mr. Ortiz for employment, and was not thorough in verifying his application, the limousine company is responsible for the actions of the employee and, therefore any claimed damages associated with the employee's actions. Additionally, Manuel Ortiz can be prosecuted on criminal charges. He is not only an illegal immigrant, but he also falsified documents and committed a felony DWI and vehicular homicide. Understanding that the laws governing this issue do allow the plaintiffs to pursue damages, it is appropriate to file the charges of negligence against Fielding's Limousine Service, because as the employer they are responsible for Mr. Ortiz's actions while he was working and providing a service to the company's costumers. The limousine service is liable, because they are accountable for their driver's behavior. Mr. Ortiz should also be prosecuted for the appropriate criminal

charges in this case, but the liability for the damages resulting from his actions are the responsibility of Fielding's Limousine Service.